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spiritsEUROPE contribution – A renewed trade policy for a stronger Europe

Executive summary

- The spirits sector in Europe has been one of the main beneficiaries of the EU's open trade policy in the past years, with an increase of the value of our exports by 119% between 2009 and 2019. 2/3 of our exports are protected by geographical indications, which are not only instrumental in boosting exports but are also a guarantee of local job and growth creation and therefore of strategic importance during the recovery.

- The EU needs to remain a champion of open & rules-based international trade, resist protectionist tendencies and robustly address market access barriers, which are likely to increase in the current economic downturn. Our sector relies on open & free trade to continue to reach new markets after a very difficult economic context in the last six months, where we have seen our overall exports decrease by almost 27% compared with the same period in 2019, as a result of the global COVID-19 pandemic. Our exports have also been affected by bans and restrictions – whether COVID-related or not – and by retaliation measures taken against iconic European products, including spirits. Resolving the ongoing trade disputes with our key market, the US, should be a top priority for the Trade Commissioner, avoiding escalation and building on the recent tariff reductions agreement.

- We welcome the appointment of the new Chief Trade Enforcement Officer (CTEO). This new role is critical and should focus both on implementation of existing agreements and on addressing market access barriers, in close collaboration with industry and with sufficient resources to be able to fulfil his mandate. The CTEO and his team should take a holistic approach, looking at regulatory barriers and tax discrimination, as well as implementation of negotiated tariff reductions. The EU should also take a leading role in the process of the WTO reform, both during and after the selection of the new WTO Director General. The overall objective should be to increase the efficiency and strength of the existing structures. The WTO should also increase and improve its collaboration with industry and with other international agencies, while tackling new challenges, such as e-commerce, barriers to services & investment & illicit trade.

- While enforcement and implementation of existing agreements is critical, the EU should continue to pursue trade negotiations, with a particular focus on those countries with a high potential for EU exports and significant market access barriers. Already negotiated trade agreements, such as the EU-Mercosur FTA, should be ratified without delay and the EU should do more to communicate the benefits of free trade and trade agreements. As a key beneficiary of these trade agreements and open trade in general, our sector stands ready to support the European Commission in this endeavour. As trade negotiations become increasingly complex, due consideration should be given to more manageable sectorial tariff reduction agreements on an MFN basis. Environmental and industrial policies and instruments should always be designed in a WTO-compliant way, and preference should be given to multilateral and international instruments to avoid giving rise to new trade disputes.

- Trade can play a significant role in supporting the UN Sustainable Development Goals and in attracting investment into developing countries. The most significant way of enabling this is to protect legitimate trade, by removing barriers and inefficiencies, and to tackle illicit trade. The EU should push for an international definition of illicit trade at WTO level and work with developing countries to address factors conducive to illicit trade in spirits, such as disproportionately high taxation.

- Digitisation could play an important role in boosting EU exports, both as a trade facilitation instrument, and by opening up new sales channels and markets to key EU export sectors, such as spirits, through the emergence of e-commerce. There are still many barriers to e-commerce in alcoholic beverages around the world. The restrictions put in place during the Covid-19 pandemic have made the need to remove these obstacles even more pressing.

Introduction

spiritsEUROPE, the trade association representing the European spirits sector, welcomes the opportunity to contribute to the EU trade policy review. As the biggest and most valuable agri-food export sector, open trade is essential for European spirits. New opportunities and markets allow us to create significant value at local level, both in Europe and in partner countries. They will be instrumental as part of the recovery from the coronavirus outbreak and the related economic crisis.

The coronavirus outbreak has had a very negative impact on spirits' sales around the world, due to the reduced activity in the 'on-trade' sector (the food service & hospitality sector) and Duty Free and Travel Retail sector, which are both vitally important retail channels for spirits. Recovery in our sector and related activities, such as the hospitality sector, will only be possible if trade remains as open and frictionless as possible.

With what could become the most severe economic crisis since the 1930s, the risk that an increasing number of countries could turn to protectionism is cause for concern for the spirits sector. Protectionist measures and emerging non-tariff barriers could seriously endanger the already fragile economic recovery. This is particularly the case considering that our sector was already facing an increasing number of trade threats before the crisis, not least in its biggest market, the United States of America. The spirits sector is heavily affected by the punitive 25% tariffs that have been imposed by the US on certain European spirits since October 2019 in relation to an unrelated longstanding dispute, triggering a decline in European spirits' exports to the US. These tariffs could still go up or get extended to other categories of European good, including spirits, as part of future 'carousel' reviews. Finding a rapid solution for unrelated affected sectors while avoiding escalation – especially as the US elections approach - will be critical as our sector, like many others, seek to overcome the impact of COVID-19. We strongly encourage the EU and the US to build on the recent EU-US tariff reduction agreement to introduce further tariff reductions, reach a negotiated solution to the ongoing EU-US trade disputes & return to the zero-for-zero agreement for spirits.

