

Annex 1

## Ad Valorem Subsidy Rates for Relevant Australian Companies

Name of Company	Ad valorem subsidy rate
<b>I. Sampled Companies</b>	
Treasury Wine Estates Vintners Limited	6.3%
Casella Wines Pty. Limited	6.3%
Australia Swan Vintage Pty Ltd	6.3%
Pernod Ricard Winemakers Pty Ltd	6.4%
<b>II. Other Cooperative in the Investigation</b>	
Australia Farm and Land Investment Pty Ltd	6.3%
Accolade Wines Australia Limited	6.3%
Octava Wines Pty Ltd	6.3%
Australian Vintage Limited	6.3%
Bogdan Investments Pty Ltd	6.3%
Brown Brothers Milawa Vineyard Pty. Limited	6.3%
Agreen Pty Ltd	6.3%

Dorrien Estate Winery Pty Ltd	6.3%
Ferngrove Vineyards Pty Ltd	6.3%
Fowles Wine Pty Ltd	6.3%
Furunde Wine Co. Pty Ltd	6.3%
Kilikanoon Wines Pty Ltd	6.3%
The Red Kangaroo Wine Company Pty. Ltd.	6.3%
Chapel Hill Winery Pty Ltd	6.3%
Portia Valley Wines Pty Ltd	6.3%
Zilzie Wines Pty Ltd	6.3%
S. Smith & Son Pty. Limited	6.3%
Terra Felix Pty. Ltd.	6.3%
Australian Food & Beverage Group Pty Ltd	6.3%
Wingara Wine Group Pty Ltd	6.3%
<b>III. All Others</b>	6.4%

## Annex 2

# **Final Ruling of the Ministry of Commerce of the People's Republic of China on Countervailing Duty Investigation into Relevant Imported Wines Originating in Australia**

In accordance with the Countervailing Regulations of the People's Republic of China (hereinafter referred to as "Countervailing Regulations"), on 31 August 2020, the Ministry of Commerce (hereinafter referred to as "Investigating Authority") released the No. 35 Announcement in 2020 deciding to initiate the countervailing duty investigation into imported wines from Australia (hereinafter referred to as "Product under Investigation").

The Investigating Authority conducted an investigation into whether there had been a subsidy for the Product under Investigation and the amount of subsidy, whether the Product under Investigation had injured the domestic wine industry and the degree of injury, and the causal link between subsidy and injury. In accordance with the investigation results and the Countervailing Regulations, the Investigating Authority made the final ruling as follows:

### **I. Consultation before Initiation**

On 6 July 2020, the China Alcoholic Drinks Association (hereinafter referred to as the "Applicant") filed a formal application with the Investigating Authority for a countervailing duty investigation into imported wines originating in Australia on behalf of the domestic wine industry.

After receiving the application materials, the Investigating Authority issued the invitation for a consultation to the Australian Government on 14 August 2020 regarding countervailing duty investigation in accordance with Article 16 in Countervailing Regulations and forwarded the public version of the application to the Australian Embassy. The representatives of the Chinese and Australian governments negotiated on 27 August. On 28 August 2020, the Australian Embassy in China submitted to the Investigating Authority the Australian Opinions on the Consultation Meeting Prior to the Initiation of the Countervailing Duty Investigation into Imported Wines Originating in Australia.

## **II. Investigation procedure**

### **(I) Initiating the investigation and notification**

#### **1. Initiating the investigation**

The Investigating Authority reviewed the application materials and deemed that the application was in line with

the provisions of Articles 11, 13 and 17 of the Countervailing Regulations regarding the domestic industry filing applications for countervailing duty investigation. Moreover, the application contained the information and related evidence required to initiate a countervailing duty investigation as provided by Articles 14 and 15 of the Countervailing Regulations

After completion of the aforesaid review and consultation, in accordance with Article 16 of the Countervailing Regulations, the Investigating Authority released the announcement regarding initiating the investigation on 31 August 2020, deciding to initiate the countervailing duty investigation into imported wines originating in Australia. The period of the countervailing duty investigation was from 1 January 2019 to 31 December 2019 (hereinafter referred to as the "Countervailing Duty Investigation Period"), and the period of the investigation on injury to the domestic industry was from 1 January 2015 to 31 September 2019 (hereinafter referred to as "Injury Investigation Period").

## **2. Notification of initiating the investigation**

On 31 August 2020, the Investigating Authority released the announcement of initiating the investigation and provided the public text of the announcement and application to the Australian Embassy. On the same day,

the Investigating Authority notified the Applicant and Australian enterprises listed in the application of the initiation of the investigation.

### **3. Publicity**

In the announcement, the Investigating Authority notified the stakeholders that they could access the non-confidential version of the information related to the countervailing duty investigation through the MofCom Trade Remedy Public Information Office.

On the date of the initiation of the investigation, the Investigating Authority publicised the public version of the application and non-confidential summary of the confidential version of the application through the MofCom Trade Remedy Public Information Office and posted the electronic version on the website of the Ministry of Commerce.

## **(II) Investigation Prior to Preliminary Ruling**

### **1. Registration for investigation**

Within the specified period of time, several organisations registered as foreign producers or traders with the Investigating Authority for investigation as required by the announcement, including Treasury Wine Estates Vintners Limited, Casella Wines Pty. Limited, Pernod Ricard Winemakers Pty Ltd, Australia Swan Vintage Pty Ltd, Accolade Wines Australia Limited, Ferngrove Vineyards Pty

Ltd, Octtava Wines Pty Ltd, Australian Vintage Limited, Zilzie Wines Pty Ltd, S. Smith & Son Pty. Limited, Brown Brothers Milawa Vineyard Pty. Ltd, Australian Food & Beverage Group Pty Ltd, Dorrien Estate Winery Pty Ltd, The Red Kangaroo Wine Company Pty Ltd, Agreeen Pty Ltd, Terra Felix Pty. Ltd., Portia Valley Wines Pty Ltd, Furunde Wine Company Pty Ltd, Bogdan Investments Pty Ltd, Wingara Wine Group Pty Ltd, Fowles Wine Pty Ltd, Chapel Hill Winery Pty Ltd, Australia Farm and Land Investment Pty Ltd, Endeavour Group Limited, South Australian Wine Group Pty Ltd, Liquorland (Australia) Pty Ltd and Greenlife Holdings Pty Ltd. Several organizations registered as the domestic importers with the Investigating Authority for investigation as required by the announcement, including Pernod Ricard (China) Spirits & Wines Co., Ltd., Jiufu Shengming (Beijing) Trading Co., Ltd., Zhejiang Sunrise International Wine Co., Ltd., Guangzhou Dragon's Journey Winery Co., Ltd. and Zhengzhou Yuzhilin Trading Co., Ltd. Several organizations registered as the domestic producers with the Investigating Authority for investigation as required by the announcement, including Chateau Junding Co., Ltd., Wei Long Grape Wine Co., Ltd., Ningxia Yangyang International Wine Estate Co., Ltd., Gansu Mogao Industrial Development Co., Ltd., Xinjiang Sunyard Wine Co., Ltd., Ningxia Hengsheng Xixia King Wine Co., Ltd., Xinjiang

Tangting Xialu Winery Co., Ltd., Imperial Horse International Winery (Ningxia) Co., Ltd., COFCO GREATWALL Wines & Spirits Co., Ltd. (literal translation), Xinjiang Zhongfei Wine Brewery Co., Ltd. (literal translation), Yantai Changyu Pioneer Wine Company Limited, Hebei Martin Wine Co., Ltd., CITIC Guoan Wine Co., Ltd., Beijing Dragon Seal Wines Co., Ltd., Qinhuangdao Chateau Kings International Co., Ltd., Ningxia Leirenshou Winery Co., Ltd., Huailai Rongchen Winery Co., Ltd. (literal translation), Xinjiang West Region Pearl Winery Co., Ltd., Tonghua Wantong Wine Co., Ltd., Xinjiang Ruitai Qinglin Wine Co., Ltd. (literal translation), Yantai Kastinon Wine Co., Ltd., Ningxia Helan Qingxue Vineyard Co., Ltd. (literal translation), Tianming Minquan Wine Co., Ltd., Yunnan Gaoyuan Wine Co., Ltd., Bodega Langes (Qinhuangdao) Co., Ltd., Xinjiang Aroma Manor Wine Co., Ltd., Sino-French Joint-Venture Dynasty Winery Ltd., Shanxi Chateau Rongzi Co. Ltd., Heilongjiang Qinggu Winery Co., Ltd. (literal translation), Qingdao Huadong Winery Co., Ltd., Penglai Guobin Winery Co., Ltd., Kweichow Moutai Distillery (Group) Changli Wine Industry Co., Ltd., Beijing Fengshou Wine Co., Ltd., Huailai Amethyst Manor Winery Co., Ltd. (literal translation), Hebei Shacheng Jiahe Wine Industry Co., Ltd., Shandong Taila Winery Co., Ltd., Turpan Loulan Wine Co., Ltd., Xinjiang

Les Champs D'or Winery Co., Ltd., Shangri-la Winery Co., Ltd., Changli Diwang Brewing Co., Ltd., Penglai Longting Wine Co., Ltd., Gansu Qilian Wine Co., Ltd., Xinjiang Qingyu Winery Co., Ltd. (literal translation), Tonghua Tontine Wines Co., Ltd., Changbaishan Wine Group Co., Ltd., Dezhou Oldman Winery Co., Ltd., Huailai Noble Manor Wine Industry Co., Ltd. (literal translation), Gansu Zixuan Liquor Industry Co., Ltd. (literal translation), Yantai Nanshan Manor Wine Co., Ltd. (literal translation), Yantai Haishi Wines Co., Ltd., Xinjiang Tiansai Vineyards Co., Ltd., Shaanxi Qiaopan Wine Co., Ltd. (literal translation), Liaoning Wunv Shan Milan Winery Co., Ltd., Qinhuangdao Liuhe Mountain Village Wine Industry Co., Ltd., Guangxi Zhongtian Lingyu Liquor Co., Ltd. (literal translation), Xinjiang Jiaheng Wine Industry Co., Ltd., Ningxia Changhe Feitswei Winery Co., Ltd., Sichuan Red Star Territory Winery Co., Ltd. (literal translation), Xinjiang Yuansen Wine Industry Co., Ltd. (literal translation), Gansu Zhangye Guofeng Wine Co., Ltd., Inner Mongolia Jinsha Winery Co., Ltd., Ningxia Walphon Winery Co., Ltd., Tonghua Grape Wine Co., Ltd., Huailai Jianan Winery Co., Ltd., Huailai Sino-French Manor Wine Company, Ningxia Castaly Industries Co., Ltd., and Dalian Baoyinglong Chateau Co., Ltd. The China Alcoholic Drinks Association registered as the applicant with the Investigating Authority for

investigation as required by the announcement. The Australian Embassy registered for the investigation on behalf of the Australian Government.

## **2. Sampling Investigation.**

Since a number of concerned enterprises had registered for the investigation, pursuant to Article 20 of the Countervailing Regulations, the Investigating Authority decided to conduct the countervailing duty investigation through sampling.

On 22 September 2020, the Investigating Authority distributed the Questionnaire on the Countervailing Duty Sampling Investigation to the stakeholders. Within the stipulated period, Australian enterprises like Accolade Wines Australia Limited, Treasury Wine Estates Vintners Limited, Casella Wines Pty. Limited, Pernod Ricard Winemakers Pty Ltd and Australian Vintage Limited submitted the extension applications to the Investigating Authority and gave corresponding reasons. After review, the Investigating Authority approved a proper extension.

Within the stipulated period, the Responses of multiple Australian producers and traders and the Australian Government to the Questionnaire on the Countervailing Duty Sampling Investigation were received. The Investigating Authority reviewed the responses to the above sampling questionnaire and initially decided to conduct

sampling based on the responses received; those Australian producers having submitted responses were sequenced based on their reported exports, and Top 4 producers with the most exports were selected as the samples.

On 30 September 2020, the Investigating Authority distributed Notice on Sampling of Relevant Wine Countervailing Duty Case, notified the stakeholders of the above initial sampling scheme, results and other facts and solicited comments publicly. No stakeholders submitted any comments within the stipulated period. Consequently, the Investigating Authority ultimately selected four enterprises: Treasury Wine Estates Vintners Limited, Casella Wines Pty. Limited, Australia Swan Vintage Pty Ltd, and Pernod Ricard Winemakers Pty Ltd.

### **3. Distribution and collection of questionnaires.**

On 10 October 2020, the Investigating Authority distributed to the stakeholders the Countervailing Duty Questionnaire for Foreign Exporters or Producers, Countervailing Duty Questionnaire for Domestic Producers, Countervailing Duty Questionnaire for Domestic Importers, and Countervailing Duty Questionnaire for Government, and requested them to submit accurate and complete questionnaires within the specified time. On the same day, the Investigating Authority also distributed the

questionnaire notices to the domestic Applicant, the sampled Australian companies and the Australian Government separately and gave instructions on the response requirements.

Within the stipulated period, Treasury Wine Estates Vintners Limited, Casella Wines Pty. Limited and Pernod Ricard Winemakers Pty Ltd submitted the extension applications to the Investigating Authority and gave corresponding reasons. After a review, the Investigating Authority believed that firstly, it had conducted independent sampling and granted a proper extension to the stakeholders before distributing the Questionnaire, and the stakeholders had been granted sufficient time for preparing the responses; secondly, some questions in the Countervailing Duty Questionnaire for Foreign Exporters or Producers were the same as those in the sampling questionnaire, and it would take them less time to fill in the Questionnaire since they had replied to those questions in the sampling questionnaire. Therefore, the Investigating Authority held that the stakeholders had been granted sufficient time to prepare for and fill in the responses, so the extension application was rejected. As of the deadline of submission, domestic Applicant, Australian Government, Treasury Wine Estates Vintners Limited, Casella Wines Pty. Limited, Australia Swan Vintage Pty Ltd, Pernod Ricard

Winemakers Pty Ltd and Guangzhou Dragon's Journey Winery Co., Ltd. submitted the responses to the Investigating Authority.

Casella Wines Pty. Limited, Pernod Ricard Winemakers Pty Ltd and the Australian Government claimed in the comments on the Preliminary Ruling that in its decision to reject the extension application, the Investigating Authority did not take the reasons given by the stakeholders about the Case into sufficient account, and also did not grant the stakeholders sufficient chances to defend themselves.

The Investigating Authority believed that firstly, it made the decision of rejecting the extension application after having fully considered the reasons given by the stakeholders, the actual situation of the Case and the investigation arrangements. If the extension application were rejected, normal investigation procedures would be interfered with. Secondly, during various stages of the investigation period, the Investigating Authority had provided the stakeholders with sufficient chances to present comments, submit evidence and offer explanations by distributing questionnaires and collecting responses and supplementary responses, soliciting and receiving comments and resorting to other means. Thirdly, the information collected by the Investigating Authority from the

questionnaire is a must for the investigation, and reasonable response time had been granted, so no unreasonable burden of proof had been imposed on the stakeholders.

Casella Wines Pty. Limited and Pernod Ricard Winemakers Pty Ltd claimed in its comments on Preliminary Ruling that since the Investigating Authority rejected the extension application of the Australian Government, it was impossible for the Australian Government to translate all annexes into Chinese in such a short period of time. The Investigating Authority found that within the specified time of submitting the response, the Australian Government did not submit any extension application, so the Investigating Authority believed that the Australian Government had sufficient time to submit a complete response within such specified time.

#### **4. Collecting comments from the stakeholders.**

On 18 September 2020, the Australian Government submitted the Comments on the Initiation of the Countervailing Duty Investigation into Relevant Imported Wines Originating in Australia.

On 18 September 2020, Treasury Wine Estates Vintners Limited submitted its Preliminary Comments on Countervailing Duty Investigation into Relevant Imported

Wines Originating in Australia.

On 25 November 2020, the domestic Applicant submitted the Comments of the Applicant in the Wine Countervailing Duty Case on the Australian Government's Comments on the Initiation of the Investigation.

## **5. Public information**

In accordance with Article 23 of the Countervailing Regulations, the Investigating Authority delivered all public materials related to this case that were received and produced in the investigation process to the MofCom Trade Remedy Public Information Office promptly. Each stakeholder may find, read, take excerpts from and photocopy the relevant public information. Moreover, the stakeholders could also consult and download electronic public information released by the Investigating Authority and submitted by the stakeholders via the Trade Remedy Investigation Information Platform.

### **(III) Preliminary Ruling and announcement.**

On 10 December 2020, the Investigating Authority released the [2020] No. 58 Announcement to release the Preliminary Ruling, identifying that the imported wines from Australia were subsidised, the Chinese wine industry suffered a material injury, and there was a causal link

between the subsidy and the material injury. The Announcement said that it was decided to impose interim countervailing duty measures on the product under investigation from 11 December 2020.

