

Q & A

TRANSFORMATION & LABOUR RELATIONS IN THE SOUTH AFRICAN WINE INDUSTRY



A collaboration between:



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***Note: This document is compiled and supported by the South African Wine Industry and its partners, Vinpro, WoSA, SALBA, SAWIS and WIETA. The information contained herein will require regular updates. Please highlight any information that is out of date by emailing info@wosa.co.za.*

1 INTRODUCTION

The South African wine industry currently produces 4.0% of the world's wine and we are the tenth largest producer of wine globally. The industry contributes R36 billion to our GDP, creating employment for 290 000 people throughout the wine value chain. The wine industry has also made South Africa an attractive wine tourism destination.

The South African wine industry has made significant economic and social progress since joining global markets and has committed itself to achieving transformation and social development targets.

Through the Wine Industry Strategic Exercise – an initiative that was launched in 2014 – the wine industry is collaboratively committed to sustainability plans to benefit all stakeholders. This includes investment in social development programmes focussing on skills training and development, child education and development, after-care facilities for children to help working moms, rehabilitation programmes and enterprise development. Various multi-stakeholder platforms have also been introduced over the past few years and can be utilised by all agri-workers to address issues in a safe and fair manner.

The South African wine industry want consumers of South African wines to feel reassured that agri-workers in the industry are paid a decent wage, their children are supported and their labour is protected, and that the wines they enjoy have contributed to a better life for agri-workers.

This document aims to provide up to date information on specific issues pertaining to safeguarding agri-workers and their rights, including labour practices, wages and Black Economic Empowerment.

2 LABOUR PRACTICES

1.1 Are agri-workers allowed to join a union?

- Yes, all agri-workers are entitled to join a union of their choice.
- The right to join a union is governed by law (e.g. Labour Relations Act; the Constitution).
- If producers do not allow freedom of association then they are acting illegally.
- Producers can be written up for contraventions and are routinely inspected by the Department of Employment and Labour.
- Agri-workers and their unions can also approach the Commission for Conciliation, Mediation and Arbitration (CCMA) for any unfair labour practices.

1.2 Do you recognise unions?

- Yes. Union recognition is negotiated between the employer and employees through their union.
- A registered union must prove that they are sufficiently representative (usually 20 - 50%) before the union can be recognised and enjoy certain rights, eg. deduction of membership fees and must have 50+ 1% members to negotiate wages.

1.3 Why are some agri-workers afraid to join a union?

- Some agri-workers who have joined unions, may feel that they have not seen the benefit of belonging to certain trade unions despite paying monthly union membership.
- Perhaps the interests of agri-workers are not always served by certain unions.
- Some agri-workers often want to protect their homes and livelihoods and do not want to be affiliated to those unions who may be perceived to have a more militant approach to industrial relations.
- Some unions have at times been perceived to be associated with divisive means of resolving issues that are global South African labour issues and not within the power of the wine farm to resolve. The wine industry finds itself in a post-liberation process that is a national one and not necessarily in its own business' sphere of influence to change, or of its own making in the first place. Some agri-workers recognise this concern.
- Some unions may have, in some cases, been implicated in arson and life-threatening actions in an attempt to effect outcomes which are often outside the sphere of influence that some farms have. Agri-workers recognise this.
- Employers who share the above two perceptions will at times deem agri-worker associations with certain unions as being a means with which to bully the employer into making concessions that are beyond their means or beyond their sphere of responsibility. Unhealthy tensions are often avoided by agri-workers who will then choose not to join unions for this reason.
- Legislation allows for workplace forums that are in many occasions preferred by agri-workers.

1.4 Do agri-workers get paid for overtime work?

- Agri-workers are entitled to overtime pay.
- Not paying agri-workers overtime is an offence and is routinely inspected by the relevant government functionaries.

1.5 If you were to be made aware of instances where farmers prevent agri-workers from joining a union, what action have you taken against those farmers?

- Ethical audits are conducted on farms to ensure agri-workers' rights are protected. These include that agri-workers are not prevented from joining a union.
- Audits are conducted by independent third party certification bodies.
- The Department of Employment and Labour oversees that labour requirements are complied with, which includes the right of affiliation with a union.
- Depending on the contravention, either corrective action is taken, or severe transgressions are mitigated by the Department of Employment and Labour.
- Ethical bodies are alerted to such a claim and have routinely carried out spot checks and violations investigations to ensure that such matters are remedied and resolved.
- Where violations are observed, wine suppliers may be excluded from local and international markets for severe offences.