Question 1: How can trade policy help to improve the EU's resilience and build a model of open strategic autonomy?

Global trade is of critical importance to the spirits industry in Europe, who has been one of the main beneficiaries of the EU's trade policy and negotiations in the past years, with an increase of the value of our exports by 119% between 2009 and 2019. Some of our most iconic spirits products rely extensively on international trade to thrive: today, 98% of Cognac production, over 98% of Irish cream liqueur production and 96% of Irish whiskey production are exported respectively. Our success in the last decade is in no small part due to the European Commission's efforts, in particular in bilateral negotiations.

Our sector is both a beneficiary of open trade and of strategic importance to European growth, culture and values. Geographical indications have a big part to play in driving the trade performance of these products: 2/3 of EU spirits exports are protected by a geographical indication. Geographical indications are not only instrumental in boosting exports: they are also a guarantee of local job and growth creation. In total, the production and sales of spirits generates around 1 million jobs in Europe, and €23.5 billion in excise duties and VAT contributions. This is only possible thanks to the significant value of our exports in markets around the world. There is therefore a direct link between trade and exports, on the one hand, and jobs and growth in Europe, on the other. It is therefore of critical importance to our sector and the jobs and growth it underpins in Europe that the EU maintains an open trade policy and pursues its efforts to increase and preserve our industry's access to its core markets.

It is important for the EU to find the right balance between the defence of its strategic interests, such as GIs, and supply chains resilience on the one hand and the need to remain open and a beacon of free trade, on the other. European spirits' top three markets (USA, Singapore, which is a regional hub for South East Asia and China) have been significantly affected by the coronavirus and the related crisis. EU spirits exports to China were almost 50% down in March and April 2020 compared with the same period in 2019, while at the same time, EU spirits exports to the US and to Singapore were down by 53% and almost 75% respectively in April 2020 compared with the same period in 2019. More recent figures for June 2020 were encouraging, but still subsequently lower than for the same period in 2019. All in all, EU spirits exports to the US, China and Singapore were respectively down by 22%, 29% and almost 45% for the first half of 2020, compared with the first half of 2019.

There is a risk that protectionism might increase after the crisis, which would put at risk the already fragile global recovery. The EU needs to lead the way in promoting the benefits of free trade, in a rules-based environment offering predictability and significant opportunities for the private sector. The concept of strategic autonomy should be limited to a small number of products and not become the new normal. Any attempts at promoting "strategic autonomy" should also WTO compliant to protect European exporters against retaliation by third countries and to avoid giving rise to new trade disputes. This is not only essential to support the recovery but is also necessary if the EU wants to continue to remain credible as a promoter of rules-based trade policy and multilateralism.

Question 2: What initiatives should the EU take – alone or with other trading partners – to support businesses, including SMEs, to assess risks as well as solidifying and diversifying supply chains?

One of the most helpful tasks the EU could embark on to support exporters, in particular SMEs, is to address existing trade barriers. As highlighted by the recent EU report on trade and investment barriers 2020, the last year has marked the return of a bolder form of protectionism around the world, structurally engrained in our trade relations with partners around the world. For the first time, in 2019, border measures (i.e., restrictions that directly affect imports and exports at customs level, whether through SPS measures, tariff increases or taxes and restrictions) were more numerous than behind-the-border measures, and most of these barriers focused on agriculture and fisheries. In our sector, this trend can be illustrated by an example of the import ban on alcoholic beverages in Indonesia, that continues to remain in place for the second year in row despite all diplomatic efforts to remove it. Taking this alarming trend into consideration, the Commission should look critically at whether the current Market Access Strategy (resources and available tools) is up to the challenge of addressing this increasing number of protectionist barriers.

The EU should be creative and test new approaches to do so. While the emphasis is increasingly placed on strengthening the ability for the EU to respond more quickly and efficiently, which we generally support, the EU should not only demonstrate strength. The EU should also work more closely in partnership and in a collaborative manner with likeminded countries and through the G20, WTO, OECD, IMF, WCO and other international bodies to fight protectionism, support multilateralism and eventually address impediments to business in export markets. Beyond classical WTO incompliant measures which should be tackled, the European Commission should increase its engagement and dialogue with EU businesses and third countries about other obstacles to market access and growth, including taxation and standards, as this is often what precludes EU businesses from fulfilling their growth potential. We would encourage the EU to strengthen its partnership with EU businesses and support us in convincing third countries that opening up to and creating favourable conditions for EU business would help them improve their economic and social environment and contribute to a faster post COVID-19 recovery.

