



Australian Government

Wine Australia

# Wine Australia for Australian Wine

24 June 2020

Australia – UK FTA Coordinator  
Regional Trade Agreements Division  
Department of Foreign Affairs and Trade  
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BY EMAIL

Dear Sir/Madam

Attached is a submission from Wine Australia providing some information about the market access considerations that ought to be considered through formal trade negotiations between Australia and the United Kingdom of Great Britain and Northern Ireland (UK).

For information about this submission, please contact Rachel Triggs, General Counsel and General Manager – Market Access, Wine Australia ([rachel.triggs@wineaustralia.com](mailto:rachel.triggs@wineaustralia.com)).

Yours sincerely

Andreas Clark  
Chief Executive Officer  
Wine Australia



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# Wine Australia for Australian Wine

## Submission to the UK FTA Coordinator

### UK-Australia Trade Negotiations

Wine Australia, 24 June 2020

For information about this submission, please contact Rachel Triggs, General Counsel and General Manager – Market Access, Wine Australia at [rachel.triggs@wineaustralia.com](mailto:rachel.triggs@wineaustralia.com).

Wine Australia is a Corporate Commonwealth entity that operates in accordance with the *Wine Australia Act 2013* (Act). In accordance with section 3 of the Act, Wine Australia's objects include:

- to support grape or wine research and development activities
- to support the growth of the wine industry, and other industries that make wine
- to support the growth of international wine tourism, and services, products and experiences that complement international wine tourism
- to control the export of grape products from Australia
- to promote the consumption and sale of grape products, both in Australia and overseas, and
- to enable Australia to fulfil its obligations under prescribed wine-trading agreements and other international agreements.<sup>1</sup>

Wine Australia is funded by grape growers and winemakers through levies and user-pays charges and the Australian Government, which provides matching funding for research, development and adoption investments.

Wine Australia welcomes the opportunity to make a submission ahead of the commencement of formal trade negotiations between Australia and the United Kingdom of Great Britain and Northern Ireland (UK).

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<sup>1</sup> There being two such agreements - the Agreement between Australia and the European Community on Trade in Wine (EU Wine Agreement); and the Agreement on Trade in Wine between the Government of Australia and the Government of the United Kingdom of Great Britain and Northern Ireland.



# Wine Australia for Australian Wine

## ***Market overview***

Nearly a third of all Australian wine exports are sold to the UK, making it Australia's number one export market by volume with 219 million litres of wine exported in the 12 months ended March 2020. The value of this wine, ex-Australia, was \$347 million, split roughly equally between packaged and bulk wine shipments. In volume terms, however, 85% of the wine is shipped in bulk containers (typically containing 24,000 litres) and is subsequently packaged in the UK.

The UK is a significant contributor to global wine trade. Australia is responsible for only 5% of the volume of UK bottled wine imports but is the largest country of origin for bulk imports, with a 37% share of the total.

Australia has been the number one category in the UK off-trade market for two decades. According to IRI Worldwide, Australia held a 23 per cent volume share of the market in the 12 months ended March 2020, 11 percentage points ahead of second-placed Italy.

## ***EU – Australia and UK – Australia Wine Agreement***

Ordinarily, exporters of wine to the UK must comply with EU wine regulations.

These regulations are designed to accommodate the restrictive appellation systems that prevail across the major wine producing members of the EU. Interpreting and complying with these regulations in the context of wine imported from countries, like Australia, that do not have such restrictive systems, is challenging.

Fortunately, however, by virtue of the EU Wine Agreement, we have negotiated improved market access conditions for our wine exports.

The EU Wine Agreement has been replicated in the Agreement on Trade in Wine between the Government of Australia and the Government of the United Kingdom of Great Britain and Northern Ireland. The two agreements are collectively referred to in this submission as 'the Wine Agreements'.

The Wine Agreements address a range of technical matters and are advantageous to Australian exporters for the following reasons.

## ***Acceptance of Australia's authorised winemaking practices***



## Wine Australia for Australian Wine

The Wine Agreements permit the import and sale of wine from Australia made in accordance with the Australia New Zealand Food Standards Code (Food Standards Code) as in force upon commencement of the EU Wine Agreement. The Wine Agreements provide a complex mechanism through which subsequent winemaking practices permitted through amendments to the Food Standards Code may also be accepted by the EU and the UK.

