

Implementation of China's Anti-Dumping Policy on Australian Wine: A Legal Review of the Anti-Dumping Agreement

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Abstract. One of the unfair trades in international trade is dumping, a competition by selling export products in the import market at prices below normal prices. GATT/WTO has attempted to establish regulations on anti-dumping as an effort to protect countries injured by dumping products through Anti-Dumping Agreement. China issued one of the anti-dumping policies on exported wine products from Australia, which were suspected of dumping products and causing material injury to China's domestic wine products. Due to that matter, China imposed an anti-dumping duty of 218.4% for some wine products from Australia. This study used a normative juridical approach and the legal materials collected through a literature study. The result of this study indicates the initiation of China's anti-dumping investigation is following the procedures in the Anti-Dumping Agreement, but the imposition of anti-dumping duties is inconsistent with the data, and the calculation of the margin of dumping is deemed inaccurate because there is a lack of representative data obtained from Australian wine producers. The implications of China's anti-dumping policy impact Australian wine export with a significant downfall over a period of 2 years.

Keywords: China's Anti-Dumping Implementation, Australian Wine, Anti-Dumping Agreement.

1 Introduction

International trade is trade carried out between countries or state governments with other countries that undergo a trade relationship in accordance with the agreement between the two parties conducting the trade [1]. In other words, international trade can be regarded as an exchange process based on an agreement or mutual agreement to meet the needs of each country [2][3].

International trade activities that are influenced by globalization and technological developments change economic practices from simple to complex forms. At first, it was only in the direct exchange of goods. Nowadays, trade transactions can also be carried out without recognizing territorial boundaries [4]. In addition, international trade requires a free market system that opens the flow of goods and services without any barriers (barriers). It provides equal opportunities for each country to trade with other countries. The free market cannot be avoided and is proof of the victory of capitalism and liberalism in the world political and economic arena [5][6].

International trade benefits countries through their respective commodity products. Apart from the benefits, international trade can lead to competition between countries. Therefore, a legal rule is needed to harmonize state competition with the values and interests of each country [7][8].

In 1947, countries in the world made a general agreement on tariffs and trade, commonly known as the General Agreement on Tariffs and Trade (GATT). From year to year, GATT undergoes modifications and amendments to the rules regarding international trade. Finally, in the Uruguay Ruling in 1994, the final GATT contents were produced and then adopted by countries that are members of international trade organizations, namely the World Trade Organization (WTO) [9].

In the GATT/WTO, some principles must be adhered to by member countries to prohibit discrimination. These principles are the principle of tariff reduction and binding tariffs, the principle of transparency, the principle of quantitative restrictions, and the principle of reciprocity. Then there is the principle of non-discrimination, the main principle in the GATT/WTO, namely the principle of Most-Favoured Nation and National Treatment. The Most Favored Nations principle contained in Article I of the GATT/WTO is a principle that stipulates that states must require an obligation not to take discriminatory actions against other trading partner countries. Discrimination in question is in connection with the determination of tariffs, internal taxes, or national regulations relating to trade activities between these countries, causing losses to those countries.

In terms of dealing with unhealthy practices, an importing country is allowed to deviate from the Most Favored Nations (MFN) principle by imposing discriminatory tariffs and the "bound rates" principle, namely the commitment of a WTO country to bind the highest tariff rate for a product at a certain level [10]. The National Treatment principle is a principle that complements the MFN principle and is regulated in Article III of the GATT. The principle of National Treatment means that countries require equal treatment between imported products from other countries and similar domestic products. This treatment aims to give equal treatment between imported and similar domestic products to maximize competition in the market with no special treatment for domestic products.

GATT/WTO requires fair competition through its principles in competition between international trade actors; unfair trade can also occur. Unfair trade does not have an inherent definition in the GATT, but unhealthy trade can be interpreted not only as a violation of the provisions contained in the GATT but as any action taken by a GATT member country that negates and hinders the benefits obtained by other member countries [11]. In international trade, there are various types of unfair trade, but the GATT/WTO only recognizes and regulates two types of unhealthy trade, namely subsidies and dumping, which are price discrimination practices. Subsidies are financial contributions given by the government or other agencies appointed by the government if the activity is an activity that involves a direct transfer of funds (grants, loans, and investments).