Another area where the EU could add value is in reinforcing its fight against illicit trade. Engaging with partner countries, in particular developing countries, to address barriers which fuel the rise of illicit trade should be seen as a priority. Taxation is particularly important in this respect for spirits products: the European Commission should support us in making the case for proportionate levels of taxation appropriate to local markets – especially in the post COVID-19 context - to ensure that EU legitimate trade does not get replaced by illicit trade.

Enforcement of existing agreements is another key area where the European Commission brings an added value, and will be a key task for the Chief Trade Enforcement Officer. Due attention should particularly be paid to non-tariff barriers which generate red tape and costs for industry and can prevent companies – SMEs in particular – from making the most of existing agreements. Non-compliance with the terms of FTAs should not be tolerated, neither should attempts by certain countries to compensate for increased liberalisation in certain areas (e.g., tariff reduction or elimination) by increasing barriers in other areas, like excise taxation.

Last but not least, given the impact of the Boeing-Airbus dispute on our sector's access to its first market, the US, it is particularly important that the European Commission continues to push and accelerate the ratification of negotiated agreements, as well as ongoing and new negotiations with economically significant partners.

Question 3: How should the multilateral trade framework (WTO) be strengthened to ensure stability, predictability and a rules-based environment for fair and sustainable trade and investment?

The WTO is the protector of the rules-based multilateral trade order and has offered invaluable predictability and stability to European exporters, not least in the spirits sector, over the years. Our sector has greatly benefitted from the WTO's existence, and this is therefore an institution we are eager to see protected and reformed so that it may continue to support international trade. While we do not agree with the way in which the international trading rules have been challenged by some WTO members, we would agree that the WTO, as a guardian of global trading rules, is not serving business and its members up to its potential at present and, indeed, should be modernised. We issued a list of proposals to this end in 2018 and have been active ever since in the debate on how to turn the current crisis in the WTO into an opportunity to improve the institution, including through the World Spirits Alliance.

The examples of our proposals:

- Strengthening and improving the work of existing structures in the WTO.
- Greater collaboration with other international agencies and the private sector.
- Opening up the discussion at WTO level to explicitly address illicit trade – starting with an internationally agreed definition of illicit trade.
- New rules to address barriers to trade in services and foreign investment.
- Reinforcing the role of the TFA Committee as a single platform, allowing for practical discussions on trade facilitation challenges faced on the ground, as well as progress and practical improvements.

Some of these proposals were supported by business leaders taking part in a virtual Trade Dialogues meeting facilitated by the WTO on 19 May on the role of trade policy in tackling the health and economic implications of the COVID-19 crisis. They called for an effective and rapid implementation of the WTO's Trade Facilitation Agreement. Echoing language from the G20, they also stressed the need for any COVID-related trade restrictions to be targeted, proportionate, transparent and temporary, an objective we can only support.

Question 4: How can we use our broad network of existing FTAs or new FTAs to improve market access for EU exporters and investors, and promote international regulatory cooperation – particularly in relation to digital and green technologies and standards in order to maximise their potential?

The broad network of existing EU FTAs has considerably boosted the trade performance of the European spirits sector. Our sector has greatly benefitted from increased Geographical Indications' protection and reduced tariffs and non-tariff barriers. Having said so, with regard to ongoing FTAs, we have always encouraged the Commission to address as many market access barriers as possible before FTA negotiations are concluded. If tariffs are removed, but imported spirits continue to be subject to discriminatory taxation that fuels unfair competition, European companies might not see a significant improvement in a given market. The requirement to remove discriminatory excise taxation in Colombia under the EU-ANDEAN FTA is a good example that we would wish to see replicated in the texts of future FTAs (like forthcoming FTAs with Thailand or Malaysia, to name but a few).

It is also important that good agreements, which have required time and efforts on the European Commission's part, get ratified as rapidly as possible. Our industry is deeply committed to supporting FTAs that are ambitious and economically significant for our sector, by demonstrating to decision makers in Member States and the European Parliament what benefits these agreements would bring to Europe and third countries alike, as we did very recently for the EU-Vietnam FTA. The EU-MERCOSUR agreement is another good example, which, if swiftly ratified and implemented, could boost both European and partner's companies and economies at a time when any instrument to stimulate the recovery should both be welcome and supported. The Commission can count on our support in defending it.

