

# BREXIT BATTLEGROUND

Where are public health and  
the alcohol industry likely to  
clash in the years ahead?

AN INSTITUTE OF ALCOHOL STUDIES REPORT

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A close-up photograph of two hands clashing in a fistfight. The hands are covered in white dust or powder, which is flying through the air around the impact point. The background is dark and textured.

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## EXECUTIVE SUMMARY

- ▶ **There remains significant uncertainty over what Britain's exit from the EU means for alcohol policy**
- ▶ **Thus far public health groups have made proposals in four broad policy areas to protect health following Brexit:**
  - ▶ Explicit protection for public health in future Trade and Investment Agreements (TIAs) to ensure industry cannot legally challenge regulations
  - ▶ Rationalisation of the duty system to ensure stronger products are taxed at a higher rate
  - ▶ Labelling requirements for products to display nutritional information and health warnings
  - ▶ Stronger restrictions on marketing
- ▶ **By contrast, alcohol industry groups' demands are more detailed and numerous:**
  - ▶ Many of these seek to maintain the status quo and minimise disruption the industry; as such they do not have clear public health implications
  - ▶ Others are more ambiguous as to their consequences, such as calls to lower tax on lower strength products and efforts to maintain current free trade guarantees, and so require careful scrutiny
- ▶ **However, there are three areas where the industry agenda is particularly alarming, and ought to be resisted by public health groups:**
  - ▶ Attempts to encourage tax competition and to weaken regulation (including labelling requirements) by including them among non-tariff barriers to trade
  - ▶ Attempts to increase industry influence over policy through participation in trade discussions, and developing 'model agreements' for the government to adopt wholesale
  - ▶ Attempts to increase access to emerging markets with the greatest prospects for aggressive growth

# INTRODUCTION

On 23 June 2016, the UK voted to leave the European Union. On 29 March 2017, the British Government triggered Article 50 of the Lisbon Treaty, setting the deadline for all existing agreements with the EU to expire for March 2019. More than a year on, there continues to be substantial uncertainty over the UK's future relationship not only with the EU, but with much of the rest of the world. According to the *Financial Times*, there are at least 759 treaties with 168 countries that the UK needs in principle to renegotiate in order to maintain the status quo.<sup>1</sup> That is before we consider any new agreements like those proposed with countries such as the USA, Canada, India and China. The consequence is that there is the potential for substantial change in almost every domain of policy, and alcohol policy is no exception.

Even prior to Brexit, there were concerns about the impact on public health of a 'new generation' of Trade and Investment Agreements, focused on reducing 'non-tariff' barriers to trade.<sup>2</sup> These have been exacerbated by the prospect of several such new agreements in the wake of Britain's exit from the EU.

The purpose of this document is to summarise the objectives and priorities for public health organisations and the alcohol industry as the UK government negotiates this post-Brexit landscape. Some of these relate to the successor arrangements that will define the UK's future relationship with the EU, others to new deals with other countries. However, between them we can begin to identify potential areas of conflict and disagreement, and so begin to map the outlines of major future debates.

To understand the positions of different actors in alcohol policy, we analysed the websites, reports and other public statements of key organisations. On the alcohol industry side, we studied the leading UK trade associations: the British Beer and Pub Association (BBPA), the Scotch Whisky Association (SWA) and the Wine and Spirit Trade Association (WSTA). On the public health side, we looked at key NGOs and professional organisations, including the Faculty of Public Health, the King's Fund, the Royal Society for Public Health, the UK Health Forum and the UK Public Health Network.

We start by laying out the major concerns expressed by public health organisations regarding the impact of Brexit and future UK trade negotiations on alcohol policy. We then describe the main priorities for industry trade associations. We conclude by identifying the key points of dispute that are likely to be most significant in the years to come. Brexit is the dominant political issue of this generation for the UK. This report goes some way to clarifying what is at stake for alcohol policy.

