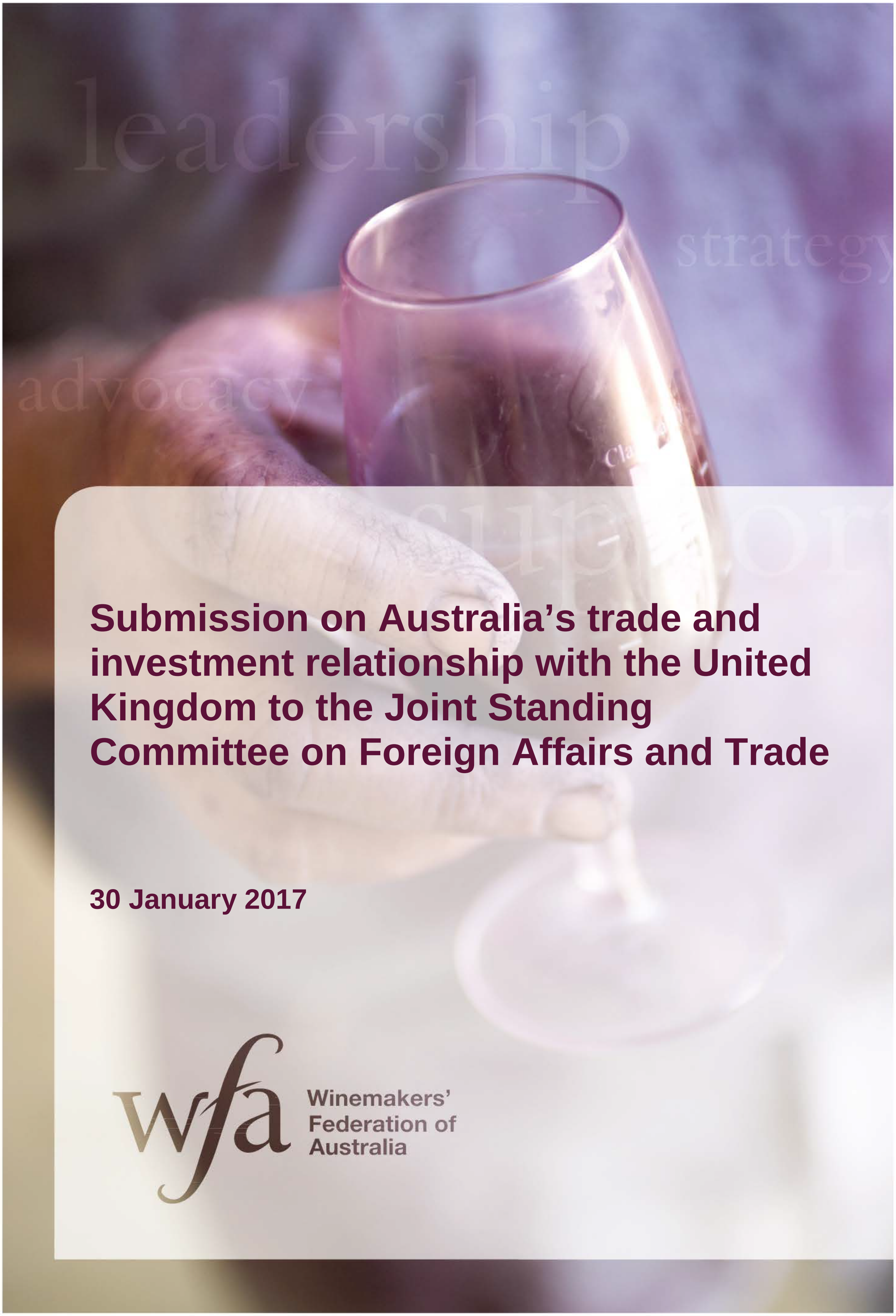

Submission on Australia's trade and investment relationship with the United Kingdom to the Joint Standing Committee on Foreign Affairs and Trade

30 January 2017

Winemakers' Federation of Australia

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1. Introduction

On Thursday, 8 December 2016 the Minister for Trade, Tourism and Investment, the Hon Steven Ciobo MP, asked the Joint Standing Committee on Foreign Affairs, Defence and Trade to inquire into and report on *Australia's trade and investment relationship with the United Kingdom* (Box 1).