1.6 Which audits verify that agri-workers can freely join a union?

- Ethical audits that investigate agri-worker conditions include Fairtrade, Amfori BSCI, SMETA and the Wine Industry Ethical Trade Association (WIETA)
- Countries that wines are exported to also have their own ethical audits.
- Some international and local retailers also audit labour conditions before buying South African wine.
- The wine industry supports all the ethical audits as we are committed to protecting agri-workers' rights.

2 WAGES

2.1 What is the minimum wage?

- From 1 March 2020, the National Minimum Wage was set at R20,76 per hour for all employees and R18,68 per hour for agri-workers.

2.2 How many farmers comply with the minimum wage?

- All farmers are expected to comply with the minimum wage and where non-compliances with the legal requirement are found, immediate corrective action is required and referred to the Department of Employment and Labour for further legal enforcement.

2.3 Do farmers pay above the minimum wage?

- There are many farmers who pay above minimum wage.
- The minimum wage only acts as an absolute minimum for mostly entry-level and seasonal employees and is often supplemented with production bonuses.
- A study conducted during the 2016 harvest season by the Cape Agri Employers Organisation indicated that the 2,956 entry-level agri-workers that were included, were on average paid 15% more than the minimum wage.

2.4 Why do farmers make deductions from salaries?

- All employers are entitled to make salary deductions for items and amounts as regulated by law and the law required that these deductions must be agreed with agri-workers in writing.
- Examples of allowable deduction by law are accommodation and electricity costs.
- Some deductions are compulsory; e.g. Unemployment Insurance.

2.5 How do you regulate farmers who don't comply?

- Non-compliance is usually picked up in independent ethical audits.
- Ethical trade organisation have an Incidents Reporting and Violations procedure where complaints are referred for further investigation or referral to the Department of Employment and Labour and Department of Agriculture.
- Some civil society organisations and trade unions working in the wine sector sometimes bring this to the attention of Wine Industry Organisations.
- Ultimately, the Department of Employment and Labour has enforcement authority to ensure that employers act within the ambit of the labour law.
- The wine industry supports all ethical audits.
- Where violations are found, international markets and local markets would work closely with wine brands and ethical trade organisations to ensure that the supplier adopt remedial steps to restore human and labour rights on site.

2.6 Many agri-workers say you are ineffective in reprimanding farmers. Is this true?

- The industry has set up a multi stakeholder Alternative Resolution Network Mechanism to monitor and refer violating farms to the appropriate authority for investigation.
- Such violations are referred through to the Departments of Employment and Labour and Agriculture. The Department of Employment and Labour has the responsibility for law enforcement.
- For transgressions against the ethical code, organisations like the Wine Industry Ethical Trade Association (WIETA) adopt a corrective actions and continuous improvement approach to ensure that agri-workers' rights are protected. Audited sites are required to undertake improvements within a stipulated period of time and evidence of such actions are loaded onto a platform which is monitored by the wine supply chain members. Should violations be found between audit periods, employers are required to undertake a remedial plan. In the event that employers refuse to undertake such plans, certification can be withdrawn.

2.7 How do you pay agri-workers who are seasonal?

- Some seasonal agri-workers are paid in cash, but mostly by Electronic Transfers (EFT's).
- They are paid weekly.
- Time has to be recorded.

2.8 The wine industry employs about 290 000 agri-workers. Does this include seasonal agri-workers?

- Yes, this figure is made up of permanent, seasonal and part-time agri-workers and included everyone in the total wine value chain.

2.9 South Africa has the highest levels of inequalities in the world. How do you justify the massive inequality between agri-workers and owners?

Inequality is not acceptable. The South African constitution gives every South African the right to equality and these rights are further strengthened by several pieces of legislation, including the Employment Equity Act, The Skills Development Act and the Labour Relation Act.

3 FETAL ALCOHOL SPECTRUM DISORDERS (FASD)*

3.1 How prevalent is it?

- FASD is unacceptably high in South Africa.
- SA figures are amongst the highest reported in the world.