Finally, good enforcement is critical to ensure that partners deliver on their commitments and that unforeseen barriers, red tape or lack of information do not prevent companies - especially SMEs – from benefitting from the fullest possible extent. In this respect, the role of the Chief Trade Enforcement Officer is of critical importance to exporting champions such as our industry – in particular for small distilleries. The CTEO and in his team should not only ensure that partner countries deliver on their commitments, but should also monitor other market access conditions which might not be addressed in trade agreements, but could put the benefits of these agreement in question. Tariff liberalisation, while tremendously helpful, is not sufficient to improve market access on its own. Companies often face other barriers (tax discrimination, regulatory barriers, etc…) which can seriously limit their ability to compete on a level-playing field with domestic producers or even to sell their products on the market in question. The CTEO and his team should take a holistic approach to these issues, in a close dialogue with industry, both prior to and during trade negotiations, and during implementation itself. To ensure that business concerns are properly accompanied, we would recommend the setting up of a systematic consultation process ahead of implementation committees held under FTAs.

Question 5: With which partners and regions should the EU prioritise its engagement? In particular, how can we strengthen our trade and investment relationships with the neighbouring countries and Africa to our mutual benefit?

As a general rule, we would like the EU's efforts to concentrate on opening up those markets where we can see the bigger potential for market access improvement and barriers reduction for European spirits. Ongoing negotiations with Indonesia should be finalised as soon as possible, while negotiated agreements such as the EU-MERCOSUR agreement should be ratified as promptly as possible. With regard to new markets, India, Thailand and Malaysia are high potential markets for European spirits, where our members face significant tariff and non-tariff barriers. There is no one size fit all, meaning that concrete objectives for each FTA should be assessed individually. If possible, it would also be good for the EU to seek to engage with ASEAN as a block – although, admittedly, this has proven difficult in the past. We would also like to encourage the European Commission to cooperate more closely with Kazakhstan and the EAEU, in particular on IP issues (trademark & GIs matters).

We also see market potential in sub-Saharan Africa. To achieve such potential, the inclusion of wines and spirits in tariff liberalisation packages and the establishment of wine and spirits committees in new EPAs would be key to addressing the serious challenges stemming from market access and regulatory barriers and the prevalence of illicit trade. In its strategy towards Africa, the EU has continuously put a strong emphasis on the need to improve the business climate in order to boost EU's investment and support the economic development of African countries. In order to reach these objectives, it is important for the EU to maintain a close dialogue with Sub-Saharan countries on the means to overcome issues such as illicit trade (through adaptations of local tax schemes and enforcement). Trade agreements with key African markets would also have an instrumental role in supporting the Sustainable Development Goals (see response to question 8). spiritsEUROPE has produced a paper on EU spirits, sustainable growth and sub-Saharan Africa which provides more ideas and examples that could usefully feed into the EU-Africa strategy.

It is also important to consider the easiness of ratification of negotiated agreements. The trend towards bigger, more complex agreements with a multiplicity of societal and policy convergence objectives have arguably made ratification more strenuous. The primary objective of trade agreement should remain to open up new markets and generate new opportunities for European companies. Therefore, if all encompassing trade agreements no longer look feasible with certain trading partners, there is merit in the idea of pursuing smaller scale deals. This could include non-tariff bilateral or plurilateral sectorial agreements to achieve minimum regulatory standards. This could also include reciprocal tariff commitments for a few industries, on an MFN basis, in order to achieve quick tariff liberalization for EU offensive sectors against EU market opening in sectors that are not sensitive (similar to the recent EU-US agreement on tariff reductions). These approaches obviously need to be carefully calibrated with the right sectors for the right partners.

We would also like to draw your attention to the recent study on *EU Trade and Non-Trade Objectives: New Survey Evidence on Policy Design and Effectiveness* of the University of Bern, LSE, EUI and CEPR, which analysed various trade instruments and how effective they are in promoting non-trade objectives. It showed that the 2 trade instruments (out of 11) that are most effective in promoting non-trade objectives are targeted assistance to NGOs and expert dialogues between the EU and the partner country. Trade agreements only come in the 6th place. Other instruments listed by surveyed stakeholders as efficient tools to promote these wider societal and environmental objectives were member states' bilateral development assistance programs, technical assistance, study tours and student exchanges, EU assistance funds and direct investment by EU multinational companies.