Box 1: Terms of Reference

The Committee shall examine Australia's trade and investment relationship with the United Kingdom (UK). The Committee shall have particular regard to:

- *the nature of Australia's current trade and investment relationship with the UK;*
- *possible implications for Australia's trade and investment relationships with the UK and the European Union consequent to the UK's exit from the European Union;*
- *barriers and impediments to trade and investment with the UK;*
- *opportunities to expand trade and investment links;*
- *the merits and risks of a possible bilateral free trade agreement with the UK, and potential features of such an agreement;*
- *the role of Australian governments (State, Territory and Federal) in identifying trade and investment opportunities in the UK, and assisting Australian exporters to access these opportunities; and*
- *any other related matters.*

2. Winemakers Federation of Australia

The Winemakers' Federation of Australia (WFA) is the national peak body for Australia's winemakers. Our objective is to represent the interests of Australian winemakers and grape growers of all sizes on national and international issues affecting the Australian wine industry, through a single organisation.

Government recognition of WFA as a representative organisation is on the basis WFA represents the entire Australian wine industry, including members and non-members. WFA is recognised as a representative organisation under the *Australian Grape and Wine Authority (AGWA) Corporation Act*. WFA is incorporated under the *SA Associations Incorporation Act 1985.*

WFA membership represents around 80% of the national wine grape crush. WFA represents small, medium and large winemakers from across the country's wine-making regions, with each having a voice at the Board level. WFA Board decisions require 80% support so no one category can dominate the decision-making process. In practice, most decisions are determined by consensus. WFA works in partnership with the Australian Government and our sister organisation, Australian Vignerons (AV), to develop and implement policy that is in the wine industry's best interests.

WFA's activities are centred on providing leadership, strategy, advocacy and support that serves the Australian wine industry now and into the future.

3. Background

A referendum was held on Thursday 23 June 2016, to decide whether the United Kingdom (UK) should leave or remain in the European Union (EU). Leave won by 52 to 48 per cent, triggering the Prime Minister to announce his resignation, following the Conservative Party Conference in October 2016.

The vote to leave the EU will trigger a process which will decide the future relationship between the UK and the EU. For the UK to leave the EU it has to invoke Article 50 of the Lisbon Treaty. This will then set in motion the formal legal process of withdrawing from the EU, and give the UK two years to negotiate its withdrawal.

EU law (current legal regime of UK and EU law) continues to apply in the UK until changes are made following withdrawal negotiations. It is not expected that any changes would be retrospective. For the foreseeable future (possibly up to 2 years) businesses will, from a legal viewpoint, operate as before the vote.

4. Australian Wine and the UK market

The UK is the second largest importer of wine in the world with 99 percent of all wine and sparkling wine consumed coming from outside the UK. Approximately half is produced in the EU while the remainder comes mostly from Australia, USA, Chile, Argentina, South Africa and New Zealand.

Accounting for one third of all Australian wine exports, the UK is Australia's number one export destination by volume with 236 million litres of wine exported in 2016. Australia is the second largest source of wine behind Italy, by volume. Considering these facts, any changes in the UK market will significantly impact Australia's wine trade with the UK and the EU.

The UK is Australia's third largest market for wine and any market developments are of great consequence to our industry profitability. One of the critical issues facing the industry following the decision by the United Kingdom to leave the EU revolves around tariffs.

Wine imports into the EU and therefore the UK are subject to import duties – Common Customs Tariff (CCT) – and EU regulations. The current rates are illustrated in Table 1 below.

Table 1: EU import duties

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

Based on Wine Australia analysis of customs data, it is estimated that the cost of the EU import duty on Australian wine exports to the UK alone totalled more than A$42 million in 2015.

Table 2 illustrates the rates payable in per bottle equivalent in Euros (€), Pounds (£), and Australian Dollars (A$) terms. In the UK, the average price per bottle is £5.40 per bottle – the tariff, depending on alcohol content, represents between 1.3 and 2.2 per cent of this price[1]

Table 2: Impact of EU import duty on a bottle

Alcohol strength	EU import		
	€ per bottle	£ per bottle	A$ per bottle
<13%	0.10	0.07	0.14
13-15%	0.12	0.09	0.17
15-18%	0.14	0.10	0.20
18-22%	0.16	0.12	0.23

Table 3 illustrates the total cost of the EU import duty on Australian wine exporters in 2014. The total cost of $58.8 million in 2014 reflects the general decline in volumes shipped to the EU over the past few years when compared with a total import duty of $71.5 million paid in 2010.

