

Case Officers

Trade Remedy and Investigation Bureau
Ministry of Commerce
2 East ChangAn Road,
Beijing, China

Dear Case Officers,

Re: Dumping investigation into exports of certain Australian wines to China – Submission

The following submission is made by Australian Grape and Wine Incorporated, (**Australian Grape & Wine**), Australia's peak industry association for the Australian wine industry, in relation to the initiation of a dumping investigation into exports of Australian wine in containers of 2 Litres or less to the People's Republic of China (**China**) announced by the Ministry of Commerce (**MOFCOM**) on 18 August 2020. We offer our best wishes to your Bureau, on our own behalf and on behalf of our members.

Australian Grape & Wine represents the interests of the more than 2,500 winemakers and 5,000 winegrape growers working in Australia. We represent small, medium and large winemakers and winegrape growers from across the Australia.

The dumping investigation initiated by your investigating authority is of great importance to us and to our membership. Australian Grape & Wine values our proven record of working cooperatively and collaboratively with government and industry colleagues in Australia and around the world. Our approach to working with MOFCOM and China's wine industry, through the China Alcoholic Drinks Associations (**CADA**), in responding to this investigation will align with these values. We have encouraged the earnest participation of our members in your investigation, in order to assist you in having a good understanding of not only the facts and circumstances of our industry, but also of the goodwill that our members have with respect to China's wine industry and towards our members' valued business network and customers in China.

As an industry association for the Australian wine industry, Australian Grape & Wine obviously is an 'interested party' under the World Trade Organization (WTO) Anti-Dumping Agreement, and we are well placed to assist MOFCOM as it works through the process of understanding the Australian wine sector's commercial profile. We would welcome the opportunity to discuss how Australian Grape & Wine can work with MOFCOM and CADA to further our mutual interest in further developing China's wine industry, and the Chinese wine market, in a spirit of goodwill and cooperation.

In this first submission Australian Grape & Wine wishes to mention certain key matters that are raised by the dumping application and which will need to be debated by interested parties and sincerely considered by your Bureau in the course of its investigation. With this in mind, the following points are raised in reference to the scope of the investigation.

We are at your disposal should your Bureau have any requests for information or clarification of any points.

1. WTO Anti-Dumping Agreement

As MOFCOM would no doubt be aware, Australian Grape & Wine is not experienced in dumping investigations and certainly does not possess the experience and expertise that MOFCOM possesses in relation to dumping

investigations. Nevertheless, we consider that it may be helpful to MOFCOM if Australian Grape & Wine respectfully sets out its understanding of the conduct of dumping investigations.

At the outset, it is Australian Grape & Wine's understanding that, while member countries to the WTO will have passed domestic legislation to give effect to the provisions of the WTO Anti-Dumping Agreement, the provisions of the WTO Anti-Dumping Agreement take precedence, as a matter of international law, over such domestic legislation and its administration to the extent of any inconsistency with the WTO Anti-Dumping Agreement.

In this context, it is important to note Article 1 of the WTO Anti-Dumping Agreement, which Article provides that any anti-dumping measures shall only be applied:

- (a) under the circumstances provided for in Article VI of GATT 1994; and
- (b) pursuant to investigations initiated and conducted in accordance with the provisions of the WTO Anti-Dumping Agreement.

It follows that, amongst other matters, issues relevant to the application of anti-dumping measures, such as the determination of the goods under consideration and like goods, the determination and calculation of dumping margins, the determination of material injury and causation, must be undertaken in accordance with the WTO Anti-Dumping Agreement. This applies to all WTO members, including China and Australia.

Australian Grape & Wine understands that the high number of disputes brought under the WTO's '*Understanding on Rules and Procedures Governing the Settlement of Disputes*' involving inconsistencies with the WTO Anti-Dumping Agreement is indicative of the importance of domestic legislation and administrative procedures and practices being consistent with that Agreement.

2. Comments on the application

Australian Grape & Wine has identified a number of issues with the application to MOFCOM which we believe warrant further consideration and discussion. For example, it is not clear to Australian Grape & Wine that the application complies with the requirements of Article 5 of the WTO Anti-Dumping Agreement and, in particular, Article 5.2.

As MOFCOM would be aware Article 5.3 of the WTO Anti-Dumping Agreement provides that:

"The authorities shall examine the accuracy and adequacy of the evidence provided in the application to determine whether there is sufficient evidence to justify the initiation of an investigation".

Article 5.2 requires that an application must include 'evidence' of 'dumping', 'injury' and a 'causal link' between the dumping and the injury. The application does not appear to possess such 'evidence'. Rather, the conclusions in the application appear based on assumptions and speculation and on materials and statistics of questionable reliability and accuracy and, therefore, lacking in any evidentiary value.

Article 5.2 stipulates as MOFCOM no doubt would be aware, that:

"Simple assertion, unsubstantiated by relevant evidence, cannot be considered sufficient to meet the requirements of this paragraph."