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1 McClean, P. (2017), After Brexit: the UK will need to renegotiate at least 759 treaties, *Financial Times* (30 May). Available from: <<https://www.ft.com/content/f1435a8e-372b-11e7-bce4-9023f8c0fd2e>>. [Accessed 15 February 2018].

2 Kesley, J. (2012), New-generation free trade agreements threaten progressive tobacco and alcohol policies, *Addiction* 107:10, pp1719-21.



## WHAT DO PUBLIC HEALTH GROUPS WANT?

### Protection for public health in Trade and Investment Agreements

The biggest overarching demand from NGOs is that public health is explicitly protected in future Trade and Investment Agreements (TIAs). The UK Public Health Network notes that:

*“the broad nature of trade agreements leads to many public health measures being viewed as a contravention of those agreements. The complexity of the rules negotiated in trade agreements do not allow for easy legal interpretation. Combined with the fact that dispute resolution panels can impose extremely costly penalties, countries can be very cautious and self-censor.”<sup>3</sup>*

This has two implications. The first is that it is very difficult to identify in advance the elements of a TIA that may turn out to present obstacles to public health regulations. The second is that even where governments may be within their rights to introduce regulations, they may be deterred by the costly legal challenges that TIAs make possible – referred to as the ‘chilling effect’. For example, it has been suggested that the Australian Government was dissuaded from introducing compulsory warning labels about drinking in pregnancy by the potential trade law implications.<sup>4</sup> The Scottish Government’s attempts to demonstrate that minimum unit pricing for alcohol represents a legitimate impediment to trade within the EU has delayed the implementation of the policy by six years and cost over £0.5 million in legal fees.<sup>5</sup>

One response is to seek a ‘carve out’ for specific products. The UK Public Health Network points out that: ‘Legal experts in international trade suggest that the “strongest options for states to safeguard their autonomy to implement tobacco control measures are to exclude such measures either from the scope of the relevant TIA [Trade and Investment Agreement] entirely”’.<sup>6</sup> On this basis, they call on the government to “Consider excluding alcoholic beverages, policies and regulations, including any investment and services related to alcohol marketing or promotion, from TIAs as being inappropriate to a trade treaty designed to improve the health of nation”.<sup>7</sup>

In other words, the safest way to avoid the ambiguity and chilling effect of TIAs on alcohol regulation is to leave alcohol and other unhealthy commodities out of them entirely or to deliberately and explicitly restrict the alcohol industry’s ability to legally challenge public health measures. The European Public Health Association has called for such a ‘public health carve out’ from future agreements.<sup>8</sup>

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3 Lodge, H. (2017), *A public health guide to trade and investment agreements: Aesclepius meets Mercury*. UK Public Health Network, p21.

4 Lodge, op. cit., p36.

5 Scottish Government (2017), Legal challenge to Minimum Alcohol Pricing: FOI release. Available from: <<https://beta.gov.scot/publications/foi-17-02801/>>. [Accessed 15 February 2018].

6 Lodge, op. cit., p36.

7 Lodge, op. cit., p7.

8 Massay-Kosubek, Z. (2016), #TTIPLeaks and Bridging the gap between trade and public health, *EPHA* (1 June). Available from: <https://epha.org/ttipleaks-and-bridging-the-gap-between-trade-and-public-health/>. [Accessed 17 April 2018]

However, this approach is controversial. A ‘carve out’ was achieved for tobacco in the Trans-Pacific Partnership (TPP) Agreement,<sup>9</sup> but was criticised for being too narrow and neglecting other public health issues.<sup>10</sup> Moreover, unless they are very extensive, carve outs can leave gaps. For example, the exemption of tobacco from the TPP meant only that tobacco producers could not directly challenge tobacco control regulations, but did nothing to prevent governments petitioning on their behalf. It applied only to manufactured tobacco products, not leaf tobacco. Certain TPP provisions, such as protections of trademarks could still be used to obstruct policies on labelling.<sup>11</sup> Consequently, it may be challenging to formulate an effective carve out.