Another unhealthy trading practice is dumping. Dumping is the export of a commodity abroad at a much lower price with the selling price of a commodity abroad at a much lower price compared to its domestic sales price [12] [13].

According to Article II of the Agreement on Implementation of Article VI of The General Agreement on Tariffs and Trade (GATT), dumping is a condition where products are imported into the market of another country at a price lower than the normal price. Dumping can mean that there is a product at a lower price than the selling price in the exporting country, but with conditions where there are no sellers in the exporting country for the product or after correction of transportation costs and other common costs in trade [14].

In the GATT/WTO, there are rules regarding anti-dumping (retaliatory measures), which have been stated in an additional agreement regarding an article in the GATT. Article VI of GATT contains basic provisions relating to anti-dumping measures. As a follow-up and implementation of Article VI of GATT, the Agreement on Implementation of Article VI of GATT 1994 (the Anti-Dumping Agreement) [15].

Anti-dumping cases are cases that are often encountered in WTO dispute resolution. One of the anti-dumping applications that cause disputes between countries is the anti-dumping action imposed by China on wine products from Australia. This anti-dumping case occurred in November 2020, when China set an anti-dumping import duty on Australian wine products of 218.14% (percent) in the next five years as one of the measures to protect China's domestic liquor industry. China's anti-dumping duty policy on Australian wine was imposed after the Chinese trade authority investigated and found dumping and subsidies on imported Australian wine.

In connection with the statement above, the problems that can be formulated are as follows:

- (1) Does China's anti-dumping policy on Australian wine violate the provisions of Article VI of the GATT?
- (2) What are the implications of China's anti-dumping policy on Australian wine exports?

2 Method

The method used in this research is using a normative juridical approach. The specification of the research used is descriptive-analytical. Sources and types of data used in this study are secondary data consisting of:

- a. Primary legal materials
Is legal material that has binding legal force, such as international agreements and statutory regulations, such as:
 - (1) General Agreement on Tariffs and Trade (GATT) 1994;
 - (2) Anti-Dumping Agreement;
 - (3) Ministry of Commerce of the People's Republic of China, MOFCOM Announcement No. 34 of 2020;
 - (4) Ministry of Commerce of the People's Republic of China, MOFCOM Announcement No. 59 of 2020;
 - (5) Ministry of Commerce of the People's Republic of China, MOFCOM Announcement No. 6 of 2021;
 - (6) Dispute Settlement Understanding (DSU)
- b. Secondary legal material
Are materials closely related to primary legal materials and can assist in analyzing and understanding primary legal materials? Secondary legal materials include:
 - (1) Books and literature related to international economic law
 - (2) Legal journals related to international economic law and anti-dumping
 - (3) The results of research related to this research, such as theses, theses, and dissertations
 - (4) Reports and newspapers

c. Tertiary legal materials

It is material that provides in-depth explanations of primary and secondary legal materials, such as legal dictionaries and language dictionaries.

3 Results and Discussion

3.1 Position Case

Wine is a characteristic of the western world that contains important values in terms of religion, local drinks, and international trade. Due to these various aspects, the global wine trade has experienced a rapid increase. From 1960 to 1990, global wine exports only reached 15%, but from 2004 to 2006, wine exports reached 25% and even more than 30% [16]. It is proven that the increase in the wine trade is one aspect of the complex evolution of the world wine sector, where there have been significant changes in production, consumption, and the direction of export flows.

Australia is one of the largest wine exporting countries in the world, where Australia has marketed 763 million liters of wine to 112 countries around the world, with a total profit of 2.95 million dollars or equivalent to 6% of the total value of Australia's agricultural exports. Of these 112 countries, China is one of Australia's largest export markets, contributing 13% of Australia's total wine exports, especially for bottled wine products since 2010. to 81% and 91% in a decade (2010-2020).

However, at the end of 2020, China stated that Australia was dumping some wine products to the detriment of China's domestic industry. Based on this assumption, China issued the Chinese Ministry of Commerce Announcement (MOFCOM) No. 34 of 2020 concerning the Filing of Anti-Dumping Investigations Against Australian Imported Wine. The announcement stated that on July 6, 2020, MOFCOM received an anti-dumping investigation application officially filed by the China Alcoholic Beverage Association (from now referred to as Petitioner). The applicant alleges that Australia is dumping bottled wine products based on reports that the consumption and sales of domestic wine decreased from 2015 to 2019, which affected domestic profitability, losses during the period 2015 to 2019, profit before tax, and investment returns continued to decline, while consumption towards Australian wine continues to increase from year to year.