On the day of the Announcement, the Investigating Authority notified Australian Embassy in China and known enterprises involved in the Case and posted the Announcement on the official website of the Ministry of Commerce where it could be referenced by the stakeholders and the public.

#### **(IV) Investigation after the release of Preliminary Ruling.**

##### **1. Information disclosure after the release of Preliminary Ruling.**

On 10 December 2020, the Investigating Authority disclosed and illustrated basic facts and reasons relied on by Preliminary Ruling for the calculation of ad valorem subsidy rate to 4 sampled companies and the Australian Embassy in China, and also offered them a chance to give comments. According to the requirements listed in the Preliminary Ruling Announcement, the stakeholders might offer written comments on the Preliminary Rulings and supporting evidence to the Investigating Authority within ten days since its release.

## **2. Receiving written comments from the stakeholders.**

On 16 December 2020, Australia Swan Vintage Pty Ltd submitted the Comments on the Disclosure of Basic Facts Relied on by the Subsidy Part of Preliminary Ruling of Relevant Wines Countervailing Duty Investigation.

On 17 December 2020, Casella Wines Pty. Limited submitted its Comments on the Preliminary Ruling of the Relevant Wine Countervailing Duty Case.

On 17 December 2020, Pernod Ricard Winemakers Pty Ltd submitted its Comments on the Preliminary Ruling of the Relevant Wine Countervailing Duty Case.

On 18 December 2020, the Applicant submitted the Comments of the Applicant on the Preliminary Ruling of the Relevant Wines Countervailing Duty Case.

On 18 December 2020, Australian Grape & Wine Incorporated submitted the Comments on the Preliminary Ruling of the Countervailing Duty Case against Australian Wines.

On 21 September 2020, Treasury Wine Estates Vintners Limited submitted its Comments on the Preliminary Ruling of Countervailing Duty Investigation into

Relevant Imported Wines Originating in Australia.

On 21 December 2020, the Australian Government submitted the Australian Written Comments on the Preliminary Ruling of the Countervailing Duty Investigation into Relevant Imported Wines Originating in Australia.

On 22 January 2021, the Applicant submitted the Comments of the Applicant on the Australian Application for Price Undertaking in the Relevant Wines Anti-Dumping and Countervailing Duty Cases.

On 10 February 2021, the Applicant submitted the Comments of the Applicant on the Investigation into the Subsidy Programs of the Relevant Wines Countervailing Duty Case.

On 3 March 2021, the Applicant submitted the Comments of the Applicant on the Stakeholders' Comments on the Preliminary Ruling in the Relevant Wines Countervailing Duty Case.

On 3 March 2021, Pernod Ricard Winemakers Pty Ltd submitted its Comments on the Disclosure of Basic Facts Relied on by the Final Ruling of the Countervailing Duty Case against Relevant Australian Wines.

On 22 March 2021, Australian Grape & Wine

Incorporated submitted the Comments on the Disclosure of Basic Facts Relied on by Preliminary Ruling of the Anti-dumping and Countervailing Duty Cases against Australian Wines.

On 22 March 2021, Treasury Wine Estates Vintners Limited submitted its Comments on the Disclosure of Basic Facts Relied on by the Final Ruling of Countervailing Duty Investigation into Relevant Imported Wines Originating in Australia.

On 23 March 2021, the Australian Government submitted the Australian Written Comments on the Disclosure of Basic Facts Relied on by the Final Ruling of the Countervailing Duty Investigation into Relevant Imported Wines Originating in Australia.

### **3. Domestic industry verification.**

In order to verify the documents and evidence provided in the applications and responses and gain an understanding of other respects of the investigation, the Investigating Authority distributed the Notice on the Verification of Relevant Matters Regarding the Relevant Wines Anti-Dumping and Countervailing Duty Cases to Yantai Changyu Pioneer Wine Company Limited and COFCO Greatwall Wines & Spirits Co., Ltd. on 27 January

2021, and demanded these two enterprises to prepare and submit relevant written documents and supporting evidence promptly based on the requirements of the List of Verification Questions. Within the stipulated period, these two enterprises submitted the required documents.

#### **4. Distribution and collection of supplementary questionnaires.**

On 1 February 2021, the Investigating Authority distributed the Notice on Distributing Supplementary Questionnaire about the Relevant Wines Countervailing Duty Case to the Australian Government and demanded the Australian Government to submit accurate and complete responses to the Supplementary Questionnaire within the stipulated time. Australian Government submitted an extension application for submission of the response. After the review, the Investigating Authority decided to give a 4-day extension. As of the deadline of submission, the Australian Government submitted its response to the Investigating Authority.

In the Final Ruling, the Investigating Authority took into account the documents, information and comments collected in the above investigation.

#### **5. Price undertaking application.**

Within the stipulated period after the release of the Preliminary Ruling, Casella Wines Pty. Limited, Treasury

Wine Estates Vintners Limited and Bogdan Investments Pty Ltd successively submitted price undertaking applications.

In the subsequent comments, the Applicant claimed that, firstly, Casella Wines Pty. Limited, Treasury Wine Estates Vintners Limited, Australian Grape & Wine Incorporated and its members were not fully cooperative in the investigation work of the Investigating Authority, and their price undertaking applications shall be rejected; secondly, since the product under investigation involved numerous types and specifications, circumvention would easily occur when there're too many producers applying for price undertaking, so the injury of dumping and subsidised imported products could not be eliminated.

After the review, the Investigating Authority held that due to the presence of numerous types and exporters for the product under investigation, it would be impractical to supervise price undertaking, and there would be a greater possibility of circumvention. Hence, the Investigating Authority decided to reject the above price undertaking applications.

## **6. Information disclosure before the Final Ruling.**

Prior to the final ruling of this case, the Investigating Authority disclosed and explained the basic facts on which the final ruling of this countervailing duty investigation was based to the stakeholders and gave them an opportunity to

make comments in accordance with Article 26 of the Countervailing Regulations. Within the stipulated time, the stakeholders released their comments on the Disclosure before Final Ruling. The Investigating Authority took them into consideration in the Final Ruling in accordance with applicable laws.

## **7. Publicity.**

Pursuant to the Countervailing Regulations, the Investigating Authority delivered all public materials related to this case that were received and produced in the investigation process after the Preliminary Ruling to the MofCom Trade Remedy Public Information Office where they could be consulted, read, excerpted and copied by the stakeholders. Moreover, the stakeholders could also consult and download electronic public information released by the Investigating Authority and submitted by the stakeholders via the Trade Remedy Investigation Information Platform.

## **III. The product under investigation**

### **(I) Scope of the product under investigation.**

The scope and description of the product under investigation are as follows:

Scope of investigation: Imported wines originating in Australia in containers holding 2 litres or less.

Name of the product under investigation: Wines in containers holding 2 litres or less, hereinafter referred to as "relevant wines".

English name: Wines in containers holding 2 litres or less

Product description: wines in containers holding 2 litres or less that are made from full or partial fermentation, with fresh grapes or grape juice as raw material.

Main use: Mainly used for consumption as an alcoholic beverage.

This product is listed under tariff numbers 22042100 in the Customs Import and Export Tariff of the People's Republic of China.

## **(II) Relevant comments.**

Treasury Wine Estates Vintners Limited claimed in its comments that the mixed liquor, Brandy and sparkling wine exported by it were not in line with the descriptions and tariff numbers of the product under investigation, so it petitioned the Investigating Authority not to confirm the above products as the product under investigation.

The Investigating Authority stressed that the scope of the product under investigation was based on the product description; all the products under investigation were listed

under tariff numbers 22042100 in the Customs Import and Export Tariff of the People's Republic of China, and the products listed under other tariff numbers did not belong to the product under investigation.

After Preliminary Ruling was released, no stakeholders raised any objection.

#### **IV. Subsidy and subsidy amount**

The Investigating Authority set the period of countervailing duty investigation and allocation of the one-off subsidy benefits in this case as ten years, which meant that it would investigate the financial contribution and any forms of income or price support that may have brought benefits to the enterprises, during the period of the countervailing duty investigation and the previous nine years.

During the investigation, the Investigating Authority apportioned the benefits of the subsidy programs according to the range of products receiving the subsidy benefits.

The Investigating Authority reviewed the claims and evidence documents submitted by the Applicant, and the responses submitted by the Australian Government, the sample companies, and other stakeholders. Since the Australian Government only submitted the Chinese version

of the response, and it didn't provide Chinese translations for relevant annexes to the response, according to the requirements on the investigation questionnaire response, the Investigating Authority only accepts evidence and documents that are submitted in Chinese as the contents of the formal response, and information provided in other languages without Chinese translations will not be considered in the investigation. Therefore, the Investigating Authority shall, in accordance with Article 21 of the Countervailing Regulations, identify contents of the response that are not provided with Chinese translations on the basis of available facts.

In its comments to the Preliminary Ruling, the Australian Government claimed that it had submitted the Chinese version of the complete response, and the Chinese translations for critical documents in the annex, and contents of relevant documents are translated according to the specific requirements proposed in Question 4 & 5 of Part VII of the Anti-Dumping Investigation Questionnaire. It had provided a large amount of Chinese translations for its response as well as the legal basis for its complete reply to the questions of the questionnaire, with a total of over 30

laws, and all of which are submitted in electronic and printed versions. The Australian Grape & Wine Incorporated had similar claims in its comments to the Preliminary Ruling.

The Applicant claimed in its comments that, according to the requirements on the filling of the response of the Wine Countervailing Case Government Questionnaire, "the Trade Remedy and Investigation Bureau of the Ministry of Commerce only accepts evidence and documents provided in Chinese as the contents for a formal response. If the original document is drafted in another language, Chinese translations of the original documents with the original formatting maintained shall be provided, with the original or its copies attached. Any information provided in other languages without Chinese translations shall not be considered during the investigation. However, according to the response submitted by the Australian Government, under the items of the "China and USA Marketing Activities" and the "Export Market Development Grants", the applicant noticed that relevant annexes provided by the Australian Government are in English without Chinese translations. Therefore, the applicant believed, according to the requirements of the questionnaire, the English annexes not

provided with Chinese translations submitted by the Australian Government shall not be used in the investigation as effective evidence. Besides, the fact that the Australian Government's failure to submit effective evidence documents was a major cause that the Investigating Authority was unable to necessary information for subsidy identification. Therefore, the applicant believed, since the Australian Government failed to submit the necessary information to the Investigating Authority within a specified time, its claim that a complete response was submitted was inconsistent with the facts.

The applicant also claimed in its comments that as the Wine Countervailing Duty Case Government Questionnaire put it, "If you are unable to submit the response within the required timeframe, or the response you submit is incomplete or inaccurate, or you refuse to allow the Trade Remedy and Investigation Bureau to verify the information and materials you provide, the Trade Remedy and Investigation Bureau is free to make rulings on the basis of known facts and the best information available according to the Countervailing Regulations of the People's Republic of China". Therefore, since the Australian Government failed

to submit necessary information within a reasonable time, the Applicant believed that the ruling of the Investigating Authority on relevant subsidy programs according to available facts in the preliminary ruling complied with the provisions of the Chinese laws.

The Investigating Authority believed, first, in Section A (7) and Section B (1) of the questionnaire, the Investigating Authority specified the form and methods for submission of the questionnaire response and the consequences of not submitting the response as required. The Investigating Authority only accepts evidence and documents that are submitted in Chinese as the form response, and any information provided in other languages without Chinese translations shall not be considered during the investigation. Second, the Anti-Dumping investigation and Countervailing duty investigation are two completely independent procedures, and the Investigating Authority initiated anti-dumping on 18 August 2020 and countervailing duty investigation on 31 August 2020 on relevant Australian wines. The preliminary ruling on the Anti-Dumping investigation was made on 27 November 2020, and that on countervailing duty investigation was made on 10

December 2020. Therefore, the Australian government was obliged to cope with the countervailing duty investigation and submit necessary information for countervailing through the countervailing procedures. Third, although the Australian Government provided Chinese translations for part of the response, a total of 37 subsidy programs were investigated in this case, and to fully understand the actual situations of these programs, the Investigating Authority has asked the Australian Government to provide relevant information such as implementation criteria, legislative basis, application flow, government documents, annual reports, fund allocation, apportionment method, benefits received by the wine industry and enterprises, while in the response submitted by the Australian Government, the above information was not included in relevant programs, which made it impossible for the Investigating Authority to make a comprehensive and thorough investigation into some subsidy programs based on the information submitted by the Australian Government in the response. Finally, since the Australian Government didn't apply for an extension in the submission of the questionnaire, and the Investigating Authority provided another chance for the

Australian Government to explain the reasons for failing to submit the investigation questionnaire response as per the requirements when releasing the supplementary questionnaire for countervailing duty case of relevant wines, but no reasonable causes were provided. Therefore, in its final ruling, the Investigating Authority will, in accordance with Article 21 of the Countervailing Regulations, continue to identify necessary information not submitted by the Australian Government on the basis of available facts.

After investigation, the Investigating Authority identified the subsidy programs as follows:

**(I) The Export and Regional Wine Support Package**

In the Preliminary Ruling, the Investigating Authority reviewed the claims of the Applicant. The Applicant claimed that to develop its own economy, the Australian Government unveiled the Export and Regional Wine Support Package. The Package includes the International Wine Tourism Competitive Grants, the International Wine Tourism State Grants, the Wine Export Grants, the China and USA Marketing Activities, and the Capability Development. The Package is a commitment of A\$ 50 million to be implemented from 2017 to 2020. It is administered by

Wine Australia and aims to promote the export of Australian wine and help develop export-oriented enterprises to benefit wine producers.

The Investigating Authority found in the Preliminary Ruling that the Export and Regional Wine Support Package was formulated by the federal government of Australia in its annual budget for 2016-2017, involving A\$50 million and includes programs such as international marketing activities grants, competitive grants, capability development, etc. In the Preliminary Ruling, the Investigating Authority identified that the state governments of Australia provided financial contributions to the Australian wine industry through China and USA Marketing Activities, which possesses specificity, and benefits the Australian wine industry and enterprises. The Investigating Authority conducted a further review of this program after the Preliminary Ruling. The Investigating Authority made the following identifications upon review:

**1. Identification of financial contribution.**

The China and USA Marketing Activities is formulated by the federal government of Australia in accordance with its budget, and Wine Australia is responsible for the

implementation. Wine Australia is a Commonwealth statutory Research and Development Corporation under the portfolio of the Department of Agriculture, Water and the Environment. Its responsibilities include: coordinating or funding grape and wine research and development, and facilitating the dissemination, adoption and commercialisation of the results, promoting the sale and consumption of wine in Australia and overseas, and controlling the export of wine from Australia. Therefore, in the Preliminary Ruling, the Investigating Authority identified that Wine Australia was the competent government department of this program and constituted the "government" in Article 3 of the Countervailing Regulations.

According to the response of the Australian Government, the fund of the program was from the allocation of money by the Australian Government, and according to Article 3 of the Countervailing Regulations, "direct provision by the government of the exporting country (region) of funds in the forms of allocations of money, loans, capital contribution, etc." shall constitute a financial contribution. In the Preliminary Ruling, the Investigating Authority identified that the subsidy under this program

constituted a financial contribution.

After the Preliminary Ruling was released, neither the Australian Government nor the stakeholders raised any objection. After the Preliminary Ruling, the Investigating Authority made further investigations and found no change in the facts on which the Preliminary Ruling was based. Therefore, the Investigating Authority decides to affirm the Preliminary Ruling that Wine Australia is the competent government department for China and USA Marketing Activities, and the subsidy under this program constitutes a financial contribution.

## **2. Identification of specificity.**

According to the response of the Australian Government, it allocated A\$32.50 million to the China and USA Marketing Activities for export promotion activities that support wine exports to China and the United States. It can be seen that this subsidy is a specific subsidy applicable to exports, and according to Article 4 of the Countervailing Regulations, the subsidy taking export performance as a condition shall be deemed as possessing specificity. Therefore, in the Preliminary Ruling, the Investigating Authority identified the program as an export subsidy and

possessing specificity.

After the Preliminary Ruling was released, neither the Australian Government nor the stakeholders raised any objection. After the Preliminary Ruling, the Investigating Authority made further investigations and found no change in the facts on which the Preliminary Ruling was based. Therefore, the Investigating Authority decides to affirm the Preliminary Ruling that China and USA Marketing Activities possesses specificity.