Further, the requirements of subparagraphs 5.2(ii) and (iii) do not appear to have been complied with. That is, for example, the application does not satisfy the requirement of including "*information on prices at which the*

product in question is sold when destined for consumption in the domestic markets of the country or countries of origin or export”, which information is publicly available and accessible.

3. Goods under Consideration

The goods under consideration (**GUC**) in this investigation are:

“wine in containers of two (2) litres or less”,

exported from Australia.

The description of ‘wine in containers of two (2) litres or less’ is extremely broad and does not accurately reflect the particular wines exported from Australia to China.

As MOFCOM would be aware, there is a significant range of different wines not only between red and white but also according to the grape variety and blends of grape varieties. Similarly, wines are marketed in a variety of containers including glass bottles, which can range in size, and cardboard containers, also of varying sizes.

It is evident, therefore, that the breadth in the description of the GUC would include particular kinds of categories of wines that have not been exported to China from Australia during the period under investigation and wines of particular kinds of categories of wines that have been exported to China from Australia during the period under investigation but in insufficient quantity so as to cause any injury. Injury to a domestic industry producing ‘like goods’ cannot be caused by particular kinds or categories of wines included in the GUC that have, in fact, not been exported to China or in any significant quantity. Consequently, Australian Grape & Wine considers the breadth of the description of the GUC to be too broad, misplaced, and unsupported by evidence of actual exports of Australian wines to China.

For these reasons, it is important that the Australian wines that have actually been exported to China during the period of investigation be properly identified in the description of the GUC. It is only those wines, properly described in the description of the GUC and no others that are capable of causing injury to the Chinese industry producing ‘like goods’ for whatever reason.

Further, in relation to Australian wines exported to China during the period of investigation included in the description of the GUC, not all of them compete with Chinese produced wines in the Chinese consumer market. In addition, not all of these wines would be sold at prices lower than those of Chinese wines, or for that matter, wines imported from other countries such as the USA, EU countries and South American countries.

Again, for these additional reasons, Australian Grape & Wine is concerned that the description of the GUC is too broad, misplaced, and unsupported by evidence of actual exports of Australian wines to China, and that this will present an imprecise picture of Australian wine exports to China.

3. ‘Like goods’ to the GUC

Australian Grape & Wine understands that the definition of ‘like goods’ is important in determining the domestic industry in China producing ‘like goods’ and in determining sales of ‘like goods’ by Australian exporters in the Australian market for the purposes of determining normal values.

The definition of ‘like goods’ in the WTO Anti-Dumping Agreement consists of the following:

“‘like product’ (‘product similaire’) shall be interpreted to mean a product which is identical, i.e. alike in all respects to the product under consideration, or in the absence of such a product, another product

which, although not alike in all respects, has characteristics closely resembling those of the product under consideration.

Hence the importance of identifying the GUC with precision. Once this has been done and only once it has been done is it possible to determine the existence of 'like goods' in accordance with the above definition.

This requires, in the first instance, identifying if 'identical product' is produced by wine producers in China. If so, then those producers constitute the domestic industry producing like goods for the purposes of this investigation.

Similarly, if Australian exporters sell identical product to the GUC in Australia, then such sales and, in particular, the prices in such sales are to be used in the determination of normal values for a 'proper comparison' with export prices, unless there is some situation in the Australian market that renders such sales unsuitable for this purpose.

In this context, it must be noted that matters such as 'commercial likeness', 'production likeness' (i.e. similar or the same production processes), 'likeness of end-use' and other kinds of 'likeness' are not 'characteristics' of a product. 'Likeness' might but not necessarily reflect 'identical or similar characteristics of a product but of itself it is not a 'characteristic' of a good.

It, therefore, is important to precisely identify what are the 'characteristics' of the GUC if recourse to the second limb of 'like goods' is permitted and required.

In light of the foregoing, if identical product to the GUC is produced in China and if identical product is sold in Australia, then recourse to the second limb in the definition of 'like goods' is precluded. Australian Grape & Wine submits that this is in fact the case.

5. Point of competition in the Chinese market

As its name indicates, the 'export price' of a product is the price at which the product in question is exported from the country of export.

The relevance of this, as Australian Grape & Wine understands it, is that the 'export price' is the price at which the product in question competes with like products being exported from other countries. That is, it competes in the 'export market' for that product. It does not compete with 'like goods' produced in the importing country, in this case China at the 'export price'. They are at different levels of trade and, consequently, at different points of competition in the supply chain from the producer to the consumer.

This is because the GUC incurs a variety of costs and charges in the course of being exported to the country of import, such as overseas freight and insurance, wharf and port charges, customs duties, VAT, inland freight and storage, etc. Further, the entity would add to its cost of purchasing and importing the GUC its overheads, that is, general selling and administrative expenses plus an amount for profit. That, subject to negotiation of prices, will be the price at which the GUC competes with domestically produced goods in the country of import.

This, of course, assumes that the importer sells the GUC directly to consumers and not through retailers such as liquor outlets, supermarkets and restaurants. Here, it then is the retail price of the GUC in China that competes with the wine of Chinese producers sold in retail outlets.