Nevertheless, it is still a worthwhile project to seek to ensure special recognition and safeguards for public health from TIAs. One step in this direction is the proposed ‘Do No Harm’ amendment to the EU (Withdrawal) Bill, which commits the government to give priority to public health, and is therefore seen by the peers proposing it as providing ‘clarity and reassurance on the tone and guiding principles for the UK’s Brexit negotiations across the board, including our future negotiations with the EU and around the world’.<sup>12</sup>

Stronger exemptions for alcohol and unhealthy commodities would be a dramatic step for the government to take. They would represent a major break from the status quo in the European Single Market, and as a result could potentially impede the access of British alcohol producers to European customers. Given the Government’s stated desire to promote alcohol exports to new markets, and with scotch whisky exports accounting for £4.4 billion last year, alcohol is likely to be central to new TIAs too.<sup>13</sup> All in all, the prospect of alcohol or other public health carve outs appears fairly remote.

## Tax

EU Directive 92/83/EEC requires all EU Member States to tax beer and spirits according to their alcohol content, but wine and cider according to their volume. This has the perverse effect of incentivising wine and cider producers to formulate drinks with a higher alcohol content, as this results in a lower rate of duty per unit of alcohol.

A number of public health groups have called for the Government to take advantage of Brexit to rationalise the alcohol duty system. In the first instance, this would require the government to retain the power to set its own duty structure, which may come under the purview of future TIAs. The Alcohol Health Alliance has proposed that this power be used to ‘ensure that wine and cider duties are set proportional to alcohol content, rather

9 Freeman, B. (2015), Tobacco Carve-Out in TPP, *Tobacco Control Blog* (October 6). Available from: < <http://blogs.bmj.com/tc/2015/10/06/tobacco-carve-out-in-tp/>>. [Accessed 15 February 2018].

10 Hawkins, B. et al (2016), Reassessing policy paradigms: a comparison of the global tobacco and alcohol industries, *Global Public Health* 13:1, pp1-19.

11 Hirono, K. et al (2016), To what extent does a tobacco carve-out protect public health in the Trans-Pacific Partnership Agreement?, *Public Health Research & Practice* 26:2: e2621622.

12 Lord Hunt et al (2018), Peers lodge cross-party ‘Do No harm’ amendment to key Brexit bill, *Politics Home* (26 February). Available from: <<https://www.politicshome.com/news/uk/foreign-affairs/brexit/house/house-magazine/93135/peers-lodge-cross-party-%E2%80%98do-no-harm%E2%80%99>>>. [Accessed 17 April 2018].

13 BBC News (2018), Scotch whisky exports hit record high. Available from: <<http://www.bbc.co.uk/news/uk-scotland-scotland-business-43009106>>. [Accessed 9 March 2018]; SWA (2017), UK Government bids to unlock new markets for Scotch Whisky. Available from: <<http://www.scotch-whisky.org.uk/news-publications/news/uk-government-bids-to-unlock-new-markets-for-scotch-whisky/#.WoWjRqhI9PY>>. [Accessed 15 February 2018].

than volume, to ensure stronger drinks attract higher tax',<sup>14</sup> a suggestion echoed by the UK Health Forum.<sup>15</sup>

In principle, the Government ought to be amenable to this suggestion. In 2016, the then Health Minister Lord Prior claimed that: 'The UK Government believes alcohol duties should be directly proportional to alcohol, as is the case with beer'.<sup>16</sup> However, it remains to be seen whether it prioritises the reform of alcohol tax as an issue in future trade negotiations.