### **3. Identification of subsidy benefit.**

According to the response of the Australian Government, Wine Australia, a statutory authority of the Australian Government, made use of the funds of China and USA Marketing Activities for the following purposes: on the one hand, attending all kinds of trade fairs and relevant promotional activities held in China, including Wine Australia China Awards, China (Chengdu) National Food, Wine and Spirits Fair, and ProWine China; on the other hand, showing presence on social media, engaging in public relations activities and holding education seminars etc. Thus, the Australian wine industry has benefited from the program by developing a brand for Australian wine;

creating an education platform to help the wine trade; allowing hospitality professionals and consumers to learn about Australian wines; building a digital asset management library and content for the wine industry to access; increasing the visibility of Australian wine brands at trade events; participating in new events; tapping local capability and marketing assets to expand the number of visitors and/or the spending of international wine tourism; providing reimbursement to small and medium wine producers to reduce their costs of securing new distribution channels and promoting Australian wine for export; upgrading the list of wine businesses on the Australian Tourism Data Warehouse; developing courses and enhancing education to help small and medium-sized wine businesses improve their business skills. Therefore, in the Preliminary Ruling, the Investigating Authority believed that, with this program, the Australian Government expanded the popularity of Australian wine brands in China, helped the Australian wine industry promote their export capacity to China, and provided support and subsidy for their development in China so that the Australian wine products have received benefits from their exports to China.

In its comments after the Preliminary Ruling, Treasury Wine Estates Vintners Limited claimed the fund from China and USA Marketing Activities was used for marketing and promotion activities by Wine Australia, and it was operated by Wine Australia as a government agency of Australia and was not granted to wine enterprises or industry, so it shall not constitute a subsidy benefit. Casella Wines Pty. Limited and Pernod Ricard Winemakers Pty Ltd made similar claims in their comments to the Preliminary Ruling.

The Investigating Authority believed that although the Australian Government claimed in the response that the fund under China and USA Marketing Activities was used as operating funds of Wine Australia and was not granted to any enterprise or organisation in the wine industry, they also showed in the response that activities of Wine Australia under this program include participating in various exhibitions and media publicities in the Chinese market, the purposes of which were to promote the popularity and awareness of Australian wines in the Chinese market. Through various commercial activities supported by the funds under this program, Wine Australia directly expanded the popularity of Australian wines in China and promoted

the Australian wine industry's export capability to China. Although no Australian wine enterprise has won fund support from this program, in fact, when exporting their products to China, they received benefits from various activities conducted by Wine Australia, which, to some extent, reduced their expenses on promoting their products in China. Therefore, the Investigating Authority believes that the Australian wine industry has received subsidy benefits from China and USA Marketing Activities.

In the Preliminary Ruling, the Investigating Authority also believed that despite its submission of the general situation of the grant in the response, the Australian Government did not provide details on the use of funds, relevant financial statements, annual reports, and other materials before and during the investigation period of this program as required by the questionnaire, and therefore, the Investigating Authority was unable to obtain necessary information, such as the use of subsidy, nature of subsidy benefit (one-off or repetitive) and other relevant and specific information of the grant in the investigation period. Therefore, the Investigating Authority shall, in accordance with Article 21 of the Countervailing Regulations, calculate

the subsidy benefit on the basis of the available facts.

The Australian Government, Casella Wines Pty. Limited and Pernod Ricard Winemakers Pty Ltd claimed in their comments to the Preliminary Ruling that the fund of A\$32.50 million under the China and USA Marketing Activities was used in four years, so the Investigating Authority shall apportion it accordingly. Besides, the Investigating Authority shall apportion the amount between the United States and China according to the proportion of export share to the Chinese market provided by the Australian Government.

The Investigating Authority believed that, first, the Australian Government only briefly described the Export and Regional Wine Support Package and the China and USA Marketing Activities under this package. According to its description, this program was established in the 2016-2017 annual budget of the federal government and began to provide funds from 2017 for a period of 4 years. However, no evidence was submitted to support the above statement, and information such as details on the use of the funds under this program, financial reports, benefits received by the wine industry, etc. was not submitted as required by the

Investigating Authority, so the Investigating Authority was unable to obtain the information such as details of the programs, use of the fund, nature of subsidy (one-off or repetitive) according to the response. Second, the Australian Government acknowledged in its response that it allocated A\$32.50 million for export promotion activities to support wine exports to China and the United States. However, due to its failure to provide details on the use of this fund in the response, the Investigating Authority was unable to determine the specific amount used in China and the United States and the benefits received thereof. Therefore, the Investigating Authority decided to uphold the identification method used in the Preliminary Ruling.

To sum up, since the Investigating Authority was unable to split the amount invested to the Chinese market and the USA market by the Australian Government, or to determine the amount used each year, the Investigating Authority took the A\$32.50 million filled in the response as the subsidy amount of this program during the investigation period, and then, according to the export value of the products under investigation submitted by the Australian Government in the response, calculated the ad valorem

subsidy rate of the product under investigation, which was 2.928%.

In its comments to the Preliminary Ruling, Treasury Wine Estates Vintners Limited claimed it didn't apply, use or benefit from the China and USA Marketing Activities, nor the Wine Australia had granted it any grant under this program. Casella Wines Pty. Limited also made a similar claim.

The Applicant claimed in its comments that although these three sample enterprises didn't receive any subsidy from this subsidy grant, it was impossible to further verify the facts since the Australian Government failed to provide the necessary information. Besides, the subsidy program identified by the Investigating Authority was aiming at the whole wine industry, and even if the wine producers didn't receive a subsidy, relevant evidence showed that the wine industry might receive a subsidy program. Under this circumstance, it is also objective and reasonable for the Investigating Authority to calculate the subsidy margin of the product under investigation based on the subsidy benefits received by the whole wine industry. The claims of relevant sample respondent enterprises that the subsidy margin shall not be calculated since they didn't receive the

subsidy was not found.

The Investigating Authority believed, first, although the sample companies submitted the responses for this case, the Australian Government failed to submit necessary information in its response, which made the Investigating Authority unable to verify and compare the responses of the enterprises based on the information submitted by the Australian Government. Second, the Investigating Authority found that the Australian Government didn't subsidize the Australian wine industry through the allocation of money in this program, but to promote the competitive ability of the wine industry in exporting to China and reduce their costs in exploring the Chinese market through government behaviour. Therefore, the Investigating Authority believed the wine products produced and exported to China by the Australian wine producers had received benefits from this program.

The Investigating Authority didn't identify other programs under the Export and Regional Wine Support Package for the time being.

## **(II) Wine Tourism and Cellar Door Grant.**

In the Preliminary Ruling, the Investigating Authority

reviewed the claims of the Applicant. The Applicant claimed that this grant program is implemented by Wine Australia. It is a part of the grants jointly developed by Wine Australia and the Australian grape and wine sector and a supplementary of the above-mentioned Export and Regional Wine Support Package. This program aims to attract tourists to wine regions to drive wine development. Under this subsidy program, Wine Australia can help the Australian wine industry increase exports and bring benefits to wine producers through a grant.

In the Preliminary Ruling, the Investigating Authority identified that the state governments of Australia provided financial contributions to the Australian wine producers through Wine Tourism and Cellar Door Grant, which possesses specificity, and the Australian wine producers received subsidy benefits. The Investigating Authority conducted a further review of this program after the Preliminary Ruling. The Investigating Authority made the following identifications upon review:

**1. Identification of financial contribution.**

According to the response of the Australian Government, the Wine Tourism and Cellar Door Grant was

administered by Wine Australia in accordance with the Wine Tourism and Cellar Door Grant Agreement between the Commonwealth, represented by the Department of Agriculture and Water Resources, and Wine Australia. Since Wine Australia is a statutory administration agency of the Australian Government, the Investigating Authority identified the preliminary ruling that Wine Australia is the competent government department in charge of this program and constitutes the "government" in Article 3 of the Countervailing Regulations.

According to the response of the Australian Government, the fund of the program is from the allocation of money by the Australian Government, and according to Article III of the Countervailing Regulations, "direct provision by the government of the exporting country (region) of funds in the forms of allocations of money, loans, capital contribution, etc." constitutes a financial contribution. In the Preliminary Ruling, the Investigating Authority identified that the subsidy under this program constituted a financial contribution.

After the Preliminary Ruling was released, neither the Australian Government nor the stakeholders raised any

objection. After the Preliminary Ruling, the Investigating Authority made further investigations and found no change in the facts on which the Preliminary Ruling was based. Therefore, the Investigating Authority decided to affirm the Preliminary Ruling that Wine Australia was the competent government department for the Wine Tourism and Cellar Door Grant, and the subsidy under this program constituted a financial contribution.

## **2. Identification of specificity.**

According to the response of the Australian Government, the legal basis for Wine Australia to administer the program is set out in Sections 3(aa) and 3(ab) of the Wine Australia Act 2013, whose objectives were to sustain the growth of the wine industry and wine brewing industry, support the expansion of international wine tourism, and bolster up the development of supplementary services, products and experiences of the international wine tourism industry.

It's also shown in the response of the Australian Government, to apply for the grants, applicants must: be a wine producer; be a legal entity registered for GST with an active ABN; have made at least A\$1,207,000 in sales of

rebatale wine in the relevant financial year; accrue rebatale domestic cellar door sales in excess of any such sales used to meet the A\$1,207,000 threshold in the relevant financial year; have paid the WET on all eligible sales used as part of the application; have owned or leased a physical cellar door in Australia in the relevant financial year and/or their related entity/ies have owned or leased a physical cellar door in Australia in the relevant financial year; and have a liquor licence valid in the relevant financial year.

According to the response of Treasury Wine Estates Vintners Limited, the objective of the program is to support wine producers who add value by attracting visitors to wine regions and thereby encourage wine tourism.

In the Preliminary Ruling, the Investigating Authority believed that "to support international wine tourism" specified in the Wine Australia Act 2013 was actually to support the wine producers who possess wine production capacity such as cellar doors to develop tourism, and according to Article 4 of the Countervailing Regulations, subsidies obtained by some enterprises or industries which are clearly specified by the laws and regulations of the exporting country (region) shall be deemed to possess

specificity. Therefore, in the Preliminary Ruling, the Investigating Authority identified that the program possessed specificity.

After the Preliminary Ruling was released, neither the Australian Government nor the stakeholders raised any objection. After the Preliminary Ruling, the Investigating Authority made further investigations and found no change in the facts on which the Preliminary Ruling was based. Therefore, the Investigating Authority decided to affirm the Preliminary Ruling that Wine Tourism and Cellar Door Grant possesses specificity.

### **3. Identification of subsidy benefit.**

According to the response of the Australian Government, this program was declared to be implemented on 2 December 2016, with the first grants being paid on 31 October 2019. The program supports producers who add value to the domestic wine sector by encouraging visitors to wine regions in Australia. The total budget of the program is A\$10 million each financial year. No single company can receive more than A\$ 100,000 and may receive less depending on the number of successful applicants. It also shows in the response of the Australian Government, all the

funds for 2019 have been allocated, and there was no pending allocation under this program.

The Investigating Authority noticed that, according to the response of the Australian Government, this program was initiated in 2019, and in the second round of allocation in 2020, although some adjustments were made to this program, the budget amount was not adjusted. Therefore, in the Preliminary Ruling, the Investigating Authority identified that the wine industry gained benefits from this program, and the benefits were repetitive subsidy benefits.

After the Preliminary Ruling was released, neither the Australian Government nor the stakeholders raised any objection. After the Preliminary Ruling, the Investigating Authority made further investigations and found no change in the facts on which the Preliminary Ruling was based. Therefore, the Investigating Authority decided to uphold the identification of the Preliminary Ruling.

As for the subsidy benefits of relevant sample companies under this contract, according to the response of relevant sample companies receiving benefits from this program, the Investigating Authority identified as follows:

**(1) Treasury Wine Estates Vintners Limited.**

According to the response of Treasury Wine Estates Vintners Limited, it has received and used the grant under this program during the investigation period.

According to Article 6 of the Countervailing Regulations, the grant amount shall be calculated based on the actual amount received by the enterprise if provided through gratuitous appropriation. The response of the company shows it has received and used the grant under this program during the investigation period. The Investigating Authority calculated the ad valorem subsidy rate of the product under investigation based on the subsidy amount obtained by the company in the investigation period and sales revenue given in its response.

**(2) Casella Wines Pty. Limited.**

According to the response of Casella Wines Pty. Limited, it has received the grant under this program during the investigation period.

According to Article 6 of the Countervailing Regulations, the grant amount shall be calculated based on the actual amount received by the enterprise if provided through gratuitous appropriation. The response of the company shows it has received and used the grant under this

program during the investigation period. The Investigating Authority calculated the ad valorem subsidy rate of the product under investigation based on the subsidy amount obtained by the company in the investigation period and sales revenue given in its response.

### **(3) Pernod Ricard Winemakers Pty Ltd.**

According to the response of Pernod Ricard Winemakers Pty Ltd., it has received and used the grant under this program during the investigation period.

According to Article 6 of the Countervailing Regulations, the grant amount shall be calculated based on the actual amount received by the enterprise if provided through gratuitous appropriation. The response of the company shows it has received and used the grant under this program during the investigation period. The Investigating Authority calculated the ad valorem subsidy rate of the product under investigation based on the subsidy amount obtained by the company in the investigation period and sales revenue given in its response.

### **(III) Export Market Development Grants.**

In the Preliminary Ruling, the Investigating Authority reviewed the claims of the Applicant. The Applicant claimed

that Export Market Development Grants is an important financial aid plan provided to exporters by the Australian Government and managed and implemented by Austrade. This plan aims to encourage small and medium-sized Australian enterprises to develop export markets and subsidise qualified marketing expenses for export. The subsidy program allows each qualified applicant to obtain at most eight grants to cover 50% of its qualified export marketing expenses over A\$ 5,000, thus constituting the "financial contribution" in Article 3(1) of the Countervailing Regulations. Under this subsidy program, the Australian Government can use export subsidies to lower enterprises' export marketing expenses and bring them economic benefits. According to the List of Subsidies available for the wine industry as set forth by the Australian Wine Research Institute, each grape grower and wine chateau can apply for a subsidy of up to A\$ 150,000 in this program and gain profit.

In the Preliminary Ruling, the Investigating Authority identified that the state governments of Australia provided financial contributions to the Australian wine industry through Export Market Development Grants, which

possesses specificity, and the Australian wine industry and enterprises received subsidy benefits therefrom. The Investigating Authority conducted a further review of this program after the Preliminary Ruling. The Investigating Authority made the following identifications upon review:

**1. Identification of financial contribution.**

According to the response of the Australian Government, Australian Trade and Investment Commission is responsible for the implementation of Export Market Development Grants. According to the response and the website of the Australian Trade and Investment Commission, it is a government agency responsible for administering the Export Market Development Grants, and its main functions include: connecting Australian businesses to the world (help Australian companies expand their global business through Export Market Development Grants and Trade Initiation Network, etc.), promoting international education of Australia, attracting foreign direct investment, enhancing Australian tourism, providing advice to the government, promoting Australia through network, media and promotion activities, providing consular services, etc. Therefore, in the Preliminary Ruling, the Investigating

Authority identified that the Australian Trade and Investment Commission was the competent government department of this program and constituted the "government" in Article 3 of the Countervailing Regulations.

The Australian Government's response shows that according to Article 3 of the Countervailing Regulations, "direct provision by the government of the exporting country (region) of funds in the forms of allocations of money, loans, capital contribution, etc." constitutes the financial contribution. In the Preliminary Ruling, the Investigating Authority identified that the subsidy under this program constituted a financial contribution.

After the Preliminary Ruling was released, neither the Australian Government nor the stakeholders raised any objection. After the Preliminary Ruling, the Investigating Authority made further investigations and found no change in the facts on which the Preliminary Ruling was based. Therefore, the Investigating Authority decides to affirm the Preliminary Ruling that the Australian Trade and Investment Commission is the government department in charge of the Export Market Development Grants (EMDG), and a grant under EMDG constitutes a financial contribution.

## **2. Identification of specificity.**

The Australian Government's response shows that the Australian Government allocates funds for EMDG all year round to encourage Australian enterprises to explore export markets. EMDG encourages small and medium-sized Australian businesses to develop export markets by reimbursing up to 50% of eligible trade promotion expenses above A\$ 5,000, provided that the total expenses are at least A\$ 15,000. It can be seen that this subsidy is a specific subsidy applicable to exports, and according to Article 4 of the Countervailing Regulations, the subsidy taking export performance as a condition shall be deemed as possessing specificity. Therefore, in the Preliminary Ruling, the Investigating Authority identified the program as an export subsidy and possessing specificity.

After the Preliminary Ruling was released, neither the Australian Government nor the stakeholders raised any objection. After the Preliminary Ruling, the Investigating Authority made further investigations and found no change in the facts on which the Preliminary Ruling was based. Therefore, the Investigating Authority decides to affirm the Preliminary Ruling that EMDG possesses specificity.

### **3. Identification of subsidy benefit.**

The Australian Government's response shows that a single Australian entity may receive up to 8 EMDG grants per year, and each grant amount may reach up to A\$ 150,000, and the wine industry, as an Australian domestic industry, has received EMDG grants. The Australian Government's response also shows that the Australian Government funds EMDG every fiscal year, and the funding have lasted for many years. Therefore, in the Preliminary Ruling, the Investigating Authority held that the wine industry gained benefits from EMDG, and the benefits were repetitive subsidy benefits.