Negotiations with the UK should consider liberalising arrangements such that wine made in Australia in compliance with the Food Standards Code, as amended from time to time, may be sold in the UK.

### *Simplified wine certification arrangements*

Under EU law, wines exported to the EU must be accompanied by a 'VI1' certificate. Unless alternative arrangements are made through trade negotiations, eight analytes must appear on the VI1 certificate. The Wine Agreements provide that VI1 certificates accompanying packaged Australian wine must only display three analytes. This significantly decreases the cost of pre-shipment analysis on Australian wine.

Negotiations with the UK should ensure that the dispensation from providing the full suite of analyses for Australian wine remains, or, in the alternative, look to remove the requirement to present a VI1 certificate altogether.

### *Labelling concessions*

The Wine Agreements provide dispensation from the EU requirement that the alcohol content on wine labels be expressed to the whole or half percentage alcohol (for example, 13% or 13.5% rather than 13.6%). In accordance with the Wine Agreements and consistent with Australian law, alcohol content on an Australian wine labels can be expressed to a decimal place. Australian wine is also subject to a more generous tolerance than wine from other countries. Furthermore, Australian products can be labelled as blends of wine from up to three regions which, in the absence of the Wine Agreements, would not be allowed.

Negotiations with the UK should ensure that the dispensation from expressing alcohol content of Australian wine to the nearest 0.5% continues to be applied.



## Wine Australia for Australian Wine

### *Recognition of the influence of Australian agricultural soils on wine composition*

The Wine Agreements recognise the influence of Australian agricultural soils on wine composition thus avoiding the invalid rejection of Australian wine based on its mineral content. Such rejections had been encountered prior to negotiation of the EU Wine Agreement.

Negotiations with the UK should ensure that this arrangement continues with respect to Australian wine.

### *'Standstill' clause*

The Wine Agreements include a 'standstill' clause that prevents the EU and the UK from introducing more restrictive conditions on Australian wine producers through any future review of its domestic wine regulation.

Negotiations with the UK should ensure that arrangement continues with respect to Australian wine.

### ***UK – Australia Wine Agreement - additional points for negotiation***

Despite the Wine Agreements, there remain aspects of EU law that continue to frustrate Australian wine exporters in the UK. Most significantly, the Wine Agreements do not address the issue of import tariffs. Furthermore, the technical problems currently facing wine shipments to the UK due to issues unresolved by the Wine Agreement should be addressed through bilateral discussions with UK

Ideally, a trade agreement between Australian and the UK should:

- eliminate tariffs on Australia wine thereby delivering an annual saving of approximately \$50 million per year, and
- provide for mutual acceptance of winemaking practices (i.e. permitting the application of any winemaking practice that is permissible in both markets to be performed on Australian wine within the UK).

We believe a mutual acceptance is preferable to the current prescriptive approach taken by the Wine Agreements which only permits any winemaking practice that was allowed under the Food Standards Code in 2010 when the current EU Wine Agreement was negotiated. As such, the Wine Agreements do not allow for automatic acceptance of any



## Wine Australia for Australian Wine

winemaking practices that have been approved since then (for example, additives and processing aids approved since 2010). Instead, the Wine Agreements require that any new winemaking practices allowed under the Food Standards Code be approved by the UK/EU through an unnecessarily cumbersome process through which technical dossiers must be submitted, and a formal consultation is required.

Mutual acceptance could be achieved through bilateral negotiations with the UK. Alternatively, if the UK were to become a member of the World Wine Trade Group (WWTG) the obligations of mutual acceptance set out in the Mutual Acceptance Agreement on Oenological Practices would apply to the UK. We understand that the Wine and Spirits Trade Association in the UK is broadly supportive of the UK becoming a member of the WWTG, of which Australia should be supportive.

If mutual recognition cannot be negotiated, Australia should negotiate with the UK for Australian wine imports into the UK to enjoy the following additional derogations to reduce unnecessary and costly technical barriers to trade.

### *Prohibition on sweetening in market*

A high proportion of Australian wine is shipped to EU and the UK in bulk containers and is subsequently bottled in market. It is usual for customers to require that wines are sweetened prior to bottling. This can legitimately be achieved through the addition of grape juice concentrate (as is permitted under Australian law) however this practice is not permitted in the EU. As a result, wines must be sweetened prior to export, which significantly increases the potential for spoilage during the long voyage from Australia to the EU.