In this context it is important that it be found as a matter of fact supported by evidence that, if the export price is a dumped price, the extent of the dumping margin is quantified and determined whether all or some

of that margin “flows through” to the price at which the GUC competes with the domestically produced wine. Absent such a finding and analysis, it is not possible to determine that dumping of the GUC is causing injury to the domestic industry producing like goods.

6. Normal values based on exports of Chinese wine to Australia

Regardless of the claim that a ‘non-market’ situation exists in the Australian wine market, which Australian Grape & Wine argues, respectfully, is a statement not supported by evidence and will be addressed in a subsequent submission, the use of the price at which Chinese wine producers export wines to Australia to determine a ‘normal value’ is not permitted under the WTO Anti-Dumping Agreement.

Even if there were a finding of fact supported by relevant evidence that the situation in the Australian wine market was unsuitable for the determination of ‘normal values’ as contemplated by Article 2.2 of the WTO Anti-Dumping Agreement, such a finding, of itself, does not preclude a ‘proper comparison’ between a ‘normal value’ determined on the basis of sales in that market and the export price of the GUC.¹ Rather, there must be something additional in the Australian market that precludes (i.e. does not permit) a ‘proper comparison’ between ‘normal values’ based on domestic selling prices in that market and the GUC. Australian Grape & Wine is concerned that there appears to be nothing in the application supported by evidence that identifies what precludes such a ‘proper comparison’. Accordingly, the determination of ‘normal values’ and the ‘proper comparison’ must be undertaken in the manner contemplated by Article 2.1 of the WTO Anti-Dumping Agreement. That is, it must be a ‘proper comparison’ between ‘normal values’ based on the domestic selling price of ‘like goods’ in the Australian wine market with the export prices of the GUC.

If, for the sake of argument, a ‘proper comparison’ is not possible pursuant to Article 2.1 of the WTO Anti-Dumping Agreement, then the ‘normal values’ are to be determined in accordance with Article 2.2 of the WTO Anti-Dumping Agreement. That is, the ‘normal value’ be based on:

“the cost of production in the country of origin plus a reasonable amount for administrative, selling and general costs and for profits”.

Further, these costs are required to be calculated *“on the basis of records kept by the exporter or producer under investigation, provided such records are in accordance with the generally accepted accounting principles of the exporting country and reasonably reflect the costs associated with the production and sale of the product under consideration”*: see Article 2.2.1.1 of the WTO Anti-Dumping Agreement.²

If, for some unknown reason and none provided for in the application, recourse is had to surrogate costs in the calculation of ‘normal values’, it nevertheless is the case that the cost of production must reflect the ‘cost of production in the country of origin’ (i.e. Australia).³ In addition, if it is contended that costs of inputs to manufacture have somehow been distorted in some relevant way for the purposes of calculating ‘normal values’, then, of course, it is not only necessary to identify such distortions supported by evidence but also quantify such distortions to enable proper adjustments as required by Articles 2.2 and 2.2.1.1 of the WTO

¹ See the Panel report and findings in ‘Australia – Anti-Dumping Measures on A4 Copy Paper’, Panel Report (WT/DS529/R) (4 December 2019).

² *ibid*

³ *Ibid* and Appellate Body Report in ‘European Union – Anti-Dumping Measures on Biodiesel from Argentina’ (WT/DS473/AB/R) (AB-2016-4) (6 October 2016).

Anti-Dumping Agreement so that the calculated ‘cost of production’ accurately reflects the ‘cost of production in the country of origin’.⁴

7. Implausible claim of a ‘non-market’ situation for the Australian wine market

At the outset, the Australian wine market, as is well known, is a competitive market where prices for all wines regardless of source are negotiated at arm’s length between buyers and sellers without any intervention or interference by any level of government.

The only regulation of the Australian wine market, as with other markets in Australia, is by the Australian Competition and Consumer Commission (ACCC) through the *Competition and Consumer Act 2010*, which has its purpose of ensuring competition in Australia’s markets including the Australian wine market.

There are no distortions to the Australian wine market caused by government regulation, policies or industry plans or to prices in that market, whether directly or indirectly.

CADA, in its application to MOFCOM argues, in support of its claim that a ‘non-market situation’ exists in relation to the Australian wine market, that:

“In summary, the applicant believes that in order to encourage and develop the domestic wine industry, the Australian federal government and state played an important role, and through relevant industrial policies, industrial planning and support measures, to enter the wine industry and market. The intervention has severely distorted the production, supply and demand and price of Australian wine, resulting in the production of Australian wine. Producers can produce and market wine at an unreasonable low cost, and distort the market price of wine.”

Unfortunately, CADA provides no evidence in support of these claims. This is concerning to Australian Grape & Wine, as we want to work with MOFCOM to ensure it has a precise understanding of Australia’s production systems. Simply providing a list of government agencies, government plans and policies and government grants and subsidies does not mean that any of them have had any effect on the Australian wine market or why and how and to what extent. This has not been articulated in CADA’s claims, nor supported by any evidence.

