



**Australian Government**

**National Measurement  
Institute**

Bradfield Road  
West Lindfield NSW 2070

PO Box 264  
Lindfield NSW 2070  
Australia

Phone: +61 2 8467 3600  
Facsimile: +61 2 8467 3610

[www.measurement.gov.au](http://www.measurement.gov.au)

ABN: 74 599 608 295

Joint Standing Committee on Treaties  
Parliament House  
Canberra ACT 2600

Dear Committee

### **World Wine Trade Group Agreement on Requirements for Wine labelling**

The National Measurement Institute (NMI) is the division of the Department of Innovation, Industry, Science and Research which is responsible for Australia's national measurement system and top-level infrastructure in physical, chemical, biological and legal measurements. Under the *National Measurement Act 1960 (Cth)*, NMI establishes and maintains the measurement units and standards that allow Australian industry to operate competitively in a global environment. NMI also represents Australia on international measurement organisations that secure international mutual recognition of Australia's measurement standards, which underpins acceptance of Australian commodities and products and facilitates international trade. This includes representing Australia in the peak global legal and scientific metrology treaty organisations.

NMI attended the first public hearing of the Joint Standing Committee on Treaty (JSCOT) on 7 February 2011 on the World Wine Trade Group Wine Labelling Agreement (WWTGLA) and would like to provide information on the Regulatory Framework for Trade measurement and how NMI intends to implement the WWTGLA.

#### **Regulatory Framework for Trade Measurement**

##### **1. Weights and Measure Regulatory Framework**

- **1901** - Section 51 (XV) of the Constitution - Commonwealth Parliament has the power to make laws in respect of weights and measures.
- **1985** - The Government response to the Scott review resulted in the implementation of Uniform Trade Measurement Legislation (UTML, also called 'model legislation') to ensure harmonisation between States and Territories' legislation for trade measurement.
- **1989** - To preserve the uniformity of the legislation, a Ministerial Agreement between the Commonwealth and the States and Territories (with the exception of WA) was signed in 1989. The agreement established the Standing Committee on Trade Measurement (SCTM) chaired by the National Standards Commission (Commonwealth).
- **1990-2010** - UTML was administered by States and Territories' jurisdictions with guidance from the National Standards Commission (NSC) and, from 2005 from the NMI.

## 2. Framework for amendments of UTML

- a) **Trade Measurement Advisory Committee** (TMAC, successor of SCTM) was a committee composed of members from NSC/NMI and Trade Measurement Managers from States and Territories. It reported to the:
- b) **Standing Committee of Officials of Consumer Affairs** (SCOCA) was a committee composed of officials from States and Territories (with officials from the Commonwealth including NSC/NMI). It reported to the:
- c) **Ministerial Council on Consumer Affairs** (MCCA) was a council of Ministers with Consumer Affairs portfolios, including the Commonwealth Minister with responsibility for consumer affairs. Most of the time, an official from NSC/NMI was present at these meetings.

The usual process for amending UTML was a proposal from TMAC to SCOCA and then to MCCA for approval under the 1989 Ministerial agreement. MCCA relied on the trade measurement officials to ensure the validity of UTML amendments.

### Background on the Development of the Trade Measurement Regulations for Wine Labelling

Australia is a signatory of the Convention on Legal Metrology that establishes the International Organisation of Legal Metrology (OIML) which has 55 full members and 57 corresponding members. Accordingly, Australia has adopted the requirements OIML R79 for labelling of pre-packages. OIML R79 requires that the quantity statement should be on the principal display panel (the front label). This requirement is driven by consumers internationally<sup>1</sup> as a protection against deceptive packages. Australia, through UTML, implemented R79 and States and Territories' legislation, until 2007 (see below), was harmonised with R79.

In 1999 the Winemakers Federation of Australia (WFA) approached TMAC with a request to allow the quantity statement to be removed from the front label of wine bottles. The same request was progressed to SCOCA and MCCA.

