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# IN PRAISE OF TRADE

## The New EU Trade Strategy

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### KEY MESSAGES

- The EU's FTA agenda should focus primarily on markets where the potential for meaningful market access improvements for EU exporters are greatest. For the wine and spirits sectors, concluding robust FTAs with India and the ASEAN economies is the top priority.
- The EU's development policy agenda should recognise that liberalising trade fosters national economic development. Trade agreements with developing economies should aim to secure symmetrical commitments over an appropriate transitional period.
- Sufficient Commission resources should be allocated to enforce trading partners' commitments under the WTO and bilateral FTAs. The EU's Market Access Strategy has proved a useful tool which should be updated.
- International trade rules do not hinder governments' right to regulate. Rather, they ensure predictability, non-discriminatory treatment, greater market access and an effective dispute settlement system, and should not be undermined or weakened.

## I. CONTEXT: TRADE IS A KEY CONTRIBUTOR TO GROWTH AND JOBS

President Juncker has set the Commission's top priority: to get Europe growing again and to increase the number of jobs without creating new debt. Revising the EU's trade strategy is an excellent opportunity to help deliver this priority. We support Commissioner Malmström's assertion that trade liberalisation will bring strong growth to the EU economy.

While a well-functioning internal market remains vital to the European wine and spirits sectors, we increasingly look to third markets to sustain our economic growth. Our exports outside of the EU grew significantly over the last 10 years to stand at €18.5<sup>1</sup> billion in 2014. Trade is essential to our future, particularly given the current difficult economic context in Europe.

**Our sectors' main priorities for an assertive and ambitious trade strategy are:**

- **Promotion of further trade liberalisation, through targeted trade negotiations;**
- **Robust enforcement of existing international and bilateral trade rules.**

## II. NEGOTIATIONS

Trade agreements boost the export of EU wines and spirits, particularly among those markets that combine good GDP growth with a rapidly growing middle class. In many of these high-potential markets, our sectors often face significant tariff and non-tariff barriers. Further, because the EU's key competitors are also in the process of negotiating ambitious agreements with many of these economies, it is crucial that a 'level playing field' be maintained to ensure European competitiveness.

Trade agreements are also an important tool to secure the recognition and protection of our wines and spirits Geographical Indications (GIs) and this aspect should be integrated systematically in the negotiations. The recognition and protection of our GIs is a key pillar of the European agricultural policy and fundamental for the trade of high-added-value wines and spirits.

The wine and spirits sectors support the Commission taking a pragmatic yet ambitious approach to launching Free Trade Agreement negotiations. We welcomed the conclusion of FTAs with Korea, Central America, Colombia/Peru and, most recently, with Singapore, Canada and Ecuador. We appreciate the efforts made, as these negotiations are difficult and time consuming, placing a strain on Commission resources.

**Focus:** We recognise that there may be sound non-commercial reasons for pursuing particular trade agreements, where deeper economic ties delivered by an FTA can have the effect of fostering security and stability in key countries. Nevertheless, **in the new Strategy, we believe that the clear focus should be on export markets with significant potential for future growth, driven primarily by business needs.**

**When to press on, when to stop:** Multiple concurrent trade negotiations must also be carefully managed, not only because of the limited resources, but also because there are often inter-

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<sup>1</sup> Eurostat, Comext 2015

relationships between the different processes. The outcome of the EU negotiations with Vietnam, Japan or the US will be influenced by the simultaneous TPP negotiations, for example, including on key areas for the EU such as protection of intellectual property rights and geographical indications.

**If it appears clear that negotiations toward a comprehensive, robust agreement cannot be concluded within a reasonable time, the EU should consider ending some negotiations,** as may be the case with the Gulf countries or MERCOSUR. This would free up Commission negotiating resources to focus on priority countries and also send a clear signal to negotiating partners that discussions cannot continue indefinitely without delivering clear results.

**Multilateral negotiations:** This is also true for multilateral talks: **the Doha Development Agenda (DDA) should be brought to an early closure, even if WTO Members must agree a less ambitious package** than was originally envisaged when the DDA began. This would also make sure WTO resources are available to better implement the standing WTO mechanisms that are of key importance to EU exporters, such as the dispute settlement mechanism, trade policy reviews, and the notification and comment opportunities provided by the SPS and TBT agreements, as well as their administering committees. There are also opportunities to use the WTO machinery in fields such as licensing, balance of payments and state trading enterprises to raise specific trade concerns.

**Symmetry:** Trade supports development by fostering competition, introducing greater choice at more reasonable prices for consumers, and bringing trade practices in line with global trade rules and best practice. Consequently, **trade agreements should be symmetrical.** Asymmetrical agreements are incompatible with the jobs and growth priority set by the Commission President, as they prevent EU exporters from fully benefiting from new market opportunities.