Further, if, as claimed, the Australian wine market has somehow been distorted by government interference, consistent with WTO rules and findings of WTO Panels and the Appellate Body, such distortion must be quantified. If it isn’t quantified, how is it known that the market and prices in that market are distorted and to what extent? With respect, Australian Grape & Wine argues that this is not possible.

With a deadline of 7 September for this submission, it is not possible at this time to address each of CADA’s claims on this issue, but Australian Grape & Wine will be doing so in future submissions. However, at this time Australian Grape & Wine simply questions what makes a ‘distorted price’, assuming the existence of a ‘distorted price’. That is, what makes a ‘price’ a ‘distorted’ price, as opposed to, for example, just a low price? What are the criteria that determines whether or not a ‘price’ is a ‘distorted’ price?

⁴ Ibid Also see Weihuan Zhou and Andrew Percival, “Debunking the Myth of ‘Particular Market Situation’ in WTO Antidumping Law” (2016)19(4) *Journal of International Economic Law* 863-892; Weihuan Zhou, “Appellate Body Report on *EU-Biodiesel*: The Future of China’s State Capitalism under the WTO Anti-Dumping Agreement” (2018)17(4) *World Trade Review* 609-633.

Australian Grape & Wine expects that this and associated issues regarding the determination of normal values and undertaking a 'proper comparison' in a dumping margin will be further addressed in subsequent submissions to MOFCOM for its consideration.

Australian Grape & Wine believes MOFCOM will be better placed to proceed with its investigation in line with its obligations under WTO rules, when these considerations are addressed.

8. Reliability of statistics concerning the Chinese wine market

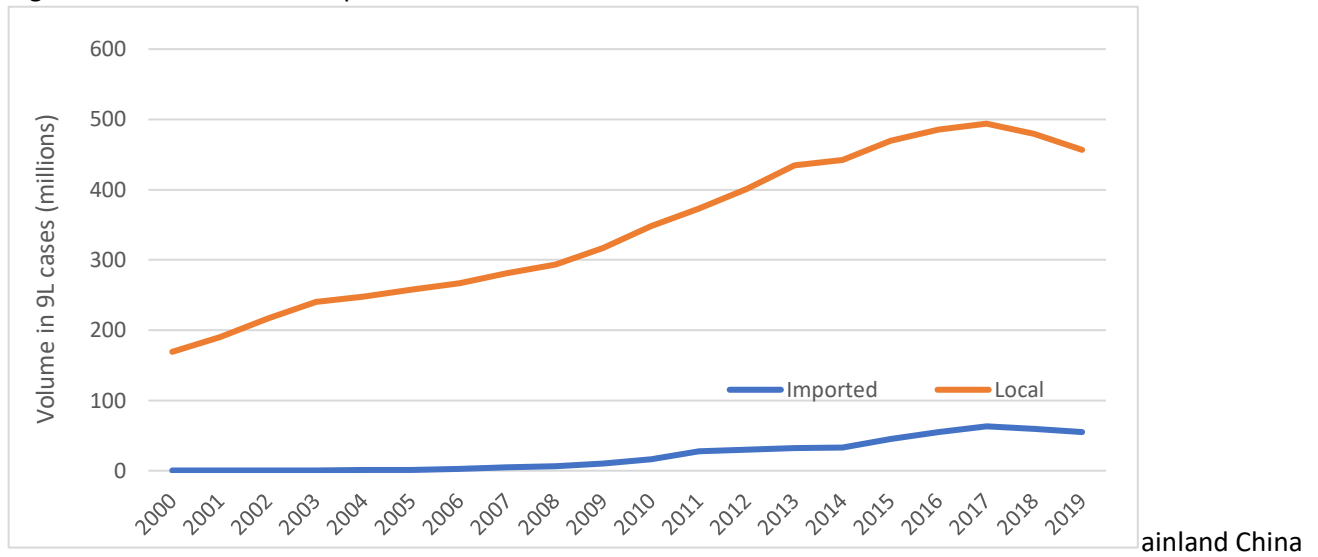
It is Australian Grape & Wine's understanding that, in accordance with WTO rules, information on which an investigating authority relies in a dumping investigation must be objective, accurate, complete and reliable and be supported by probative, positive evidence. It is the role of the investigating authority, as Australian Grape & Wine understands it, to obtain such evidence in the course of the conduct of the investigation and make findings of fact based on such evidence.

In this context, Australian Grape & Wine is concerned with the 'evidence' that CADA relies upon in its application. For example, some of the data relied upon by CADA would seem to involve 'double counting' – that is, the same data is counted twice. For example, it is well known that data on wine production is based on the quantity of wine produced plus the quantity of wine that is blended and the quantity of wine that is bottled notwithstanding that it is all the same wine.