Negotiations with the UK should consider liberalising arrangement such that Australian wines can be sweetened in the UK.

### *Minimum alcohol concentration of wine*

EC Regulation 1308/2013 requires that wine be over 8.5% alcohol by volume.

Negotiations with the UK should consider liberalising arrangement such that Australian wines of over 4.5% alcohol by volume can lawfully be



## Wine Australia for Australian Wine

exported to and sold in the UK. This is consistent with the minimum alcohol content of Australian wine provided for in the Food Standards Code.

### *Carbonation*

It is usual for 'sparkling' wines to be carbonated immediately prior to bottling. However, under EU law, wines originating from outside the EU cannot be carbonated within the EU. Accordingly, they must be carbonated prior to export. This significantly increases the cost of supplying sparkling wines to the EU market as the economic benefits associated with exporting in bulk and bottling in market cannot be realised.

Negotiations with the UK should consider liberalising arrangement such that Australian wines can be carbonated in the UK.

### *Prohibition on coupage*

It is usual for wines to be blended immediately before bottling. However, there is a prohibition on the blending or 'coupage' of foreign wines within the EU set out in Annex VIII Part II C of EU Regulation 1308/2013. This limits the flexibility of Australian exporters to meet requests from their customers to blend products prior to bottling.

Negotiations with the UK should consider liberalising arrangement such that Australian wines can be blended in the UK.

### *Amelioration of high-sugar juice and must*

Negotiations with the UK should seek acceptance that Australian wine may contain water that is added to ameliorate high sugar grape juice or must prior to fermentation, provided the juice or must is not diluted below 13.5 degrees Baume. This is a permission provided under clause 7C of standard 4.5.1 of the Food Standards Code.

### *Grape varietal labelling*

Negotiations with the UK should seek authorisation of the import and sale of wine labelled with grape varietal indications that are approved for use in Australia. This should include the use of grape varietal terms that are also geographical indications (or parts thereof), such as Prosecco and Montepulciano.



## Wine Australia for Australian Wine

Prosecco and Montepulciano are widely recognised as grape varieties. They are each on the list maintained by the International Organisation of Vine and Wine (OIV) which is the internationally recognised list of grape variety names.

The European Commission (EC) recognises the terms 'Prosecco' and 'Montepulciano' as geographical indications. The EC has tried to register Prosecco in Australia which was successfully opposed by the Winemakers' Federation of Australia on the grounds that it is a grape variety.

In Australia, 'Vino Nobile di Montepulciano' and 'Montepulciano d'Abruzzo' are registered geographical indications. Notwithstanding, we do not prevent the use of the term as a grape variety in Australia. Our justification for this is supported by the TRIPs (Trade Related Aspects of Intellectual Property) Agreement. The TRIPs Agreement specifically provides for the ongoing use of grape varietal names, regardless of whether such names are geographical indications of another member country.

Until 2009, the EC recognised Prosecco as a grape variety however EC Regulation 1166/2009 introduced a decree stating that the vine variety 'Prosecco' be renamed as 'Glera'. Since then the use of the term as a grape variety in the EU has been prohibited. Our efforts to continue to use the term as a grape variety in the EU have, thus far, been futile.

### *Sparkling wine closures*

Some European regulators have interpreted EU law in a way that prevents sparkling wine being sealed with innovative closures such as crown seals. We disagree with this interpretation, but it would be preferable to have formal confirmation that UK regulators agree with our position.

### *Certification*

Australia does not require imported wine to be accompanied by an official certificate containing the details of (expensive) chemical analysis. Wine shipments to the EU are subject to this requirement.

Negotiations with the UK should consider an arrangement whereby analytical certificates are not required for wine traded between the two countries. In the alternative, an arrangement should be negotiated that allows the exchange of data between Wine Australia and HMRC and DEFRA (and any other relevant authority) to circumvent the need for the





## Wine Australia for Australian Wine

provision of physical certificates. For example, export approval information collected by Wine Australia in the administration of the export controls on Australian wine could be shared by Wine Australia electronically.

### *Use of common English words*

Notwithstanding the registration of any protected traditional expressions, or geographical indications, Australian wines should be permitted to include any commonly used English words in their description and presentation. Some protected European Geographical Indications (e.g. “Graves” or “Port”) contain or consist of commonly used English words and it is necessary to ensure Australian wine producers can continue to use common English words in a context where there is no significant risk of misleading a reasonable person as to the geographical origin of the wine through use of that word. For example, Australian wine exporters should be able to label wines under a brand such as ‘Port Phillip Estate’.