Table 3: Total cost of EU import duty on Australian wine exports (2014)

Alcohol strength	EU import duty	
	Bottled	Bulk
<13%	$5,654,400	$19,975,200
13-15%	$6,975,000	$25,399,500
15-18%	$33,480	$129,150
Fortified wine	$111,600	$516,600
	Total	**$58,794,930**

In addition, there is a growing market for the export of grape concentrate to the EU for the production of grape juice and non-alcohol beverage sector products. There are two tariff rates for concentrate in the EU dependent on the Brix (sugar content as percentage by mass):

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

WFA strongly believes that the Australian government must make it a priority in any negotiations with the UK to eliminate all import tariffs for wine and grape products. Any tariff elimination should also recognise that the UK acts as a hub for Australian wine trade to continental Europe and we should seek also to eliminate tariffs of wine packaged in the UK or re-exported from the UK to continental Europe. We believe that this removal of import tariffs for wine and grape concentrate to facilitate trade for Australian exporters has the capacity to greatly increase profitability in this major market.

[1] Based on the average price of wine grape purchases in the Riverland, Murray Valley and Riverina as reported in the 2014 Australian Wine Grape Purchases Price Dispersion Report.

5. Possible implications for Australia's trade and investment relationships with the UK and the EU consequent to the UK's exit from the EU

At the economic level, we are seeing considerable volatility in the global markets. This uncertainty could impact consumer and business confidence.

The only way to minimise disruption to trade is to ensure that in future there is tariff and quota free access for Australian wine into the UK and from the UK to the EU once the UK leaves the EU. Of the major non-EU wine producers supplying the UK, all but Argentina and New Zealand currently benefit from bilateral wine agreements with the EU, but the terms of the various agreements differ. Once the UK leaves the EU, these bilateral wine agreements will no longer apply to the UK market and therefore will need to be either rolled over or replaced.

While the UK Government cannot formally enter into negotiations with non-EU countries while still in the EU there is nothing stopping industry doing so, and the Wine and Spirits Trade Association (WSTA) and WFA have already been active on this front. At recent international meetings of the FIVS and the World Wine Trade Group (WWTG), the WSTA has agreed to work with the Australian wine industry and other trading partners' industry groups to develop model agreements to ensure that the UK exiting the EU does not disrupt the trade flow of wine and spirits into and out of the UK. Such agreements can then be adopted by Government, secure in the knowledge that the technical standards have been agreed by both importers and exporters. As a further mechanism to facilitate international trade, the UK should look to use existing mechanisms wherever possible. For wine, the WWTG has proved itself to be a successful trade facilitator, which the UK should join immediately on leaving the EU.

From an Australian perspective, ensuring UK businesses continue to have access to and to trade into the EU market once the UK leaves the EU is vital. Although the UK is our principal market in Europe, the UK acts as a distribution and production (bottling and packaging) hub for many of our companies selling into mainland Europe.

What are the implications for the Australian Wine Industry?

At this stage we will need to assess and monitor the following over the coming months:

1. **Impact on Demand for Australian wine**: a weakening UK economy and drop in GDP may be reflected in reduced demand across a range of areas including wine.

2. **Exchange rate**: if the Sterling weakens against the Australian dollar, then the price competitiveness of Australian wine could be impacted. This impact will depend on cross rates and the impact on our major competitors on the market.

3. **Alcohol and health**: The UK government has taken a stronger anti-alcohol position than the rest of Europe. For example, on 8 January 2016, the UK Chief Medical Officer proposed new alcohol consumption Guidelines that significantly reduced recommended levels for men, stating that there is "no safe level" of alcohol consumption. There is a risk, that without the balancing aspect of European regulation, the UK government may take a stronger populist anti-alcohol approach.

4. **Trade Agreements**: Following the exit from the EU, the UK will no longer be subject to the CCTs and any tariffs will be established only after trade agreement negotiations. If no preferential agreement is

negotiated with the EU after the exit, then all imports will be treated equally, removing the benefit some our trading partners currently receive on exports to the EU.

