

## World Wine Trade Group Agreement on Requirements for Wine Labelling

### Introduction

- 8.1 The *World Wine Trade Group (WWTG) Agreement on Requirements for Wine Labelling* (the Wine Labelling Agreement) is the second major initiative of the WWTG, an informal group of industry and government representatives working to reduce wine trade barriers.<sup>1</sup> The trade group currently comprises Australia, Argentina, Canada, Chile, Georgia, New Zealand, South Africa and the United States.<sup>2</sup>
- 8.2 The purpose of the Wine Labelling Agreement is to harmonise requirements for placement on wine labels of four mandatory items of information: country of origin, product name, net contents and actual alcohol content. The items are to appear in a 'single field of vision' on all standard size wine containers.<sup>3</sup>
- 8.3 The agreement will apply to wine marketed in all WWTG member countries. The harmonised labelling regime is expected to reduce trade barriers in these key wine markets and simplify label production for

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1 *National Interest Analysis (NIA)* [2010] ATNIA 27, Agreement on Requirements for Wine Labelling, done at Canberra on 23 January 2007, para. 6.

2 Mr Hamish McCormick, Department of Foreign Affairs and Trade, *Transcript of Evidence*, 7 February 2011, p. 7.

3 NIA, para. 6.

Australian suppliers, who currently produce different labels for different markets.<sup>4</sup>

## Obligations

- 8.4 The Wine Labelling Agreement contains 20 articles covering mandatory information, presentation, terminology and languages, as well as agreement process management, amendment and joining of new signatories.
- 8.5 The Agreement is to apply to Australian wine produced for domestic consumption and to Australian wine exports to WWTG Parties acceding to or ratifying the Wine Labelling Agreement. In turn, Australia is to accept appropriately labelled wine from other Parties to the agreement.<sup>5</sup>
- 8.6 The primary obligations under the agreement are :
- four mandatory items of information are to be presented in a single field of vision, which must not be on the cap or base, for standard sized containers (Article 6);
  - information must be clear, accurate and truthful with flexibility to include other, or to repeat, information elsewhere to meet domestic laws – winemaking practices need not be disclosed (Article 5); and
  - the four mandatory items of information are to comprise: country of origin, product name, net contents and actual alcohol content, with requirements only to apply to standard fill sized containers (Article 11).<sup>6</sup>
- 8.7 Article 13 provides for future negotiation over inclusion of further items, such as regional production and alcohol content, to be held within three years of the closing period.

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4 *Regulation Impact Statement (RIS), Agreement on Requirements for Wine Labelling, done at Canberra on 23 January 2007, ATNIF 7, para. 22.*

5 NIA, para. 23, Article 6.

6 Standard fills: 50 ml, 100 ml, 187 ml, 250 ml, 375ml, 500ml, 750ml, 1 litre, 1.5 litres etc. RIS, para. 29.

## Reasons to support the treaty

- 8.8 The wine industry is an important contributor to Australia's national economy, accounting for about nine per cent of agricultural exports. The industry directly employs 28,000 people and in 2008, exported over 699 million litres of wine at an estimated value of \$2.5 billion.<sup>7</sup>
- 8.9 Over the last decade, diversification and overproduction in the international wine market has put downward pressure on wine prices, affecting the profitability of the Australian wine industry.<sup>8</sup>
- 8.10 The Wine Labelling Agreement aims to establish a consistent and agreed labelling presentation among WWTG member nations, creating new export opportunities in these major markets.<sup>9</sup> The agreement may also improve trade for Australian makers in the European Union, which already operates under the 'single field of vision' labelling system.<sup>10</sup>
- 8.11 Currently, approaches to wine labelling are very diverse. The Committee was advised that the requirement for the four key items of information to be viewable in a 'single field of vision' will be advantageous in that at *least one label* on a bottle or package would comply with an agreed standard, reducing the number of labels necessary for different markets.<sup>11</sup>
- 8.12 A wine industry study conducted in 2005 estimated the efficiencies achieved in label production would secure Australian wine makers a total saving of around \$25 million annually, a figure largely supported by government economic analysis.<sup>12</sup>
- 8.13 Conversely, the Committee was told, if Australia should fail to ratify the agreement and other WWTG nations do so the industry's competitive position within WWTG markets could be eroded:

Our competitors already enjoy or are about to be able to enjoy these provisions in overseas markets outside of Australia but Australian exporters would have to have one set of provisions that

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7 RIS, para. 2.