Aside from formal trade negotiations, the EU should continue to engage with key partners in a positive spirit, to help reduce regulatory and non-tariff barriers and preserve their current openness. This is particularly true for China, which is the second market for European spirits in value, but where European spirits only represent 1% of the overall consumption. Working with China in a collaborative spirit – for instance on the definition of low-risk products at Codex Alimentarius level – could help open up new markets for our sector, and boost the recovery.

Fixing trade relations with our first market, the US, should remain the key priority for the EU. The EU should do everything possible to de-escalate the situation and find a solution whereby unrelated products are no longer the victims of longstanding trade disputes over which they can have no influence. More generally, it is important to identify and address the risk for new trade disputes early on to be able to find negotiated solutions whenever possible and avoid escalation.

In any case, going forward, more efforts will need to focus on addressing anti-trade feelings and articulating the wider societal, developmental and economic benefits of legitimate trade and trade agreements. Our sector stands ready to help the European Commission in this endeavour, both at EU and national/local level.

Question 6: How can trade policy support the European renewed industrial policy?

Trade policy has a role to play in supporting the new European industrial strategy, and vice versa. It is important that the EU builds on these synergies while preserving an open trade policy. The objective of reinforcing Europe's industrial and strategic autonomy, highlighted in the strategy and visible in many post-COVID policies, should not translate into less openness and protectionism. The focus on trade defence instruments should not be at the expense of existing exporting successes. Finally, **industrial champions should not take precedence over EU exports champions,** who have created success stories of their own, making the most of positive trade environments to thrive and create much needed growth and jobs in Europe.

An important instrument from a trade & industrial policy is geographical indications (GIs). At a time when much of the emphasis is on reshoring and creating value locally, it is worth remembering that GIs translate into jobs and growth at local level in Europe. Continuing to promote and protect European GIs abroad should be a priority of both trade and industrial policy. Widening the concept to non-food items, such as traditional art and craft products, could help secure the support of a greater number of third countries – as was recently the case with Mexico, help protect European products in an even wider number of foreign markets and create growth and jobs in Europe, at a time when they are more needed than ever.

It is also important that broader policy objectives are not implemented at the expense of our existing trade relationships and our credibility as champions of the rules-based order: the Carbon Border Adjustment Mechanism or Digital Services Taxes should be developed in full WTO compliance and its potential negative impact on existing trade relationships should be assessed prior to or at the same time as the publication of the legislative proposal.

We welcome the emphasis in the strategy on the need to keep overseas markets open through trade deals with partner countries or regions and work in international fora to find rules that work for all. This is particularly important for an export-focused sector like ours. We also welcome the emphasis on the need to address any barriers that prevent our businesses from properly accessing other markets around the world, including tax barriers and discrimination, which fuel illicit trade. We also support the European Commission's plan to publish an Action plan on the Customs Union in 2020, including a proposal for an EU Single Window to allow for fully digital clearance processes at the border. Aside from its obvious benefits in terms of cutting red tape and costs for traders and administrations alike, the move towards digital clearance should also be supported across the world, including in developing countries, as a means against illicit trade and corruption.

Question 7: What more can be done to help SMEs benefit from the opportunities of international trade and investment? Where do they have specific needs or particular challenges that could be addressed by trade and investment policy measures and support?

While many spirits success stories have become or are part of larger groups, generating significant economic value in Europe, many are still small distilleries. For instance, 80% of the distilleries producing liqueurs in France are small or medium size companies, while the vast majority of Irish whiskey and Irish cream liquor producers are SMEs. Even the smallest distilleries tend to rapidly focus on exports and growing markets around the world as a way to expand their operations and reach out to new consumers. Craft and small distilleries can therefore help drive European exports and quickly become success stories of their own, but they are particularly vulnerable to tariff and non-tariff barriers. The Chief Trade Enforcement Officer should have an instrumental role in addressing these barriers which prevent many small and medium size companies from accessing markets in which they could otherwise thrive. Cutting red tape and unnecessary regulatory complexity, encouraging trade facilitation and ensuring that European spirits producers do not face steep tariffs and tax discrimination would all help. The Chief Trade Enforcement Officer should work hand in hand with EU Missions abroad and the Market Access Advisory Committee in identifying, addressing and removing these barriers.

SMEs would also benefit from increased dedicated support, in particular in terms of guidance to make the most of new agreements.

