

Explanatory Statement 4 of 2023

Australia's Acceptance of an Amendment to the Agreement Establishing the International Organisation of Vine and Wine (OIV Treaty)

Practical and legal effect

1. The International Organisation of Vine and Wine (OIV) is an intergovernmental wine organisation that includes major wine producing countries. Australia has been a member of the OIV since 1978 and is a member state to the OIV Treaty done on 3 April 2001. The OIV Treaty entered into force for Australia on 1 January 2004.
2. On 25 October 2021, OIV member states adopted the Protocol of Amendment that agreed to the OIV Headquarters being relocated from Paris to Dijon, France (amending Protocol). The amending Protocol would enter into force thirty days after the deposit of instruments of acceptance, approval, ratification or accession of two-thirds plus one of the members of the OIV.
3. The amending Protocol would represent a minor technical amendment. It is expected to have no significant impact on Australia's national interest and would have negligible financial or legal effect in Australia. The change in location of the OIV headquarters would not involve any additional member state annual contributions or additional costs for the OIV.

Nature and timing of proposed treaty matter

4. OIV member states are required to deposit instruments of acceptance, approval, ratification or accession with the Government of France. The amending Protocol would enter into force thirty days after two-thirds plus one of OIV's member states have deposited their instrument of acceptance, approval, ratification or accession to the amending Protocol (Article 2).

Reasons for Australia to take the proposed action relating to the treaty matter

5. Ratification of the amending Protocol would be in keeping with Australia's motivation to contribute to the effective functioning of the OIV as well as to ensure there was no possibility Australia's participation in the OIV would be curtailed.

Implementing Legislation

6. No legislative changes are needed to implement the proposed treaty action.

Agricultural Policy Division
Department of Agriculture, Fisheries and Forestry

Submitted to JSCOT
July 2023

AGREEMENT

Establishing

the International Organisation of Vine and Wine

Preamble

Through an international Agreement concluded on 29 November 1924, the Governments of Spain, France, Greece, Hungary, Italy, Luxembourg, Portugal and Tunisia gathered to create an International Wine Office.

Following a decision of its member states on 4 September 1958, the office was renamed International Vine and Wine Office. This intergovernmental organisation has, at the date of 3 April 2001, forty-five member states.

The General Assembly of the International Vine and Wine Office, in its resolution COMEX 2/97, made at its session of 5 December 1997, held in Buenos Aires (Argentina), decided to proceed, as necessary, with the adaptation of the International Vine and Wine Office to the new international environment. This involved adapting its missions, its human, material and budgetary resources and, as appropriate, its procedures and operating rules, in order to meet the challenges and secure the future of the world vine and wine sector;

In application of Article 7 of the above-mentioned Agreement the Government of the French Republic, following a request from 36 member states, convened a Conference of member states on 14, 15, 22 June 2000 and on 3 April 2001 in Paris.

To this end the member states of the International Vine and Wine Office, hereafter referred to as the Parties, have agreed to the following:

Chapter I – Objectives and Activities

Article 1

1. The "International Organisation of Vine and Wine" (O.I.V) is hereby established. The O.I.V shall replace the International Vine and Wine Office established by the Agreement of 29 November 1924, as amended, and shall be subject to the provisions of the present Agreement.

2. The O.I.V shall pursue its objectives and exercise its activities defined in Article 2. The O.I.V shall be an intergovernmental organisation of a scientific and technical nature of recognised competence for its work concerning vines, wine, wine-based beverages, grapes, raisins and other vine products.

Article 2

1. In the framework of its competence, the objectives of the O.I.V shall be as follows:

a) to inform its members of measures whereby the concerns of producers, consumers and other players in the vine and wine products sector may be taken into consideration;

b) to assist other international organisations, both intergovernmental and non-governmental, especially those which carry out standardisation activities;

c) to contribute to international harmonisation of existing practices and standards and, as necessary, to the preparation of new international standards in order to improve the conditions for producing and marketing vine and wine products, and to help ensure that the interests of consumers are taken into account.

