

## Agreement on Mutual Acceptance of Oenological Practices

- 6.1 The *Agreement on Mutual Acceptance of Oenological Practices (Toronto, 18 December 2001)* (MAA) was developed by the World Wine Trade Group (WWTG).<sup>1</sup> The purpose of the MAA is to facilitate trade in wine among the state parties to the Agreement through the mutual acceptance of oenological practices.<sup>2</sup> Parties to the MAA are Argentina, Australia, Canada, Chile, New Zealand and the United States of America.<sup>3</sup>
- 6.2 The MAA promotes a liberal approach to trade in wine by limiting the basis of an importing country's objections to wine imports to health and safety grounds, rather than oenological practices that differ from the importing country's own standards. Under the MAA, countries will accept wine imported from other member countries, regardless of whether the production methods used in the other country are legal in the importing country.<sup>4</sup> This is qualified only by the provision that acceptance of the other country's production methods is subject to health and safety considerations,<sup>5</sup> recognising that oenological practices vary between countries 'for a variety of climatic and other reasons'.<sup>6</sup>

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1 National Interest Analysis (NIA), para. 5.

2 Mr Michael Alder, *Transcript of Evidence*, 9 August 2004, p. 2.

3 NIA, para. 11 and Mr Michael Alder, *Transcript of Evidence*, 9 August 2004, p. 2.

4 NIA, para. 6.

5 Mr Michael Alder, *Transcript of Evidence*, 9 August 2004, pp. 2-3.

6 NIA, para. 6.

## Background

- 6.3 The WWTG is 'committed to examining initiatives and proposals for facilitating the international trade in wine'.<sup>7</sup> Its members are Argentina, Australia, Canada, New Zealand, Chile, the United States and South Africa.<sup>8</sup> The Group includes government and industry representatives from its member countries. The Australian delegation includes representatives from the Department of Agriculture, Fisheries and Forestry (DAFF), the Department of Foreign Affairs and Trade (DFAT), the Australian Wine and Brandy Corporation and the Winemakers' Federation of Australia.<sup>9</sup>
- 6.4 Exports are a significant component of Australian wine sales. The NIA states that in 2002-03, Australia's \$2.4 billion of wine exports represented 56 per cent of the nation's total wine sales.<sup>10</sup> Exports to the USA and Canada, both parties to the MAA, were worth over \$1 billion.<sup>11</sup>

## Key benefits

- 6.5 The Committee notes that the MAA is expected to advantage the Australian wine industry. According to evidence presented to the Committee, benefits include
- greater security of access for Australian exports to overseas wine markets. Mr Michael Alder of DAFF advised the Committee that this was particularly important with regard to accessing the North American markets. He stated that the US is Australia's largest export market by value, and Canada is the third largest<sup>12</sup>
  - encouraging the development and adoption of new wine technologies<sup>13</sup>
  - the provision of an important alternative principle to the European Community's multilaterals which use a more prescriptive regulatory approach to oenological practices, taking into account non health and safety related aspects.<sup>14</sup> According to Mr Alder, the

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7 Mr Michael Alder, *Transcript of Evidence*, 9 August 2004, p. 2.

8 Mr Michael Alder, *Transcript of Evidence*, 9 August 2004, p. 2.

9 NIA, para. 12.

10 NIA, para. 7.

11 NIA, para. 7.

12 Mr Michael Alder, *Transcript of Evidence*, 9 August 2004, p. 3.

13 NIA, para. 8.

14 Mr Michael Alder, *Transcript of Evidence*, 9 August 2004, p. 3 and NIA, para. 8.

MAA represents ‘an important step forward in terms of the way in which we wish to regulate that trade’.<sup>15</sup>

- 6.6 The flexible approach of the MAA contrasts with previous import restrictions based upon oenological practices. By limiting obstacles to only those related to health and safety, the MAA will facilitate trade in wine between member countries,<sup>16</sup> while countries retain control over health and safety matters for both domestically produced and imported wine.<sup>17</sup>
- 6.7 The Committee notes that failure to ratify the treaty may be a detriment the Australian wine industry. The NIA states that if Australia does not ratify the MAA, then
- the current and future level of market access for Australia’s wine may be exposed to possible restrictions based on grounds such as differences in wine making practices rather than on health and safety requirements. In particular, USA legislation is in the process of being amended with the intention that wine imported into the USA from countries that have not ratified the MAA will be required to go through a more detailed certification system.<sup>18</sup>