Further, data relied upon by CADA in the application also contradicts its claims. For example, on the one hand it is claimed that wine consumption in China declined between 2015 to 2019 but, on the other hand, per capita consumption of wine increased over the same period and was one of the fastest growing markets in the world.

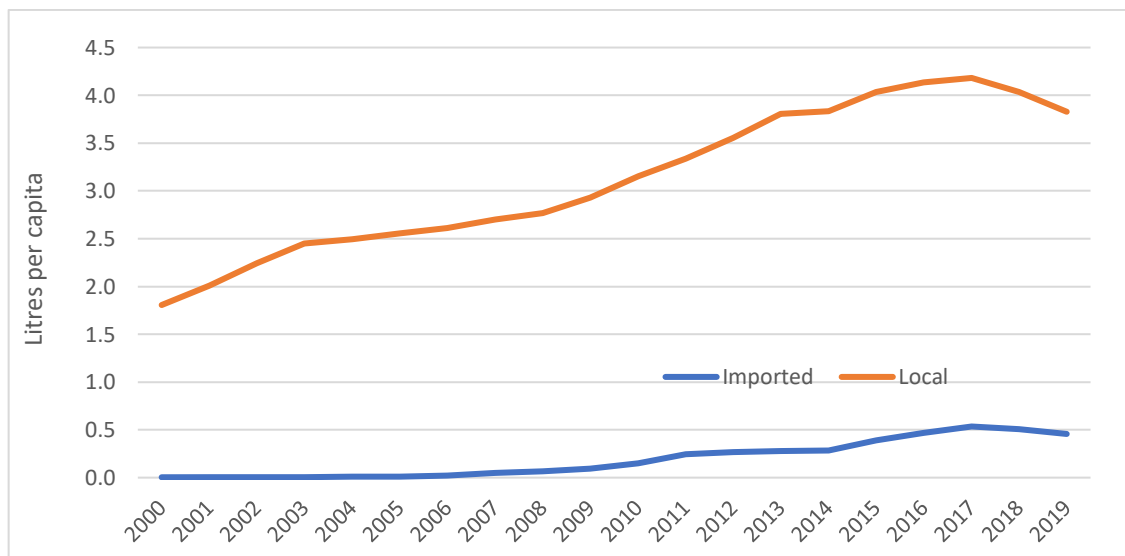
Overall wine consumption across mainland China appears to have reached its peak in 2017 but has since been in decline out to 2019, evident across both local and imported wine (see Figure 1). Local wines make up around 90% of total wine consumption each year. Consumption of imported wine began to grow rapidly from the early 2000s as China's economy continued to outpace the rest of the world and urbanisation led to a rising middle class. Compared to 2015, imported wine consumption has increased by 5 per cent on average each year but adult per capita consumption has remained relatively steady, only moving from 0.4 litres (2015) to 0.5 litres in 2019 (see Figure 2). As a result of the decrease in volume consumed of local wine, adult per capita consumption shifted from 4.0 litres in 2015 to 3.8 litres in 2019.

Figure 1: Total wine consumption in m



Source: IWSR

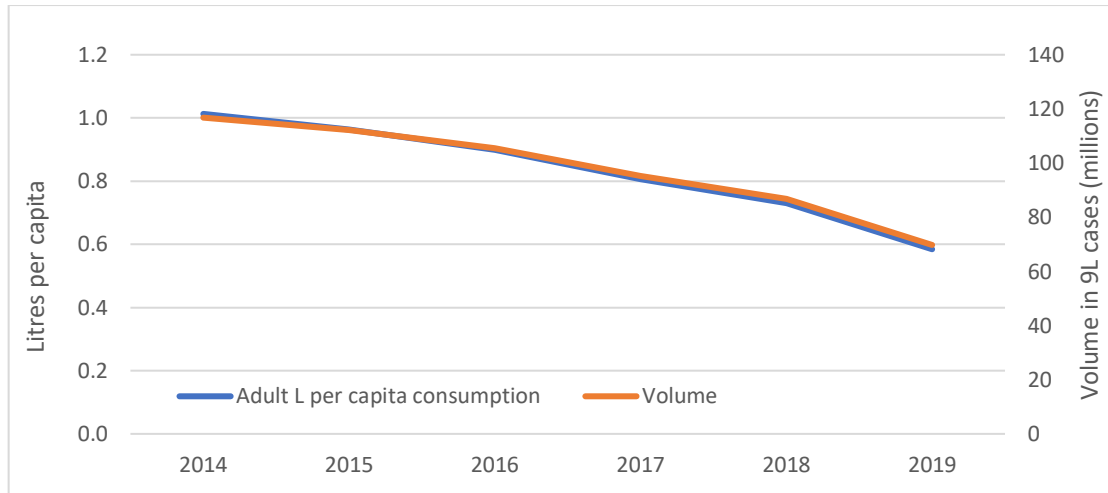
Figure 2: Total adult wine consumption per capita in mainland China



Source: IWSR

When it comes to consumption in mainland China of local grape wine (i.e. not including other wines such as rice wines and light aperitifs), this has declined on average 11 per cent each year since 2015, thus driving adult per capita consumption down from 1 litre to 0.6 litres.