2. To attain these objectives, the O.I.V's activities shall be:

a) to promote and guide scientific and technical research and experimentation in order to meet the needs expressed by its members, to assess the results, calling on qualified experts as necessary, and where relevant to circulate the results by appropriate means;

b) to draw up and frame recommendations and monitor implementation of such recommendations in liaison with its members, especially in the following areas:

- (i) conditions for grape production,
- (ii) oenological practices,
- (iii) definition and/or description of products, labelling and marketing conditions,
- (iv) methods for analysing and assessing vine products;

c) to submit to its members all proposals relating to:

- (i) guaranteeing the authenticity of vine products, especially with regard to consumers, in particular in connection with the information provided on labels,
- (ii) protecting geographical indications, especially vine- and wine-growing areas and the related appellations of origin, whether designated by geographical names or not, insofar as they do not call into question international agreements relating to trade and intellectual property,
- (iii) improving scientific and technical criteria for recognising and protecting new vitivincultural plant varieties;

d) to contribute to the harmonisation and adaptation of regulations by its members or, where relevant, to facilitate mutual recognition of practices within its field of activities;

e) to mediate between countries or organisations upon request, any expenses of mediation being borne by those making the request;

f) to monitor, evaluate and inform its members in good time of scientific or technical developments likely to have significant and lasting effects on the wine sector;

g) to help protect the health of consumers and to contribute to food safety:

- (i) by specialist scientific monitoring, making it possible to assess the specific characteristics of vine products,
- (ii) by promoting and guiding research into appropriate nutritional and health aspects,
- (iii) by extending the dissemination of information resulting from such research, beyond the recipients referred to in Article 2, paragraph n, to the medical and healthcare professions;

h) to foster co-operation between members through:

- (i) administrative collaboration,
- (ii) the exchange of specific information,
- (iii) the exchange of experts,
- (iv) the provision of assistance or expert advice, especially in the establishment of joint projects and other collaborative research;

i) to take account in its activities of the specific features of each of its members' systems for producing vine products and methods for making wines and wine- and grape-based spirits;

j) to contribute to the development of training networks relating to wine and vine products;

k) to contribute to the promotion or recognition of the world vine- and wine-growing heritage and its historical, cultural, human, social and environmental aspects;

l) to grant its patronage to public or private events whose purpose, of a non-commercial nature, falls within its sphere of competence;

m) to foster an appropriate dialogue in the context of its work and, as necessary, with players in the sector, and to conclude appropriate arrangements with them;

n) to gather, process and disseminate the most appropriate information and to communicate it:

- (i) to its members and observers,
- (ii) to other international organisations, both intergovernmental and non-governmental,
- (iii) to producers, consumers and other players in the vine and wine sector,
- (iv) to other interested countries,
- (v) to the media and to the general public;

In order to facilitate its role as a source of information and communication, the O.I.V may ask its members, potential beneficiaries and, where relevant, international organisations, to provide it with information and data on the basis of reasonable requests;

o) to re-assess regularly the effectiveness of its structures and working procedures.

Chapter II – Organisation

Article 3

1. The organs of the O.I.V shall be:

- a) the General Assembly;
- b) the President;
- c) the Vice-Presidents;
- d) the Director General;
- e) the Executive Committee;
- f) the Scientific and Technical Committee;
- g) the Steering Committee;
- h) Commissions, sub-Commissions and groups of experts;
- i) the Secretariat.

2. Each member of the O.I.V shall be represented by delegates of its choice. The General Assembly shall be the O.I.V's plenary body and shall be composed of the delegates nominated

by members. It may delegate some of its powers to the Executive Committee, which shall comprise one delegate per member. The Executive Committee may, under its authority, entrust some of its routine administrative powers to the O.I.V Steering Committee, which shall comprise the President and Vice-Presidents of the O.I.V and the Presidents of O.I.V Commissions and Sub-Commissions. The President, the first Vice-President and the Presidents of Commissions shall be of different nationalities.

3. The O.I.V shall conduct its scientific activity through experts groups, sub-commissions and commissions, co-ordinated by a Scientific and Technical Committee, within the framework of a strategic plan approved by the General Assembly.

4. The Director General shall be responsible for the internal administration of the O.I.V and for the recruitment and management of the staff. The procedures for staff recruitment shall ensure, as far as possible, the international character of the organisation.

5. The O.I.V may also include observers. Observers shall be admitted only after they agree in writing to the provisions contained in this Agreement and in the Internal Rules.

6. The headquarters of the Organisation shall be in Paris (France).

Chapter III – Voting Rights

Article 4

Each member shall determine the number of its delegates but shall have only two basic votes plus, where relevant, an additional number of votes calculated from objective criteria that determine the relative position of each member state in the vine and wine sector under the conditions set forth in Annexes 1 and 2 to this Agreement, which form an integral part thereof. The sum of these two figures shall constitute the number of weighted votes. The coefficient determining the situation of each member state within the vine and wine sector shall be updated on a regular basis in accordance with provisions in Annex 1.