On August 18, 2020, MOFCOM again issued Announcement No. 59 of 2020 concerning the Preliminary Decision of the Anti-Dumping Investigation of Australian Wine. The announcement stated that MOFCOM and the investigative authorities had investigated whether dumping and margin were dumping in the products under investigation, whether there were domestic industry losses, and whether there was a causal relationship between the dumping and such losses. Based on the results of an interim investigation, the investigative authorities determined that there was a dumping of imported wine from Australia, and the domestic wine industry suffered substantial losses, and there is a causal relationship between the dumping and the loss. Therefore, an anti-dumping import duty will be imposed on each company with products that have been previously investigated. In the announcement, MOFCOM attached a table containing the dumping margin of Australian wine products. The amount margin of dumping can be seen in Table 1.

Table 1. The amount margin of dumping

Company name	Margin of Dumping
Treasury Wine Estates Vintners Limited	175.6%
Casella Wines Pty. Limited	170.9%
Australia Swan Vintage Pty Ltd	116.2%
Australia Farm And Land Investment Pty Ltd	167.1%
Accolade Wines Australia Limited	167.1%
Octava Wines Pty Ltd	16.71%
Australian Vintage Limited	167.1%
Pernod Ricard Winemakers Pty Ltd	167.1%
Bogdan Investments Pty Ltd	167.1%
Brown Brothers Milawa Vineyard Pty. Limited	167.1%
Agreen Pty Ltd	167.1%
Darrien Estate Winery Pty Ltd	167.1%
Ferngrove Vineyards Ltd	167.1%
Fowles Wine Pty Ltd	167.1%
Furunde Wine Co. Pty ltd	167.1%
Millikanian Wines Pty Ltd	167.1%
The Red Kangaroo Wine Company Pty Ltd	167.1%
Chapel Hill Winery Pty Ltd	167.1%
Portia Valley Wines Pty Ltd	167.1%
Zilzie Wines Pty Ltd	167.1%
S. Smith & Son Pty. Limited	167.1%
Terra Felix Pty. Ltd.	167.1%
Australian Food & Beverage Group Pty Ltd	167.1%
Wingara Wine Group Pty. Ltd.	167.1%
Other companies	218.4%

The final determination of China's anti-dumping policy on Australian bottled wine products is contained in Announcement No. 6 of 2021 concerning the Final Decision on Anti-Dumping Investigation of Australian Wine. In the announcement, the investigative authorities determined that the dumping of Australian wine caused heavy losses to China's domestic wine industry and that there was a causal relationship between the two. This policy is officially valid for five years starting March 28, 2021, which requires wine importers through land and cross-border e-commerce to pay anti-dumping duties to the Customs of the People's Republic of China for bottled wine from Australia.

In response to China's anti-dumping policy towards some Australian wine products, Australia denied dumping during the investigation period and then filed a complaint with China through the WTO Dispute Body with case number DS602. In the complaint, Australia stated that China failed to define what a similar product was, failed to establish a normal price, and failed to test the accuracy of the evidence used in this investigation.

3.2 China's Anti-Dumping Policy on Australian Wine Products under the Anti-Dumping Agreement

The regulation regarding anti-dumping is contained in Article VI of GATT, which was later implemented into the Agreement on Implementation of Article VI of GATT 1994 or known as the Anti-Dumping Agreement. The agreement contains definitions, arrangements for determining to dump, calculation of margins, and other rules that serve as benchmarks for

countries wishing to impose an it-dumping import duty. This agreement protects the domestic products of member countries that are affected by losses due to the practice of dumping similar products.

Article 2.1 states that a product can be said to be dumped if there is a sale of goods to the exporter's market at a lower price than in the importing country or other countries. The price difference referred to in the Anti-Dumping Agreement can be seen in conditions such as [17]:

- a. The selling price in the international market (in the ordinary course of trade) is lower than the selling price in the domestic market itself;
- b. The selling price in the international market is lower than the comparison of the highest price with exports from third countries;
- c. The selling price on the international market is lower than the sum of production costs, selling costs, and profits.