## Labelling

The single policy issue raised most by public health groups in the context of Brexit is probably labelling. Alcohol is currently exempt from the EU's Food Information Regulation, and so unlike food and other beverages, there is no legal requirement for drinks producers to list ingredients, calorie and nutritional information on their products. Moreover, as noted above, mandatory health information, such as pregnancy warnings, may be seen as an impediment to trade within the EU. For example, in the case of food, the UK government was blocked from introducing 'traffic lights' on labels reflecting nutritional content.<sup>17</sup>

At present, many UK alcohol companies voluntarily display limited health information and unit alcohol content. However, many products do not comply with industry-led schemes and over half of labels fall short of best practice in terms of font size and legibility.<sup>18</sup> Moreover, since 2016, the vast majority of products have failed to display the revised chief medical officers' drinking guidelines.<sup>19</sup>

The Royal Society for Public Health have argued that 'Brexit provides an opportunity for the UK to go further, faster in providing comprehensive health information on labels'.<sup>20</sup> They suggest that on the front label, alcohol containers should display their alcoholic strength (ABV), alcohol units (as a proportion of the chief medical officers' weekly guidelines), calorie content as well as warnings about the risks of drink-driving and drinking during pregnancy. On the back label, they call for information on the drinking guidelines, including warnings about the link between alcohol and health conditions such as cancer.<sup>21</sup>

Equally, there is a risk that new TIAs may be formulated in a way that undermines such efforts to strengthen labelling requirements. For example, the World Trade Organization blocked Thailand's government from introducing health warnings with graphic images on alcohol labels.<sup>22</sup>

14 Alcohol Health Alliance (2017), Our policy position on alcohol taxation. Available from: < <http://ahauk.org/wp-content/uploads/2017/01/AHA-Budget-2017-submission.pdf>>. [Accessed 15 February 2018].

15 UK Health Forum (2017), Using Brexit to tackle Non-Communicable Diseases and Improve the Health of the Public.

16 Lord Prior of Brampton (2016), Letter to Lord Brooke of Alverthorpe, 6 June. Available from: < [http://data.parliament.uk/DepositedPapers/Files/DEP2016-0511/06062016\\_Letter\\_to\\_Lord\\_Brooke\\_of\\_Alverthorpe\\_Alcohol\\_Oral\\_PQ.PDF](http://data.parliament.uk/DepositedPapers/Files/DEP2016-0511/06062016_Letter_to_Lord_Brooke_of_Alverthorpe_Alcohol_Oral_PQ.PDF)>. [Accessed 15 February 2018].

17 UK Health Forum (2017), op. cit., p8.

18 Institute of Alcohol Studies (2015), *Dead on Arrival? Evaluating the Public Health Responsibility Deal for Alcohol*. London: Institute of Alcohol Studies, p6-7.

19 Alcohol Health Alliance (2017), Right to Know: Are alcohol labels giving consumers the information they need?.

20 Royal Society for Public Health (2017), General Election 2017: RSPH sets out manifesto to improve and protect the public's health. Available from: <<https://www.rsph.org.uk/about-us/news/general-election-2017-rsph-sets-out-manifesto-to-improve-and-protect-the-public-s-health.html>>. [Accessed 15 February 2018].

21 Royal Society for Public Health (2018), *Labelling the Point: Towards better alcohol health information*. London: Royal Society for Public Health.

22 O'Brien, P. (2013), Australia's double standard on Thailand's alcohol warning labels, *Drug & Alcohol Review* 32:1, pp5-10.



## Marketing

Marketing is another policy area of close interest to public health groups following Brexit. Many of them endorse restrictions on alcohol marketing, such as banning sponsorship, regulating the content of advertisements and limiting the exposure of children to marketing materials.<sup>23</sup> Yet the UK Public Health Network observe that interpretations of trade law can be unclear as to whether such measures are permissible. For example, France's restrictions on alcohol advertising (banning sponsorship and television advertising and limiting content to factual details about the product) have been deemed consistent with EU law. However, the Swedish Government was required to reverse a ban on advertising in the printed media.<sup>24</sup>

The consequences of Brexit for alcohol marketing regulation are therefore unclear. It has the potential to reduce some of the legal ambiguity around restrictions on alcohol marketing, and present the British Government with the opportunity to introduce stronger restrictions. At the same time, new and successor trade agreements could close this window, and further protect advertisers.