3.2 What are you doing to stop it?

- The industry invests in support programmes to educate vulnerable persons.
- There are also sponsors from the private sector and government departments who are funding FASD awareness, prevention and research projects.
- Aware.org.za is registered as a non-profit organisation (NPO) with the Department of Social Development and is focused on the prevention of the negative consequences of alcohol abuse. There are rehabilitation programmes in place.
- Full time social agri-workers are employed by the wine industry to help those affected.
- Alcohol abuse is common in many communities, and not confined to the wine sector.

3.3 Does payment in wine contribute to FASD?

- Payment in wine is unlawful.
- It was outlawed in 1960.
- It might have contributed to the creation of a drinking legacy in some communities, but it is certainly not one of the main causes of FASD in South Africa. If it was, there should have been a remarkable decrease in the FASD rate since the abolishment of this practice. In the research done by the Foundation for Alcohol Related Research (FARR) since 1997 in Gauteng, Free State and the Western, Eastern and Northern Cape provinces, only 3% of the participants indicated that they or their parents have ever been involved in payment in wine and all of these cases were before 2000.

3.4 How do you manage pregnant women working on farms?

- Working conditions of pregnant women is governed by the Basic Conditions of Employment Act and other relevant laws.
- The Occupational Health and Safety Act requires that where pregnant women are in employment that the employer conducts a particular risk assessment to ensure that the pregnant women are not exposed to any hazardous work such as chemicals or dangerous work that may be harmful to the pregnant women and her unborn child.
- There are a number of research, awareness and prevention projects offered by mainly FARR and FASfacts which are funded by a number of sponsors.

3.5 FASD incidents are the highest reported in the world. How did you get here?

- Regrettably, alcohol abuse is prevalent in many communities.
- Apartheid caused significant harm to family structures and matters of self-worth amongst rural families.
- We have made some progress in addressing many of the social problems, including FASD, but a lot of work in terms of education is still to be done.
- Based on research findings from FARR, the main reason for alcohol use and abuse during pregnancy in rural (including farming) and other urban communities are:
 - Unaware of pregnancy (78% of pregnancies in SA are unplanned. Women therefore continue to use alcohol as before, not realizing that they are pregnant.)
 - Lack of knowledge regarding FASD, as well as the harmful effects of alcohol abuse.

- Peer group pressure, especially from partners, immediate family and close friends.
- Drink to 'forget' or 'dull the pain'.
- Depression.
- Drink 'because that's the way we do it'.

* *Information supplied by the Foundation for Alcohol Related Research (FARR)*

4 PAYMENT IN WINE

4.1 Do farmers pay agri-workers with wine?

- No, payment in wine is unlawful.
- It was outlawed in 1960.
- We are not aware of agri-workers being paid with wine. Such incidents are illegal and will be severely dealt with.

4.2 What mechanisms do you have in place to report farmers who pay agri-workers with wine?

- The industry has set up a multi stakeholder Alternative Resolution Network Mechanism to monitor and refer violating farms to the appropriate authority for investigation.
- Such violations are referred through to the Departments of Employment and Labour and Agriculture. The Department of Employment and Labour has the responsibility for law enforcement.
- For transgressions against the ethical code, organisations like the Wine Industry Ethical Trade Association (WIETA) payment with wine is considered a zero tolerance findings and is immediately reported to the authorities.
- The Department of Employment and Labour, having enforcement authority, would act swiftly to issue a contravention order or even go as far as closing the site down.
- The South African Police Services in the Western Cape province is authorised to reports such incidents directly to the Premier.

4.3 What action do you take against farmers?

- We have a zero-tolerance approach if any farmer were to be found paying agri-workers with wine.
- The full extent of the law will prevail in such cases.
- Industry bodies report such offences to law enforcement authorities with immediate effect.

4.4 How do you protect whistle blowers who report farmers?

- An Incidents and Violations process is in place with the ethical standards such as WIETA or Fair Trade.
- Any agri-workers or stakeholders can use this anonymous process to report complaints.
- The Wine Industry Value Chain Round Table is a multi-stakeholder structure, with representation from the wine industry, unions and labour, as well as government. This structure has introduced the Alternative Resolution Network Mechanism, which is a mechanism provided to handle anonymous complaints.