The Department of Foreign Affairs and Trade (DFAT) attended the October 2004 meeting of TMAC and provided a presentation supporting the WWTGLA. NSC then NMI was approached by DFAT regarding the development of WWTGLA. NMI agreed to initiate an OIML Seminar on packaging in association with the 2006 OIML meetings in South Africa to resolve the discrepancy between OIML and WWTGLA requirements. One of the outcomes of the 2006 OIML Seminar on packaging was an agreement to review OIML R79. The technical committee responsible has re-affirmed the front label requirement and has decided that there would be no exception for wine bottles. This is a commitment that OIML restated at its annual meeting in 2009 by voting recommendation 25, reproduced below.

*The Committee noted:*

1. *The increasing importance of pre-packaged foods and beverages in global trade that now accounts for 75% of agri-foods exports.*
2. *Developing country exports are particularly disadvantaged by having to conform to a multiplicity of international requirements.*

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<sup>1</sup> 'Metrological Requirements for prepackaged products: follow up to the public consultation and WELMEC wg6 consultation (European Commission)'

3. *That the review of the longstanding OIML R79 arising from the WWTG Labelling Agreement and the 2006 OIML seminar on prepackaging has not resulted in an exemption for wine labelling.*

*The Committee recommended that CIML members bring this resolution to the attention of their national WTO-TBT enquiry point.*

On 23 January 2007, the WWTGLA was signed by most participating countries.

A proposal to amend States and Territories' legislation in accordance with WWTGLA was put to COAG. In 2007 MCCA was instructed by COAG to make amendments to the States and Territories' legislation to satisfy the WWTGLA. States and Territories amended their legislations accordingly in 2008 and 2009.

In 2007, COAG agreed that the Commonwealth would take full responsibility for Trade Measurement. On 1 July 2010, National Trade Measurement (NTM) commenced operations. NTM Regulations have been amended to include the following reference to WWTGLA because of the amendments in the States and Territories' legislation pending the WWTGLA treaty ratification:

*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.*

## **Implementation of the WWTGLA in the NTM Regulations**

The COAG Reform Council noted in its last performance report<sup>2</sup> dated 23 December 2010 against Reform 25 -wine labelling, that '*the harmonisation of domestic and export labelling requirements - the output for this reform - may not be achieved*'. The report then states:

*There are two reasons why the completion of deregulation priority 25 does not necessarily mean there has been harmonisation of domestic and export wine labelling requirements.*

*First, as previously noted by the Council, the Agreement has been incorporated into State and Territory regulations in a broad and non-prescriptive manner. Other signatories may, however, impose more prescriptive wine labelling rules within or outside the scope of the Agreement, leaving open the possibility that Australian wine producers that comply with the new domestic regulations may not necessarily be satisfying the wine labelling requirements of other signatory nations.*

*Second, Article 13 of the Agreement provides a mechanism for an additional agreement on labelling by December 2010. If any further agreement is made by this date or subsequently, this may result in a distinction between the Agreement and the State and Territory regulations that were implemented as the 2008-09 milestone for this reform.*

NMI is responsible for ensuring that the NTM Regulations are meeting the needs of the community (business, industry, general public). NMI will amend the NTM Regulations, following best regulatory practice in accordance with the decision of the JSCOT.

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<sup>2</sup> 'National Partnership Agreement to Deliver a Seamless National Economy: Performance report for 2009–10'

- a. NTM Regulations will need to be written to ensure that their administration is cost effective, that there is no confusion in the market place and no additional transaction costs arising for small business (e.g. retailers).
- b. The NTM Regulations will need to be written to ensure it does not encroach on the responsibilities of other Commonwealth jurisdictions in areas such as health (for alcohol content) and 'country of origin' requirements.
- c. The NTM Regulations will need to be written to ensure limited impact due to the requirements of Article 13 of the WWTGLA.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Valerie Villiere', with a horizontal line drawn through the bottom of the signature.

Dr Valerie Villiere  
General Manager, Legal Metrology Branch  
24 February 2011