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23 Anderson, W. (ed) (2013), *Health First: an evidence-based alcohol strategy for the UK*. Stirling: University of Stirling, 24-7.

24 Lodge, op. cit. p36.

## WHAT DOES THE ALCOHOL INDUSTRY WANT?

Alcohol industry groups have been more detailed and wide ranging in their stated objectives for Brexit, between them producing a long list of proposals. These can be classified into three categories: proposals that aim primarily to maintain the status quo, policy areas with greater ambiguity that ought to be watched carefully and clear threats to public health.

### Proposals to maintain the status quo

A number of alcohol trade associations' favoured policies seek to minimise disruption following Britain's exit from the EU. Most of these do not appear to affect the government's ability to regulate alcohol in the interests of health (though as noted above, the chilling effect of particular trade regulations is not always evident in advance).

In common with many other UK businesses, the alcohol industry is highly concerned to ensure it has access to sufficient trained labour. This is a particularly prominent issue for the BBPA, given the high proportion of EU workers in pubs. Consequently, it has called for the government to protect the residence rights of foreign employees already in the UK<sup>25</sup>, to avoid weakening employment rights and to implement a 'skills agenda' to help recruit UK workers to the hospitality sector.<sup>26</sup>

A second theme of the industry's policy agenda is the desire to limit the bureaucratic impact of leaving the EU. The BBPA and WSTA have both called for the retention of the Excise Movement and Control System, the EU-wide digital tracking system for goods subject to excise duty.<sup>27</sup> Insofar as these maintain the status quo, such systems do not have obvious implications for public health.

A third issue is the protection of certain product names and geographical designations. For example, the Scotch Whisky Association has focused much of its attention on securing legal protection for the Geographical Indication 'scotch whisky', ensuring that only authentic and authorised products can be marketed using that phrase.<sup>28</sup> On the other hand, the WSTA has called for the relaxation of some standards, which it says restrict innovation. For example, the EU recognises sloe gin as a distinct product from other gins, but not other products such as damson gin.<sup>29</sup> Again, there is no obvious role for public health in these debates.

### Areas of potential concern

A second category of industry Brexit demands relates to policies which are not necessarily harmful to public health (and may in some cases be beneficial), but which nonetheless carry

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25 BBPA (2017), Brexit negotiations – BBPA backs focus on transitional measures and wider priorities set out by UK industry. Available from: < <http://www.beerandpub.com/news/brexit-negotiations-bbpa-backs-focus-on-transitional-measures-and-wider-priorities-set-out-by-uk-industry> >. [Accessed 19 February 2018].

26 BBPA (2017), 2017 General Election Beer and Pub Manifesto. Available from: < [http://s3.amazonaws.com/bbpa-prod/attachments/documents/uploads/24599/original/BBPA\\_Election%20manifesto\\_v3\\_WEB.pdf?1493975441](http://s3.amazonaws.com/bbpa-prod/attachments/documents/uploads/24599/original/BBPA_Election%20manifesto_v3_WEB.pdf?1493975441) >. [Accessed 19 February 2018].

27 BBPA (2017), British Beer Export Strategy 2017-2022. Available from: < <http://s3.amazonaws.com/bbpa-prod/attachments/documents/resources/24825/original/Export%20Strategy%20FINAL.pdf?1510223628> >. [Accessed 19 February 2018]. WSTA (2017), Brexit: The road ahead for the wine and spirit industry. Available from: < <http://www.wsta.co.uk/publications-useful-documents/121-brexit-policy-paper-the-road-ahead-for-the-wine-and-spirit-industry/file> >. [Accessed 19 February 2018].

28 SWA (2017), Scotch Whisky and Brexit. Available from: < <http://www.scotch-whisky.org.uk/news-publications/publications/documents/scotch-whisky-and-brexit/#.WorUhpFKi4> >. [Accessed 19 February 2018].

29 WSTA (2017), Brexit: The road ahead for the wine and spirit industry, op. cit.

the potential to cause harm. Consequently, these policy areas ought to be watched carefully by public health groups.