After the Preliminary Ruling was released, neither the Australian Government nor the stakeholders raised any objection. After the Preliminary Ruling, the Investigating Authority made further investigations and found no change in the facts on which the Preliminary Ruling was based. Therefore, the Investigating Authority decided to uphold the identification of the Preliminary Ruling.

The Investigating Authority also holds that, because the Australian Government failed to effectively provide detailed information in its response on EMDG grants

received by the wine industry, the Investigating Authority has to calculate the subsidy benefits based on the available facts, according to Article 21 of the Countervailing Regulations.

Since it was impossible for the Investigating Authority to split and identify the specific amount of EMDG grants received by the Australian wine industry, the Investigating Authority took the annual EMDG budget of A\$ 137.9 million in 2019 mentioned in the Australian Government's response as the subsidy amount received by the Australian wine industry for the global export market, and then according to the proportion of the Chinese market in the global retail sales of Australian wines in 2019 mentioned in the Australian Government's response, the subsidy amount received by Australian wine industry for exports to the Chinese market during the investigation period was A\$ 37.78 million; furthermore, according to the export value of the product under investigation to China during the same period, the ad valorem subsidy rate of the product under investigation was calculated to be 3.404%.

The Investigating Authority notes that Australia Swan Vintage Pty Ltd submitted the relevant information on the

amount of the received EMDG grants in its response. The Investigating Authority also notes that according to the responses from the Australian Government and Australia Swan Vintage Pty Ltd, all parties involved in the Australian wine industry are eligible to apply for EMDG grants and obtain government funding, but Australia Swan Vintage Pty Ltd did not provide the information on the benefits obtained by its affiliates and raw material suppliers under EMDG, and the Investigating Authority was unable to obtain relevant information from the government's response. Therefore, the Investigating Authority holds that having identified that the Australian Government subsidises the Australian wine industry through EMDG, the Investigating Authority has already considered Australia Swan Vintage Pty Ltd, and there is no need to calculate its subsidy separately.

The Australian Government, Treasury Wine Estates Vintners Limited, Casella Wines Pty. Limited and Pernod Ricard Winemakers Pty Ltd argued in their comments to the Preliminary Ruling that the three sample companies were not eligible for EMDG application and did not receive relevant subsidies.

The Investigating Authority holds, first of all, although

the sample companies submitted the responses in this case, the Australian Government failed to submit sufficient and effective information in its response, which resulted in insufficient information for the Investigating Authority to verify and compare the responses of the enterprises. Second, although the Australian Government stated the EMDG eligibility requirements in its response, it did not submit any evidential document to support it. The Investigating Authority can neither find the necessary laws, regulations or documents from the response, so it can't validate the EMDG eligibility. Third, the list of wine enterprises benefiting from EMDG mentioned by the companies in their comments was not found in the Chinese version of the response provided by the Australian Government, so the Investigating Authority could not identify it according to this information. Finally, when it has been identified that EMDG subsidises the Australian wine industry, the Investigating Authority has already considered each company in its overall consideration, so it is no longer necessary to calculate the subsidies received by each company separately.

#### **(IV) Sustainable Rural Water Use and Infrastructure**

## **Program**

In the Preliminary Ruling, the Investigating Authority reviewed the claims of the Applicant. The Applicant claimed that this program is a national plan involving A\$ 10 billion. It is closely related to agricultural irrigation and water management. This subsidy program began in 2007/2008 and will end in 2023/2034, and it involves the Commonwealth Government providing funds for state and local governments. Under this program, the state governments of Australia, based on their actual situations, implement specific subsidy programs, including (1) Private Irrigation Infrastructure Operators Program for New South Wales; (2) Private Irrigation Infrastructure Program for South Australia; (3) Queensland Healthy Headwater Water Use and Efficiency Program; (4) Goulburn Murray Water Connection Project; (5) Victorian Farm Modernisation Project; (6) New South Wales State Basin Pipe – Stock and Domestic; (7) New South Wales State Water Metering Scheme; (8) On-Farm Irrigation Efficiency Project. The Applicant claimed that the Australian Government had provided subsidies of A\$ 14.4-956 million in the above program.

In the preliminary ruling, the Investigating Authority identified that the state governments of Australia provided a financial contribution to the Australian wine industry and production enterprises through Sustainable Rural Water Use and Infrastructure Program, which possesses specificity, and the Australian wine industry and enterprises received subsidy benefits. The Investigating Authority conducted a further review of this program after the Preliminary Ruling. The Investigating Authority made the following identifications upon review:

**1. Identification of financial contribution.**

The Applicant claimed that according to Article III(I) of the Countervailing Regulations, "direct provision by the government of the exporting country (region) of funds in the forms of allocations of money, loans, capital contribution, etc." constitutes the financial contribution. The Australian Commonwealth Government formulated this subsidy program and offers A\$ 10 billion for funding, while the state governments implement programs based on their actual situations, thus constituting the "financial contribution" in Article 3(1) of the Countervailing Regulations.

According to the Australian Government's response,

this program is a national plan involving A\$ 10 billion, which is allocated in 17 years. Some sub-programs were established and implemented pursuant to a Commonwealth to State/Territory arrangement, while other sub-programs were established and implemented as part of the Intergovernmental Agreement on Federal Financial Relations. The identified SRWUIP sub-programs have been implemented at the national and state level. SRWUIP is implemented by the Department of Agriculture, Water and the Environment (DAWE) at the national level, and at the state level, by the South Australian Murray-Darling Basin Natural Resources Management Board (AMDBNRMB) and NSW Department of Primary Industries. The Australian Government's response provided the grant amount under each sub-program, including the grant amount year by year.

In the Preliminary Ruling, the Investigating Authority identified that SRWUIP was formulated by the Australian federal government and jointly implemented by the federal government and the state governments, which provided budgetary support. According to Article 3 of the Countervailing Regulations, "direct provision by the government of the exporting country (region) of funds in the

forms of allocations of money, loans, capital contribution, etc." constitutes the financial contribution. In the Preliminary Ruling, the Investigating Authority identified that an SRWUIP subsidy constitutes a financial contribution.

After the Preliminary Ruling was released, neither the Australian Government nor the stakeholders raised any objection. After the Preliminary Ruling, the Investigating Authority made further investigations and found no change in the facts on which the Preliminary Ruling was based. Therefore, the Investigating Authority decided to uphold the identification of the Preliminary Ruling.

## **2. Identification of specificity.**

The Applicant claimed that according to Article IV of the Countervailing Regulations, "in determining specificity, such factors as the number of subsidised enterprises, the amount, proportion, length of time, and form of the subsidy received by enterprises shall also be considered." South Australia is the largest grape/wine region in Australia and produces about 50% of the total national output. Therefore, the Applicant has reasons to believe that since the wine regions are mainly located in arid areas, the irrigation projects and water management will mainly serve grape

crops in various wine regions including South Australia, making the Sustainable Rural Water Use and Infrastructure Program very regional and possess the de facto specificity.

The Australian Government claimed in its response that the program aims to improve environmental health and Australia's most important Murray-Darling river system and does not target any specific industry or sector. According to the Australian Government's response, the recipients must be located in Murray-Darling Basin, and the beneficiaries of the program include irrigators in Murray-Darling Basin. Some sub-programs aim to address water efficiency in both the delivery system and user connections in the Goulburn-Murray Irrigation District, minimise water consumption in New South Wales and modernise on-farm irrigation infrastructure.

The Investigating Authority conducted an investigation and found no sufficient evidence to prove its specificity. Therefore, the specificity of the program is temporarily not identified by the Investigating Authority.

### **3. Identification of subsidy benefit.**

The Applicant claimed that under this subsidy program, the Australian Commonwealth Government and the state

governments could lower the planting cost of grape crops and bring benefits to growers or farms via direct financial contributions. Furthermore, grapes are the main raw materials for making wines, the wine industry can thus be benefited from such programs. The subsidies the Australian Government actually spent are the subsidised interests under the program.

The Australian Government claimed in its response that the program aims to improve environmental health and Australia's most important Murray-Darling river system. The government recovers water entitlements resulting from water savings generated from eligible infrastructure upgrade projects by private irrigation infrastructure operators.

In the Preliminary Ruling, the Investigating Authority held that irrigation has a direct relationship with increasing output of the economic crop. In the Lower Murray River region, the output of different varieties of grapes reaches 17.4-20.4 tons per hectare, which is much higher than that in other regions. The Investigating Authority has noted that the output and purchase price of grapes is different in different regions. The purchase price of grapes in the valley

region is A\$ 390-607 per ton, while the price in some regions is over A\$ 2000. According to the Australian Government's response, the average purchase price of wine grapes in 2019 was A\$ 664 per ton. In 2019, a total of 1.73 million tons of grapes were crushed in Australia. From 2010 to 2019, Australia imported 6351-16211 tons of grapes, which accounted for a small proportion of the total crushed grapes. Grapes used as the raw material of Australian wines were mainly grown domestically.

In the Preliminary Ruling, the Investigating Authority held that grapes, as the main crops in the region, actually gained subsidy benefits through the adjustment and distribution of irrigation water. At the same time, irrigation promoted the increase of grape output in the region and affected the price of grapes. Wine companies reduced the cost of producing and purchasing grapes, which finally produced subsidy benefits for wine.

After the Preliminary Ruling was released, neither the Australian Government nor the stakeholders raised any objection. After the Preliminary Ruling, the Investigating Authority made further investigations and found no change in the facts on which the Preliminary Ruling was based.

Therefore, the Investigating Authority decided to uphold the identification of the Preliminary Ruling.

To sum up, the Investigating Authority identified that the program constituted subsidy, and the wine industry and enterprises obtained subsidy benefits. In view of the insufficient information for calculating the specific subsidy amount, the Investigating Authority determined not to calculate the ad valorem subsidy rate for the program in the final ruling.

#### **(V) South Australia Export Accelerator Grants**

In the Preliminary Ruling, the Investigating Authority reviewed the claims of the Applicant. The Applicant proposed that Export Accelerator Grants (EAG) was formulated by the Government of South Australia and implemented by the Department of Trade, Tourism and Investment. EAG provided a financial contribution to qualified SMEs to help them explore new global markets through marketing and export development.

In the Preliminary Ruling, the Investigating Authority identified that the Government of South Australia provided a financial contribution to the SMEs through EAG, which possesses specificity, and the sample enterprises received

subsidy benefits. The Investigating Authority conducted a further review of this program after the Preliminary Ruling. The Investigating Authority made the following identifications upon review:

### **1. Identification of financial contribution.**

According to the response of the Australian Government, Export Accelerator Grants was set up on 16 August 2018. The one-off grants assist businesses to participate in international tradeshows and business missions, produce marketing collateral, conduct market research, e-commerce development, export training and consultation and contribute to travel and accommodation.

The Department for Trade and Investment of the Government of South Australia is in charge of EAG, including application acceptance, approval, management, implementation and evaluation. The Department for Trade and Investment supports South Australian businesses to connect with overseas markets, create solid international relationships and capitalize on export opportunities while strengthening the South Australian economy and creating jobs. Specifically, it includes: working with industry, other government departments and industry associations to

ensure industry-led sector strategies positively impact the state's Growth Agenda; promoting and facilitating the growth of goods and services from South Australia; promoting and facilitating investment into South Australia and diversifying the economy; raising South Australia's profile in key export and investment markets. Therefore, the Investigating Authority identifies that the Department for Trade and Investment of the Government of South Australia is the competent government department in charge of EAG and constitutes the "government" in Article 3 of the Countervailing Regulations.

According to the Australian Government's response, EAG is funded by the Government of South Australia. EAG commenced in 2018-2019 with a budget of A\$ 1,285,500 and continued in 2019-2020 with a budget of A\$ 782,000. According to the response, EAG is divided into three funding categories: Emerging Exporter Grant up to A\$ 5,000, Export Accelerator Grant up to A\$ 30,000, New Market Entry Grant up to A\$ 15,000. Of the 72 funding recipients across all three programs, including 31 applicants operating in the Wine sector. According to the response of Australia Swan Vintage Pty Ltd, the company

applied for a grant under the program in 2019 and received a financial contribution from the program.

According to Article 3 of the Countervailing Regulations, "direct provision by the government of the exporting country (region) of funds in the forms of allocations of money, loans, capital contribution, etc." constitutes the financial contribution. According to the responses from the Australian Government and Australia Swan Vintage Pty Ltd, the Investigating Authority identified that EAG constitutes a financial contribution in the Preliminary Ruling.

After the Preliminary Ruling, the Investigating Authority made further investigations and found no change in the facts on which the Preliminary Ruling was based. Therefore, the Investigating Authority decides to affirm the Preliminary Ruling that EAG constitutes a financial contribution.

## **2. Identification of specificity.**

In the Preliminary Ruling, when determining the specificity of subsidy, the Investigating Authority asked in the questionnaire sent to the Australian Government about the information within investigation period and previous nine years on EAG applications accepted by the competent authority, approved and should-be-approved grants, and

the issued and should-be-issued grants, including the list of enterprises, amount, application and issuing date, the number of subsidized enterprises and the amount, proportion and cycle of grants, ways to provide grants, and whether export performance is the only condition or one of the conditions for obtaining application qualification or actually using EAG.

According to the Australian Government's response, EAG is divided into three funding categories: Emerging Exporter Grant, Export Accelerator Grant, New Market Entry Grant. The three Grants have clearly defined the qualifications of applicants, and all of them take export as an essential requirement for application.

Emerging Exporter Grant required that the applicant must be new to export and are attending their first business connection, trade show or business mission. At the same time, the applicant needs to meet the following conditions: being new to international export; having an annual turnover between A\$ 50,000 and A\$ 1 million; being a registered South Australian business, sole trader, company, partnership or trust; holding an Australian Business Number; being registered for GST; having been actively trading for at

least 12 months; having a tradeable, export-ready good or service that is made in South Australia; being able to enter into a legally binding funding agreement with the South Australian Government; being willing to provide information and data as required, including financial information and export plan.

To apply for Export Accelerator Grant, the applicants must apply for Emerging Exporter Grant first. At the same time, the applicant needs to meet the following conditions: having an annual turnover between A\$ 100,000 and A\$ 15 million; being a registered South Australian business, sole trader, company, partnership or trust; holding an Australian Business Number; being registered for GST; having been actively trading for at least 24 months; having a tradeable, export-ready good or service that is made in South Australia; being able to enter into a legally binding funding agreement with the South Australian Government; being willing to provide information and data as required, including financial information and export plan.

New Market Entry Grant requires applicants to meet the following conditions: having an annual turnover between A\$ 250,000 and A\$ 20 million; being a registered

South Australian business, sole trader, company, partnership or trust; holding an Australian Business Number; being registered for GST; having a tradeable, export-ready good or service that is made in South Australia; being able to enter into a legally binding funding agreement with the South Australian Government; being willing to provide information and data as required, including financial information and export plan.

According to the Australian Government's response, export is a necessary condition for eligible applicants to receive grants. Australian Government acknowledged in the response: Eligible recipients must be producing goods or services to be produced in South Australia, or – if they are not made in South Australia – applicants must show how South Australia would derive a significant net benefit from the sales of the goods outside Australia.

Australia Swan Vintage Pty Ltd admitted in the response that "Australia Swan Vintage received this subsidy because of its export business".

According to Article 4 of the Countervailing Regulations, subsidies in one of the following circumstances possess specificity: subsidies obtained on the condition of export

performance. According to the above-mentioned information in response, the Investigating Authority identified in the Preliminary Ruling that the Australian Government set the export performance as a condition for EAG, making it possess specificity.

After the Preliminary Ruling, the Investigating Authority made further investigations and found no change in the facts on which the Preliminary Ruling was based. Therefore, the Investigating Authority decided to uphold the identification of the Preliminary Ruling.

### **3. Identification of subsidy benefit.**

In the Preliminary Ruling, the Investigating Authority examined the responses from the Australian Government and the sample companies. Among them, the information reported by Australia Swan Vintage Pty Ltd showed that the company was funded by EAG in 2019. Therefore, in the Preliminary Ruling, the Investigating Authority identified that Australia Swan Vintage Pty Ltd had obtained subsidy benefits under EAG, while other sample enterprises did not benefit from EAG.

When determining whether EAG is a repetitive subsidy benefit or one-off subsidy benefit, the Investigating

Authority in the Preliminary Ruling examined the Australian Government's response, and according to the conditions and standards for EAG approval, as long as the applicant meets the application conditions, it can be recognized as a qualified applicant by the examination and approval body. Meanwhile, the Australian Government has admitted in its response that "some companies have successfully applied for funding more than once". Therefore, the benefits obtained by participating enterprises under EAP were regular and predictable and could be secured repeatedly in different years. Therefore, in the Preliminary Ruling, the Investigating Authority held that the benefits under EAP were repetitive subsidy benefits.