Last but not least, SMEs would be great beneficiaries of products promotion abroad, in particular in a GI intensive sector such as ours, where the reputation of a product is instrumental to its exporting performance. EU trade promotional missions in key markets could be particularly helpful in this respect, as is the case with the trade missions led by DG AGRI, and offer the possibility for the European Commission to promote European products in overseas markets while using their presence to increase their dialogue with partner countries and addressing regulatory and other non-tariff barriers outside of formal negotiations.

Question 8: How can trade policy facilitate the transition to a greener, fairer and more responsible economy at home and abroad? How can trade policy further promote the UN Sustainable Development Goals (SDGs)? How should implementation and enforcement support these objectives?

Trade policy is one of the tools whereby Europe can export best practices and support development and the establishment of a fairer and more responsible economy abroad.-Our members, companies as well as national and GI representative associations, are committed to fulfilling the UN’s Sustainable Development Goals (SDGs) in their sustainability and responsibility policies. We have numerous examples of positive action and partnerships driven by our members in least developed regions, including Africa.

Case Studies: Pernod Ricard and Diageo initiatives in support of the UN's Sustainable Development Goals across Africa

In Mozambique, spiritsEUROPE member Pernod Ricard partners with consulting firm Gaia focusing on energy, environment and sustainability, such as:

- ***Reduction of plastic pollution*** *from plastic straws by using reed straws from the Inhambane province in Mozambique to be used at events held or sponsored by Pernod Ricard;*
- ***Reduction of glass waste*** *through a partnership with a local company Biothonga, which does eco-designed homeware and artwork. Through this project, empty bottles are turned into glassware, reducing the waste going into landfill. Pernod Ricard has substituted single-use plastic branding materials with these objects made of recycled glass and wood. For each product made, Biothonga commits to planting a tree in the Inhambane province.*

spiritsEUROPE member Diageo also supports a number of initiatives in Africa to support water management and the provision of clean water:
- ***The Water of Life programme*** *provides a pan-regional and effective water management programme on a community and commercial basis. Over the past ten years the programme has helped bring clean water to over 10 million people across Africa.*
- *Diageo's WASH project has enabled 15,000 people to access clean water in Cameroun in 2019.* ***Diageo's water replenishment plans*** *extend beyond WASH projects to reforestation and water treatment.*

A small but significant change such as the elimination of tariffs or more proportionate and non-discriminatory taxation can be a decisive step in encouraging companies to reinvest and grow their business in developing countries. This is not only helpful in terms dissemination of good practices through CSR activities, but is a powerful generator of local jobs and growth, essential drivers of economic development. Indeed, EU spirits imported in developing countries help support jobs locally, from marketing and sales functions, to distribution and functions in the tourism and hospitality industry. Supporting and facilitating legitimate exports of EU spirits in developing countries therefore help create growth locally too.

The EU trade policy should also ease and strengthen regulatory cooperation, especially with foreign countries which are developing their own standards for our products like in Africa or in Asia. Our sector is also willing to support these efforts. Promoting EU standards and their understanding can help to deliver meaningful market access improvements, a better and secured environment for alcoholic products and local economic activities and to build common views at international level.

A favourable environment for legitimate trade is also a powerful weapon against illicit trade, which plagues many developing countries with a high level of tax on legitimate wines and spirits. This is for instance the case in Ivory Coast, where 58% of consumed alcohol is the product of illicit trade. Negative consequences of illicit trade are numerous, from lost tax revenue for the state (excise, VAT & corporate and social security tax), costs related to the fight against organised crime and border controls, and most importantly, public health issues, with potentially fatal consequences for consumers. Fighting illicit trade can help support several SDGs, and in particular SDG 3 (Good health & wellbeing), SDG 8 (Decent work and economic growth) and SDG 9 (Industry, innovation & infrastructure).

Trade policy can also be used to promote a greater use of digital tools applied to trade and customs formalities and processes. This, together with other measures to fight illicit trade, can help fight corruption and support SDG 16 (Peace, justice & strong institutions).

Question 9: How can trade policy help to foster more responsible business conduct? What role should trade policy play in promoting transparent, responsible and sustainable supply chains?

Responsible business conduct and sustainability and transparency are important values for our members, irrespective of trade policy or any coercive measures. This is essential for an industry and products who rely on authenticity and a positive image to support their commercial success. Trade policy nonetheless has a role to play in two significant respects to maintain and encourage responsible business conduct and sustainability in our sector:

- Through the promotion of geographical indications, underpinned by strict production processes and criteria in terms of local footprint & production.
- By promoting the uptake of trade facilitation measures and tariffs and tax reduction which all help in the fight against illicit trade.