8 RIS, para. 3.

9 RIS, para. 27.

10 NIA paras 7-8.

11 Mr McCormick, Department of Foreign Affairs and Trade, *Transcript of Evidence*, 7 February 2011, p. 11.

12 Study by the Winemakers Federation Australia, and verified by the Australian Bureau of Agricultural and Resource Economics (ABARE) in 2006. See RIS, para. 19.

would apply for domestic sales and a different one that would apply for international markets.<sup>13</sup>

- 8.14 Australia would also risk its role as a lead agent in the WWTG, with consequences for future participation in trade facilitation initiatives within its key wine markets.<sup>14</sup>
- 8.15 The Winemakers Federation of Australia endorsed this view noting existing competition from New Zealand wine, which currently complies with agreement requirements, and anticipating substantial economic benefits for the Australian industry under the agreement.<sup>15</sup>

## Implementation

- 8.16 Prior to the signing of the Wine Labelling Agreement in 2007, Australian trade measurement regulation for wine complied with the 1955 *International Organisation of Legal Metrology Convention* (the Metrology Convention), to which Australia is a signatory.<sup>16</sup>
- 8.17 At this time, regulation of trade measurement was conducted under state and territory Uniform Trade Measurement Legislation (UTML). The UTML enforced Recommendation 79 of the Metrology Convention, which required that volume statements for all food products appear on the principal display panel (the front) of all containers.<sup>17</sup>
- 8.18 The Wine Labelling Agreement's 'single field of vision' labelling approach was incompatible with the UTML, which was then amended to remove the frontal volume display requirement (expedited as of 1 June 2009).<sup>18</sup>
- 8.19 In July 2010, regulation of trade measurement in Australia became a matter for the National Measurement Institute which took carriage of the administration of the new national regulation system.<sup>19</sup>

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13 Mr McCormick, Department of Foreign Affairs and Trade, *Transcript of Evidence*, 7 February 2011, p. 11.

14 NIA, para. 13.

15 Winemakers Federation of Australia, *Submission 12*, p. [2].

16 RIS, para. 10.

17 RIS, paras 10–11.

18 In 2008, the Council of Australian Governments secured an agreement to have relevant State and Territory trade measurement legislation amended. See NIA, para. 32; RIS paras 11–12.

19 As determined by Council of Australian Governments on 13 April 2007, RIS, para. 11.

- 8.20 To accommodate inconsistencies between international Metrology Convention obligations (as per Recommendation 79) and the amended regulations for wine labels introduced at state and territory level, the National Measurement Regulations were amended to provide an exemption for labelling of wine pending ratification of the Wine Labelling Agreement.<sup>20</sup>
- 8.21 The Regulation Impact Statement (RIS) for the agreement notes that further detail on regulatory requirements is to be inserted after ratification.<sup>21</sup>

## Concerns about harmonisation

- 8.22 The Wine Labelling Agreement has initiated a number of changes to the Australian standard for labelling of wine, most significantly rescinding the requirement for the front of package volume display, which applies to other food stuffs.<sup>22</sup>
- 8.23 While this move opened an inconsistency in Australian regulation of foods stuffs, Department of Foreign Affairs and Trade representatives advised that the Wine Labelling Agreement is the best means to harmonise requirements in major international markets, where this exemption is the accepted norm for wine labelling:

Countries that take around 80 per cent of the exports of Australian wine already accept this particular exception for wine. That includes the EU as a whole and also the members of the World Wine Trade Group. The other countries that have signed up to this particular wine-labelling agreement are all moving in that direction. Some of them have already ratified it. So an international consensus, if you like, is already moving forward, and we would simply be partaking, essentially, in that international consensus.<sup>23</sup>

- 8.24 The Australia's National Measurement Institute offered a different view of international trade measurement trends. Its submission noted that,

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20 Part 1.3, see National Measurement Institute, *Submission 11*, p. 3.

21 NIA, paras 37-39.

22 NIA, para. 32, Dr Valerie Villiere, National Measurement Institute, *Transcript of Evidence*, 25 February 2011, p. 2.

23 Mr McCormick, Department of Foreign Affairs and Trade, *Transcript of Evidence*, 7 February 2011, p. 8.

parallel to WWTG negotiations, the International Organisation of Legal Metrology had reviewed Recommendation 79 to accommodate the Wine Labelling Agreement proposals. In 2009, the Organisation had voted to reject the proposal to exempt wine from front of packaging volume display applied to other foods and beverages.<sup>24</sup>

- 8.25 The Institute's Dr Valerie Villiere advised that this conflict will be resolved on ratification under the National Measurement Regulations, through the exemption currently set to accommodate the agreement, *viz*:

Part 1.3 Application to Regulations - wine labelling

These Regulations do not apply in relation to the position of measurement marking for standard-sized wine containers that are mentioned in the World Wine Trade Group Agreement on Requirements for Wine Labelling signed on 23 January 2007 by the Minister for trade for the Commonwealth.

- 8.26 Dr Villiere nevertheless expressed concerns that the new arrangement will present a 'smorgasbord of options' rather than a set of standards, which could be difficult to regulate and potentially less certain for consumers.<sup>25</sup>

## Consumer issues

- 8.27 Essentially, the Wine Labelling Agreement is a voluntary arrangement.<sup>26</sup> Outside of the single label requirements for the four mandatory items, the agreement allows the information to be placed on the front or back of a container, to be repeated in different locations, and only applies to standard fill sized containers.<sup>27</sup>

- 8.28 Consumer representatives did not think this flexibility in consumers' best interests.<sup>28</sup> The Consumers' Association of South Australia Inc. stated:

The ratification of the WWTG Agreement on Wine Labelling involves amending the Trade Measurement Regulations to allow for the volume statement to appear in a place other than the principal display panel of a wine bottle as is currently required,

24 *Submission 11*, pp. 2-3.