On the other hand, Article 2.2 of the Anti-Dumping Agreement provides a situation that cannot be used as a comparison in determining whether a product can be said to be dumping or not. This situation is when there are no sales of similar products in the domestic market of the exporting country or when the sales volume is low, so the dumping margin cannot be calculated. Because of this, member countries can be allowed to use the calculation of constructed normal values.

To determine the calculation of products through constructed normal value, the Anti-Dumping Agreement explains that the competent authority can calculate based on records kept by exporters or producers who are being investigated, provided that these records follow accounting principles generally accepted by the exporting country. The records should fairly reflect the costs associated with the production and sale of the product. In this case, the investigative authority should consider these records as evidence of product dumping.

Apart from calculations, dumping products must have causality with harm (injury) to similar domestic products. Article 3.1 Anti-Dumping Agreement states that damages are based on evidence and must involve an objective examination of the volume of dumping on prices in the domestic market for similar products and the impact of dumping products on domestic producers. Then there are other factors, namely if the dumping product can threaten material losses from domestic products.

Given these factors, WTO member countries can also conduct investigations to determine concrete evidence that will be used as the basis for establishing an anti-dumping policy.

In this case, China argues there is a heavy loss to the domestic industry and its relationship with Australian products. China argues that there is a report from the investigative authority that there is a significant difference in the percentage of market share between domestic and Australian wine products per year. Starting from 2016, China has decreased by 3.82% from 2015. In 2017 it decreased by 3.90% from 2016, in 2018 increased by 1.53% from 2017, and in 2019 decreased by 0.92% from 2018. Meanwhile, Australia has increased every year with details: 2016 increased by 2.29% from 2015, 2017 increased by 1.84 % from 2016, 2018 increased by 2.27% from 2017, and 2019 increased by 2.50% from 2018.

Then, there is a significant difference in the import price of Chinese and Australian wine, namely the import price of Chinese wine, which has increased with details: in 2016, it increased by 33,227 RMB/kl (3.77%) from 2015, and in 2017 it increased by 34,560 RMB/kl (4.01%) from 2016, in 2018 it increased by 35,932 RMB/kl (3.97%) from 2017, and in 2019 it increased by 38,595 RMB/kl (7.41%) from 2018. Meanwhile, Australia experienced a decrease in wine import prices with details: in 2016, it decreased to 49,500 RMB/kl (10.63%)

from 2015, in 2017, it decreased to 46,532 RMB/kl (6.36%) from 2016, in 2018, it decreased to 41.780% RMB/kl (9.86%) from 2017, and in 2019 increased to 46,577 RMB/kl (11.48%).

Another data that China argues for is from the rapid increase in the percentage of Australian wine volumes during the investigation period (2015-2019). The data can be seen in the table below:

Table 2. Rate of the rapid increase in Australian wine volume (2015-2019)

Year	Volume (kl)	Percentage
2015	56,700 kl	-
2016	79,400 kl	- 40.04%
2017	105,800 kl	- 33.25%
2018	117,800 kl	- 11.34%
2019	120,800 kl	- 2.55%

Apart from the above factors, China also stated that the core factor that China used as the basis was because Chinese and Australian wine products were similar products, where there were similar characteristics and results between these two products.

In the case of China and Australia, factors such as properties, raw materials, production techniques, and final uses can be considered to determine whether a wine is a similar product. These factors are further described below:

- (1) Similarity of properties
Alcoholic drinks have the same properties, namely that they contain alcohol. In the case of China and Australia, red wine has the same alcohol content as fermented grapes, the same color, and the same taste. However, the characteristics of taste and color also depend on how long the fermentation is carried out.
- (2) Raw materials and production techniques
The raw material for wine is grapes grown and harvested, and then the juice is fermented.
- (3) End-use
Wine has the same use as other alcoholic drinks, namely to quench thirst, socialize, relax, and get drunk. But in some conditions, wine can be used for religious processions or as a marinade and flavoring in food.

Responding to China's argument, Australia has an argument regarding China's accusations and anti-dumping policy, namely the difference in sales between Chinese and Australian wines because the Chinese wine and wine industry is an industry that is still developing and does not have the same quality to compete with Australian wine, so it tends to be sold in the low-end market. Australia then also stated that the difference in sales and volume in China's market share was also influenced by the trade agreement between the two countries, namely, the China-Australia Free Trade Agreement (ChAFTA). This agreement significantly affects the competition between Australian, Chinese, and other countries wines. In this case, too, The Australian Grape and Wine Association states that domestic wine sales in China have a high percentage of volume, especially at low prices for wine, while premium quality wines dominate Australian wine sales.