## Key obligations

- 6.8 The Committee understands that Australia’s main obligation under the MAA is the mutual acceptance of the other Parties’ mechanisms for regulating oenological practices, subject to these practices meeting Australia’s health and safety requirements.<sup>19</sup>
- 6.9 Australia must immediately notify all other Parties if it has reason to believe that wine ‘produced in, exported from or imported into its territory would compromise human health and safety’.<sup>20</sup> Further, Australia must notify the Council of Parties if it proposes to amend laws, requirements or regulations that relate to oenological practices. It must allow the other Parties opportunity to comment on proposed amendments.<sup>21</sup> The other Parties may only reject proposed

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15 Mr Michael Alder, *Transcript of Evidence*, 9 August 2004, p. 3.

16 NIA, para. 9.

17 NIA, para. 10.

18 NIA, para. 13.

19 NIA, para. 14.

20 NIA, para. 17.

21 NIA, para. 18.

amendments on health and safety grounds.<sup>22</sup> If agreement cannot be reached over the rejection of a practice, the matter can be raised under the WTO dispute process.<sup>23</sup>

- 6.10 The MAA commits Parties to enter into negotiations on a multilateral wine labelling agreement.<sup>24</sup>
- 6.11 The MAA does not impose any commercial obligations on Parties to purchase products that come under the MAA.<sup>25</sup>

## Australian standards

- 6.12 This new approach is consistent with that of the Australia-New Zealand Joint Food Standards Code (the Code) for wine, which is primarily health and safety based.<sup>26</sup> The Committee understands that in order to ratify the MAA, it was necessary to ensure that Australian legislation conforms with the treaty provisions and to undertake an assessment of the oenological practices used by other Parties. Food Standards Australia New Zealand (FSANZ) conducted detailed health and safety assessments of the other members' laws, regulations and requirements concerning oenological practices to ascertain whether they complied with the Code.<sup>27</sup> Approximately eleven practices were identified which were inconsistent with the Code, and following normal public consultation processes, the Code was amended to conform with Australia's MAA obligations.<sup>28</sup>
- 6.13 Amendments to the Code were made under the *Food Standards Australia New Zealand Act 1991*, and were approved by the FSANZ Board on 17 March 2004 and came into force on 29 April 2004. The Committee notes that according to the NIA, the Australian wine industry was consulted, and supported the proposed amendments.<sup>29</sup>
- 6.14 The amendments to the Code were for the
- inclusion for use in wine of the food additives gum arabic, calcium ascorbate, sodium ascorbate and sodium erythorbate;

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22 Mr Michael Alder, *Transcript of Evidence*, 9 August 2004, p. 5.

23 Mr Michael Alder, *Transcript of Evidence*, 9 August 2004, p. 5.

24 Mr Michael Alder, *Transcript of Evidence*, 9 August 2004, p. 5.

25 NIA, para. 16.

26 Mr Michael Alder, *Transcript of Evidence*, 9 August 2004, p. 3.

27 NIA, para. 20.

28 Mr Michael Alder, *Transcript of Evidence*, 9 August 2004, p. 3.

29 NIA, para. 22 and Annexure A, p. 1.

- inclusion for restricted use in wine of the food additives ethyl maltol and maltol (flavourings and flavour enhancers), with use limited to wine made with non-*Vitis vinifera* grapes; and
  - inclusion of argon, ammonium sulphite and the enzyme urease, as new processing aids in the Code.<sup>30</sup>
- 6.15 According to Mr James Gruber of FSANZ, those practices that were the subject of the amendments to the Code were, in most cases, already approved for use in other foodstuffs under the Code.<sup>31</sup> They had not previously been approved for wine simply because they were not traditionally used by the Australian wine industry and so did not necessitate inclusion.<sup>32</sup> Mr Gruber confirmed that there was no reason for those additives to be excluded on health and safety grounds.<sup>33</sup>
- 6.16 FSANZ will conduct assessments of signatories' oenological practices again in the future if these countries use new practices or if other countries become Parties to the MAA. Where any party fails to meet Australian health and safety requirements, Australia will not permit wine using the offending practice to enter the country. Future assessments will continue to be conducted by FSANZ as part of its standard operating procedures, and will include the opportunity for public consultation.<sup>34</sup>

