

Review Australia's alcohol maturation requirements under section 105A of the Customs Act 1901 (Customs Act).

Submission to the Department of Home Affairs / Australian Border Force

Emailed to traderevenue@abf.gov.au

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The Australian Chamber of Commerce and Industry, Australia's largest and most representative business policy and advocacy network, welcomes the opportunity to provide the following comments on the review Australia's alcohol maturation requirements under section 105A of the *Customs Act 1901* (Customs Act).

Competition principle:

Currently, section 105A of the Customs Act requires imported brandy, whisky and rum to be matured by storage in wood for at least two years before it can be delivered from customs control. This requirement applies to any spirits possessing 'the taste, aroma and other characteristics generally attributed to brandy, whisky or rum'.

There is no reason to maintain such provisions as a condition of import. The issues of consumer expectation and protection are already housed within the Australian Consumer Act and there is no justification for the application of non-tariff barriers at our border. So long as consumers are not being misled by any claims being made by producers, there is no reason to apply a border restriction to the importation of matured or unmatured spirits.

As noted in the discussion paper, maintaining any border controls is likely to breach Australia's WTO commitments.

Therefore, the relevant sections of the relevant Acts should be repealed and not simply altered or dealt with by administrative relaxation.

Options under consideration	Comment
Exemption to the requirements of section 105A for certain cultural and geographical indicated unmatured products that are not traditionally described as brandy, whisky or rum, to enter Australia. This exemption would apply on the basis that the products that are not described as brandy, whisky or rum.	Consumers should be able to purchase and enjoy products called whisky, brandy or rum, or other product that has less than 2 years maturation, so long as they are not being deceived or misled that the product has a longer maturation. We recommend repeal of section 105A.
Consideration of possible administrative steps, rather than legislative or regulatory reform. Any such review would also consider practical options to better align the ABF's border processes with the ATO's treatment of equivalent domestically produced alcohol.	ABF should not be involved in the protection of local industry from international competition. Any consideration needs to also consider the interest of consumers and traders. It should only be involved with ensuring that products are not illegal or fraudulent and that appropriate taxation is collected at the border. It is essential that Australia applies equivalent and non discriminatory policy to imports as it would for local production. We recommend repeal of section 105A.

Red tape removal

The Australian Government has a strong emphasis on the removal of red tape. The requirements to meet maturation standards in order to import spirits in certain categories is unnecessary and also requires administrative time and effort from ABF. Government resources can be better deployed and consumers exposed to increased choice by the complete repeal of Section 105A, rather than attempting to find “work arounds” in order to preserve unwarranted local industry protection.

Instead the Government should ensure that the application of the Consumer Act appropriately protects consumers and producers where maturation is a feature of the product. For example, Whisky that claims to be 12 years old, must be no younger than 12 years old. However if a Whisky makes no claim about maturation, then it can be of any age and consumers should be informed about what they are buying and not misled about the product having any specific age.

Should a repeal be undertaken then appropriate consumer education and advice should be available to support the changes.

The Australian Chamber of Commerce and Industry would be pleased to discuss this submission further at any time. Further inquiries should be directed in the first instance to Director of International Chamber of Commerce, Australia, Bryan Clark at bryan.clark@australianchamber.com.au

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