

Protocol to the 2007 World Wine Trade Group Agreement on Requirements for Wine Labelling Concerning Alcohol Tolerance, Vintage, Variety, and Wine Regions

Introduction

- 5.1 The proposed treaty action is to ratify the World Wine Trade Group (WWTG) *Protocol to the 2007 World Wine Trade Group Agreement on Requirements for Wine Labelling Concerning Alcohol Tolerance, Vintage, Variety, and Wine Region* (the Protocol).¹ The purpose of the Protocol is to ‘facilitate trade in wine among the Parties and to minimise any unnecessary labelling-related barriers by establishing parameters for acceptable labelling’, particularly with regard to alcohol content, vintages, grape varieties and wine regions.²
- 5.2 The Protocol was concluded in Brussels on 22 March 2013 and signed by Australia on 30 April 2013.³ To date, the Protocol has also been signed by Argentina, Chile, Georgia and New Zealand, and it entered into force for Georgia and New Zealand in November 2013.⁴ The United States have

1 National Interest Analysis [2014] ATNIA 4 with attachment on consultation *Protocol to the 2007 World Wine Trade Group Agreement on Requirements for Wine Labelling Concerning Alcohol Tolerance, Vintage, Variety, and Wine Regions, done at Brussels, 22 March 2013 (signed for Australia on 30 April 2013* [2013] ATNIF 12 (hereafter referred to as ‘NIA’), para 1.

2 *Protocol to the 2007 World Wine Trade Group Agreement on Requirements for Wine Labelling Concerning Alcohol Tolerance, Vintage, Variety and Wine Regions, done at Brussels, 22 March 2013* [2013] ATNIF 12, Article 2; NIA, para 5.

3 NIA, para 1.

4 Ms Gita Kamath, Assistant Secretary, Agriculture and Food Branch, Department of Foreign Affairs and Trade (DFAT), *Committee Hansard*, Canberra, 24 March 2014, p. 5.

raised some technical questions about the Protocol as it applies to them.⁵ These issues have yet to be reviewed by the Department of Foreign Affairs and Trade (DFAT) and relayed to the Committee.

- 5.3 The Protocol will complement the *WWTG Agreement on Mutual Acceptance of Oenological Practices* [2005] ATS 10, which entered into force for Australia on 1 March 2005, and the *2007 WWTG Agreement on Requirements for Wine Labelling*. The Protocol provides for labelling obligations that are outside the scope of these earlier agreements.⁶
- 5.4 As Australian standards are already consistent with the protocol Australian winemakers will not be required to modify their current labelling practices.⁷

Overview and national interest summary

- 5.5 In 2012 there were 2 572 wine producers in Australia.⁸ The industry employs 22 000 people and contributes \$5.5 billion to the economy.⁹ There are also over 6 000 wine growers supplying the producers 'with further downstream employment in retail, wholesale, hospitality and tourism industries'.¹⁰
- 5.6 Wine production in Australia is an export oriented industry with approximately 60 per cent of Australian wine destined for overseas markets.¹¹ WWTG markets account for almost 40 per cent of Australia's wine exports, with sales of wine to WWTG markets worth \$748 million in the 2013 financial year.¹²
- 5.7 Australia already has a wine agreement with the European Union (EU) which entered into force in September 2010. DFAT assured the Committee that the Protocol does not conflict with the provisions of the EU agreement.¹³

5 Ms Kamath, DFAT, *Committee Hansard*, Canberra, 24 March 2014, p. 6.

6 NIA, para 3.

7 Ms Kamath, DFAT, *Committee Hansard*, Canberra, 24 March 2014, p. 5.

8 Winebiz, 'Wine Industry Statistics', <<http://www.winebiz.com.au/statistics/>>, accessed 24 February 2014.

9 Department of Agriculture, 'Wine Policy', <<http://www.daff.gov.au/agriculture-food/wine-policy>>, accessed 24 February 2014.