25 *Transcript of Evidence*, 25 February 2011, pp. 3, 4.

26 Mr John Power, Department of Agriculture Fisheries and Forestry, *Transcript of Evidence*, 7 February 2011, p. 13.

27 See Articles 5, 6 and 11.

28 Consumers' Association of South Australia Inc., *Submission 7*, p. 2; Queensland Consumers Association, *Submission 6*, p. 2, and CHOICE, *Submission 9*, p. [2].

thus failing to provide consumers with important product information that is needed to make an informed choice.<sup>29</sup>

- 8.29 In particular, the front of bottle volume display was considered important to protect consumers against deceptive packaging, as wine makers may easily confuse a purchaser with differently shaped or non-standard sized bottles which are not covered under the agreement.<sup>30</sup>
- 8.30 The Wine Makers Federation contested this view, reporting that the restriction to standard sized bottles has been a concession to appease consumer stakeholder concerns about possible misleading practices.<sup>31</sup> Costs to production were a further disincentive to engage in any such deception.<sup>32</sup>
- 8.31 Consumer groups also had concerns that the agreement might encourage requests from manufacturers of other food and beverage lines to be exempt from the volume display standard.<sup>33</sup> The National Measurement Institute advised that, while it had had such a request to date, it would not extend the exemption.<sup>34</sup>
- 8.32 Finally, the Committee notes consumer group concerns about the length of time that has elapsed since the consultation process and the evidence gathering for this agreement. The industry cost savings analysis, for example, had been conducted well before 2007. CHOICE confirmed that it had participated in the agreement consultation process in 2006.<sup>35</sup>
- 8.33 This lag in time was sufficient for the International Organisation of Legal Metrology to issue its new directives for wine regulation, and for CHOICE and other consumer organisations to withdraw initial support for the agreement. Meanwhile, Federal regulations had been drafted to support the Wine Labelling Agreement without further consultation.<sup>36</sup>
- 8.34 These circumstances generated considerable negative comment in the evidence, reinforcing consumer representatives demands for a
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29 Consumers' Association of South Australia Inc., *Submission 7*, p. 2.

30 National Measurement Institute, *Submission 11*, p. 2 and see Queensland Consumers Association, *Supplementary submission 6.1*.

31 Wine Makers Federation of Australia, *Submission 11*, p. [2].

32 Mr McCormick, Department of Foreign Affairs and Trade, *Transcript of Evidence*, 7 February 2011, p. 11.

33 Consumers' Association of South Australia Inc., *Submission 7*, p. 2;

34 Dr Graham Harvey, National Measurement Institute, *Transcript of Evidence*, 7 February 2011, p. 9.

35 Miss Hughes, Choice, *Transcript of Evidence*, 25 February 2011, p. 5.

36 Miss Hughes, Choice, and Mr Ian Jarratt, Queensland Consumers Association, *Transcript of Evidence*, 25 February 2011, pp. 5, 12.

reinstatement of front of label volume display for wine in the national regulations, irrespective of the ratification of the Wine Labelling Agreement.<sup>37</sup>

## Conclusion

- 8.35 The Committee notes that the Australian wine industry has recently faced challenges in an increasingly diversified and productive international wine market, and appreciates the need to remain competitive in the major wine markets of the World Wine Trade Group (WWTG).
- 8.36 Noting the disparate regulations applying to wine in these markets, the *World Wine Trade Group Agreement on Requirements for Wine Labelling* offers an advance as a flexible framework for regulation of an individuated product, with no history of label uniformity. Ratification of the agreement should assist Australian wine makers hoping to streamline production and expand in key export markets.
- 8.37 At the same time, the Committee recognises the need for balance between flexibility for trade and protection for consumers. The Committee is not of the opinion, however, that trade and consumer interests are incompatible under the Wine Labelling Agreement.
- 8.38 In the Committee's view, the Wine Labelling Agreement's four mandatory items in a 'single field of vision' responds well to consumer needs. While not directly compliant with the International Organisation of Legal Metrology's requirements for net volume on the principal display panel of wine labels, flexibility in the agreement allows this important information to be repeated in accordance with domestic laws.
- 8.39 The Committee recognises that concerns remain, particularly about the consultation process undertaken and the need to exempt some wine labelling from the National Measurement Regulations that require volume to be indicated on the front label. The National Measurement Institute will need to bear in mind consumer concerns when amending and implementing the National Measurement Regulations in support of the Agreement. Nonetheless, on balance, the Committee has agreed to support binding treaty action being taken.

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37 Mr Jarratt, Queensland Consumers Association, *Transcript of Evidence*, 25 February 2011, pp. 7, 9.



**Recommendation 10**

**The Committee supports the *World Wine Trade Group Agreement on Requirements for Wine Labelling*, and recommends that binding treaty action be taken.**