Question 10: How can digital trade rules benefit EU businesses, including SMEs? How could the digital transition, within the EU but also in developing country trade partners, be supported by trade policy, in particular when it comes to key digital technologies and major developments (e.g. block chain, artificial intelligence, big data flows)?

The digital transition can support trade in two ways:

- By helping companies reach new markets, through the facilitation and allowance of e-commerce, including for spirits. E-commerce is still not a reality in every market (eg. it is de-facto not allowed in Russia, Thaïland or many parts of the US), closing potential opportunities for the spirit sector at a time when digital sales channels are more important than ever against the backdrop of a global pandemic and widespread lockdown measures.
- By cutting red tape for industry and governments alike, through a more widespread uptake of digital documents and processes for customs and – in a more distant future – regulatory issues. Aside from cutting costs and red tape for all involved, the greater use of e-customs and e-formalities, as well as automatic online payment, can play a significant role in the fight against illicit trade and corruption. Ghana is an example where we have witnessed significant improvements in fighting corruption through introducing new technological solutions in the area of customs clearance (aside from helping cut the cost of customs clearance). Automation has significantly reduced lagging time for containers, while the move towards primarily paperless documentary controls has helped reduce clearance time and demurrage costs and helped reduce corruption. The use of secure technologies through blockchain could bring even greater improvements than the move towards digitised documents and processes in the future.

Question 11: What are the biggest barriers and opportunities for European business engaging in digital trade in third countries or for consumers when engaging in e-commerce? How important are the international transfers of data for EU business activity?

The recent WTO information note on *E-commerce, trade and the COVID-19 pandemic*[1] highlighted the important e-commerce during the pandemic as an important tool/solution for consumers. This remains true after the pandemic and, as highlighted by the WTO report, e-commerce can support small businesses and, by making economies more competitive, be an economic driver for both domestic growth and international trade. The EU should continue to engage constructively with other countries at WTO level on the e-commerce agenda and ongoing negotiations so that its potential may be seized accordingly by companies and consumers alike.

Forecasts have predicted that e-commerce will become the largest retail channel in the world by 2021 and account for 14% of total retail in that year. In 2018, the value of the e-commerce market for alcohol across 34 key markets was estimated at £14 billion (more than ½ coming from China). Yet, this represents only 1% of the global retail e-commerce market, which was valued separately to be £1.4 trillion in 2019.

Our members face significant barriers in many markets, preventing the rise of e-commerce as a significant sales channel for spirits. These include:

- Bans on e-commerce sales, which can result from an explicit prohibition but can also stem from a strict interpretation of existing licensing or legislation that does not cover, or envisage, the e-commerce sale of alcohol.
- Regulations on transport and logistics for e-commerce alcohol range from additional documentation requirements to total bans on the carriage of alcohol by some providers.
- Licensing requirements not suited to the e-commerce sector and restrictions on online marketing, which can sometimes create an outright ban on the digital marketing of alcohol
- Lack of harmonised regulations for e commerce alcohol sales across neighbouring countries or states, which can present significant challenges due to the cross-border nature of e-commerce access.

These significant barriers would need to be addressed for e-commerce to become a more significant sales channel for the spirits sector. Given the reliance of the sector on both on-trade and travel retail and duty-free channels, both severely impacted by the crisis, it would both be prudent and helpful in the current fragile recovery context to seek to expediate the removal of some or all of these barriers, as much as possible. It is worth noting, although this is not the focus of this particular consultation, that the spirits sector also faces significant barriers to the development of e-commerce in some EU countries (for instance, the online sale of alcohol is banned in Poland).

[1] https://www.wto.org/english/tratop_e/covid19_e/ecommerce_report_e.pdf

Question 12: In addition to existing instruments, such as trade defence, how should the EU address coercive, distortive and unfair trade practices by third countries? Should existing instruments be further improved or additional instruments be considered?

Trade defence instruments are an important part of trade policy. spiritsEUROPE welcomes the ongoing review of Regulation 654/2014 concerning the exercise of the Union's rights for the application and enforcement of international trade rules (so-called “enforcement Regulation”). This topic is of high importance to the European spirits sector. We have always been strong supporters of the EU trade policy and its enforcement pillar and we believe that the EU should be well equipped to tackle protectionist measures around the world. This particularly now, as some countries might decide to turn to protectionism as a policy option when rebuilding their economies post-COVID.

We welcome the Commission's proposal to revise this Regulation and strengthen its enforcement toolbox. Indeed, it is critical to protect the EU’s credibility by improving the tools that will allow the quick and effective defence of its economic interests when a unilateral measure is adopted by a third country.