4.5 Are farmers allowed to sell wine to agri-workers?

- Several farms do sell wine from their tasting rooms or restaurants as part of their tourism offering. It is not illegal to sell wine to a agri-worker.
- Employees including agri-workers are not prohibited from buying wine on farms.

5 HOUSING

5.1 Whose responsibility is it to provide housing?

- The South African constitution states that all South Africans have the right to housing.
- Various Departments have been given mandates to make housing accessible and more affordable to lower income citizens.
- Where accommodation is on farm and forms part of the agri-worker's contract of employment, the employer takes responsible to provide such accommodation.

5.2 Do farmers provide electricity and water?

- Producers are required to provide access to clean water for all agri-workers accommodated on the farm.
- South African legislation regulates that where there is a deduction for accommodation on farm electricity is available inside the house where the infrastructure exist on the farm.
- Ethical Codes, such as WIETA, provide accommodation guidelines that stipulates that access to water and electricity (or another appropriate energy source for heating, cooking and lighting, for example, solar energy) is provided.

5.3 Can farmers deduct cost of electricity and water from wages?

- Water must be provided free of charge.
- A deduction for electricity may be deducted, at cost, but individual usage per house must be measured and proof thereof provided.
- Agri-workers must be informed of the deductions and what they are for.

5.4 Do you have minimum standards for housing?

- Where deductions are made for housing from agri-worker wages, the law requires that certain minimum housing requirements must be met.
- The ethical codes outline the minimum standards for agri-worker accommodation aligned to global and local requirements.
- Local authorities also have minimum standards.

5.5 Why do most agri-workers live in shacks?

- Most agri-workers do not live in shacks.
- The South African government has a housing subsidy scheme for people who need access to affordable housing.
- This scheme makes provision for those who earn R3 500 or less per household income.
- Those who wish to apply are put on housing list, unfortunately these people often wait up to ten to fifteen years before they receive such subsidy.
- Many agri-workers exceed this threshold and are therefore not eligible for the scheme. They are however also not eligible to get housing loans from the banks. This situation leaves them destitute and vulnerable.

5.6 What facilities do farmers have for children?

- Many farms have crèches and schools.
- In many cases farmers pay for the schooling of children as well as provide transport to local schools.
- Playgrounds and other recreational and educational facilities are common.

5.7 How do you monitor to check that housing is adequate?

- The quality of agri-worker accommodation is monitored through independent ethical audits.
- The backlog in agri-worker housing has been taken up by National Government as a priority concern.
- The Industry Organisations together with labour have taken up the issue of lack of housing with some the District Municipalities.
- The industry has set up a multi stakeholder Alternative Resolution Network Mechanism to monitor and refer poor agri-worker accommodation to the appropriate authority for investigation.
- Such violations are referred through to the Departments of Employment and Labour and Agriculture. The Department of Employment and Labour has the responsibility for law enforcement.
- The Provincial Department of Human Settlements has provincial oversight for housing and have different housing programmes currently underway. Agri-workers have been assisted to apply for these programmes.

6 CERTIFICATION / AUDITS

6.1 What ethical audits do you have?

- There are numerous ethical audits undertaken in the wine industry.
- These include, but are not limited to:
 - Wine Industry Ethical Trade Association (WIETA)
 - The Sustainability Initiative of South Africa (SIZA)
 - Fairtrade
 - Fair for Life
 - Amfori's Business Social Compliance Initiative (BSCI)
 - Sedex' Sedex Members Ethical Trade Audit (SMETA) against the ETI Base Code

6.2 What do they audit?

- The audits check compliance against an internationally accepted set of social standards benchmarked against local law.
- Compliance is measured against:
 - Social Management systems
 - No Child Labour and protection of young agri-workers, where they are employed
 - Freedom of Association and the right to bargain collectively
 - No Forced Labour
 - A Healthy and Safe working environment
 - Wages
 - Working Hours and Conditions of Employment
 - Fair Treatment and Fair disciplinary and grievance procedures
 - No Unfair Discrimination
 - Regular work
 - Agri-worker Accommodation Conditions

6.3 Are audits announced?

- Scheduled audits can be announced, semi announced or announced as per risk profile and buyer requirements.