According to Article 6 of the Countervailing Regulations, the grant amount shall be calculated based on the actual amount received by the enterprise if provided through gratuitous appropriation. Based on all the above-mentioned identification of subsidy benefits, the Investigating Authority determined in the Preliminary Ruling that the grants actually applied for and received during the investigation period was the benefits gained by the company under EAP. After the Preliminary Ruling, the Australian Government commented

on EAP that it was wrong to identify EAP as an export subsidy and the other three Australian sample companies did not receive the grants under EAP.

After the review, the Investigating Authority held that when identifying whether EAP constituted an export subsidy, the Investigating Authority had conducted a review in accordance with the Countervailing Regulations. In its comments, the Australian Government did not provide any evidence to prove its above claims or provide any reason to demonstrate the mistake in the identification of the Investigating Authority. The argument that the other three sample companies did not receive grants under EAP does not affect the Investigating Authority' identification that EAP provides subsidy benefits to the industry.

In the comments, Australia Swan Vintage Pty Ltd argued that the company and its affiliates had truthfully and completely reported the subsidies obtained and truthfully reported the actual amount of all the alleged countervailing items obtained, but the best available information was still used to calculate the subsidy margin for Australia Swan Vintage.

The Investigating Authority identified in the Preliminary

Ruling that the identification of the subsidy obtained by the Company under Export Accelerator Grants in 2019 was in line with Article 6 of the Countervailing Regulations and that the subsidy amount was calculated based on the actual amount received by it if provided through gratuitous appropriation. Therefore, the Investigating Authority identified in the Preliminary Ruling that the grants actually applied for and received by Australia Swan Vintage Pty Ltd during the investigation period was the benefits gained under Export Accelerator Grants. Its ad valorem subsidy rate was calculated based on the subsidy amount obtained by it in 2019 (namely, the countervailing duty investigation period) and the export income for the same year given in its response.

To sum up, the Investigating Authority took into account the comments of the Australian Government, but these comments neither provided supporting evidence for the claims nor gave concrete reasons or bases, let alone any objection to the Investigating Authority's identification of financial contribution, specificity and subsidy benefit of the Program. After the Preliminary Ruling, the Investigating Authority made further investigations and found no change

in the facts on which the Preliminary Ruling was based. Therefore, the Investigating Authority decided to uphold the identifications of the Preliminary Ruling in the Final Ruling.

#### **(VI) Regional Food Initiatives Program.**

In the Preliminary Ruling, the Investigating Authority reviewed the claims of the Applicant. The Applicant claimed that the Regional Food Initiatives Program should be identified as a subsidy program, which fell under the Regional Development Fund developed by South Australia. The Regional Development Fund is designed to spearhead economic growth and improve productivity. Through the Regional Food Initiatives Program, South Australia is committed to promoting the construction of the regional food network and offering support for cooperative projects of relevant stakeholders, and it gives priority to "quality foods and wines in clean environments". The Government of South Australia could, by offering subsidies to eligible food enterprises via Regional Food Initiatives Program under the Regional Development Fund, lower those enterprises' project costs and bring benefits to them. Wine producers were eligible to apply for this subsidy, and wine producers receiving the subsidy could gain benefits from it.

Pernod Ricard Winemakers Pty Ltd said in its response that Regional Food Initiatives Program fell under the Regional Development Fund of South Australia, and it never benefited from Regional Food Initiatives Program, but it admitted that it had gained benefit from "Major Program Plan", another program under Regional Development Fund.

The Investigating Authority conducted a further investigation into it in the Final Ruling.

### **1. Identification of financial contribution.**

Pernod Ricard Winemakers Pty Ltd said in its response that Regional Development Fund is a one-year fund of A\$15 million administered by the South Australia Regional Administration, with a validity period of 4 years. Regional Development Fund aims to support regional economic development by the following means: creating new jobs and improving employment opportunities; providing good infrastructure and services; boosting communities' economic, social and environmental foundations; supporting the development and implementation of projects, and offering financing and investment. Regional Development Fund consists of five programs:

(1) Regional Food Initiatives Program: Supporting

regional grain organizations to build a more powerful regional grain association in South Australia.

(2) Small Grant Program: Supporting new regional employment and investment opportunities related to the priorities of the Government of South Australia.

(3) Major Program Plan: Supporting those major economic programs which aim to strengthen regional industries, underpin the local economy and create opportunities by investing in strategic programs.

(4) Community Infrastructure Program: Supporting regional community investments to develop their economic infrastructures and empower them to serve as future employment and economic growth points.

(5) National Cabinet Program: Supporting the communities where national cabinet conferences will be held in the next four years and assisting them in developing programs and plans that satisfy their economic and social needs.

The Investigating Authority reviewed the response submitted by the Australian Government and verified the information given by Pernod Ricard Winemakers Pty Ltd: Regional Food Initiatives Program falls under Regional

Development Fund and is fully funded by the Government of South Australia and governed by the Department of Primary Industries and Regions South Australia, which is expected to finish within four years, but it has been implemented for just one year, providing subsidies totalling A\$600,000.

According to Article 3 of the Countervailing Regulations, "direct provision by the government of the exporting country (region) of funds in the forms of allocations of money, loans, capital contribution, etc." constitutes the financial contribution.

## **2. Identification of specificity.**

In the response of the Australian Government, applicants under Regional Food Initiatives Program must: be a corporate association, a local government agency, or an Australian regional development organization or enterprise; be a legal entity with which the Government of South Australia can sign binding funding agreements; own Australian Business Number; be located at the boundary of non-metropolis regions defined by state governments, such as Great Adelaide Region and rural areas.

According to the response of the Australian

Government, applicants under the Regional Food Initiatives Program were required to complete an expression of interest form and submit it to the Department of Primary Industries and Regions South Australia. An Assessment Panel compared the applications based on the best outcomes likely to be achieved, their compliance with the objectives of the Regional Food Initiatives Program and with the assessment criteria. Based on the results successful applicants at this stage were asked to provide a complete application form and substantiating documentation to support their application. The complete application then underwent comprehensive due diligence and the Assessment Panel considered the complete applications against the assessment criteria. The assessment panel made recommendations to the Minister for Regional Development. The Minister for Regional Development made the final decision and approval of project funding.

According to Article 4 of the Countervailing Regulations, subsidies in one of the following circumstances possess specificity: (III) Subsidies obtained by enterprises and industries in a specific region. Therefore, the Investigating

Authority identified that the Government of South Australia had restricted the regions where the applicants are located, that is, "be located at the boundary of non-metropolis regions defined by state governments, such as Great Adelaide Region and rural areas". The Investigating Authority identified that the Program possessed specificity since it satisfied the above regulations.

### **3. Identification of subsidy benefit.**

According to the public response of the Australian Government, the subsidy amount received by the wine sector under Regional Food Initiatives Program was just over 40% of the total funding available. Throughout this process, four wine-related associations were granted funds totalling A\$245,000.

The Investigating Authority held that the participating companies in the sampling investigation did not benefit from the Program, but the Australian Government admitted in its response that only the wine sector in limited regions obtained the subsidy benefit; however, as relevant information was not sufficiently provided, the subsidy benefit under the Program would not be calculated in the Case.

To sum up, in the Final Ruling, the Investigating Authority found no changes in the facts on which the Preliminary Ruling was based. Therefore, the Investigating Authority decided to identify in the Final Ruling that this Program constituted subsidy.

### **(VII) Major Program Plan.**

In the Preliminary Ruling, Pernod Ricard Winemakers Pty Ltd admitted that it benefited from the "Major Program Plan" under the aforementioned Regional Development Fund. In the Preliminary Ruling, the Investigating Authority identified that Pernod Ricard Winemakers Pty Ltd obtained a subsidy from "Major Program Plan" under Regional Development Fund and calculated the subsidy benefit based on the benefit information provided by Pernod Ricard Winemakers Pty Ltd. In the Preliminary Ruling, the identification of the Program was as follows:

#### **1. Identification of financial contribution.**

According to the responses of the Australian Government and Pernod Ricard Winemakers Pty Ltd, the "Major Program Plan" fell under the Regional Development Fund of South Australia. For details of the Regional Development Fund, please refer to the aforementioned (VI)

## Regional Food Initiatives Program.

According to the response of the Australian Government, Regional Development Fund under which the "Major Program Plan" falls is governed by the Department of Primary Industries and Regions South Australia. It is an economic development agency in the Government of South Australia, with responsibility for the prosperity of the state's primary industries and regions. Therefore, the Investigating Authority identified that the Department of Primary Industries and Regions South Australia is the competent government department in charge of the Major Program Plan and constitutes the "government" in Article 3 of the Countervailing Regulations.

Pernod Ricard Winemakers Pty Ltd stated in its response that the application requirements of Major Program Plan under Regional Development Fund are: "Major Program Plan under Regional Development Fund does not require the increase of exports or the replacement of imported goods by domestic goods. The applicant under Major Program Plan must be a corporate body with the status of a legal person, a competent local authority, an Australian regional development association or enterprise.

Eligible applicants (especially for eligible programs) can apply for Major Program Plan and their industries are not subject to restrictions. Eligible applicants must be located at the non-metropolis regions defined by the State Government, including Great Adelaide Region and rural areas."

In 2014, Pernod Ricard Winemakers Pty Ltd applied for the subsidy under the Major Program Plan, which was approved by the Department of Primary Industries and Regions South Australia, so it was granted a fund.

According to Article 3 of the Countervailing Regulations, "direct provision by the government of the exporting country (region) of funds in the forms of allocations of money, loans, capital contribution, etc." constitutes the financial contribution. Therefore, the Investigating Authority identified in the Preliminary Ruling that the Government of South Australia directly provided grants to eligible applicants, so such grant should be deemed as financial contribution since it met the above regulations.

After the Preliminary Ruling, the Investigating Authority conducted a further investigation. The Investigating Authority found no changes in the facts on which the

Preliminary Ruling was based. Therefore, the Investigating Authority decided to uphold the identification of the Preliminary Ruling.

## **2. Identification of specificity.**

According to the response of the Australian Government, the "Major Program Plan" falls under the Regional Development Fund of South Australia, which requires the applicants to "be located at the boundary of non-metropolis regions defined by state governments, such as Great Adelaide Region and rural areas".

Pernod Ricard Winemakers Pty Ltd indicated in its response that in order to obtain the grant of Regional Development Fund of South Australia, eligible applicants must "be located at the boundary of non-metropolis regions defined by state governments, such as Great Adelaide Region and rural areas".

According to Article 4 of the Countervailing Regulations, subsidies in one of the following circumstances possess specificity: (III) Subsidies obtained by enterprises and industries in a specific region. Therefore, the Investigating Authority identified in the Preliminary Ruling that the Government of South Australia restricted the regions where

the applicants were located, so such grant should be deemed to possess specificity since it met the above regulations.

After the Preliminary Ruling, the Investigating Authority made further investigations and found no change in the facts on which the Preliminary Ruling was based. Therefore, the Investigating Authority decided to uphold the identification of the Preliminary Ruling.

### **3. Identification of subsidy benefit.**

The Investigating Authority identified in the Preliminary Ruling that based on the information provided by the sampled companies, Pernod Ricard Winemakers Pty Ltd applied for and obtained a grant under the Regional Development Fund of South Australia in 2014 while other sampled and responding companies did not benefit from this subsidy program. Therefore, in the Preliminary Ruling, the Investigating Authority identified that Pernod Ricard Winemakers Pty Ltd had obtained subsidy benefit under Major Program Plan, while other sampled and responding enterprises did not benefit from Major Program Plan.

Pernod Ricard Winemakers Pty Ltd indicated in its response that it wished to build a cellar door, but it never

got started due to limited resources, so it applied for a subsidy for this end in 2014. In accordance with the application criteria of the Major Program Plan under the Regional Development Fund, the Department of Primary Industries and Regions South Australia approved this application.

In order to determine repetitive or one-off subsidy benefit under Major Program Plan, the Investigating Authority comparatively reviewed the responses of the Australian Government and Pernod Ricard Winemakers Pty Ltd. Pernod Ricard Winemakers Pty Ltd stated that Major Program Plan was a one-off subsidy, and the subsidy was received in four tranches. Australian Government also admitted in its response that the Major Program Plan provided a one-off subsidy and it was implemented for only one year. Therefore, the Investigating Authority identified in the Preliminary Ruling that the grant under Major Program Plan was a one-off subsidy benefit.

In the Preliminary Ruling, the Investigating Authority followed Article 6 of the Countervailing Regulations, which required that the amount of the subsidy provided in the form of gratuitous appropriation should be calculated based on

the actual amount received; since this subsidy was a one-off subsidy, the Investigating Authority calculated the ad valorem subsidy rate of the product under investigation during the investigation period for Pernod Ricard Winemakers Pty Ltd by apportioning the one-off subsidy amount into the sales income of the product under investigation over a surveying and apportionment period of 10 years, which was 0.04%.

After the release of the Preliminary Ruling, Pernod Ricard Winemakers Pty Ltd pointed out in its comments that it never benefited from Regional Food Initiatives Program, so MofCom should not review its subsidy benefit under the "Major Program Plan". The reasons included: the Applicant had not listed Major Program Plan as a relevant subsidy program; Regional Food Initiatives Program and Major Program Plan set up different application and approval procedures and criteria; the use of this subsidy amount did not bring benefits to Pernod Ricard Winemakers Pty Ltd; Australian Government was not granted a reasonable opportunity for consultation and clarification. Meanwhile, both Pernod Ricard Winemakers Pty Ltd and the Australian Government held in their comments that a subsidy margin

of 0.04% at de minimis level should be ignored and that the investigation into it should be terminated.

The Investigating Authority took the above comments into account. First of all, the Investigating Authority held that while distributing the questionnaires, the Investigating Authority had made it clear to the stakeholders that any program identified during the investigation process that was granted for the production, manufacturing or export of the product under investigation would also be investigated if it was identified as a subsidy program in accordance with the Countervailing Regulations; secondly, the factors used for determining whether Major Program Plan constituted a subsidy program were irrelevant to the application and approval procedures and criteria of the above two programs. In this Countervailing Duty Case, the Investigating Authority reviewed the constituents of a subsidy program in accordance with the provisions of the Countervailing Regulations, and the results showed that Major Program Plan constituted a subsidy program in which the subsidy was provided through gratuitous appropriation. Thirdly, during the investigation process, the Australian Government could engage in intergovernmental

consultations with the Investigating Authority about the Program at any time, and all stakeholders were granted opportunities to defend themselves on this issue; moreover, the Investigating Authority had obtained sufficient information from the responses submitted by Australian Government and the sampled companies and were able to identify it as a subsidy program on these grounds. Fourthly, the Investigating Authority calculated the subsidy margin for Pernod Ricard Winemakers Pty Ltd under this Program as 0.04%; in accordance with the Countervailing Regulations, although the margin was lower than 1%, the principle of terminating investigation into de minimis subsidies did not apply to an individual program.

In the Final Ruling, the Investigating Authority found no changes in the facts on which the Preliminary Ruling was based, so it decided to uphold the identification of the Major Program Plan given in the Preliminary Ruling.

To sum up, the ad valorem subsidy rates of the sampled companies were respectively:

Treasury Wine Estates Vintners Limited	6.3 %
Casella Wines Pty. Limited	6.3 %

Australia Swan Vintage Pty Ltd	6.3 %
Pernod Ricard Winemakers Pty Ltd	6.4 %

### **Other companies cooperating with the investigation**

In accordance with the Countervailing Regulations, the Investigating Authority decided that for Australian companies who had submitted the responses to the sampling questionnaire but were not selected as the samples, the weighted average subsidy rate of the sampled companies should be used to determine their ad valorem subsidy rate. (See details in Annex 1 of the Announcement)

### **All Others**

On 31 August 2020, the Investigating Authority initiated a countervailing duty investigation on relevant imported wines originating in Australia. On the same day, the Investigating Authority notified the Australian Embassy and posted the initiation announcement on the website of the Ministry of Commerce where it could be referenced by all stakeholders. After the initiation, the Investigating Authority gave all stakeholders a 20-day period to register to participate in the investigation, constituting a reasonable amount of time for them to learn about the initiation. The

Investigating Authority posted the questionnaires on the website of the Ministry of Commerce, and all stakeholders can refer to and download these questionnaires on the website of the Ministry of Commerce. The Investigating Authority did its best to inform all known stakeholders and to remind all known stakeholders of the consequences of not cooperating with the investigation.

The Investigating Authority, by comparing the export data to China of companies that registered to participate in the investigation and export data to China of companies that filled in the Questionnaire on the Countervailing Duty Sampling Investigation with the China Customs statistical data, and found that there was a big gap between them and the China Customs' statistical data. The Investigating Authority believed that a certain proportion of producers or exporters did not register to participate in or cooperate with the countervailing duty investigation.