More significantly, UK food law is now inextricably linked with EU food law. Nowhere is this more obvious than in wine regulation, where the UK legislation gives force to European wine regulation. However, Australia currently has preferential access to the European market due to the *Agreement between Australia and the European Community on Trade in Wine* (the Wine Agreement). In 1994, the Wine Agreement was the first wine agreement signed outside Europe and has treaty status. The Wine Agreement harmonised winemaking practices as well as established protection for geographical indications and traditional expressions. Another immediate benefit was the reduction in analytical requirements for the European Import Certificate of analysis. The Wine Agreement also required Australia to phase-out the use of certain European regions.

The Wine Agreement was renegotiated and signed in Brussels on 1 December 2008 and is a formal international agreement that regulates the trade in wine between Australia and the EU. The 2008 Wine Agreement came into force on 1 September 2010 superseding the 1994 Wine Agreement.

There are significant advantages to Australian producers and exporters in this agreement because all Australian winemaking techniques are now accepted. There are much simpler requirements covering everything from labeling and blending rules to alcohol levels. Australian wine producers benefit from fewer changes and concessions to sell their wine in the EU.

The major benefits for Australian producers include:

- European recognition of Australian winemaking techniques;
- Simplified arrangements for the approval of winemaking techniques that may be developed in the future;
- Simplified labeling requirements for Australian wine sold in European markets. Protection within Europe of Australia's registered geographical indications (GIs);
- Simplified certification requirements for Australian bottled wines entering European customs.

However, with the exit of the UK from the EU, this agreement may no longer apply and may be renegotiated. This has a number of important implications. First, the Wine Agreement overrides EU regulations, giving Australian exporters the advantages outlined above. If the UK merely adopts European wine law as it currently exists on their statute books, then these advantageous provisions will no longer apply. Second, many exporters send wine to the UK where it is then re-exported to other European countries. There is also a lot of wine that is currently exported in bulk to the UK, bottled and exported throughout Europe. These transactions currently fall under the Wine Agreement and single market provisions of Europe. The exit of the UK will require negotiations with both the EU and the UK to reduce transactional costs that may arise. This will become part of the EU-Australia Free Trade Agreement negotiations due to commence in 2017.

5. **Intellectual property:** trade mark owners have sought protection at an EU level rather than State by State. Following the UKs exit from the EU, EU trademark law may no longer apply in the UK and businesses will need to reassess how they protect their marks in the UK and in the EU.

6. **Imports and exports:** Currently the customs union and free movement principles ensure that most goods are traded and moved between states without tariffs customs duties and customs declarations generally irrespective of origin of goods. It is not clear what changes may occur as the withdrawal proceeds.

6. Barriers and impediments to trade and investment with the UK

The EU Customs Union provides a single mechanism for goods to enter and leave the territory of the EU and, once within the EU, allows goods to freely circulate on the basis of a single system. Although excise duties are levied nationally, the Excise Movement Control System (EMCS), which monitors the holding and movement of EU trade, is communal. Ideally, the UK will continue to have access to the EMCS in order to facilitate movements around the EU.

Whatever the basis of the UK's trading relationship with the EU, the UK will need clear, workable and well-tested mechanisms in place to enable cross-border trade from the moment of leaving the EU. This may require the UK to introduce a customs border with the EU, with commensurate demand on IT and systems to check vehicles without undue delay.

However, on the plus side, if the UK leaves the Customs Union there may be opportunities to create a more integrated system which would also counter illicit trade and therefore reduce the requirement for controls further down the supply chain. This might include moving away from traditional distinctions between "customs" and "excise" regimes, reviewing the need for guarantees for movements between trusted traders and greater reliance on self-assessment. The innovative use of technology such as QR codes and data sharing with HM Revenue and Customs will be central to this.

7. Opportunities to expand trade and investment links

The UK leaving the EU presents a number of opportunities. It is likely that the UK will largely adopt the current EU regulatory framework for food law and roll the main elements and principles into UK legislation in order to apply as soon as the UK leaves the EU. However, as there is a growing UK wine sector and the UK has traditionally had a more-opened minded view of trade, it provides us with a great opportunity to simplify some of the technical regulations in place.