Australia later stated there was a data gap in the questionnaire because China only gave Australian producers 37 days and refused the request for an extension. Based on the Anti-Dumping Agreement, for an extension to be carried out, it must be based on possible reasons,

and in Australia's claim, China rejected the application for the extension without any consideration or explanation.

Based on this, Australia stated that the lack of time for Australian producers caused data inconsistency. Producers did not fill in the fields in the questionnaire related to inventory, production costs, and production cost sharing and did not complete the fields as stated in China's statement in Announcements No. 59 and No. 6 China.

The determination of domestic losses claimed by China is considered inconsistent by Australia. It is because China is considered not to prove the proportion of the overall Chinese domestic industry. China uses only 21 domestic producers as a benchmark for determining losses in the domestic industry. Meanwhile, based on Article 4.1 of the Anti-Dumping Agreement, in determining the existence of losses, it must be seen: (I) based on positive evidence and (ii) showing the risk of material losses that affect the data economically and distort the analysis of the state of the industry. Then Australia also stated that China's statement was inconsistent with Articles 3.1 and 3.2 because China gave no positive evidence, the price comparison given was considered inaccurate, and China did not see other conditions related to wine sales in China's market share.

Australia also stated that the decline in China's domestic wine sales had no causal relationship with Australia. Apart from the difference in quality, Australia through Australia Wine and Grape stated that based on the IWSR Drinks Market Analysis, the consumption of Chinese domestic wine products reflected a high value compared to Australia, especially in 2017. However, it experienced a decline in 2019.

Apart from that, Australia stated that during the investigation period, wine importing countries had the highest import volume in the Chinese market besides Australia, namely France, Chile, Spain, and Italy. Collectively, these countries accounted for 89% of all bottled wine imports to China during the investigation period, with France alone having the highest import volume percentage at 37.69%, followed by Australia, Chile, Spain, and Italy. The data can be seen in Figures 1 & 2.

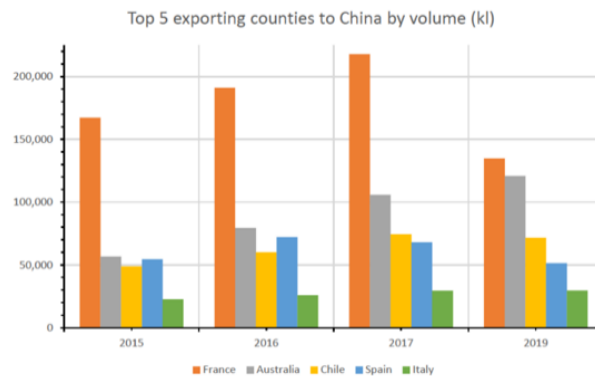


Fig. 1. Top five exporting countries to China

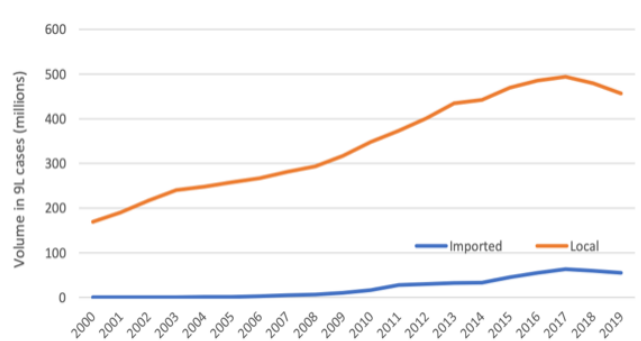


Fig. 2. Volume in 9L cases

Furthermore, based on Australia's argument, China's losses were due to other factors such as: changes in people's consumption patterns, reduced demand, technological advances, as well as export performance and domestic industrial productivity. The Australian Grape and Wine report states that there are statistical data showing that Australian wine exports both in terms of volume and import prices cannot cause losses to China's domestic industry, this is because there are other countries that have the same percentage as Australia. The data can be seen below.