Figure 3: Grape wine consumption by volume and adult per capita



Source: IWSR

9. Changes in the Chinese wine market unrelated to Australian wine exports and material injury

The total share of grape wine consumption of all alcoholic beverages in 2019 was 2.2 per cent. According to the IWSR ‘tougher regulations on production, constrained finances in rural areas and fifth-tier cities and greater health-consciousness among younger consumers caused a decline in consumption of the cheapest local categories, especially baijiu, but also beer and huangjiu’. Imported spirits and high-end baijiu however have been growing.

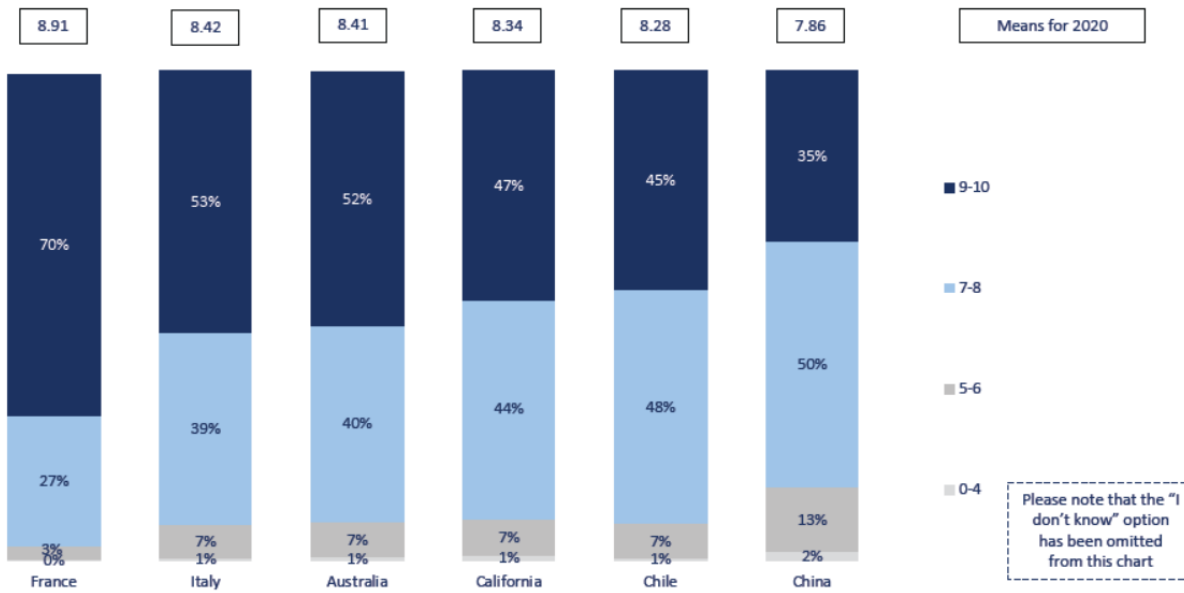
Wine consumption has been impacted by more price-conscious consumers and an on-trade slowdown.

IWSR also reported the following in regard to local wines in their *Domestic Volume Report 2020 Wines – China*.

‘Local wines are now in long-term decline, beset by structural problems arising from the rush to increase production during the 1990s and 2000s. These include high costs, unsuitable soils and climates, excessive yields, poor quality and image. Local producers are blending large amounts of imported bulk wine with local wine to improve the quality’. These are difficult challenges for any wine producing nation, but they are not a result of Australian exports to China. Australian Grape & Wine would be happy to work with our Chinese wine industry colleagues in the future to consider how Australia’s approaches to dealing with similar challenges could potentially be applied in the Chinese context.

Further to this, Wine Intelligence reported in the Global Brand Tracking study completed for Wine Australia in March 2020 that Chinese urban upper middle class semi-annual imported wine drinkers rank Chinese wine as 6th in terms of quality perceptions. France was 1st followed by Italy, then Australian wine.

Figure 4: Quality perceptions of wines by origin from Chinese respondents. Percentage who have indicated the following quality perceptions from each country.



Source: Wine Intelligence

10. Comparison of Australian wine exports with exports from other countries

It is Australian Grape & Wine's understanding that the prices at which Australian wines exported to China enter the Chinese wine market are significantly higher than competitive wines exported to China from other countries such as the USA, countries in the EU and, South American producer nations.

It also is Australian Grape & Wine's understanding that the volume of wines imported by China from countries other than Australia far exceeds the quantity of the GUC imported by China from Australia.

If this is correct, which it is as demonstrated later below, then it is inconceivable that exports of Australian wines to China, whether or not at dumped prices, could have caused material injury to the Chinese wine industry producing like goods. Imports of wines from other countries at lower prices and in greater volumes than imports from Australia must be causing any injury being incurred by the Chinese wine industry producing like goods in such circumstances. The effect of such imports from those other countries on the Chinese wine market would far outweigh the effect, if any, Australian wine exports could have.