6.4 Do you have your own ethical protocols?

- Some of our own local ethical audits include:
 - Wine Industry Ethical Trade Association (WIETA)
 - The Sustainability Initiative of South Africa (SIZA)
- Some local buyers such as Woolworths have their own ethical audits
- Some wine brands and cellars have introduced their own internal audit checks

6.5 There are 400-odd audits. How can I be sure they are authentic?

- They are independent, third party audits
- Third party audits meet audit standards and competency requirements as set out by global initiatives such as
 - The European Consumer Goods Forum's Sustainable Supply Chain Compliance Initiative (SSCI);
 - Association for Professional Social Compliance Auditors (APSCA).
- Many global retailers also benchmark codes and standards against each other to ensure recognition of audits.

6.6 Ethical labels are confusing. How can I be sure that I'm making the responsible choice?

- Ethical labels are one way in which consumers can satisfy themselves that they are making responsible choices.
- Ethical labels provide product assurance and require full traceability of ethical compliance within the wine supply chain.

7 GOVERNMENT

7.1 Is government doing anything to make the social problems better?

- The industry works very closely with Government.
- Many argue that government has to review the housing policy for agri-workers.
- Social grants have helped some destitute communities.

7.2 What else can government be doing?

- Many argue that government has to review the affordable housing options for agri-workers.
- Improving access to training and skills development through sustained support and social development of our communities.
- Providing funding support for enterprise development in the wine industry through various initiatives.

7.3 Hasn't the lack of land reform contributed to the problem?

- Effective land reform will contribute to broadening ownership of land in the wine industry. The South African wine industry liaises with Government on the matter of land reform and participates on various forums that provide funding and support for new land and business owners.

7.4 What is the WIVCRT?

- The Wine Industry Value Chain Round Table initiative is a partnership between government, the wine industry as well as labour and civil society groups. The aim of the WIVCRT is to foster collaborative industry-government actions that help to secure an enduring competitive advantage of the wine industry. The WIVCRT is envisaged to involve all critical role players within the entire wine value chain.

8 TRANSFORMATION / BEE

8.1 What training programmes do you have?

- Various training and development programmes are available, e.g.
 - Black leadership development and enterprise development.
 - Creating market access opportunities for black owned enterprises.
 - Developing enterprises to be trade ready
 - Social work support to vulnerable families and communities.
 - Bursaries to students in communities that shows interest and potential in the wine industry.
 - Technical production training, Agri-worker rights-based training, Ethical codes training.
 - Health and safety training.
 - Life skills training.

8.2 How many agri-workers have moved up to management and other positions? Is it common?

- Yes, it is common, but more is required.
- Management and leadership development programmes have been successful.
- Several hundred personnel have moved into middle and farm management position as a result of training and development programmes.

8.3 Is share ownership by agri-workers common in your industry?

- Yes, share ownership comprises the majority of black ownership in the industry.

8.4 What can be done to improve ownership or access to the industry?

- Credit lending models for enterprises.
- Improved Government land reform policies. Current land reform policies are not effective in intensive farming models and more effective in extensive farming models.

8.5 How many wine farms have BEE partners? Is it effective?

- Approximately 60 farms have BEE partners.
- Various other forms of empowerment are quite common.

8.6 Do you support enterprise development? How?

- Yes, enterprise development is supported.
- We facilitate access to grants and loan funding and provide free technical mentorship and advice, business mentorship, acquiring liquor licence, trade mark registrations, training and skills development.
- A consultative process is nurtured where we assist each enterprise do develop their own value proposition.

8.7 How many brands are black owned?

- About 67 wine brands are black owned.

8.8 Is black ownership the answer to the socio-economic problems?

- In itself, it is not the solution to socio-economic problems.
- Socio-economic factors have several causal factors and solutions are multi-faceted involving several stakeholders.

8.9 Has this industry been slow to transform?

- Yes, given inherent barriers to entry in terms of market competitiveness and costs of capital.
- All new entrants struggle to sustain wine enterprises due to financial constraints and historic challenges in the wine industry.
- A recent government study found that only 38% of land reform farms across the agricultural sector are legally compliant with labour laws.