For companies that did not provide the necessary information to cooperate with the investigation after the Investigating Authority had fulfilled its notification obligation, in accordance with the provisions of Article 21 of the Countervailing Regulations, the Investigating Authority determined the subsidy rate on the basis of the available facts. By comparing and analyzing the information obtained in the investigation, the Investigating Authority believed that

the ad valorem subsidy rate of Pernod Ricard Winemakers Pty Ltd could accurately and reasonably reflect the subsidy provided by the Australian Government for the product under investigation. The Investigating Authority decided in the Final Ruling that the subsidy rate of other Australian companies was determined on the basis of the above information. (See details in Annex 1 of the Announcement)

**Other subsidy programs:**

Other subsidy programs listed in the case-filing announcement and the questionnaire shall not be determined by the Investigating Authority in this case. The programs are as follows:

1. Wine Equalisation Tax Rebate
2. Regional Program
3. Managing Farm Risk Program
4. National Landcare Program
5. Accelerating Commercialisation
6. Innovation Connections
7. The Research and Development Tax Incentive
8. Business Growth Grants
9. Sustainable Rural Water Use and Infrastructure Program

10. 3-year Write-off on Water Facilities for Primary Producers
11. Drought Concessional Loans Scheme
12. Farm Finance Concession Loans Scheme
13. Agriculture Energy Investment Plan
14. Regional Jobs Fund
15. Food Source Victoria Grants
16. Regional Inward Buyer Mission Programme
17. Business Energy and Water Program in Australian

#### Capital Territory

18. TechVouchers Programme in New South Wales
19. Advanced Manufacturing Innovation and Growth

#### Voucher System in Tasmania

20. Innovation Vouchers Program in Western

#### Australia

21. Resource Productivity Assessment in South

#### Australia

22. Supporting Brands of our Key Regions Grant Funding Program in South Australia

23. Vineyard and Orchard Expansion Program in Tasmania

24. Riverland Sustainable Futures Fund South

## Australia

25. South Australian River Murray Sustainability Program

26. NVIRP 2 On-farm Project

27. On Farm Productivity Improvement Grants

## Victoria

28. Agriculture Infrastructure and Jobs Fund - Victoria

29. Drought Recovery Concessional Loans Scheme in New South Wales and Queensland

30. Supporting More Efficient Irrigation in Tasmania

31. Tasmania AgriGrowth Concessional Loan Scheme

## **V. Similarity to domestic like products and the domestic industry**

### **(I) Determination of Similarity to Domestic Like Products**

In accordance with Article 12 of the Countervailing Regulations, like products are the ones similar to or same as the subsidized imported product.

The Investigating Authority surveyed the relevant Chinese wines and the product under investigation in terms of a variety of factors, such as the physical properties, raw materials, production techniques, production facilities,

product usages, sales channels, customer groups and consumer ratings:

### **1. Basic physical properties.**

Relevant Chinese wines and the product under investigation are made from fresh grapes and grape juice. They can be either fully fermented or half fermented. Made under a similar standard, they are categorized in terms of colour, sugar level and level of carbon dioxide. Similarly, relevant Chinese wines and the product under investigation both can meet the major physical, chemical and sensory requirements. Physical and chemical requirements include alcohol by volume, total sugar, citric acid, and sugar-free extract, while sensory requirements denote colour, level of clarity, level of carbonation, fragrance and flavour.

The Investigating Authority identified that relevant Chinese wines and the product under investigation were similar in physical properties.

### **2. Raw materials, production techniques and production facilities.**

Relevant Chinese wines and the product under investigation are both made from similar raw materials, namely fresh grapes and grape juice. There is no

substantial difference in production techniques and procedures. Both are half or full fermented wines which are produced as finished wines after techniques such as stabilisation, clarification, blending, freezing and filtration are applied. The production facilities are nearly the same, namely the modern massive production facilities including sorting equipment, fermentation cylinder, presser, centrifuge and filter.

The Investigating Authority identified that relevant Chinese wines and the product under investigation were similar in raw material, production techniques and facilities.

### **3. Product usages.**

Relevant Chinese wines and the product under investigation are of similar uses, namely to be served as alcoholic beverages to customers. They are sold to customers from stores, supermarkets, franchises, internet, cafeteria and recreation venues.

The Investigating Authority identified that relevant Chinese wines and the product under investigation were similar in usages.

### **4. Sales channels, customer groups and consumer ratings.**

Relevant Chinese wines and the product under investigation are sold to downstream consumers in China through direct sales, agent sales, online sales or other sales channels. Both are sold in stores, supermarkets, franchises, cafeteria and recreation venues to meet the consumers' demand. They are up to consumers' choice.

The Investigating Authority identified that relevant Chinese wines and the product under investigation were similar in sales channels, customer groups and consumer ratings.

To sum up, the Investigating Authority identified in the Preliminary Ruling that relevant Chinese wines and the product under investigation are similar in physical properties, raw materials, production techniques, production facilities, product usages, sales channels, customer groups and consumer ratings. As they are similar and mutually-substitutable, they are like products.

After the release of the Preliminary Ruling, Australian Grape & Wine Incorporated claimed in its Comments on the Preliminary Ruling of the Countervailing Duty Case against Australian Wines that since the product under investigation does not belong to "bulk commodities", and each kind of wine is unique in grape variety, blending, grape pickup year,

grape-producing region, quality and brands etc., Australian wines cannot be compared with Chinese wines as the same bulk commodities, and it is also unreasonable to identify domestic like products, material injury and causal link on this basis.

In the Comments of the Applicant on the Stakeholders' Comments on the Preliminary Ruling in the Relevant Wines Countervailing Duty Case, the Applicant held that the differences of wines in grape variety, pickup year, quality and brand reveal the differences in the specifications or types of products, but there're no substantive differences in their basic intrinsic properties; the price differences in wines do not affect the competition between different wines; Australian wines and domestic wines fall under the same category, and Australian wines compete with domestic like products in China.

After further investigation, the Investigating Authority held that firstly, imported wines from Australia could be divided into different specifications and types of wines based on factors like grape variety, grape pickup year, quality and brand. By comparing the physical properties, raw materials, production technique processes, product usages, sales channels and customer groups of different specifications and types of wines, the Investigating Authority identified that there were no substantive

differences of different specifications of wines in physical and chemical indicators and properties, which were also measured via colour, sugar level, carbon dioxide content etc. The raw materials, production facilities and production technique processes are nearly the same; they are both made of fresh grapes or grape juice with the help of modern massive production facilities including sorting equipment, fermentation cylinder, presser, centrifuge and filter. They also have basically the same product usages and are mainly used for consumption as alcoholic beverages. Their sales channels and customer groups in the Chinese market are almost the same, including direct sales, agent sales and online sales, making them highly competitive and mutually-substitutable. Therefore, the Investigating Authority identified that the wines imported from Australia fall under the same category although they differ in specifications and types. Secondly, by comparing the product under investigation and domestic like products in China in terms of quality, price, sales channels, customer groups, product usages and other competition conditions, the Investigating Authority found that the product under investigation included wines of different price levels and different quality and that domestic like products in China were also divided into high-end wines and middle-and-low wines. The consumption market of relevant Chinese wines is open and

competitive. Since the product under investigation and domestic like products are sold in the Chinese market, the changes in the prices of high-end foreign wines will exert a direct influence on the consumers' selection of domestic high-end or middle-and-low end wines. Both the product under investigation and domestic like products are simultaneously sold in the Chinese market through direct sales, agent sales or other sales means, and they share common customer groups; there're no significant time and place preferences in the sales of the product under investigation and domestic like products in China. Therefore, the Investigating Authority identified that there was direct competition between the product under investigation and domestic like products in terms of their quality, prices and sales channels, customer groups, and product usages. Therefore, the Investigating Authority identified that imported wines from Australia fell under the same category despite different specifications and types and competed with domestic like products in the Chinese market, so imported wines from Australia would be seen as the same category of products and compared with domestic like products for identification of material injury and causal link. Australian Grape & Wine Incorporated's claims, including "the product under investigation should not be deemed as 'bulk commodities'", "there is no competition

between the product under investigation and domestic like products", and "material injury and causal link should not be identified on this basis", were not accepted.

Australian Grape & Wine Incorporated proposed in the Comments on the Disclosure of Basic Facts Relied on by the Final Ruling of the Anti-dumping and Countervailing Duty Cases against Australian Wines that wines in kiloliter did not fall under the product under investigation; instead, the product under investigation was put into the containers of 2l or below but was not sold and purchased in kiloliter.

After further investigation, the Investigating Authority held that the product under investigation referred to imported wines in containers holding 2 litres or less originating in Australia, but both kiloliter (kl) and liter (l) served as the measuring units of wines and belonged to the same measuring unit in essence, so the identifications of the product under investigation and domestic like products were not affected. The Investigating Authority rejected the claims of Australian Grape & Wine Incorporated.

After further investigation, the Investigating Authority identified that relevant Chinese wines and the product under investigation are similar in physical properties, raw materials, production techniques, production facilities, product usages, sales channels, customer groups and consumer ratings. As they are similar and mutually-

substitutable, they are like products.

## **(II) Determination of the domestic industry**

In accordance with Article 11 of the Countervailing Regulations, the Investigating Authority investigated and identified the domestic industry in the Case. From 2015 to 2019, the output of the 21 producers who submitted the response to the Questionnaire for Domestic Producers occupied 66.95%, 68.27%, 60.75%, 62.76% and 60.72% of the output of the domestic like products respectively, which was in line with Article 11 of the Countervailing Regulations.

The Investigating Authority verified the statistics of the overall output of Chinese wines in the application forms. It also observed that these statistics applied to relevant wines under application, namely wines in containers holding 2 litres or less that are made from full or partial fermentation, with fresh grapes or grape juice as raw material, and also to other wines beyond the products subject to the investigation request, including liqueur wines, highly carbonated wines, gasified wine, favoured wines, distilled wines and bulk wines. Without the overall output of domestic relevant wines at hand, the Investigating Authority surveyed the real domestic output through different parties. The Investigating Authority believed that it was reasonable to calculate the overall output by the area of wine grapes,

output per acre, wine yield, output and loss of finished wines made from imported wines, and the production proportion of different wines.

Hence, based on the statistics from authoritative domestic organizations, the Investigating Authority calculated the overall output of domestic relevant wines during the injury investigation period at 377,600 kl, 347,600 kl, 374,800 kl, 351,200 kl and 288,200 kl, respectively. During the injury investigation period, the output of domestic like products produced by the producers who submitted responses to the Questionnaire for Domestic Producers accounted for 66.95%, 68.27%, 60.75%, 62.76% and 60.72% of the total output of the domestic wine industry, respectively.

The Investigating Authority identified in the Preliminary Ruling that companies that had submitted responses to the Questionnaire for Domestic Producers could represent the domestic industry. All the industry data used in the ruling were from domestic companies unless otherwise specified. No stakeholders raised any objection to such identification.

Upon further investigation, the Investigating Authority decided to uphold the conclusions of the Preliminary Ruling. Eventually, the Investigating Authority identified that companies that had submitted responses to the Questionnaire for Domestic Producers could represent the

domestic industry. All the industry data used in the ruling were from domestic companies unless otherwise specified.

## **VI. Extent of injury to the domestic industry**

### **(I) Import volume of subsidized imported product.**

The Investigating Authority investigated the absolute volume of the subsidized imported products and whether there had been a significant increase relative to the volume of product produced or consumed in China.

The investigation showed that, according to the statistical data of the General Administration of Customs, P. R. China, 56,700 kl, 79,400 kl, 105,800 kl, 117,800 kl and 120,800 kl of the subsidized imported product were imported respectively in 2015, 2016, 2017, 2018 and 2019. The volume went up by 40.04% in 2016, 33.25% in 2017, 11.34% in 2018, and 2.55% in 2019, respectively, from the previous years. During the injury investigation period, the import volume of the subsidized imported product showed a continuous and substantial growing trend and cumulatively increased by 113.05%.

The apparent consumption of relevant wines in China increased first and then declined during the injury investigation period, reaching 765,900 kl, 819,600 kl, 918,000 kl, 853,900 kl and 741,200 kl in 2015, 2016, 2017, 2018 and 2019 respectively. It was up 7.01% in 2016 from 2015 and 12.01% in 2017 from 2016 and was down 6.98%

in 2018 from 2017 and 13.20% in 2019 from 2018.

The import volume of the subsidized imported product accounted for 7.40%, 9.69%, 11.53%, 13.80%, and 16.30% of the domestic market in China in 2015, 2016, 2017, 2018 and 2019 respectively. It rose by 2.29% in 2016, 1.84% in 2017, 2.27% in 2018 and 2.50% in 2019, compared with that of the previous year. During the injury investigation period, the market share of the subsidized imported product showed a continuous and significant growing trend and cumulatively increased by 8.90%.

The Investigating Authority identified in the preliminary ruling that, during the injury investigation period, the absolute import volume of the subsidized imported product presented a continuous and substantial growing trend and their market share presented a continuous and significant growth trend. No stakeholders raised any objection to such identification.

Upon further investigation, the Investigating Authority decided to uphold the conclusions of the Preliminary Ruling. In the Final Ruling, the Investigating Authority identified that, during the injury investigation period, the absolute import volume of the subsidized imported product presented a continuous and substantial growing trend and their market share presented a continuous and significant growth trend.

## **(II) The impact of subsidized imported products on**

## **the prices of domestic like products.**

The Investigating Authority investigated the impact of subsidized imported products on the price of domestic like products.

### **1. Determination of prices of the subsidized imported product and domestic like products.**

The prices of the subsidized imported products and domestic like products should be compared at the same level of trade to ensure that they were comparable. The Investigating Authority identified that the domestic customs clearance price of the subsidized imported product and the factory price of domestic like products were basically at the same level of trade, and both prices did not include VAT, inland freight, insurance cost, secondary sales channels cost, etc. Based on the CIF price of the subsidized imported product provided by China Customs, the Investigating Authority further considered exchange rates, tariff rates and imported customs clearance costs during the injury investigation period, adjusted the import price of the subsidized imported product accordingly, and saw the adjusted price as the subsidized import price. Among them, the exchange rate was calculated on the basis of the arithmetic average of the monthly average exchange rate

of the year published by the People's Bank of China.

By summarizing the responses to the Questionnaire for Domestic Producers, the Investigating Authority took the weighted average price of the factory prices of domestic like products as the price of these products.

Hence, the adjusted price of the subsidized imported product showed an overall declining trend, and its price at the end of the injury investigation period was higher than that at the beginning of such period. The import price of the subsidized imported product in 2015, 2016, 2017, 2018 and 2019 were 55,390 RMB/kl, 49,500 RMB/kl, 46,352 RMB/kl, 41,780 RMB/kl and 46,577 RMB/kl, respectively. The price dropped by 10.63% in 2016 from 2015, 6.36% in 2017 from 2016 and 9.86% in 2018 from 2017, but rose by 11.48% in 2019 from 2018; the price at the end of the injury investigation period declined by 15.91% compared with that at the beginning of the same period.

The prices of domestic like products in 2015, 2016, 2017, 2018 and 2019 were 32,019 RMB/kl, 33,227 RMB/kl, 34,560 RMB/kl, 35,932 RMB/kl and 38,595 RMB/kl, respectively. The prices of domestic like products rose by 3.77%, 4.01%, 3.97% and 7.41% in 2016, 2017, 2018 and 2019, respectively, compared to that of the previous year. During the injury investigation period, the price of domestic like products showed an upward trend.

After the Preliminary Ruling was released, Australian Grape & Wine Incorporated claimed in its comments on the ruling that, since the product under investigation was a kind of consumer goods and its competition with domestic wine products in China occurred in the retail process instead of such occasions as leaving the factory or import, comparing the domestic customs clearance price of the product under investigation with the factory price of domestic like products were flawed.

In its comments, the Applicant believed that the sales channels of the product under investigation and domestic like products were the same or similar. Both of them could not only be sold via distribution channels such as distributors, but also be sold to end consumers through direct sales. The retail price might be affected by several factors, including purchasing channels, profit models and sales platforms. Therefore, comparing the retail prices of the subsidized imported product and domestic like products could not accurately reflect the direct competition between them in ex-factory and sales channels.

After further investigation, the Investigating Authority held that, first of all, the Investigating Authority identified that there was direct competition between the product under investigation and domestic like products in terms of their quality, prices and sales channels, customer groups,

and product usages. The evidence showed that the product under investigation and domestic like products competed with each other in the domestic market. The product under investigation and domestic like products were simultaneously sold in the domestic market mainly through such channels as direct sales and agency sales. Some domestic distributors sold both the product under investigation and domestic like products. There was price competition between them in different sales channels and processes. Therefore, the price competition between the product under investigation and domestic like products didn't just occur in the retail process. Secondly, the prices of the subsidized imported product and domestic like products should be compared at the same level of trade to ensure that they were comparable. The retail price was, to a great extent, decided by distributors and affected by their purchasing channels, sales strategies, profit models and profit levels. Thus, it could neither reflect the actual producing and operating status of companies producing the subsidized imported product and domestic like companies nor reflect the impact of the import price of the subsidized imported product on the price of domestic like products in an objective and accurate manner. Therefore, the Investigating Authority would not accept the claim of Australian Grape & Wine Incorporated that comparing the

prices of the subsidized imported product and domestic like products in the retail process was more reasonable.