Further, given the size of the Chinese wine market and the market share held by Chinese wines in that market, it is not possible that the significantly small volumes of Australian wines at higher prices to have any material effect on the Chinese wine industry. No evidence has been provided that demonstrates that it did have such a material effect and, importantly, how.

Merely providing statistics does not evidence that, in this case, exports of Australian wines had any effect on the Chinese wine industry or the Chinese wine market other than, possibly, encouraging the taste for high quality wine.

Table 1: Unit price for HS6 Code 220421 - (Wine Of Fresh Grapes (Other Than Sparkling Wine) And Grape Must With Fermentation Prevented Etc. By Adding Alcohol, Containers Of Not Over 2 Litres)

2019	Unit price RMB	Volume (L)
France	32.95	134,884,265
Australia	46.44	121,026,120
Chile	25.89	71,603,086
Spain	17.83	51,330,531
Italy	31.01	29,669,641
Portugal	23.35	7,020,332
South Africa	23.30	6,520,150
United States	37.57	6,070,325
Georgia	24.85	5,318,306
Moldova	15.86	5,139,164
Argentina	37.20	4,464,760

Table 2: Unit price for HS6 Code 220429 (Wine Of Fresh Grapes (Other Than Sparkling Wine) And Grape Must With Fermentation Prevented Etc. By Adding Alcohol, Containers Holding Over 10 Litres)

2019	Unit price RMB	Volume (L)
Chile	6.40	82,311,425
Australia	12.84	25,362,780
Spain	4.12	11,163,208
France	7.13	8,619,753
Argentina	2.57	8,246,394
Moldova	4.74	1,175,770
Italy	6.06	876,645
South Africa	4.79	167,876
Ukraine	3.22	48,000
North Macedonia	5.32	47,494
Macedonia	4.73	20,000

Source: IHS Markit – China Customs

11. Price undercutting and causation of material injury analysis

Australian Grape & Wine understands that in order for anti-dumping measures to be imposed, material injury incurred by the domestic industry producing like goods must be 'caused' by the GUC. That is, assuming that the GUC are in fact being exported to China at dumped prices it must be found as a question of fact supported by evidence that because the dumped prices are causing the material injury being incurred by the domestic industry producing like goods.

As indicated earlier above, this requires the extent of the dumping, that is, the dumping margin of the export price 'flows through' to the price of the GUC at which it competes with the like goods produced by Chinese wine makers in the wine market in China. Not only must this be established but also that the GUC prices at

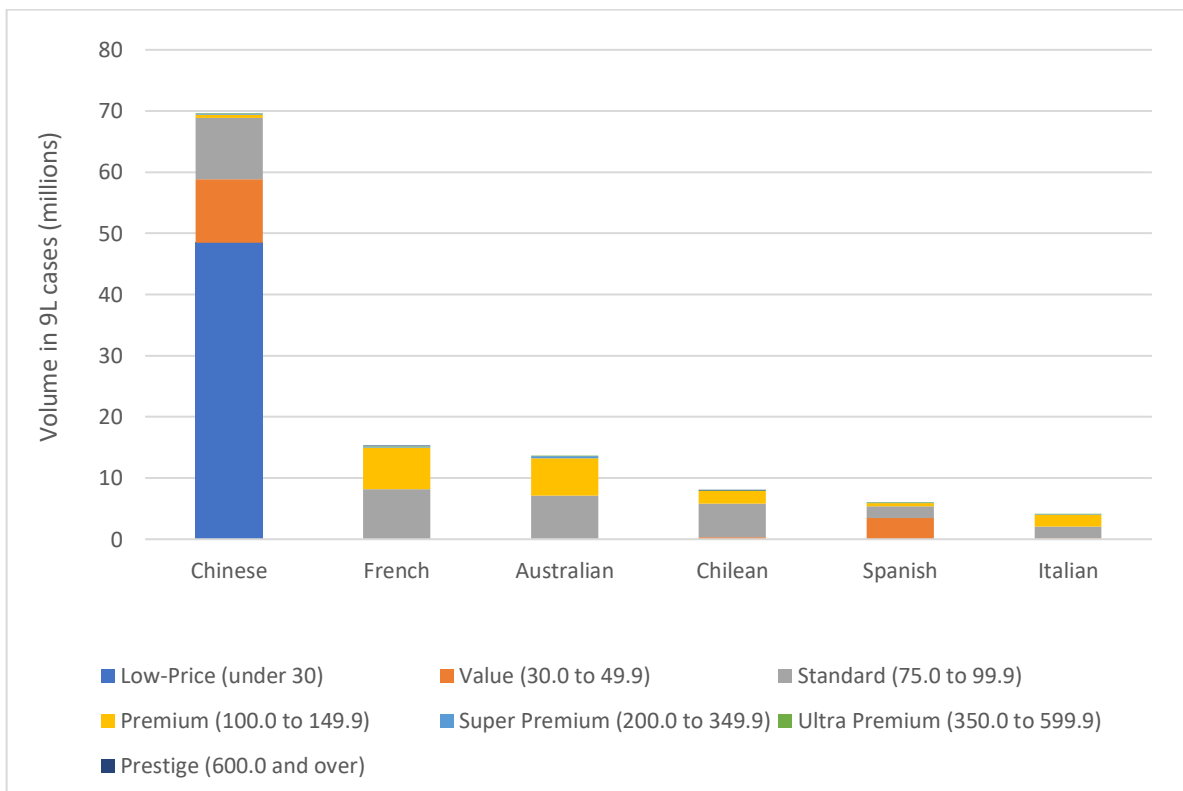
which they compete with those of their Chinese wine competitors undercut those prices of their Chinese wine competitors.