8.10 What is Stronger Together?

- Stronger Together is a multi-stakeholder business-led initiative aiming to reduce modern slavery particularly forced labour, labour trafficking and other hidden exploitation of agri-workers.
- Stronger Together have funding from the UK Home Office to roll out in-depth, specialist training opportunities on tackling modern slavery including open workshops, e-learning modules and bespoke in-house training.
- For more information, visit www.stronger2gether.org.

8.11 What is the Transformation Unit?

- The SA Wine Industry Transformation Unit (SAWITU) is a non-profit company which was constituted in 2016. The TU is a multi-stakeholder entity, duly mandated by the SA Minister of Agriculture to conceive, fund and oversee programmes that relate to Enterprise and Supplier Development, Skills Development and Socio Economic Development in the context of Black Economic Empowerment. It reports progress on achievements and planned activities to the National Agricultural Marketing Council (NAMC), whom in turn, provide guidelines to all subsectors in agriculture, on the nature of programmes which may be funded through statutory measures as determined under the auspices of the MAP Act of 1996 with subsequent amendments considered. The TU is comprised of 5 directors seats, namely NAMC, Vinpro, SALBA, Labour and Black Owned Brands. An independent chairperson is appointed in line with the companies MOI.

9 TOXIC CHEMICALS

9.1 Are agri-workers exposed to harmful chemicals?

- Agri-workers can be exposed to harmful chemicals if producer do not take responsibility for preventing, exposure and protecting agri-workers on their premises.
- Strict laws and protocols govern chemical use (e.g. Occupational Health and Safety Act).

9.2 What training is provided?

- All agri-workers are required to attend health and safety training.
- Safe handling of chemicals training is also compulsory for agri-workers administering chemicals.
- Agri-workers are instructed on how to store, administer and dispose of chemicals safely.
- Agri-workers are informed about how and when to use safety equipment such as gloves, masks, gumboots.
- No spraying is done when the wind blows to prevent chemical drift.
- No agri-workers are allowed in vineyards when chemicals are applied, except those who are applying the chemicals.

9.3 How do you ensure farmers comply with protocols?

- This can be picked up through independent environmental and health and safety audits. (e.g. Fairtrade, WIETA, Global Gap and Integrated Production of Wine audits (IPW))
- The wine industry supports all environmental and health and safety audits.
- Civil society organisations working in the wine sector can bring this to our attention.
- Unions also report offences.
- Wine suppliers are excluded from local and international markets for severe offenses.
- Retailers also enforce their own environmental and health standards.
- Health and safety compliance is managed by the Department of Employment and Labour.

9.4 How do you police the correct use of agro-chemicals?

- Audits monitor the correct use of chemicals.
- The Integrated Production of Wine (IPW) audit specifically entails agro-chemicals in terms of environmental sustainability.
- Retailers also enforce their own environmental and health standards.
- The Department of Employment and Labour undertake regular inspections.

9.5 What mechanisms are in place to ensure farmers comply with the Occupation Health and Safety Act?

- This can be picked up through independent environmental and health and safety audits. (e.g. Fairtrade, Global Gap, IPW and WIETA)
- The wine industry supports all environmental and health and safety audits.
- Some civil society organisations working in the wine sector can bring this to our attention.
- Unions also report offences.
- Wine suppliers are excluded from local and international markets for severe offences.
- Retailers also enforce their own environmental and health standards.
- Health and safety compliance is managed by the Department of Employment and Labour, who does regular inspections.

10 CONTACTS

For all matters relating to any of the above points, please refer them to the following bodies:

Wine Industry Ethical Trade Association (WIETA) members:

Tel: 0800 627 774

E-mail: info@wieta.org.za

Department of Employment and Labour:

David Esau

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The contact number given to employees depends on the area in which they live or have access to:

Somerset West

Tel: 021 852 6535

Paarl

Tel: 021 872 2020/74

CCMA

Tel: 021 469 0111

Department of Agriculture:

Gertrude Jacobs

E-mail: GertrudeJ@elsenburg.com

Copy the following person in:

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For any legal assistance, refer employees to:

Legal Aid Clinic, University Stellenbosch

Tel: 021 808 3600

Legal Aid Board (Justice Centre) in their area.

Fairtrade & FloCERT

Tel: 021 448 8911

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Agricultural Agri-workers Empowerment Union Council (AWETUC)

WINE INDUSTRY ORGANISATIONS:

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