10 Ms Kamath, DFAT, *Committee Hansard*, Canberra, 24 March 2014, p. 5.

11 Ms Kamath, DFAT, *Committee Hansard*, Canberra, 24 March 2014, p. 5.

12 NIA, para 6.

13 Ms Kamath, DFAT, *Committee Hansard*, Canberra, 24 March 2014, p. 6.

5.8 The WWTG is an informal grouping of industry representatives and government officials from eight wine producing countries – Argentina, Australia, Canada, Chile, Georgia, New Zealand, South Africa and the United States.¹⁴ The aim of the group is to facilitate international trade in wine and eliminate trade barriers. The WWTG is currently discussing formal procedures to admit new members and observers. Australia supports the expansion of the group, especially from countries that comprise our major export markets including the EU.¹⁵

Reasons for Australia to take the proposed treaty action

5.9 The Protocol facilitates trade in wine between Parties by providing a consistent approach to wine labelling. Australian winemakers will not be required to modify their current labelling practices, but the Protocol means that existing Australian labelling requirements on alcohol tolerance, vintage, variety, and wine regions will be recognised by other Parties.¹⁶

5.10 Representatives of the Australian Government and wine industry participate in the WWTG. Australia played a significant role in negotiating the Protocol as part of the Australian Government's efforts to improve access for Australian wines in global markets. The Protocol will address long-standing trade irritants for Australian wine exporters.¹⁷ DFAT explained to the Committee that:

Australia is the major beneficiary of the protocol as many of the WWTG participants currently do not recognise Australia's labelling requirements for vintage, variety and wine region claims. Australian winemakers are currently required to make different blends of wines for different export markets to meet the relevant requirements for vintage, variety or regional claims in the importing country. Once in force, the protocol will make it easier to market a single blend of wine to all parties to the protocol.¹⁸

5.11 Being able to market a single blend of wine to all Parties of the Protocol will reduce costs for winemakers.¹⁹

14 Ms Kamath, DFAT, *Committee Hansard*, Canberra, 24 March 2014, p. 5.

15 Ms Kamath, DFAT, *Committee Hansard*, Canberra, 24 March 2014, p. 6.

16 NIA, para 9.

17 NIA, para 7.

18 Ms Kamath, DFAT, *Committee Hansard*, Canberra, 24 March 2014, p. 5.

19 NIA, para 8.

- 5.12 The Australian Wine industry has been highly supportive of the Protocol.²⁰ The Winemakers Federation of Australia submitted that:

This agreement will benefit the Australian wine sector, enhance export capability and create no new obligations on producers or consumers in Australia. Winemakers Federation of Australia is a strong supporter of this agreement and commends it to the Treaties Committee.²¹

Obligations

- 5.13 **Article 4** sets out the labelling parameters that the Parties have agreed to accept with respect to the trade of wine. Each of the provisions specifies that Parties shall permit the import and sale of wine which complies with the exporting Party's domestic laws, regulations, and requirements relating to the particular provision (i.e. alcohol tolerance, vintage, variety and wine regions) within the parameters outlined below.²²
- 5.14 **Article 4.1** obliges Parties to permit the importation and sale of wine if the alcohol tolerance does not exceed +/- 1.0 per cent alcohol by volume.²³ This obligation does not apply to fortified wines in Australia, New Zealand and Canada. The Australia and New Zealand Food Standards Code Standard 2.7.1 requires the alcohol content stated on fortified wine labels to be accurate within 0.5 per cent of alcohol by volume.²⁴
- 5.15 **Article 4.2** obliges Parties to permit the importation and sale of wine which is labelled as being of a single grape variety, if at least 75 per cent of the wine is obtained from grapes of that variety. It also obliges Parties to permit the importation and sale of wine which is labelled as being of multiple grape varieties if at least 85 per cent of the wine is obtained from grapes of those varieties, each variety listed is in greater proportion in the wine than any variety that is not listed, and the varieties listed are in descending order of their proportions in the wine.²⁵
- 5.16 **Article 4.3** obliges Parties to permit the import and sale of wine which is labelled with a single wine region if at least 75 per cent of the wine is obtained from grapes grown in the named wine region. It also obliges

20 Ms Kamath, DFAT, *Committee Hansard*, Canberra, 24 March 2014, p. 6.

21 Winemakers Federation of Australia, *Submission 1*, p. 2.

22 NIA, para 10.

23 NIA, para 12. Alcohol tolerance is the deviation between the labelled alcohol content and the measured alcohol content.