The first such area is alcohol duty. As described above, EU regulations create a perverse incentive for wine and cider producers to produce stronger drinks, as these attract lower tax per unit. Some industry groups appear to agree that this is undesirable. However, their focus has tended to be on lowering the price of lower strength drinks rather than raising the price of stronger products. It is possible that such measures may bring health benefits, if they encourage drinkers to switch down to lower strength products.<sup>30</sup> On the other hand, it is possible that they may merely encourage people to drink more overall, and so may have a negative health impact.<sup>31</sup> Peculiarly, it is the BBPA that has been the most vocal in pushing for changes to the tax system, calling for the lowest rate of beer duty to be applied to products below 3.5% – rather than 2.8% ABV as it is now – even though such a move is already consistent with EU law.<sup>32</sup>

A second area of ambiguity relates to requests to maintain free trade guarantees already secured by the EU. The WSTA has emphasised the need to ensure tariff and quota free access to EU markets. It also points out that the EU has existing preferential trade agreements with most major wine producers, which will no longer apply once Britain leaves the EU.<sup>33</sup> Moreover, it is not only finished alcohol products that are vulnerable to trade restrictions, but ingredients in the production process such as malting barley and hops.<sup>34</sup>

It is unclear how public health should respond to these questions. It is likely that restricting imports of alcohol or ingredients in the production process would raise prices. Then again, trade policy is a rather blunt and indirect way to regulate alcohol (compared to policies like raising alcohol tax and minimum unit pricing), with the potential for substantial unintended consequences.

## Major threats

Finally, we turn to the most alarming industry proposals from the perspective of public health, the ones that are likely to be most contentious and which require most scrutiny. These come under three broad headings: areas of direct policy conflict, efforts to insert the industry into the policy process and attempts to increase access to new markets.

### a. Areas of direct policy conflict

There are certain areas where public health groups and the alcohol industry propose directly contradictory policy proposals. Whereas public health groups urge higher alcohol duty to address cheap alcohol, trade associations appear to be using Brexit to encourage ‘tax competition’ between the UK and other governments. For example, the BBPA’s election manifesto played on concerns about the UK’s trading relationship with the rest of the world

30 Rehm, J. et al (2016), Evidence of reducing ethanol content in beverages to reduce harmful use of alcohol, *Lancet Gastroenterology & Hepatology* 1, pp78-83.

31 Vasiljevic, M. (2018), Marketing messages accompanying online selling of low/er and regular strength wine and beer products in the UK: a content analysis, *BMC Public Health* 18:147; Vasiljevic, M. et al (2018), Impact of lower strength alcohol labelling on consumption: A randomized controlled trial, *Health Psychology*. doi: <http://dx.doi.org/10.1037/hea0000622>

32 BBPA (2017), BBPA responds to publication of Great Repeal Bill White Paper [Press Release]. Available from: <<http://www.beerandpub.com/news/bbpa-responds-to-publication-of-great-repeal-bill-white-paper>> [Accessed 5 March 2018].

33 WSTA (2017), Brexit: The road ahead for the wine and spirit industry, op. cit.

34 Ibid.

to demand a 'more competitive excise duty regime that supports growth in exports of British beer'.<sup>35</sup>

At the same time, industry groups have urged the government to reduce 'non-tariff' barriers to trade in ways that could limit its ability to regulate, for example, labelling. The WSTA has declared the EU regulatory framework for labelling (which, recall, does not require any disclosure of nutritional or health information) as 'fit for purpose' and called for it to be rolled over into UK law.<sup>36</sup> It celebrates its previous successes in opposing 'technical barriers' to trade, 'such as new standards of packaging and labelling'.<sup>37</sup> The BBPA acknowledges that, because of WTO rules, tariffs are unlikely to be imposed on beer by most countries, and consequently their 'greater concern' is 'the potential for non-tariff barriers (eg labels, product testing rules and local subsidies)'.<sup>38</sup>