### *Mutual acceptance of organic certification*

Currently, EC Regulation 508/2012 specifically excludes wine from the categories of product whose organic certification is deemed to be equivalent to European processes as set out in EC Regulation 1235/2008. Negotiations with the UK should consider an arrangement whereby wine made from grapes grown to the Australian National Standard for Organic and Bio-dynamic Produce, certified by bodies authorised by Australian authorities, should be accepted as meeting any standard imposed by the UK.

### *Mandatory labelling requirements*

One aspect of EU law that is congruent with Australian legislation concerns the **placement** of mandatory labelling items. Through negotiations with the UK we should seek confirmation that any requirements for placement of information in particular areas of a package will be satisfied for Australian wine provided the following items appear on a container in a single field of vision:

- the word “wine”
- the country of origin (i.e. “Australia”)
- the net contents, and



# Wine Australia for Australian Wine

- the alcohol content.

Further, we should seek confirmation that any additional information may appear in either the same field of vision as the above items or elsewhere on the container.

### *Warning statements*

Through negotiations with the UK, consideration should be given to mutual acceptance of mandatory health warning statements.

### ***Tariffs on Australian wine exported to the UK***

Wine imports into the UK are currently subject to import duties and, until the end of the Brexit transition period, the rates are aligned with the Common Customs Tariff (CCT) of the European Union (EU). The current rates are illustrated in the table below.

Alcohol strength	EU import duty (€ per litre)	
	Bottled wine	Bulk wine
<13%	0.131	0.099
13-15%	0.154	0.121
15-18%	0.186	0.154
18-22%	0.209	0.209

The UK Global Tariff Schedule (Schedule) will come into force on 1 January 2021, replacing the EU Common External Tariff that applies to the import of goods across the external borders of the EU.

This Schedule details the UK’s applied tariffs for all goods entering the UK customs area, and will apply to products originating from any country with which the UK does not have a free trade agreement (FTE) applying preferential tariff treatment on 1 January 2021. Of the major wine producing countries, Chile and South Africa have free trade agreements with the UK that provide that there are no tariffs payable on Chilean or South African wines. This provides Chilean and South African wine exporters with a significant competitive advantage over Australian exporters.

The Schedule will not result in a substantial change to the tariffs on wines other than that they will be expressed in pounds instead of euros with some



# Wine Australia for Australian Wine

small rounding applied. For example, Schedule provides for a tariff on sparkling wine of £26/hl instead of €32/hl, and on still wine of €13-15/hl to £10-12/hl.

The Schedule liberalises the tariff on products under the chapter heading 2205 (*vermouth and other wine of fresh grapes, flavoured with plants or aromatic substances*) to zero. Very little vermouth is exported from Australia to the UK so whilst this is a welcome change, it is unlikely to result in any significant advantage to exporters of Australian wine.

The most significant potential change is that without a UK-EU FTA, on 1 January 2021 tariffs would apply to wines exported from the EU to the UK in accordance with the UK Global Tariff Schedule. This would result in an additional charge of 7-9p per bottle on importation of EU still wines or 19p per bottle on sparkling wines. This would remove the competitive advantage that EU wine exporters currently have in the UK market.

Based on Wine Australia’s analysis of customs data, it is estimated that the cost of the EU import duty on Australian wine exports to the UK totalled nearly AUD\$50 million last year.

In addition, there is a growing market for the export of grape concentrate from Australia to the UK. Grape concentrate is used in the production of non-alcohol beverages. The Schedule provides for two tariff rates for grape concentrate in the EU dependent on the °Brix (a measure of sugar content as percentage by mass) as set out below.

Brix value exceeding 30 but not exceeding 67	22.4%
Brix value exceeding 67	40% + 20.60 EUR / 100kg

If Australia negotiates preferential tariff arrangements, Wine Australia recommends tariffs applied to the following HS Codes be reduced to zero on entry into force of any agreement.



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HS Code	Product description
2204	Wine of fresh grapes, including fortified wines, grape must other than that of heading no. 2009
2009	Fruit juices (including grape must) and vegetable juices, unfermented, not containing added spirit, whether or not containing added sugar or other sweetening matter

**End of submission.**