24 NIA, para 13.

25 NIA, para 14.

Parties to permit the import and sale of wine which is labelled with up to three wine regions provided that at least 85 per cent of the wine is obtained from grapes grown in those regions, the wine derived from grapes grown in each region listed on the label is in greater proportion than wine from grapes grown in any region that is not listed, the regions listed are in descending order of the proportions of the grapes from those regions and the regions are within the same country.²⁶

5.17 **Article 4.4** obliges Parties to permit the import and sale of wine which is labelled with a vintage if at least 85 per cent of the wine is derived from grapes of that vintage.²⁷

5.18 **Article 6** provides that where an importing party adopts or maintains labelling laws, regulations and requirements that are less restrictive than the provisions specified in the Protocol, exporters shall not be prevented from labelling in accordance with the relevant importing Party's laws, regulations and requirements.²⁸ As the Department of Agriculture explained:

Each country reserves the right to have some other requirements, such as health warnings, which are not affected by this agreement or by the wine agreement with the EU. This allows for a single front label and a single back label. Then, if you are going into a specific market that might have a warning or an allergen labelling requirement, you can just add a sticker but do not have to change those main labels.²⁹

Implementation

5.19 There is currently an inconsistency in labelling requirements between Article 4(3) of the Protocol and sections 40D and 40F of the *Wine Australia Corporation Act 1980* regarding geographical indications.³⁰ The Australian Government Solicitor has advised that 'a minor' amendment to the *Wine*

26 NIA, para 15.

27 NIA, para 16.

28 NIA, para 11.

29 Mr John Power, Director, Wine Policy and Industry Codes, Crops, Horticulture and Wine, Agricultural Productivity, Department of Agriculture, *Committee Hansard*, Canberra, 24 March 2014, p. 7.

30 NIA, para 19.

Australia Corporation Regulations 1981 will rectify the problem.³¹ No other legislative amendments are required in order to implement the Protocol.³²

- 5.20 Consultations were held with the states and territories, and the Commonwealth-State-Territory Standing Committee on Treaties was briefed on the scope, objectives and expected regulatory impacts of the protocol. DFAT confirmed that there is no impact on the states or territories as a result of the Protocol, and no concerns were raised by the states or territories.³³
- 5.21 The Agreement is not expected to have any regulatory impacts on business or the not-for-profit sector. The existing wine labelling regulations will continue to apply for wine produced and/or sold in Australia.³⁴

Costs

- 5.22 There are no foreseeable costs associated with this Protocol for Australia (including for the Australian Government, the State and Territory Governments or the Australian wine industry).³⁵
- 5.23 Although there are no annual membership costs or fees, DFAT and the Department of Agriculture are expected to incur minor costs in attending future meetings of the WWTG or the Council of Parties established under the 2007 Wine Labelling Agreement. These costs will be met in the normal course of portfolio budgetary requirements.³⁶
- 5.24 The wine industry has estimated that as a result of the Protocol, it will save in the range of several million dollars annually.³⁷

Conclusion

- 5.25 The Committee is satisfied that this Protocol will benefit the Australian wine sector, enhance export capability and create no new obligations on Australian wine producers. The Committee commends the Australian

31 NIA, para 20; Ms Kamath, DFAT, *Committee Hansard*, Canberra, 24 March 2014, p. 6.

32 NIA, para 21.

33 Ms Kamath, DFAT, *Committee Hansard*, Canberra, 24 March 2014, p. 6.

34 NIA, para 22.

35 NIA, para 23.

36 NIA, para 24.

37 Ms Kamath, DFAT, *Committee Hansard*, Canberra, 24 March 2014, p. 5.

Government in its work to remove trade irritants from impeding Australia's wine export industry.

- 5.26 The Committee supports Australia's ratification of the Protocol and recommends that binding treaty action be taken.

Recommendation 4

The Committee supports the *Protocol to the 2007 World Wine Trade Group Agreement on Requirements for Wine Labelling Concerning Alcohol Tolerance, Vintage, Variety, and Wine Region* and recommends that binding treaty action be taken.