## **2. Impact of subsidised import products on the price of domestic like products.**

The investigation data revealed that the quantity of the subsidized imported product increased continuously and substantially from 2015 to 2019, which gradually rose from 56,700 kl in 2015 to 120,800 kl in 2019, with a cumulative growth of 113.05% during the injury investigation period. The market share of the subsidized imported product in the Chinese market continued to gradually increase from 7.40% in 2015 to 16.30% in 2019, with a cumulative growth of 8.90% during the injury investigation period.

The investigation showed that the product under investigation and the domestically-produced relevant wines are basically the same in terms of physical properties, technical indicators, raw materials, production technique processes, product usages, sales channels and customer groups, which means that they are like products. Since the consumption market of domestic relevant wines is a competitive and open market, and both the product under investigation and domestic like products were simultaneously sold in the domestic market mainly through such channels as direct sales, agent sales and online sales, the product under investigation directly competed with

domestic like products; due to the traditionally strong position of imported products in China's market, the fact that the quantity and proportion of subsidized imported product continued to jack up sufficed to have a material adverse impact on domestic like products.

The investigation evidence showed that the import price of the subsidized imported product generally presented a downward trend from 2015 to 2019. To be specific, it continued to decrease from 55,390 RMB/kl in 2015 to 41,780 RMB/kl in 2018, but rose slightly in 2019; nevertheless, it still declined by 15.91% compared to the price at the beginning of the injury investigation period. The sales price of domestic like products was 32,019 RMB/kl, 33,227 RMB/kl, 34,560 RMB/kl, 35,932 RMB/kl and 38,595 RMB/kl, respectively. Although the sales price showed an upward trend, the unit cost of such products from 2015 to 2019 was 28,723 RMB/kl, 30,617 RMB/kl, 31,845 RMB/kl, 33,409 RMB/kl and 35,957 RMB/kl, respectively. When the unit cost of domestic like products rose by 25.19% as a whole, especially when the unit cost increased by 30.24%, the sales price just went up by 20.54%, lower than the growth of the cost over the same period, suggesting that the rise in the cost of domestic like products did not normally transfer to its sales price and that the growth of sales price failed to reasonably digest the cost increase and the sales

price did not rise to a due level, leading to a downward trend of the difference between the sales price and cost of domestic like products from 3,296 RMB/kl in 2015 to 2,638 RMB/kl in 2019. Therefore, during the injury investigation period, the price of the subsidized imported product inhibited that of domestic like products.

The Investigating Authority identified in the preliminary ruling that, during the injury investigation period, the price of the subsidized imported product inhibited that of domestic like products.

In its comments on the Preliminary Ruling, Australian Grape & Wine Incorporated claimed that the export price of the product under investigation was higher than the factory price of domestic wine and that there was no evidence showing that the price of the product under investigation inhibited that of domestic like products.

The Applicant held in its comments that a higher import price didn't mean that the price of the product under investigation would not injure the domestic like products, and that the substantial increase in the import volume and decrease in the price of the product under investigation greatly restricted the room for the rise in the price of domestic like products, thus severely suppressing the price of domestic like products.

Upon further investigation, the Investigating Authority

believed: first, the subsidized imported product exerted an impact on the price of domestic like products, including the impact of the volume and price of the subsidized imported product on the price of domestic like products. During the injury investigation period, both the absolute and relative import volumes of the subsidized imported product were increasing rapidly, and its share in the domestic market was going up too. However, the price of the subsidized imported product was decreasing, and there was direct competition between the subsidized imported product and domestic like products. Therefore, the volume increase and price declination of subsidized imported product sufficed to cause a material adverse impact on the price of domestic like products. Second, price suppression meant that due to the impact of the subsidized imported product, the price of domestic like products failed to reach a reasonable level. Although the price of the subsidized imported product was higher than that of domestic like products, during the injury investigation period, the volume of the subsidized imported product cumulatively increased by 113.05% and its price cumulatively dropped by 15.91%, directly suppressing the rise of the price of domestic like products. As a result, the price of domestic like products could not rise accordingly with the growing costs. Therefore, the claim of Australian Grape & Wine Incorporated that the subsidized imported

product didn't suppress the price of domestic like products due to its high price was not accepted.

Upon further investigation, the Investigating Authority decided to uphold the conclusions of the Preliminary Ruling. The Investigating Authority finally identified that the subsidized imported product suppressed the price of domestic like products during the injury investigation period.

### **(III) Situation of the domestic industry during the injury investigation period**

According to the provisions of Articles 7 and 8 of the Countervailing Regulations, the Investigating Authority conducted a survey of relevant economic factors and indicators of the domestic industry.

#### **1. Apparent consumption.**

The apparent consumption of relevant wines increased first, then declined during the injury investigation period. The apparent consumptions of relevant domestic wines were respectively 765,900 kl, 819,600 kl, 918,000 kl, 853,900 kl and 741,200 kl in 2015, 2016, 2017, 2018, and 2019, increased by 7.01% from 2015 to 2016, 12.01% from 2016 to 2017, and decreased by 6.98% and 13.20% from 2017 to 2018 and 2018 to 2019.

#### **2. Production capacity.**

The production capacity of domestic like products was basically stable during the injury investigation period. The

production capacities of domestic like products in 2015, 2016, 2017, 2018, and 2019 were 641,200 kl, 641,200 kl, 630,500 kl, 638,500 kl and 648,700 kl, respectively. The production capacity in 2016 was equal to that of 2015, and decreased by 1.67% from 2016 to 2017, increased by 1.27% and 1.60% from 2017 to 2018 and 2018 to 2019.

### **3. Output.**

The output of domestic like products showed a continuous downward trend during the injury investigation period. The outputs of domestic like products were respectively 252,800 kl, 237,300 kl, 227,700 kl, 220,400 kl and 175,000 kl in 2015, 2016, 2017, 2018, and 2019, decreased by 6.13%, 4.05%, 3.21% and 20.60% in 2016, 2017, 2018 and 2019, respectively, compared to that of the previous year.

### **4. Domestic sale volume.**

The domestic sales volume of domestic like products showed a continuous downward trend during the injury investigation period. The domestic sales volumes of domestic like products were respectively 242,100 kl, 227,800 kl, 219,300kl, 217,100 kl and 182,400 kl in 2015, 2016, 2017, 2018, and 2019, decreased by 5.91%, 3.73%, 1.00% and 15.98% in 2016, 2017, 2018 and 2019, respectively, compared to that of the previous year.

### **5. Market share.**

The market share of domestic like products showed an overall downward trend during the injury investigation period. The market shares of domestic like products in 2015, 2016, 2017, 2018, and 2019 were 31.62%, 27.80%, 23.90%, 25.43% and 24.61%, respectively. decreased by 3.82% and 3.90% from 2015 to 2016 and 2016 to 2017, increased by 1.53% from 2017 to 2018, and decreased by 0.82% from 2018 to 2019. At the end of the injury investigation period, the market share decreased by 7.01% compared to that at the beginning of the same period.

#### **6. Sales price.**

The sale price of domestic like products showed an upward trend during the injury investigation period. The sale prices of domestic like products were respectively 32,019 RMB/kl, 33,227 RMB/kl, 34,560 RMB/kl , 35,932 RMB/kl and 38,595 RMB/kl in 2015, 2016, 2017, 2018, and 2019, increased by 3.77%, 4.01%, 3.97% and 7.41% in 2016, 2017, 2018 and 2019, respectively, compared to that of the previous year.

#### **7. Sales revenue.**

During the injury investigation period, the sales revenue of domestic like products showed a downward trend, which were respectively RMB7,753 million, RMB7,569 million, 7,580 million, RMB7,801 million, and RMB7,040 million in 2015, 2016, 2017, 2018 and 2019

respectively, decreased by 2.37% from 2015 to 2016, increased by 0.15% and 2.92% from 2016 to 2017 and 2017 to 2018, and decreased by 9.76% from 2018 to 2019. At the end of the injury investigation period, the sales revenue decreased by 9.20% compared to that at the beginning of the same period.

#### **8. Profit before tax (PBT).**

The PBT of domestic like products showed a continuous downward trend during the injury investigation period. The PBTs were respectively RMB796 million, RMB593 million, RMB592 million, RMB546 million, and RMB479 million in 2015, 2016, 2017, 2018, and 2019. It decreased by 25.50%, 0.17%, 7.77%, and 12.27% in 2016, 2017, 2018 and 2019, respectively, compared to that of the previous year.

#### **9. Return on investment (ROI).**

The ROI of domestic like products showed a continuous downward trend during the injury investigation period. The ROI was respectively 3.14%, 2.27%, 2.20%, 2.01% and 1.85% in 2015, 2016, 2017, 2018, and 2019, decreased by 0.87%, 0.07%, 0.19%, and 0.16% in 2016, 2017, 2018, and 2019, respectively compared to that of the previous year.

#### **10. Operating rate.**

The operating rate of domestic like products in the

domestic industry showed a continuous downward trend in the injury investigation period. It was respectively 39.44%, 37.00%, 36.12%, 34.52% and 26.97% in 2015, 2016, 2017, 2018, and 2019, decreased by 2.44%, 0.88%, 1.60%, and 7.55% in 2016, 2017, 2018 and 2019, respectively, compared to that of the previous year.

### **11. Employment.**

The employment of domestic like products showed a continuous downward trend during the injury investigation period. The employments of domestic like products were respectively 8733, 8471, 7942, 7461, and 7068 in 2015, 2016, 2017, 2018, and 2019, which decreased by 3%, 6.24%, 6.06%, and 5.27% in 2016, 2017, 2018 and 2019, respectively, compared to that of the previous year.

### **12. Labor productivity.**

The labour productivity of domestic like products in the domestic industry showed an overall downward trend in the injury investigation period. The labour productivities were respectively 28.95 kl/person, 28.01 kl/person, 28.67 kl/person, 29.54 kl/person, and 24.75 kl/person in 2015, 2016, 2017, 2018, and 2019, decreased by 3.25% from 2015 to 2016, increased by 2.36% from 2016 to 2017, increased by 3.03% from 2017 to 2018 and decreased by 16.22% from 2018 to 2019.

### **13. Salary per capita.**

During the injury investigation period, the salary per capita of domestic like products grew continuously. The salary per capita of domestic like products was respectively RMB56,335, RMB60,149, RMB64,863, RMB69,361, and RMB75,342 in 2015, 2016, 2017, 2018, and 2019, increased by 6.77%, 7.84%, 6.93% and 8.62%% in 2016, 2017, 2018 and 2019, respectively, compared to that of the previous year.

#### **14. Closing stock.**

The closing stock of domestic like products showed a trend of first increasing then decreasing during the injury investigation period. The closing stocks of domestic like products were respectively 93,700 kl, 92,400 kl, 97,500 kl, 89,700 kl and 78,200 kl in 2015, 2016, 2017, 2018, and 2019, decreased by 1.39% from 2015 to 2016, increased by 5.52% from 2016 to 2017, decreased by 8.00% from 2017 to 2018, and decreased by 12.82% from 2018 to 2019.

#### **15. Cash flows from operating activities.**

The cash flow generated in the operating activity of domestic like products in the domestic industry generally showed a sharp downward trend during the injury investigation period. The net cash flow generated in operating activities of domestic like products in 2015, 2016, 2017, 2018 and 2019 was 1,041 million RMB, 697 million RMB, 823 million RMB, 709 RMB, and 206 million RMB,

respectively. It decreased by 33.05% from 2015 to 2016, increased by 18.08% from 2016 to 2017, decreased by 13.85% from 2017 to 2018, and decreased by 70.94% from 2018 to 2019. At the end of the injury investigation period, the cash flow generated in the operating activity decreased by 80.21% compared to that at the beginning of the same period.

### **16. Investment and financing capacity.**

During the injury investigation period, no evidence revealed that the investment and financing capacity of domestic like products suffered from adverse effects caused by the subsidized imported product.

The Investigating Authority also reviewed the subsidy margin of the subsidized imported product subject to investigation. The evidence showed that the subsidy margin did not belong to de minimis subsidies and thus sufficed to adversely affect domestic market prices.

The evidence available showed that during the injury investigation period, the apparent consumption in the Chinese relevant wines market first increased and then decreased, with steady overall market demand. Affected by volume increase and price declination of the subsidized imported product, the wine output of the domestic wine industry remained almost the same, and its capacity expansion plan was suspended. Continuous decrease in

output and sales volume of domestic like products led to a downward trend of domestic like products' market share, which was always at a lower level and less than 32% during the injury investigation period. The operating rate of domestic like products was decreasing and seriously inadequate, about only 35% or so, so lots of production facilities became idle, and the capacity could not be released effectively. With the continuous and significant increase in the absolute volume and market share of the subsidized imported product, and a cumulative decline in the price of the subsidized imported product by 15.91%, domestic like products saw slight growth in the sales price, but such growth was lower than the cost rise over the same period, indicating that the rise of the sales price failed to reach the level where it should be able to offset the cost rise. Thus, the PBT, profitability and ROI of domestic like products continued to decline, and the initial investment could not be recovered. The net cash flow from operating activities of domestic like products also showed a downward trend. To avoid excessive occupation of the working capital, the domestic industry reduced the inventory overhang by de-stocking, leading to a decline in the ending inventory of domestic like products. During the injury investigation period, the sales revenue and PBT of domestic like products continued to decline, resulting in the

continuous deterioration of the production and operation of such products, and the active domestic industry was forced to reduce employment, leading to a continuous decline in employees engaged in such products.

After a comprehensive analysis of relevant data, the Investigating Authority concluded in the Preliminary Ruling that during the injury investigation period, the production and operation of domestic like products deteriorated, and the domestic wine industry suffered material injury.

After the release of the Preliminary Ruling, Australian Embassy in China claimed in Australian Written Comments on the Preliminary Ruling of the Countervailing Duty Investigation into Relevant Imported Wines Originating in Australia that any subsidy identified in the Preliminary Ruling was at the de minimis subsidy level and did not suffice to cause material injury.

The Investigating Authority also conducted a further review and the evidence available showed that relevant imported wines originating in Australia were subsidized, with a subsidy margin varying between 6.3%-6.4%, which did not belong to de minimis subsidies and thus sufficed to adversely affect domestic market prices.

In its comments on the Preliminary Ruling, Australian Grape & Wine Incorporated pointed out that since the countervailing duty investigation period is 2019, the

Investigating Authority did not identify that the product under investigation was subsidized from 2015 to 2018. Therefore, the injury suffered by the domestic industry during this period could not be regarded as the injury caused by subsidy, and the domestic industry was not injured in 2019.

In its comments, the Applicant believed that the injury investigation period generally includes three to five years before the initiation of the investigation and that when analyzing the economic indicators of the domestic wine industry, various economic indicators should be combined to examine their overall changes and interrelationships, instead of using the data performance of an individual stage during the injury investigation period for isolated analysis.

After further investigation, the Investigating Authority believed that, first, according to Article 18 of the Regulations on the Countervailing Duty Investigation of Injury to Industry in China, the industry injury investigation period of countervailing duty cases usually includes three to five years before the initiation of the investigation. The industry injury investigation period of the relevant wines countervailing duty cases is from 1 January 2015 to 31 December 2019, which is in line with the relevant provisions of Chinese law. Second, the investigation of the impact of the subsidized imported product on the domestic industry

should include the assessment of the development trend of relevant economic factors and indicators affecting the industrial status throughout the injury investigation period. The identify whether the domestic industry had suffered a material injury, not only the performance of domestic industrial economic indicators during a certain stage of the injury investigation period should be considered, but also the trends of various economic indicators of the domestic industry during the injury investigation period should be comprehensively taken into account. Therefore, Australian Grape & Wine Incorporated's claim that if the domestic industry was not injured in 2019, the domestic industry was not injured was not accepted.

Upon further investigation, the Investigating Authority decided to uphold the conclusions of the Preliminary Ruling. The Investigating Authority finally concluded that during the injury investigation period, the production and operation of domestic like products deteriorated, and the domestic relevant wine industry suffered material injury.

## **VII. Causality**

According to Article 25 of the Countervailing Regulations, the Investigating Authority reviewed whether there was a causal link between the subsidized imported product originating in Australia and the material injury to the domestic industry, and also examined factors known to

possibly cause injury to the domestic industry other than the subsidized imported product.

**(I) Subsidized imported products caused material injury to the domestic industry.**

During the injury investigation period, the volume of the subsidized imported product showed a rapid upward trend year by year. In 2015, 2016, 2017, 2018 and 2019, the import volumes of the subsidized imported product were 56,700 kl, 79,400 kl, 105,800 kl, 117,800 kl and 120,800 kl respectively. The volume went up by 40.04% in 2016, 33.25% in 2017, 11.34% in 2018, and 2.55% in 2019, respectively, from the previous years.