Chapter IV – Working Methods, Decision-making Processes

Article 5

1. The General Assembly shall be the supreme organ of the O.I.V. It shall discuss and adopt regulations relating to the organisation and working of the O.I.V and draft resolutions of a general, scientific, technical, economic or legal nature, as well as for the creation or discontinuance of Commissions and Sub-Commissions. It shall decide the budget for receipts and expenditures within the limit of existing appropriations, and shall audit and approve the accounts. The General Assembly shall adopt co-operation and collaboration protocols on matters relating to vine and wine products that the O.I.V may conclude with international organisations. It shall meet once a year. Extraordinary sessions may be convened at the request of one-third of O.I.V members.

2. Delegates from one-third of the members representing at least half the weighted votes must be present for sessions to be quorate. A member may be represented by the delegation of another member, but a delegation may not represent more than one member.
3. a) Consensus shall be the normal method whereby the General Assembly shall adopt draft resolutions of a general, scientific, technical, economic or legal nature, and for the creation or discontinuance of Commissions and Sub-Commissions. The same shall be true for the Executive Committee when it exercises its functions on these issues.

b) Consensus shall not be required for the election of the President of the O.I.V, the Presidents of Commissions and Sub-Commissions or for the Director General, nor shall it apply to the budget or to member's financial contributions. Moreover it shall not apply to other financial decisions as determined in the Internal Rules.

c) In cases where the General Assembly or Executive Committee do not reach a consensus at the first instance on a draft resolution or decision, the President shall take all initiatives to consult members in the intervening period before the next General Assembly or Executive Committee, in order to bring the points of view together. When all such efforts to achieve consensus have been exhausted, the President shall take a vote on the basis of a qualified majority, that being a vote of two thirds plus one of members present or represented, on a one member one vote basis. Nevertheless, the vote shall be postponed for a period of one year if a member considers that its essential national interests are at risk. If the opposition is subsequently confirmed in writing by the Minister of Foreign Affairs or any other competent political authority of the member concerned, the vote shall not be taken.
4. a) The O.I.V President, the Presidents of Commissions and Sub-Commissions and the Director General shall be elected by a weighted qualified majority vote, that is, two thirds plus one of the weighted votes of members present or represented, provided that half plus one of the members present or represented have voted for the candidate. Should these conditions not be met, an extraordinary session of the General Assembly shall be convened within a maximum of three months. The existing President, Presidents of Commissions and Sub-Commissions and Director General shall remain in office during the interim period, depending on the case.

b) The O.I.V President, the Presidents of the Commissions and Sub-Commissions shall be elected for three-year terms. The Director General shall be elected for a five-year term of office; the Director General may be re-elected for a second five-year term under the same conditions as for his or her election. The General Assembly may remove the Director General, on the basis of both the weighted qualified majority and the majority of member states used for his or her election.
5. A weighted qualified majority vote, that being two thirds plus one of the weighted votes of members present or represented, shall apply to votes on the budget or to members' financial contributions. The General Assembly shall nominate a financial auditor, under the same

conditions, on a joint proposal from the Director General and the O.I.V Steering Committee with the favourable opinion of the Executive Committee.

6. The official languages shall be French, Spanish and English. The corresponding funding shall be determined according to Annex 2 to this Agreement. Nevertheless, the General Assembly may adapt it, if necessary, under the conditions defined in Article 5, paragraph 3.a. At the request of one or more members, other languages shall be added according to the same methods of funding, notably Italian and German, in order to improve communication between members. Beforehand, the concerned users shall formally accept the new financial contributions that result from their request. Beyond a total of five languages, any new request shall be submitted to the General Assembly which shall take its decision in accordance with the conditions defined in Article 5, paragraph 3.a. French shall remain the reference language in the event of any dispute with third parties who are not members of the Organisation.

7. The constitutive bodies of the O.I.V shall function in an open and transparent manner.

Chapter V – Funding of the O.I.V

Article 6

1. Every member of the O.I.V shall pay a financial contribution decided each year by the General Assembly, the amount of which shall be determined by applying the provisions of Annexes 1 and 2 to this Agreement. The General Assembly shall decide the financial contribution of any new members on the basis of the provisions of Annexes 1 and 2 to this Agreement.

2. The O.I.V's financial resources shall comprise the annual compulsory contribution of each member and observer and income from its own activities. Compulsory payments shall be paid to the O.I.V during the calendar year concerned. Beyond that time, payment shall be deemed late.