Table 3. Wine export volume percentage by countries

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

Referring to the facts and data above, the author believes that there are differences in evidence related to domestic losses and causality presented by China with the data provided by Australia. Because of this, China's claims for domestic losses and causality are not in accordance with Articles 3.1 and 3.4 of the Anti-Dumping Agreement, where the determination of losses must be based on the volume of dumped products and their effects on the domestic industry and the domestic market. Then based on these data, the author argues that China's claims against Australia cannot be used as evidence because of the lack of data that China found through questionnaires, and the data in it is not representative of the Chinese market conditions during the investigation period.

Basically, if the committees from each country can prove that a country carries out a dumping act and the action has a causal relationship with the losses experienced by the domestic industry, a country can take countermeasures in the form of imposing an anti-

dumping policy or imposing Import Duties Anti-Dumping. In this case, the author believes there is a need for a decision and evidence by the Chinese investigative authorities before imposing an anti-dumping policy on Australian wine products.

Based on the Anti-Dumping Agreement and legal facts related to China's anti-dumping policy, several points can be outlined. First, the China investigation occurred because the Chinese Alcoholic Beverage Association complained about the alleged dumping of Australian wine products, and many domestic industries claimed to have suffered losses. The report was reported on behalf of China's domestic industry. These producers then participated in investigations conducted by China. Based on this information and Article 5.4, China can initiate an investigation because there are reports on behalf of the domestic industry.

Second, after China received reports from Chinese producers, the initiation and announcement of an investigation would be officially displayed and circulated both on the official website of the Chinese Ministry of Commerce and through a notification to the Australian Embassy. The existence of this information disclosure indicates transparency from China to related parties. It is also in accordance with Article 6.1. Anti-Dumping Agreement.

Third, China then distributed questionnaires that were circulated to all Australian wine producers suspected of dumping in the Chinese export market. The questionnaire will later become evidence and the basis for calculating the investigation authority to determine whether the wine products that are included in the scope of China's investigation are really dumped products and whether there is a causal relationship between the dumping products and the loss to the domestic industry. As explained in the previous discussion, the questionnaire will contain information regarding the income and expenditure of each producer. Based on this, China's actions are in line with Article 6.1.1 of the Anti-Dumping Agreement, which contains the provisions of the questionnaire, and is in accordance with Article 3.4 of the Anti-Dumping Agreement, which contains the basis for determining the margin of dumping of a dumping product.

Fourth, to ascertain whether Chinese and Australian wines are similar products, the author refers to the Japan case panel – Taxes on Alcoholic Beverage decision. In that case, Japan imposed an ad valorem tax on some imported alcoholic beverages such as whiskey and brandies, while there was a lower internal tax on Japan's domestic alcoholic beverage, shochu. Shochu is a traditional Japanese alcoholic drink made from grains and vegetables, usually sweet potato, barley, rice, buckwheat, and sugar cane. While other alcoholic drinks also have similar basic ingredients, although not all are the same.

In the panel decision, the panel decided that shot and other alcoholic beverages (whiskey and brandies) were similar products based on the nature of the drink, the same result, and the consumer's taste for alcoholic beverages [17]. See the panel's decision above; if shot and whiskey or brandies are similar products, then Chinese and Australian wines are similar products because they have similar characteristics and factors.

In this case, Australia states that in determining similar products, it can also be seen from the difference in the quality of similar products being sold, whether similar products use the same expertise, and how the prices of the two similar goods compare. The argument used by Australia is that there is a difference in quality between the wine products consumed by the Chinese people. For products from Australia, Chinese people are more likely to consume premium quality wine, while domestic products tend to consume low quality. It then makes a difference in taste due to the difference in quality between the two similar products. Then Australia also stated that another difference is that China is a wine industry that is still developing, so there will be differences in production techniques and expertise. Because of

this, the author also believes that in determining similar products, it is necessary to have the perspective of Chinese and Australian wine consumers as subjective views.

Although there are similarities in wine products in general, interpretations of similar products are often interpreted and defined based on the competitive relationship between the disputed products rather than on the identity of the physical characteristics or the size of the derivatives [18]. This interpretation is due to the wide definition of similar products in the GATT, so there are no standard limits and allows the use of various benchmarks. Suppose you look at the previous cases in the WTO Case Law. In that case, there are inconsistent interpretations of the concept of similar products, causing a negative impact on international trade, especially for the parties to the dispute [19].

