

July 3, 2021

**Re: Public consultation: UK rebalancing measures in response to US section 232 steel, aluminium, and derivatives tariffs**

To Whom it May Concern:

On behalf of the Distilled Spirits Council of the US (DISCUS), we appreciate the opportunity to provide our views during this consultation. The recent five-year suspension of tariffs on UK and US distilled spirits, including Scotch Whisky, in the WTO Boeing-Airbus disputes was a significant step in our continued call with the Scotch Whisky Association (SWA), the Wines and Spirits Trade Association (WSTA) and the Bourbon Alliance for an urgent return to bilateral duty-free trade in distilled spirits, which has created jobs in both the UK and US.

The UK's imposition of a 25% tariff on Bourbon and other American Whiskeys makes it the only spirits category subject to additional tariffs between the UK and US. This tariff, which was imposed in June 2018, has resulted in a 53% decline in exports to the UK between 2018-2020. In addition to the devastating impact on U.S. exporters of all sizes, these tariffs are also harming the Scotch Whisky industry, the UK hospitality sector and impeding our progress in addressing shared goals to improve market access for spirits in other key markets.

Therefore, DISCUS strongly supports the urgent discontinuation of the rebalancing tariffs of Bourbon and other American Whiskeys, such as Tennessee Whiskey, American Rye Whiskey, and American Single Malt Whiskey. We encourage the UK government to follow through on Prime Minister Boris Johnson's November 2019 statement regarding the tariff on American Whiskeys during a campaign visit to a Scotch Whisky distillery when he said "once we come out of the EU, those tariffs will not apply."

Specifically, it is critical that the UK remove the tariffs on Bourbon and other American Whiskeys for the following reasons:

**I. Tariffs on American Whiskeys Harm the Scotch Whisky Sector**

The US and UK distilled spirits sectors are deeply interconnected. American and Scotch Whisk(e)y producers are closely linked through bi-lateral trade, investment flows and common production practices. UK based spirits companies have made considerable investments in US distilleries, import American Whiskeys and other US spirits into the UK to complement their existing brands.

The immediate restoration of tariff-free access for Bourbon and other American Whiskeys is essential to our industry's ability to recover from the pandemic and support the over 300,000 people jointly employed in the American Whiskey and Scotch Whisky industries. Failure to do so will further harm Scotch producers, which bore a disproportionate share of the US tariffs in the WTO Boeing-Airbus dispute.



## **II. Tariffs on American Whiskeys are Harming the UK Hospitality Sector**

The UK and global economies have been struck hard due to the outbreak of COVID-19. In particular, bars, restaurants and taverns have been hard hit due to mandatory closings to enforce social distancing. According to the Bourbon Alliance, nearly 10,000 licensed premises in the UK were forced to close in 2020.

A tariff is a tax that is often passed to consumers in the form of higher retail prices. Alternatively, profitability is negatively impacted, resulting in a reduction in investment and loss of job creation. As prices rise, consumers typically purchase less or sometimes trade down to less expensive products. As sales decline, jobs across the supply chain are negatively impacted.

Eliminating the tariff on Bourbon and other American Whiskeys will support the recovery of restaurants and bars that were forced to shut down or curtail business during the pandemic.

## **III. Tariffs on American Whiskeys Undermines Shared Efforts to Eliminate Trade Barriers**

The US and UK spirits sectors have been working cooperatively over the past two decades to address shared goals in third country market of improving market access for their exports which contributes to the long-term viability of the sectors.

When the WTO was established, major spirits producing and consuming countries, including the US and EU, reached the “zero-for-zero” spirits agreement, which eliminated tariffs on an MFN on most spirits, such as whisk(e)y. The UK carried over the agreement following its departure from the EU. Since it entered into force, the value of U.S-UK bilateral trade in whiskeys increased approximately 122%; from \$455 million in 1997 to \$1.01 billion in 2020.

In 1994, the U.S. and the EU agreed on the mutual recognition of certain spirits as distinctive spirits, including Scotch Whisky, Bourbon, and Tennessee Whiskey. This ensures that these products are produced in accordance with their respective laws and regulations. The UK carried over this protection following its departure from the EU. Thus, products labeled as Bourbon or Tennessee Whiskey in the UK may only be sourced from the US. The US protection for Scotch Whisky and Irish Whiskey is included in US regulations.

DISCUS and the SWA strongly support FTA negotiations as it provides a vehicle to enhance important gains that have already been attained. We worked together to propose an annex to the FTA to address best practices on labeling and certification procedures. The annex could serve as a model for future trade agreements with other countries to establish common principles of spirits.



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The continued application of these tariffs undermines shared long-term efforts to eliminate barriers and may impact future efforts to improve market access for American and Scotch Whisk(e)y.

**Conclusion:**

The continuation of tariffs on American Whiskeys will impose more harm on the Scotch Whisky and UK hospitality sectors and threaten the strong and important transatlantic relationship.

Together with the SWA, WSTA, and Bourbon Alliance, we hope that the recent positive momentum to re-set the important UK-US trading relationship will lead to the prompt and permanent removal of the UK's tariff on Bourbon and other American Whiskeys. We believe eliminating this tariff is a key "confidence building" step to relaunch FTA negotiations.

Respectfully submitted,

Robert Maron  
Vice President, International Trade  
Distilled Spirits Council of the U.S.

### **Annex - Additional Information Concerning US-UK Recognition of Distinctive Distilled Spirits:**

As noted in our submission, products labeled as Bourbon and Tennessee Whiskey in the UK may only be sourced from the US. We wanted to provide additional background about the UK's protection of Bourbon and Tennessee Whiskey and US protection of Scotch Whisky and Irish Whiskeys produced in Northern Ireland as distinctive products.

For nearly 60 years, Bourbon has been recognized as a distinctive product of the US following a Congressional resolution in 1964. This recognition is included in the US Standards of Identity for Distilled Spirits. Since then, many international trade agreements in which the US is a party include these protections for Bourbon and Tennessee Whiskey. Bourbon and Tennessee Whiskey are recognized as distinctive products of the US by 44 countries: the EU (27 countries), UK, Australia, Brazil, Canada, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Korea, Mexico, Nicaragua, Panama, Bolivia and Peru.

The UK has recognized Bourbon and Tennessee Whiskey as distinctive products of the US since the US and the EU concluded an agreement on the mutual recognition of certain distinctive spirits in 1994. The agreement ensured that only Scotch Whisky, Irish Whiskey (which may be produced in Northern Ireland), Bourbon and Tennessee Whiskey produced in accordance with their respective laws and regulations can be labeled and sold as such in the U.S. and the EU. The UK carried over this protection for Bourbon and Tennessee Whiskey following its departure from the EU in the January 2019 'UK-US Spirits Agreement.' The US protections for Scotch Whisky and Irish Whiskey from Northern Ireland as distinctive products of the UK are included in the US Standards of Identity for Distilled Spirits.