3. The O.I.V's financial resources may also include voluntary contributions from its members, donations, grants, subsidies or payments of any kind from international and national organisations of a public, semi-public or private nature, provided such payments are made in accordance with guidelines which shall be established by the General Assembly in accordance with Article 5, paragraph 3.a and shall be included in the Internal Rules.

Article 7

1. Should a member fail to pay two contributions its voting rights and participation, in the next Executive Committee meeting and General Assembly after such failure has been ascertained, shall be automatically suspended. The Executive Committee shall determine, on a case by case basis, the conditions under which the member concerned may regularise its situation or, failing that, be deemed to have denounced the Agreement.

2. In the case that three successive contributions have not been paid, the Director General shall notify the member or observer concerned of this situation. If the situation is not regularised during the two years following the thirty-first of December of the third year, the member or the observer concerned shall be automatically excluded.

Chapter VI – Participation of International Intergovernmental Organisations

Article 8

An international intergovernmental organisation may participate in or be a member of the O.I.V and may help to fund the O.I.V under conditions determined, on a case by case basis, by the General Assembly on a proposal from the Executive Committee.

Chapter VII – Amendment and Revision of the Agreement

Article 9

1. Each member may, by written communication to the Director General, propose amendments to this Agreement. The Director General shall communicate these proposals to all Organisation members. If, within six months from the date of the communication, one half plus one of the members reply favourably to the proposal, the Director General shall present it for adoption at the first General Assembly held after this period. Amendments shall be adopted by consensus of the members present or represented. Once adopted by the General Assembly, amendments shall be subject to internal procedures for acceptance, approval or ratification set out in the domestic legislation of members. Amendments shall enter into force thirty days after the deposit of the instrument of acceptance, approval, ratification or accession representing two thirds plus one of the members of the organisation.

2. This Agreement shall be reviewed if two thirds plus one of members approve a request to that effect. In such case, the Government of the French Republic shall convene a conference of members within six months. The programme as well as the revision proposed shall be provided to members at least two months before the conference meets. The conference shall decide its own rules of procedure. The Director General of the O.I.V shall act as Secretary General.

3. Before a revised agreement enters into force, the General Assembly of the Organisation shall define, under conditions determined by the present Agreement and by the Internal Rules in Article 10, to what extent the members party to the present Agreement, who have not deposited an instrument of acceptance, approval, ratification or accession may participate in the O.I.V's activities after it has entered into force.

Chapter VIII – Internal Rules

Article 10

The General Assembly shall adopt the O.I.V's Internal Rules setting out, as necessary, the terms and conditions for implementation of this Agreement. Until this adoption, the rules of the International Vine and Wine Office shall apply to the O.I.V. In particular, they shall determine the remit and operating rules of the bodies referred to in the foregoing Articles, the conditions under which observers may participate, the conditions for examining the proposed reservations to the present Agreement and the provisions for the administrative and financial management of the O.I.V. They shall also describe the conditions for communicating documents, particularly those concerning funding, to the members of the General Assembly and the Executive Committee prior to making decisions.

Chapter IX – Final Clauses

Article 11

The O.I.V shall have legal personality, and shall be accorded by each of its members such legal capacity as may be necessary for the exercise of its activities.

Article 12

Proposed reservations to this Agreement may be formulated. They shall be accepted by the General Assembly in accordance with the provisions of Article 5, paragraph 3.a.

Article 13

This Agreement shall be open for signature by all Member States of the International Vine and Wine Office until 31 July 2001. This Agreement shall be subject to acceptance, approval, ratification or accession.

Article 14

Any state not referred to in Article 13 of this Agreement may apply to become a member. Applications for membership shall be made directly to the O.I.V, with a copy to the Government of the French Republic, which shall notify signatories of, or Parties to the Agreement of such applications. The O.I.V shall provide information to its members concerning applications for membership and any observations made. Members have six months in which to inform the O.I.V of their opinion. The application shall be accepted if at the expiration of six months from the date of notification a majority of members has not opposed it. The depositary shall notify the State of the outcome of its application. If the application is successful, the State concerned shall have twelve months within which to deposit its instrument of accession with the depositary. States referred to in Article 13 that have not signed this Agreement within the given time limit may accede at any time.