During the injury investigation period, the market share of the subsidized imported product continued to grow rapidly. It rose by 2.29% in 2016, 1.84% in 2017, 2.27% in 2018 and 2.50% in 2019, compared with that of the previous year. Meanwhile, the market share of domestic like products was in a downtrend. In 2016 it decreased by 3.82% from 2015, in 2017 it decreased by 3.90% from 2016, in 2018 it increased by 1.53% from 2017, and in 2019 it decreased by 0.82% from 2018. During the injury investigation period, the market share of domestic like products experienced a cumulative decrease of 7.01%.

Meanwhile, the market share of the subsidized imported product increased by 8.90%, which was inversely related to the decline of the market share of domestic like products, and the subsidized imported product obviously encroached on the market share of domestic like products.

Physical properties, raw materials, production techniques, product usages, sales channels and customer groups of the subsidized imported product were basically the same as those of domestic like products, making them mutually-substitutable, and there was a competitive relationship between them. Therefore, price became the main factor for downstream customers to choose products. During the injury investigation period, the price of the subsidized imported product continued to decline. When the unit cost of domestic like products rose by 25.19% as a whole, especially when the unit cost increased by 30.24%, the sales price just went up by 20.54%, which was lower than the increase in costs over the same period. It showed that the increase in the cost of domestic like products did not normally transmit to the sales price, the sales price did not rise to a reasonable price, and the price of domestic like products was suppressed, resulting in a decline in the PBT of domestic like products. The output, sales volume, PBT, ROI, operating rate and employment of domestic like

products continued to decline year by year. The market share, sales income, labour productivity and net cash flow of domestic like products showed an overall downward trend. The subsidized imported product caused severe injury to the production and operation of the domestic industry.

On these grounds, the Investigating Authority identified in the Preliminary Ruling that there was a causal link between the subsidized imported product and the material injury to the domestic wine industry.

Upon further investigation, the Investigating Authority decided to uphold the conclusions of the Preliminary Ruling. The Investigating Authority identified in the Final Ruling that there was a causal link between the subsidized imported product and the material injury to the domestic wine industry.

## **(II) Analysis of other known factors**

The Investigating Authority has reviewed other known factors that may have caused material injury to the domestic industry other than subsidized imported products.

According to the preliminary investigation, no evidence showed that there was a causal link between known factors such as the impact of imported products from other countries (regions), the trade restriction practices of foreign and domestic producers, the competition between them,

the impact of consumption patterns and alternative products, technological development, the export status of domestic like products and force majeure and the material injury to the domestic wine industry.

Australian Department of Foreign Affairs and Trade claimed in the Comments on the Initiation of the Countervailing Duty Investigation into Relevant Imported Wines Originating in Australia that while considering the injury to domestic industry, the following factors should also be considered: First, Australia focused on developing high-end wine market in China, and high-end wine exported from Australia to China was on the increase, while the exports of lower-priced Australian wine to China had been declining, so the average price of Australian wine in China had been increasing. Second, the import tariff under the China-Australia Free Trade Agreement during the injury investigation period reduced to zero. Third, China also imported like products from other countries. Fourth, relevant policies issued by the Chinese Government also exerted an influence.

The Applicant claimed that first, in the case that it was difficult to distinguish the product under investigation as

high-end, low-end or other wine, it was reasonable for the Applicant to adopt average prices of the product under investigation and domestic like products for price comparisons. Second, it was the import price in RMB that exerted a direct impact on the domestic price; during the injury investigation period, the import price of the product under investigation, no matter the CIF price in USD, or the price in RMB after considering the changes in import tariff and exchange rate, showed a downward trend, and the real reason for the decline in the RMB price of imported products was determined by the low price strategy of foreign exporters towards China. Third, the import volume of like products from other countries and regions was in a downtrend, and the price reduction of the Australian product under investigation was obviously more significant than that of like products imported from other countries. Fourth, although the relevant consumption-restricting policies promulgated by the Chinese government might have a certain impact on the market demand, a large number of low-price import of the product under investigation would further intensify the market competition and aggravate the injury suffered by the domestic industry.

Based on preliminary investigation and review, the Investigating Authority believed: First, above all, Australian Department of Foreign Affairs and Trade did not provide in the Comments the supporting documents for different grades and categories of relevant wines exported from Australia to China. Then, during the investigation period, in order to fairly compare the prices, the Investigating Authority made a classification of the product under investigation based on product control codes of injury investigation products and requested the responding companies to fill in the Questionnaire in accordance with the quality, consumption level or brand of the wine during the daily sales process. Yet, among the Australian wine producers, only Treasury Wine Estates Vintners Limited, Casella Wines Pty. Limited and Australia Swan Vintage Pty Ltd filled in the Questionnaire; to be specific, Casella Wines Pty. Limited did not follow the classified product control code and grade standards of the product under injury investigation, while Treasury Wine Estates Vintners Limited followed the product control code standards but did not cater to the grade rules. Australia Swan Vintage Pty Ltd filled in the questionnaire based on the classification

standards of the Investigating Authority, and its questionnaire data showed that during the injury investigation period, its exported volume to China accounted for 0.5%-3.5% of the total import volume of the product under investigation, and its export value to China accounted for 0.3%-2.5% of the total import value of such product. Hence, the Investigating Authority believed that its data could not reveal the overall imports of the product under investigation, and it's impossible to get the import prices of relevant wines imported from Australia based on product control codes and grades of injury investigation products from the Responses of these producers. Therefore, the Investigating Authority decided to adopt the weighted average price of the product under investigation from China Customs' statistical data that did not consider product control codes as the basis for calculating the price of the subsidized imported product. Finally, domestic producers all filled in the Questionnaire in accordance with the classification standards of the Investigating Authority; in the case that the price of the subsidized imported product referred to the weighted average price that did not consider product control code, the Investigating Authority decided to

take the weighted average price of domestic like products as the basis for calculating the price of such products. Preliminary data suggested that the import volume and market share of the subsidized imported product during the injury investigation period cumulatively increased by 113.05% and 8.90%, respectively, and its price cumulatively declined by 15.91%, suppressing the price of domestic like products.

Second, the influence of import tariff on the injury to the domestic industry was considered. When comparing the prices of the subsidized imported product and domestic like products, the Investigating Authority compared the price of the subsidized imported product with those of domestic like products at the same trade level in order to ensure that they were comparable. Among them, the price of the subsidized imported product was the RMB price after the exchange rate, tariff rate and customs clearance fee during the injury investigation period on the basis of the subsidized imported product's CIF price provided by the Chinese Customs. The preliminary data showed that during the injury investigation period, the price of the subsidized imported product showed an overall downward trend, with a cumulative decline of 15.91% from 2015 to 2019. In the case of the rising cost of

domestic like products, the price of domestic like products has been restrained, resulting in a continuous decline in the main operating indicators such as sales income, PBT and ROI of domestic like products. It has caused material injury to the domestic industry. Therefore, the claim of the Australian Department of Foreign Affairs and Trade that the injury to the domestic industry during the injury investigation period was related to the import tariff was not consistent with the facts.

Third, about the impact of imports from other countries and regions on the domestic industry. According to the statistics of China Customs, during the injury investigation period, the import volume of products from other countries and regions was in a downtrend, decreasing from 339,500 kl in 2015 to 335,200 kl in 2019. Import prices from other countries and regions showed a downward trend, from 4,238 USD/kl in 2015 to 4,116 USD/kl in 2019, which was lower than that of the subsidized imported product. Compared with the imports from other countries, the subsidized imported product experienced not only a continuous and substantial increase in import volume but also a greater decline in prices. In the meantime, no

evidence showed that imported products from other countries were subsidized. Therefore, the impact of imports from other countries and regions on the domestic industry could not negate the causal link between the subsidized imported product and the material injury to the domestic industry.

Fourth, about the impact of relevant policies on the domestic industry. First of all, the DFAT claimed that relevant consumption policies might lead to a reduction of the domestic industrial demand without providing any supporting evidence. Secondly, according to the evidence from the investigation, from 2015 to 2017, the apparent consumption of domestic relevant wines continued to grow, from 765,900 kl in 2015 to 918,000 kl in 2017. In the case of growing demand in the domestic industrial market, the output and sales volume of domestic like products should have a sound performance in order to fully meet the needs of the domestic market. However, both output and sales continued to decline, with output falling from 252,800 kl in 2015 to 227,700 kl in 2017, and sales falling from 242,100 kl in 2015 to 219,300 kl in 2017. This led to a continuous decline in the operating rate of domestic like products,

which was seriously insufficient, only about 35%. From 2018 to 2019, although the apparent consumption of domestic relevant wines decreased and the market demand also went down, the import volume of the subsidized imported product did not decrease with market demand but increased significantly, seizing the due market share of the domestic industry. As a result, the decline in the output and sales of domestic like products in 2019 was much greater than that of apparent consumption. During the injury investigation period, the cumulative decline in the apparent consumption of domestic relevant wines was 3.22%, while the cumulative decline in the output and sales volume of domestic like products reached 30.78% and 24.66% respectively, much lower than the decline in apparent consumption. At the same time, the subsidized imported product suppressed the prices of domestic like products and affected the profitability of the domestic industry, resulting in a continuous decline in PBT and ROI during the injury investigation period. Therefore, the DFAT's claim that the injury suffered by the domestic industry during the injury investigation period was related to relevant consumption policies was inconsistent with the facts.

According to the above investigation, the Investigating Authority identified in the Preliminary Ruling that the above factors could not negate the causal link between the subsidized imported product and the material injury to the domestic industry.

In its comments after the Preliminary Ruling, Australian Grape & Wine Incorporated once again claimed that the injury to the domestic industry was caused by other economic factors, such as the impact of imports from other countries, the impact of consumption policies and the impact of structural problems in the domestic industry.

The Applicant pointed out in its comments that there was a causal link between the subsidized import of the product under investigation and the injury to the domestic industry, and that other factors could not negate the fact that the product under investigation had caused injury to the domestic industry. The relevant claims of Australian Grape & Wine Incorporated cannot be established.

After further investigation, the Investigating Authority holds the following views. First, about the impact of imports from other countries. According to Chinese customs statistics, import volume from other countries and regions showed a downward trend during the injury investigation period, from 339,500 kl in 2015 to 335,200 kl in 2019.

Import prices from other countries and regions showed a downward trend, from 4,238 USD/kl in 2015 to 4,116 USD/kl in 2019, which was lower than that of the subsidized imported product. Compared with the imports from other countries, the subsidized imported product experienced not only a continuous and substantial increase in import volume but also a greater decline in prices. In the meantime, no evidence showed that imported products from other countries were subsidized. Therefore, the impact of imports from other countries and regions on the domestic industry could not negate the causal link between the subsidized imported product and the material injury to the domestic industry.

第二， Regarding the impact of consumption policies, according to the survey evidence, from 2015 to 2017, the apparent consumption of domestic relevant wines grew continuously from 765,900 kl in 2015 to 918,000 kl in 2017. Under the background of growing domestic industrial market demand, the output and sales volume of domestic like products should have had an excellent performance to fully meet the domestic market demand. However, both their output and sales volume decreased continuously. This led to a continuous decline in the operating rate of domestic like products, which even fell to about 35%, a woefully inadequate level. From 2018 to 2019, although the

apparent consumption of domestic relevant wines decreased and the market demand also went down, the import volume of the subsidized imported product did not decrease with market demand but increased significantly, seizing the due market share of the domestic industry. As a result, the decline in the output and sales of domestic like products in 2019 was much greater than that of apparent consumption. At the same time, the subsidized imported product suppressed the prices of domestic like products and affected the profitability of the domestic industry, resulting in a continuous decline in PBT and ROI during the injury investigation period. Therefore, Australian Grape & Wine Incorporated's claim that the injury suffered by the domestic industry during the injury investigation period was related to relevant consumption policies cannot be established.

Third, the claim on the structural problems of China's wine industry caused by the rapid growth of domestic wine output. After further investigation, the Investigating Authority believed that, first of all, Australian Grape & Wine Incorporated claimed that the domestic wine industry has structural problems, with high cost, poor quality and image, but it did not provide evidence material support. Secondly, the structural problems of the domestic wine industry caused by the rapid growth of domestic wine production in

the 1990s and early 21st century claimed by Australian Grape & Wine Incorporated occurred between the 1990s and early 2000s, which did not belong to the injury investigation period in this case. Finally, according to the evidence, during the injury investigation period, the quality of domestic like products was stable and conformed to China's National Standard of the People's Republic of China for Wines. The production facilities mainly adopted modern production facilities of large-scale production and enterprise management standards. Product specifications and models are rich, which can meet the needs of different consumer groups. Therefore, Australian Grape & Wine Incorporated's claim that domestic like products have structural problems, resulting in a long-term decline in quality and poor quality and image can not be established. No stakeholders raised any other objection to such identification.

Upon further investigation, the Investigating Authority decided to uphold the conclusions of the Preliminary Ruling. The Investigating Authority finally identified that the above factors could negate the causal link between the subsidized imported product and the material injury to the domestic industry.

In its Comments on the Disclosure of Basic Facts

Relied on by the Final Ruling of Anti-dumping and Countervailing Duty Cases against Relevant Imported Wines Originating in Australia, Australian Grape & Wine Incorporated offered comments on the analyses of price impact, material injury and causal link, which were all considered by the Investigating Authority in the Final Ruling.

### **VIII. Final Investigation Conclusion**

Based on the above investigation results, the Investigating Authority finally ruled that the relevant imported wines originating in Australia had been subsidized and that the domestic relevant wines industry suffered material injury as a result, and there was a causal link between the subsidy and the material injury to the domestic industry.

## Form: Data Table of Countervailing Duty Case against Relevant Australian Wines

Items	2015	2016	2017	2018	2019
Total national output (10,000 kl)	37.76	34.76	37.48	35.12	28.82
Change Rate	-	-7.94%	7.83%	-6.30%	-17.94%
Total national imports (10,000 kl)	39.61	48.18	55.23	50.87	45.60
Change Rate		21.64%	14.63%	-7.89%	-10.36%
Import volume of the product under investigation (10,000 kl)	5.67	7.94	10.58	11.78	12.08
Change Rate	-	40.04%	33.25%	11.34%	2.55%
Market share of product under investigation	7.40%	9.69%	11.53%	13.80%	16.30%
Change Rate (Percentage Point)	-	2.29	1.84	2.27	2.50
Import price of the product under investigation (USD/kl)	7759	6834	6447	6090	6723
Change Rate	-	-11.92%	-5.66%	-5.54%	10.39%
Apparent consumption (10,000 kl)	76.59	81.96	91.80	85.39	74.12
Change Rate	-	7.01%	12.01%	-6.98%	-13.20%
Capacity (10,000 kl)	64.12	64.12	63.05	63.85	64.87
Change Rate	-	0.00%	-1.67%	1.27%	1.60%
Output (10,000 kl)	25.28	23.73	22.77	22.04	17.50
Change Rate	-	-6.13%	-4.05%	-3.21%	-20.60%
Operating rate	39.44%	37.00%	36.12%	34.52%	26.97%
Change Rate (Percentage Point)	-	-2.44	-0.88	-1.60	-7.55
Domestic sales volume (10,000 kl)	24.21	22.78	21.93	21.71	18.24
Change Rate	-	-5.91%	-3.73%	-1.00%	-15.98%
Domestic market share	31.62%	27.80%	23.90%	25.43%	24.61%
Change Rate (Percentage Point)	-	-3.82	-3.90	1.53	-0.82
Domestic sales revenue (RMB 100 million)	77.53	75.69	75.80	78.01	70.40
Change Rate	-	-2.37%	0.15%	2.92%	-9.76%
Domestic sales price (RMB/kl)	32019	33227	34560	35932	38595
Change Rate		3.77%	4.01%	3.97%	7.41%
PBT (RMB 100 million)	7.96	5.93	5.92	5.46	4.79
Loss change rate	-	-25.50%	-0.17%	-7.77%	-12.27%
ROI	3.14%	2.27%	2.20%	2.01%	1.85%

Change Rate (Percentage Point)	-	-0.87	-0.07	-0.19	-0.16
Net cash flows (RMB 100 million))	10.41	6.97	8.23	7.09	2.06
Change Rate	-	-33.05%	18.08%	-13.85%	-70.94%
Ending inventory (10,000 kl)	9.37	9.24	9.75	8.97	7.82
Change Rate	-	-1.39%	5.52%	-8.00%	-12.82%
Employment volume (persons)	8,733	8,471	7,942	7,461	7,068
Change Rate	-	-3.00%	-6.24%	-6.06%	-5.27%
Per capita salary (yuan/year/person)	56335	60149	64863	69361	75342
Change Rate	-	6.77%	7.84%	6.93%	8.62%
Labor productivity (kl/person)	28.95	28.01	28.67	29.54	24.75
Change Rate	-	-3.25%	2.36%	3.03%	-16.22%