## **b. Increasing policy influence**

Given the secrecy and ambiguity around trade agreements, public health groups should be attentive to the process by which they are reached as well as their content. The UK Public Health Network observes that:

*Trade negotiations are conducted in secret and, despite attempts at clarification of issues by the WTO in its agreements, the process is still perceived as tantamount to "chasing a black cat in a dark room, blindfolded." Texts of the proposals are rarely made available for public discussion and often shared only with industry-dominated trade advisory committees.<sup>39</sup>*

As a result, participation in trade discussions carries substantial influence. For this reason, industry proposals for greater involvement in trade policy warrant scrutiny. The Scotch Whisky Association has suggested the establishment of a trade policy advisory network to facilitate a more 'structured dialogue' between government and industry, which they believe 'will become of critical importance as the UK enters into trade negotiations with the EU and then other countries'.<sup>40</sup>

The WSTA has been bolder still. Alongside its counterparts in Australia and New Zealand, it has begun working on a 'model trade agreement', which it intends to submit to the government for ratification.<sup>41</sup> In this way, the WSTA is seeking to exploit a lack of administrative capacity in the civil service to push its own agenda on trade:

*While the UK Government cannot formally enter into discussions with non-EU countries while still in the EU there is nothing stopping industry doing so, and the WSTA has already been active on this front... Such agreements can then be adopted by government, secure in the knowledge that the technical standards have been agreed by both importers and exporters.<sup>42</sup>*

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35 BBPA (2017), 2017 General Election Beer and Pub Manifesto, op. cit.

36 WSTA (2017), Brexit: The road ahead for the wine and spirit industry, op. cit.

37 WSTA, Facilitating Market Access. Available from: <<http://www.wsta.co.uk/what-we-do/policy?id=554>>. [Accessed 5 March 2018].

38 BBPA (2017), British Beer Export Strategy 2017-2022, op. cit., p12.

39 Lodge, op. cit., p5.

40 SWA (2017), Scotch Whisky and Brexit, op. cit.

41 WSTA (2017), WSTA proposes industry to lead on model free-trade agreements at its Annual Conference. Available from: <<http://www.wsta.co.uk/press/790-wsta-proposes-industry-to-lead-on-model-free-trade-agreements-at-its-annual-conference>>. [Accessed 5 March 2018].

42 WSTA (2017), Brexit: The road ahead for the wine and spirit industry, op. cit.

The WSTA has also called for the UK Government to join the World Wine Trade Group, an international alliance of wine producers, to increase industry influence on trade agreements.<sup>43</sup>

A wider concern is that the alcohol industry could use trade as a ‘trojan horse’ to build relationships with policymakers and take a more prominent role in the policy process. This is of particular concern post-Brexit in light of the priority the government has given to encouraging alcohol exports (see below). The BBPA has called for support from the Department for International Trade, the Department for Environment, Food and Rural Affairs and the Foreign Office to help promote beer exports abroad.<sup>44</sup> Similarly, the WSTA has used the opportunity to stress the need for ‘partnership working’ across government. It is seeking a ‘primary authority’ role, which would see it acting as a ‘one-stop shop for regulation’, carving out a formal position for itself as an intermediary between the government and individual businesses.<sup>45</sup>

### c. Access to foreign markets

Another area of major concern for health and development groups following Brexit should be industry attempts to use new trade deals to break into foreign markets. The prime example here is India – a country with high tariffs on alcohol to restrict the influence of multinational drinks producers. The SWA in particular is desperate to break down these barriers:

*India is perennially the market with the greatest potential. It is already our third biggest export market by volume and our tenth by value, but Scotch only has a 1% share of the Indian spirits market which shows there is real scope to expand... Post-Brexit, we want to see an ambitious UK-India Free Trade Agreement (FTA) that, at the very least, brought down the current 150% import tariff.*<sup>46</sup>