Article 15

Instruments of acceptance, approval, ratification or accession shall be deposited with the Government of the French Republic, which shall notify signatories and Parties to this Agreement of these instruments. Instruments of acceptance, approval, ratification or accession shall be filed in the archives of the Government of the French Republic.

Article 16

1. This Agreement shall enter into force on the first day of the year following the deposit of the thirty-first instrument of acceptance, approval, ratification or accession.
2. For each State which accepts, approves or ratifies this Agreement or accedes to it thereafter, this Agreement shall enter into force on the thirtieth day following the deposit by this State of its instrument of acceptance, approval, ratification or accession.
3. The General Assembly of the International Vine and Wine Office shall define, under conditions determined by the Agreement of 29 November 1924, as amended and by the Rules of Procedure attached to it, to what extent the States which have not deposited their instrument of acceptance, approval, ratification or accession, may participate in O.I.V activities after the entry into force of this Agreement.

Article 17

1. The Agreement of 29 November 1924, as amended, shall be terminated by the unanimous decision of the first General Assembly following the entry into force of this Agreement, unless all Parties to the Agreement have unanimously agreed, prior to the entry into force of this Agreement, on conditions for its termination.
2. The "International Organisation of Vine and Wine" shall replace the International Vine and Wine Office with regard to all its rights and obligations.

Article 18

Any Party to this Agreement may denounce it at any time with six months written notice sent to the Director General of the O.I.V and the Government of the French Republic. Observers may decide to withdraw with six months written notice sent to the Director General of the O.I.V.

Article 19

The original of this Agreement, of which the French, Spanish and English, texts are equally authentic, shall be deposited with the Government of the French Republic.

IN WITNESS WHEREOF, the undersigned being duly authorised thereto by their Governments have signed the Agreement establishing the "International Organisation of Vine and Wine (O.I.V)

Done at Paris on 3 April 2001.

Annex 1 referred to in Articles 4 and 6 of this Agreement

Method for determining the position of each member state in the vine and wine sector

1. Objective criteria determining the relative position of each member state in the vine and wine sector:

- a) Average production of wines, special wines, musts, grape- or wine-based spirits (expressed in wine equivalents) over the last five-year period for which statistics are available, stripping out the two extreme values (P);
- b) Average total surface area of the vineyard in the last three-year period for which statistics are available (S);
- c) Average apparent consumption of wine and wine equivalents over the last three years for which statistics are available (C) = (P) production - E (exports)+ I (imports)

2. Formula for determining the coefficient for each member state:

$$X \% = \left(0.60 \frac{P(\text{member state})}{P(\text{O.I.V Total})} + 0.20 \frac{S(\text{member state})}{S(\text{O.I.V Total})} + 0.20 \frac{C(\text{member state})}{C(\text{O.I.V Total})} \right) 100$$

3. The coefficient of each member state is updated:

- a) at the start of the budget year following the accession of a new member;
- b) every three years in light of the most recent available statistics.

4. New members:

New members joining the O.I.V in future years must pay a compulsory financial contribution calculated according to the formula defined in the present Annex, with the addition of their participation to the specific funding for languages, in the conditions fixed in Annex 2.

Annex 2 referred to in Articles 4, 5 and 6 of this Agreement

Method for determining member states' voting rights, compulsory financial contributions and methods for language funding

1. Basic votes :

Each member state has two basic votes.

2. Additional votes :

The total number of additional votes is equal to half the total number of basic votes. Up to such amount, additional votes are allocated as appropriate, in addition to basic votes, to certain member states according to their relative position in the vine and wine sector, according to the formula given in Annex 1.

3. Weighted votes :

The number of each member state's weighted votes is equal to the sum of its basic votes and additional votes, if any.

4. Allocation of compulsory contributions :

The total amount of compulsory contributions to be paid by members is calculated on the basis of the budget adopted by the General Assembly.

One-third of the total amount of compulsory contributions is divided equally between the basic votes.

Two-thirds of the total amount of compulsory contributions are divided in proportion to additional votes.

In order to facilitate the transition between the former and present Agreement, the financial contribution corresponding to the two basic votes of each member state may not be lower, for the first budget year, than the "Unit of contribution" prior to the present Agreement entering into force. If necessary, the amount of financial contributions for additional votes are adjusted consequently to reach the total amount of compulsory contributions fixed by the adopted budget.

5. Funding of languages :

The funding of languages is fully provided for in the general budget of the O.I.V and without any specific contribution by each linguistic group composed of members and observer users.

The detailed arrangements for implementing languages shall be determined by appropriate provisions in the Internal Rules