## Entry into force

- 6.17 Australia signed the MAA on 18 December 2001. The MAA came into force generally on 1 December 2002, following ratification by Canada and the United States of America.<sup>35</sup> Chile ratified the MAA in 2003.<sup>36</sup> Signatories must ratify within 30 months of entry into force. Australia, Argentina and New Zealand are yet to ratify the MAA.<sup>37</sup> The MAA will enter into force for Australia on the first day of the month following the date of deposit of an instrument of ratification or accession.<sup>38</sup>

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30 NIA, para. 23.

31 Mr James Gruber, *Transcript of Evidence*, 9 August 2004, p. 4.

32 Mr Michael Alder, *Transcript of Evidence*, 9 August 2004, pp. 4-5.

33 Mr James Gruber, *Transcript of Evidence*, 9 August 2004, p. 4.

34 NIA, para. 11.

35 NIA, para. 2.

36 Mr Michael Alder, *Transcript of Evidence*, 9 August 2004, p. 2.

37 NIA, para. 2.

38 NIA, para. 3.

- 6.18 The Committee acknowledges Mr Alder's explanation that the completion of internal processes for ensuring consistency between the MAA and existing Australian legislation was the reason for the delay between Australia's signing the MAA in December 2001 and its tabling in Parliament in June 2004.<sup>39</sup>
- 6.19 Australia may withdraw from the MAA by lodging written notification. Withdrawal takes six months from the date of receipt of such notification and would be subject to the Australian treaty process.<sup>40</sup>

## Implementation

- 6.20 As Australia's Food Standards laws are based on health and safety considerations, no legislative change is required in order for Australia to implement the MAA. All oenological practices must meet the Code.<sup>41</sup> As noted previously, the Code was amended to incorporate acceptance of oenological practices of Parties to the MAA.

## Costs

- 6.21 The NIA states that FSANZ will incur some costs associated with the maintenance of the Code if it is necessary to assess new practices of existing Parties or the practices of new Parties to the MAA. According to the NIA, these 'costs are difficult to estimate as they depend on the extent and need of any future assessment.'<sup>42</sup> DAFF and DFAT may also incur costs relating to attendance of meetings of the WWTG or the MAA Council.<sup>43</sup>

## Consultation

- 6.22 The Australian wine industry, represented by the Winemakers' Federation of Australia and the Australian Wine and Brandy

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39 Mr Michael Alder, *Transcript of Evidence*, 9 August 2004, p. 6.

40 NIA, para. 36.

41 NIA, para. 26.

42 NIA, para. 27.

43 NIA, para. 28.

- Corporation, participated in the negotiation of the MAA. The NIA states that the industry strongly supported ratification of the treaty.<sup>44</sup>
- 6.23 Consultations were conducted during the development of the MAA with State and Territory governments, FSANZ, the Australian Customs Service, the Australian Quarantine and Inspection Services, DAFF, DFAT and the Department of Health and Ageing.<sup>45</sup>
- 6.24 The Committee notes comments from the Queensland Government requesting that the Ministerial Council of Consumer Affairs be consulted in regard to the development and implementation of a wine labelling agreement, as required by the MAA.<sup>46</sup>
- 6.25 The Committee did not receive any submissions advising against accession to the MAA.

## Conclusion and recommendation

- 6.26 The Committee acknowledges the benefits expected to occur as a result of ratification of the MAA and supports the efforts of the WWTG in facilitating the liberalisation of trade in wine through the removal of technical barriers to such trade, other than those based on health and safety considerations.

### Recommendation 4

**The Committee supports the *Agreement on Mutual Acceptance of Oenological Practices (Toronto, 18 December 2001)* and recommends that binding treaty action be taken.**

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44 NIA, para. 30.

45 NIA, para. 29.

46 Queensland Government, *Submission*, p. 2.