This may also result in a greater partnership working between industry and enforcement bodies. The WSTA has already started exploring entering into a Primary Authority role for products falling within its remit. This has the potential to enhance trade.

The WSTA has agreed to work with WFA at the industry level to develop model agreements to ensure that the UK leaving the EU does not disrupt the trade flow of wine and spirits into and out of the UK. The WWTG has proved itself to be a successful trade facilitation group which the UK will play a role in.

Intellectual property protection, including Geographic Indications, is an important issue to continually monitor. The UK Government will seek to establish a system for existing protected designations of origin for wines and spirits and could take the opportunity to revise current protection for English wine and sparkling wine. We need to ensure that they continue to respect the protection of grape varieties such as 'prosecco' and 'Montepulciano' and respect homonymous use of grape varieties and geographic indications.

It is likely the UK will seek to create a more integrated import-export control system which would also counter illicit trade and therefore reduce the requirement for controls further down the supply chain.

8. The merits and risks of a possible bilateral free trade agreement with the UK, and potential features of such an agreement

WFA is a strong and enthusiastic support of entering into a free trade agreement with the UK. Such an agreement should seek the immediate elimination of all tariffs and seek to eliminate certification and testing requirements through mutual recognition or equivalence of each other's regulatory systems. Although non-tariff measures are not a major problem, any agreement should establish systems to allow the easy approval of new additives and processing aids (ideally through mutual acceptance); minimise testing requirements (eliminate in the case of 'low risk' foods such as wine); harmonise or mutually accept labelling requirements and collaborate in international forums to work on reducing non-tariff measures world-wide.

9. The role of Australian government (in identifying trade and investment opportunities in the UK, and assisting Australian exporters to access these opportunities

The Australian government has an important role to play in trade and investment facilitation in the UK though its departments such as AUSTRADE, Department of Foreign Affairs and Trade (DFAT), Department of Agriculture and Water Resources (DAWR) and AGWA. As a priority, the Australian Government has a significant role to play in negotiating a free trade agreement with tariff and quote free entry to the UK for Australian wine, and the non-tariff measures outlined above.

In addition, there is potential to renew and expand the Export Market Development Scheme (EMDG) scheme in the UK. The industry collaborative marketing undertaken by the AGWA means that EMDG can maximise the opportunity of small and medium sized enterprises to establish themselves in this market and capitalise on pro-Australian sentiment arising post-Brexit. As it takes up to five years to grow a market to a sustainable level of profitability, many winemakers by this stage have exhausted EMDG funding opportunities and are unable to capitalize on entry into the new UK market. However, to provide maximum benefit in this environment, it is important that the eligibility of the grants be reviewed, so that all wine exporters can take advantage of the opportunities that are provided by a recovering international economy and a targeted marketing and promotional campaign from industry. This presents an opportunity for the Australian Government to assist the wine industry by providing ongoing support to ensure newly established international brands succeed for several years beyond their entry into the international market.

We seek the support of the Australian Government for the maintenance or increase in previous Budget funding levels and to amend the criteria for EMDG. We would seek changes in eligibility criteria that would permit those exporters that have been forced out of markets and have exhausted their EMDG grants to receive further grants. This will provide maximum benefit to both exporters and the Australian economy.

10. Conclusions

WFA is actively working with our UK industry counterparts prior to formal exit from the EU. We seek acknowledgement and support from the government as appropriate to ensure that on exit, Australia is well placed to capitalise on a business friendly regulatory system and can rapidly move to ensure we are not disadvantaged compared with Europe.

The WFA will work with the Australian Government to take steps to support the continued growth of our wine exports to the UK and EU. More specifically:

- We will work closely with both the EU and the UK governments to seek to establish trading arrangements that will preserve the current benefits for Australian wine imports and also overcome some of the remaining technical issues we face in the UK;
- We will support inviting representatives of the UK government to participate in the WWTG to begin this dialogue on technical issues;
- We will continue working with DFAT to identify and address issues that arise in the FTA negotiations with the EU;
- We support early negotiations with the UK to eliminate tariffs, reduce non-tariff measures and facilitate trading arrangements;
- We will monitor other legal changes in intellectual property, competition law, and so on and keep our members informed.

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