If price undercutting by the GUC is not occurring, then the GUC cannot be causing material injury. The prices of the GUC, in the absence of price undercutting, will be higher than their Chinese wine competitors. If consumers are choosing to purchase the GUC at the higher prices, then it is not the 'price' of the GUC that is causing material injury, if any. Rather, consumers are choosing the GUC for reasons other than price such as quality, taste and so on. Nothing to do with dumping.

On Australian Grape & Wine's understanding price undercutting is necessary for this reason because price undercutting causes price depression and/or price suppression and/or loss of sales volume. Price depression, price suppression and loss of sales volumes causes a reduction in revenue, which, in turn, causes the reduced profits and profitability. It is the reduced profits and profitability of the domestic industry that constitutes the injury. Price depression, price suppression and loss of sales volumes are simply the causal links between the price undercutting from dumping to the injury being incurred by the domestic industry in the form of reduced profits and profitability. If there is no price undercutting, the causal links are broken.

The issue, therefore, is do Australian wines exported to China undercut the prices of competitive Chinese wines at the point of competition and that such price undercutting, if it actually exists, is because the Australian wines are being exported at dumped prices?. If not, then Australian Grape & Wine would argue, respectfully, that the matter should not progress any further and should be terminated, in accordance with our understanding of the WTO rules.

Figure 5: Volume of still wine consumed in mainland China by origin in 2019 in price bands (local currency (RMB) per 750ml bottle)



Source: IWSR

12. Lesser duty rule

As MOFCOM would be aware, Article 9.1 of the WTO Anti-Dumping Agreement provides, in relation to the imposition of anti-dumping measures, that the dumping duty being imposed be *“less than the margin if such lesser duty would be adequate to remove the injury to the domestic industry”*.

Australian Grape & Wine has been advised that in Australian dumping investigations this ‘non-injurious price’ is calculated by using an ‘unsuppressed selling price’ or ‘USP’. A USP is calculated apparently by determining the cost to make and sell the product in question and adding to that cost to make and sell an amount for profit that the investigating authority determines could reasonably be expected to be obtained in a market unaffected by dumping.

Australian Grape & Wine does not agree with or understand this approach. A USP is simply a calculation. It is not a ‘price’. A ‘price’ for a product is an amount that a seller is willing to sell a product for and an amount that a buyer is willing to pay for that product, negotiated at arm’s length in a competitive market. A USP is not that.

Australian Grape & Wine believes that a ‘non-injurious price’ is a price that no longer undercuts the price at which competitive domestically produced products (i.e. Chinese wines) are sold. If the price undercutting is removed, then the injury caused by those dumped exports is removed. If this price, that is the price to remove the price undercutting is a lesser price than a price increased by the full dumping margin, then that lesser price is the non-injurious price.

Dumping duty, therefore, would only be imposed to the extent necessary to increase the price at which the ‘dumped product’ enters the Chinese market and eliminates price undercutting at the point of competition in the supply chain between the GUC and the competitive Chinese wine.

Conclusion

Australian Grape & Wine thanks the Bureau for the opportunity to lodge this submission, and we sincerely hope it assists in providing the basis for a precise understanding of the true nature of Australia’s wine sector.

In light of the foregoing, Australian Grape & Wine believes it is apparent that the application by [CADA] is without merit. It, of course, is the position of Australian Grape & Wine that the application should be withdrawn, and the investigation terminated.

However, it also is the position of Australian Grape & Wine that the Australian and Chinese wine industries have historically worked together, shared information and technologies to improve their grape and wine production to the mutual benefit, including for the mutual benefit in their respective domestic and export markets. Australian Grape & Wine sees no reason why this cannot and should not continue and will work for it do so with the cooperation of its stakeholders.

Action such as this dumping investigation can only be to the mutual detriment of both the Australian and Chinese wine industries. Australian Grape & Wine urges CADA to consider withdrawing its application and, instead, focus on the continuation of our respective industries working together for mutual benefit.

If the Bureau has any questions regarding this submission or requires further information or clarification on any of the foregoing, please do not hesitate to contact me.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Anthony Battaglione", with a long horizontal flourish extending to the right.

Anthony Battaglione
Chief Executive Officer