India is just one of a number of countries on the SWA’s shortlist for free trade agreements, including China, Brazil, Thailand, Kenya, Nigeria and Myanmar. The BBPA has echoed this prioritisation of access to new markets, focusing particularly on India and China.<sup>47</sup>

Even prior to Brexit, the UK government has been criticised for its role in supporting British alcohol producers in low and middle-income countries. For example, it has facilitated Diageo’s acquisitions in China and Ethiopia, lobbied state governments in India to loosen regulations on beer and used development aid to fund Diageo and SAB Miller to use local crops in their brewing processes in Cameroon and Sudan.<sup>48</sup> This may be seen as inconsistent with recognition of the harm to health caused by alcohol – there appears an obvious disconnect between regulating alcohol companies at home and championing them abroad. Moreover, some have suggested that the limited governance capacity of many developing countries may leave them more vulnerable to political pressure from multinational drinks producers.<sup>49</sup>

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43 Ibid.

44 BBPA (2017), British Beer Export Strategy 2017-2022, op. cit.

45 WSTA (2017), Brexit: The road ahead for the wine and spirit industry, op. cit.

46 SWA (2017), Scotch Whisky and Brexit, op. cit.

47 BBPA (2017), British Beer Export Strategy 2017-2022, op. cit.

48 Collin, J., Johnson, E. & Hill, S. (2014), Government support for alcohol industry: promoting exports, jeopardizing global health, *BMJ* 348:g3648.

49 Bakke, O. & Endal, D. (2010), Alcohol policies out of context: drinks industry supplanting government role in alcohol policies in sub-Saharan Africa, *Addiction* 105, pp. 22–8.



Further, it is not only consumers in poorer trading partners that are at risk from Brexit. For example, the WSTA insists that a Free Trade Agreement with Canada should weaken state retail monopolies that appear to limit harmful drinking.<sup>50</sup>

## Other unknowns

This report has sought to reflect the current contours of the debate around post-Brexit alcohol policy. However, it is worth noting that there are a number of additional issues which are likely to be affected by Brexit despite their lack of prominence in discussions so far. The ultimate resolution of questions around border control is likely to have a significant impact on smuggling and illicit alcohol. Alcohol-related crime will be influenced by the impact of Brexit on travel and tourism, as well as cross-border policing. The EU currently plays a role in funding alcohol research and health promotions campaigns, which may be jeopardised by Brexit. These are just a few examples, reflecting the wide-ranging impact of Brexit, well beyond the issues laid out here.

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50 Stockwell, T. et al (2009), Changes in per capita alcohol sales during the partial privatization of British Columbia's retail alcohol monopoly 2003-2008: a multi-level local area analysis, *Addiction* 104:11, pp1827-36.

## CONCLUSION

We are still early in the Brexit process, and much remains unclear. We do not know exactly which policies and institutions will be retained from the EU. We do not know which countries the UK will try to seek trade agreements with, and what these agreements will look like. However, based on the public statements of both industry and public health groups we can draw three emerging conclusions about the likely shape of the debate to come.

First, there are certain policy areas that are almost certain to cause contention. Most obviously, public health and industry have very different visions of how to use alcohol taxes after Brexit: whether to use it to raise the price of the strongest drinks, or to levy a more 'competitive' reduced rate, particularly on lower strength products. Labelling is also likely to be a policy area to watch: the industry sees it as a restriction on trade, public health sees an opportunity to improve on limited EU regulation. Other issues such as advertising restrictions and tariffs may also gain prominence in the debate.

The second point to emerge is that the process of forming policy and trade agreements matters as well as the substance. The development of trade agreements is opaque, and the significance of particular provisions is often not immediately clear. As a result, the extent to which industry guides or shapes agreements – and the extent to which public health groups are excluded – may prove to be crucial.

Finally, the consequences of Brexit go well beyond the UK. If Brexit acts as a spur for the government to support alcohol producers' expansion into other (particularly developing) countries, and to assist them in undermining these countries' regulations, the greatest health burden may be felt far from these shores.



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