In certain *exceptional* cases, where the Commission believes a degree of asymmetry may be warranted – *initially* - to recognize differences in levels of economic development and to provide additional time for full implementation, we urge that **any such asymmetry should be time-limited.** Trade agreements should support rapid growth in developing economies, to enable them to take on fully reciprocal commitments by a specific date.

**Timeline to seeing the benefits:** Finally, the Lisbon Treaty changed the EU procedures for the ratification of international trade agreements with the result that their implementation requires additional time - time which should also be taken into account when negotiating tariff elimination. **If immediate tariff liberalisation cannot be achieved, we urge the Commission to consider ways to accelerate the benefits of FTAs given the time required for ratification, for instance by frontloading tariff reductions rather than through linear phase-outs.**

### III. PRIORITY MARKETS

The main developed markets, including the EU and US, eliminated tariffs on spirits as part of the WTO 'Zero for Zero' agreement. Given the size and importance of trans-Atlantic trade, we understand why the TTIP is the focus for this Commission. We support the negotiations as they will help define new trade rules in areas like competition and investment, and will set a precedent for future trade agreements. In addition, TTIP represents an opportunity to cancel the US exemption in the international wine trade scene by achieving the protection of all the EU wine GIs. The inclusion

of a 'Spirits Annex', as proposed by both EU and US spirit sectors, would set a global 'gold standard' for regulation in the spirits sector. However, TTIP will not result in greater market access for the spirits sector as bilateral trade is already tariff free.

**For our sectors, the real opportunity to increase market access, and therefore growth in Europe, lays in the emerging economies where meaningful tariff and non-tariff barriers exist, and where we do not yet have any trade agreements. Accordingly, the key priorities for concluding robust FTAs in our sectors are India and the ASEAN markets.**

- [India](#) offers huge potential for growth; a significant reduction of its 150% import tariff would quickly grow the market for imported spirits from 1m cases to 5m cases. We hope that both sides will bring negotiations to a positive conclusion as quickly as possible; however, we are fully aware of the challenges facing negotiators and *no deal is better than a weak deal*.
- In South East Asia, we look forward to the conclusion of an agreement with [Vietnam](#) in summer 2015, which will bring immediate significant benefits. While talks with [Thailand](#) and [Malaysia](#) have stalled, we would urge the negotiations to be restarted in the near future. Thailand, where we face a number of challenges that could be resolved through an FTA, is nonetheless the largest market for European spirits in South East Asia. We encourage the Commission to re-engage in technical discussions with Thailand sooner rather than later.
- The [EU/Japan](#) negotiations are a good example of the EU's willingness to eliminate technical barriers that should already have been dismantled as a consequence of WTO commitments. By defining a list of barriers that Japan had to resolve as a precondition for launching FTA negotiations and the 'one-year review' approach, the Commission could have strategically created a mechanism to pause the negotiations. But so far, the Commission failed to use it, weakening this model that could have been copied elsewhere. The EU needs to show a strong determination in that area as this will set a precedent for other forthcoming negotiations.

As regards other markets, we would like to point out the following countries:

- It is not possible to revise the EU trade strategy without thinking about European trade relations with [China](#). Several third countries have already signed trade deals with China, for example Chile and Australia, which are key competitors in the wine industry. The EU should carefully evaluate the potential benefits of similar agreements for EU economies, and avoid being left behind. Similarly, [Brazil](#) offers significant potential for liberalisation of its tariff on European spirits and wines should negotiations with MERCOSUR resume in future. However we are conscious that an agreement cannot be concluded within a reasonable time.

While both of these economies may not share the EU's ambition for comprehensive bilateral free trade agreements, and indeed may be growing competitors in many sectors, the EU must explore other trade policy tools to deliver improved market access for EU exporters, such as the current EU-China Bilateral Investment Treaty (BIT).

- [Australia](#) and [New Zealand](#) are among the top 20 markets for EU spirits exports, yet are markets with which the EU does not currently have a trade agreement. Australia's "nuisance" tariff of 5%, although not prohibitive, places EU spirits exports at a comparative disadvantage, given that key competitors such as the United States already have agreements in place. Australia and New Zealand are EU strategic allies when it comes to tackling discriminatory practices in third countries. Should the EU open FTA negotiations with these markets, we hope that the EU explores ways to strengthen cooperation in tackling market access issues and enforcement of international trade agreements in third countries.
- We also urge the EU to reflect carefully on its long-term trade strategy with [African countries](#), where there is significant growth potential for our sector, albeit from a small base. The ECOWAS and EAC EPAs were missed opportunities to open markets in these growing economies for our sectors, as wines and spirits were excluded from any tariff liberalisation. We hope that the EPAs will become useful stepping stones to prepare the next steps towards the opening of these promising markets in future.