It is important for us to extend the scope of the Regulation to services and intellectual property. In accordance to OECD, services generate more than two-thirds of global gross domestic product (GDP), attract over three-quarters of foreign direct investment (FDI) in advanced economies, employ the most workers, and create most new jobs globally. However, when it comes to implementing enforcement measures, most countries only impose retaliation measures on goods sectors. In the context of the EU rebalancing measures permitted by this Regulation 654/2014 in response to the US tariffs on steel and aluminium, we have seen that targeting US unrelated goods only (including certain US spirits) has not increased compliance, while having a negative and disproportionate impact on some sectors, such as the spirit sector. We would also encourage the European Commission to refrain from targeting sectors where the EU enjoys a trade surplus, to avoid bringing into the dispute European sectors that have until now been exporting engines and success stories, and which would only be likely to be targeted in return. Likewise, due consideration should be given as to the impact of trade defence measures on sectors which currently benefit from an otherwise relatively open market (this is for instance the case in China, which is a key and relatively open market for European spirits, even though SPS rules often act as important non-tariff barriers).

Any trade defence measures should be developed in close consultation with European stakeholders. Based on the example of EU counterbalancing measures in response to US tariffs on steel and aluminium products, the industry witnessed that its impact on designing the product list subject to EU measures was very limited. First of all, the Commission failed to make it clear to companies which elements were necessary and likely to influence its decision. Secondly, the consultation period was too short to allow affected industries to provide meaningful input. Whilst we acknowledge that the EU needs to react in a swift manner to be effective, this should not be at the expense of meaningful consultation with the European industry who might be eventually the one to fit the bill. Allowing more time for a written consultation, followed by a public hearing, would allow the European Commission to better take into account the impact of proposed retaliation measures on affected sectors and to give a stronger voice to stakeholders in this process.

We strongly welcome the recent appointment the Chief Trade Enforcement Officer (CTEO), whose role will be critical in taking a more pro-active approach in addressing trade barriers, including restrictive measures put in place in the post-COVID era We hope that the CTEO will be provided with the resources & authority necessary to fulfil his mission, and that he will work hand in hand with the EU missions abroad and other DGs when appropriate (such as DG TAXUD).

Question 13: What other important topics not covered by the questions above should the Trade Policy Review address?

Considering there is now less than 4 months before the end of the transition period, we cannot not mention the EU-UK relationship in a consultation on the new EU trade policy review. Spirits trade flows between the EU and the UK are economically significant & longstanding. For EU and UK consumers and businesses, it is vital that this trade is maintained.

We need a living agreement between the EU and UK that preserves fair competition and maintains consumer confidence in our products. We therefore strongly urge the EU and UK to secure an ambitious partnership before the end of the transition period, since a decision has been made not to extend it. The future partnership should entail:

- a comprehensive customs agreement to avoid border tariffs, processing delays, conformity assessments and related administration costs;
- an effective dispute resolution mechanism;
- a strong level of mutual recognition and protection of GIs, building on provisions in the Withdrawal Agreement;
- a common approach to protecting the three Irish all-island spirits GIs and to facilitating traditional cross-border supply chains on the island of Ireland without loss of access to preferential treatment under either EU or UK trade agreements;
- a commitment that, wherever possible, common rules should remain closely aligned;
- a mechanism to ensure any divergence in rules by the UK or EU is reported, supported by a joint committee with industry input enabling both countries to raise formal concerns;
- a clear governance structure that allows EU and UK experts to exchange on matters of relevance for the sector and to raise formal concerns.

We call on the EU and the UK to provide enough time for adjustments in order to prevent significant disruptions of supply chains. There are huge risks, particularly for smaller operators, many of whom will be facing procedures for the first time, to suitably prepare as they often lack the required resources. Some flexibility in the timelines for implementation of new requirements (on both sides) would prove particularly helpful, even if the transition itself will end on 31 December 2020.

No deal would be an unacceptable outcome for our sector at the end of 2020. We call on both parties continued commitment to ensure a deal is sought. In case the EU-UK agreement negotiations or ratification are delayed, we urge both parties to be flexible and ensure an implementation period following the end of the transition that is predictable, pragmatic, and non-disruptive for business. Beyond trade negotiations, we also encourage the EU and the UK to continue liaising and joining forces to tackle common challenges, in particular ongoing trade disputes or market access barriers who equally impact EU and UK products. This is particularly needed in an integrated sector such as ours.

Our more detailed recommendations were included in a paper published in April and available here.