Although China has fulfilled the elements of initiating investigations in line with the Anti-Dumping Agreement, China must review the arguments and evidence presented using representative and complete data.

3.3 Implications of China's Anti-Dumping Policy on Australian Wine Exports

Australia is one of the world's largest wine-producing countries, and the industry contributes greatly to the Australian economy. It is evidenced by Australia being the fifth-ranked country among other countries as a wine exporter, with 60% of wine production exported worldwide. The size wine and wine industry in Australia produces 2,468 wineries, and of that, 1,061 (43%) are for export, including to China with a total of 765 wineries or equivalent to 31% of Australia's total wineries.

As is well known, China has been the largest market share for Australian wine over the past decade, so China's anti-dumping policy has implications for the export of Australian wine products. The implication of China's policy on Australian wine exports is that before this policy, Australian wine exports in the Chinese market could reach a profit of \$898 million. Still, since China's imposition of anti-dumping duties on Australian wine exports, export profits have only been \$20 million [20].

The Australian wine producers must shift their wines to alternative markets and sell them at lower prices in the next two years. Another implication for Australia is that around 60% (\$720 million) of wine exports destined for China will be diverted to alternative markets. In comparison, the remaining 40% (\$480 million) will be considered the lost gross value of production.

Over the next five years, China's anti-dumping policy will have implications for Australian producers and exporters who must adapt to the policy. These adaptations include changing the decision to produce more whole wines rather than bottled wines, selling wine in alternative markets at relatively low prices, and converting vineyard areas to livestock production. Regarding these implications, the policy to produce more whole grapes also has an impact on the decline in gross value by an estimated 7% by 2025, and the parties affected by this policy will receive low profits or even losses, such as grape growers who are estimated to suffer losses of around \$67 million per year. In addition, the decision also impacts the wine industry, which is expected to lose \$190 million in 2025. Over the five years leading up to 2026, it will cost around \$2.4 billion to transition, depending on how quickly Australian wine producers adjust.

Based on data from the Australia Bureau of Agriculture and Resource Economics and Sciences (ABARES), another implication of China's policy on exports of Australian wine products is the decline in harvest prices for wine from 2021 to 2022. The decline in Australian wine harvests looks significant, namely as much as 6 % or the equivalent of AUD \$656 per

tonne of wine. Comparative data on commodity sales in Australia can be seen in the table below:

Table 4. Commodity sales data in Australia

Commodity	Prices (2021-2022)
Wheat	- 23% (US\$330/t)
barley	- 13% (US\$271/t)
Canola	- 46% (US\$799/t)
Sugar	- 21% (USc 20/lb)
Cotton	- 33% (USc 110/lb)
Wine	- 6% (AUD\$656/t)

The facts and data above show that China's anti-dumping policy has implications for the export of Australian wine products, thus requiring wine farmers, producers, and exporters to adapt to the new situation. In Australia's complaint against China at the WTO Dispute Body, this policy is considered to have injured Australia's domestic industry, especially with the lack of evidence made by China.

4 Conclusion

Procedurally, China's anti-dumping policy towards initiating investigations of wine export products from Australia has complied with the terms and conditions of the Anti-Dumping Agreement. However, there is a data gap regarding China's claimed domestic losses with data from Australia. Based on this, the imposition of policies on China's anti-dumping needs to be reviewed together with China's calculation of the margin of dumping for Australian wine products, considering that there is no complete data taken from the Australian wine producer's questionnaire as a representation of market conditions during the investigation period. Inaccurate calculations can lead to violations of the principles in the GATT/WTO, especially the principle of non-discrimination. In this case, Australia can take judicial steps through the WTO Dispute Settlement Body.

China's anti-dumping policy has implications for Australian wine exports. The implication is a decrease in wine exports, which initially amounted to \$898 million, decreased to \$20 million since China's anti-dumping policy was enacted. This is because China is Australia's partner in wine exports, where Australia has benefited greatly since the bilateral agreement was enforced between the two countries. Apart from the decline in wine exports, Australia has lost its wine export market resulting in 60% of Australian wine exports being diverted to alternative markets to cover the losses suffered by Australian wine producers. Australian wine producers must also adapt to China's anti-dumping policies by changing decisions related to vineyard areas' production, sale and conversion.

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