#### IV. ENFORCEMENT

Enforcement of trade rules is essential to ensure that agreements actually deliver meaningful market access improvements, increased exports and economic growth. To be effective, negotiation strategy must be accompanied by a strong enforcement strategy, with adequate investment in sufficient dedicated resources by the European Commission and Member States.

**Efficient implementation of the agreed FTAs:** It is essential to ensure a quick and real enforcement, in order to have as soon as possible the positive effects and to reduce the differential of competitiveness with our competitors, where they have more favorable conditions. This requires **monitoring the compliance** with the commitments and use of all the bilateral/multilateral tools available to **guarantee full enforcement**, when/if needed. The FTA with Colombia is a good example where a strong reaction from the EU is needed in case Colombia fails to fulfill its commitments under the FTA. It is crucial for the credibility of EU trade policy that commitments do materialise and lead to concrete improvements to access markets.

**Staffing within the Commission:** As clear beneficiaries of European FTAs, we recognise the importance of ensuring that there are **greater resources allocated to, and within, DGs TRADE and AGRI** for this purpose. Currently, we believe there are insufficient resources and a reallocation of posts from other DGs is justified. This reallocation would be fully in line with the 'Jobs and Growth' focus championed by this Commission.

**Ongoing negotiations should not deter using existing options:** Ongoing trade negotiations should not prevent the EU from demanding full implementation of *existing* WTO and bilateral commitments by our negotiating partners, nor should they block or discourage possible WTO action against any trading partner. A credible threat of WTO litigation encourages trading partners to abide by their commitments. In that respect, **coordination and cooperation among the European Commission, Member States and industry could be strengthened within the TBR procedure.**

**The Market Access Strategy:** The instruments created under the Market Access Strategy (MAS) have proven to be indispensable in addressing market access barriers for our sectors, and should be further strengthened. However, as the political and economic environment has significantly changed since its creation in 2007, **the MAS must also evolve to address the business concerns of today** and go beyond the ‘Key Barriers’ that were identified at that time for each country. **In addition, FTA negotiations and the MAS could be more closely connected:** the negotiations could provide the right framework for the EU to tackle market access barriers in addition to the policy tools used under the MAS, from diplomatic demarches to WTO dispute settlement.

**Growing role of EU Delegations:** By their presence in markets and contacts at local level with the relevant institutions, the role of the Delegations is increasingly important to EU exporters. They are often the first contact point for EU business abroad and can react quickly when a new barrier emerges. **Their role as regards trade policy should be reinforced in order to co-ordinate EU and Member State actions in-market.** The recent creation of the Market Access Team for alcoholic beverages in India serves as a good example of how Delegations could work together with Member State embassies and industry to defend EU business concerns on the ground.

**Engagement with business:** In most EU trade agreements, enforcement tools have rightly been included to ensure the enforcement of commitments. **Advisory groups should be refocused in order to give an opportunity to stakeholders to provide concrete information that could serve as a basis for the implementation committees’ work.** Beyond enforcement issues, such committees should consider the evolution of trade relations between the parties, in order to prevent any trade irritant or dispute arising.

## V. GOVERNMENTS’ RIGHTS AND RESPONSIBILITIES WHEN REGULATING

Strict European regulations on wines and spirits are at the heart of our competitiveness abroad as they have encouraged the development of high quality products with high standards of food safety and traceability. We support the right of every government to regulate the alcohol market in a fair and non-discriminatory way, implementing proportionate, evidence-based public health policy measures. However, such measures must not be arbitrary, constitute unjustifiable discrimination, or be disguised restrictions to trade. We take issue with those who seek to deny that international trade rules provide ample ‘policy space’ to implement genuinely evidence-based policy.

**Spurious pretexts for exclusion:** Some trading partners attempt to use social, religious or health pretexts to exclude wines and spirits from the scope of negotiations. Some have even argued within the World Health Organisation to exclude wines and spirits from trade agreements or exclude these products from WTO commitments. **Such attempts, which tend to provide disguised protection to domestic products, should be firmly rejected by the European Commission.** In particular, any country that allows production or sale of alcohol on its territory should not be allowed to selectively restrict market access for European wines and spirits.

**ISDS:** We believe that strong investor protection is an important and necessary part of trade agreements. We applaud the increased transparency being suggested by the Commission within the TTIP context and welcome the review of current ISDS provisions. Notwithstanding the areas that the

Commission has identified for revision, strong ISDS provisions in the next generation of EU trade agreements is critical for European exporters and investors.

**EU's own evidence base:** The EU and its Member States should also consider the 'international effect' of labelling, taxation, and marketing restrictions that are introduced within the EU itself. Such rules tend to provide a strong precedent for trading partners and they can lead to significant barriers to trade, both in the internal market and abroad. **We therefore suggest that any changes to such laws in the EU are supported by an appropriate evidence base.**