

Submission to the Independent Review of Australia's quarantine and biosecurity systems

This submission is limited to item 4 in the Terms of Reference "*the appropriateness, effectiveness and efficiency of governance and institutional arrangements to deliver biosecurity, quarantine and export certification services*".

Discussion on the Role of AQIS in regulating food businesses that export and import

Background

Queensland food businesses are encouraged to export or achieve export ready status as part of their business planning. Government programs exist to promote this capability and to assist business to reach this objective. Export arrangements are based on specifications that meet customer demands. Assurance measures for guaranteeing food safety and quality standards for Australian food commodities are also routinely mandated by importing countries. The foundation of these assurance measures are the Australian standards for Primary Production and Processing and the Food Standards Code.

Government certification is required for access to the majority of export markets, this certification is provided by the Australian Quarantine and Inspection Service (AQIS).

While the large businesses cope reasonably well with both the complexity and cost of current requirements set by AQIS, they employ Quality Assurance managers for this purpose, small and medium size enterprises and those who do not employ specialist staff are finding it hard to manage these requirements.

The effectiveness and efficiency of export and import controls managed by AQIS has been the subject of frequent review with many recommendations from such reviews accepted by Government. An example of this is the findings of an independent panel review (Frawley Review) of the *Export Control Act 1982* (Cth) during 1999 under the National Competition Policy, which examined the Federal export regulation and its effects on competition and export by Australian food industries.

The review found the Act provided 'recognisable economic benefit', but policies and procedures could lead to major competitive distortions with associated inefficiencies and trading disadvantages. The Panel assessed that distortion could be reduced by 'changing the emphasis of some functions' and by addressing a set of problems, including dual systems (domestic and export) for managing food safety, and complexity and cost incurred in meeting export systems.

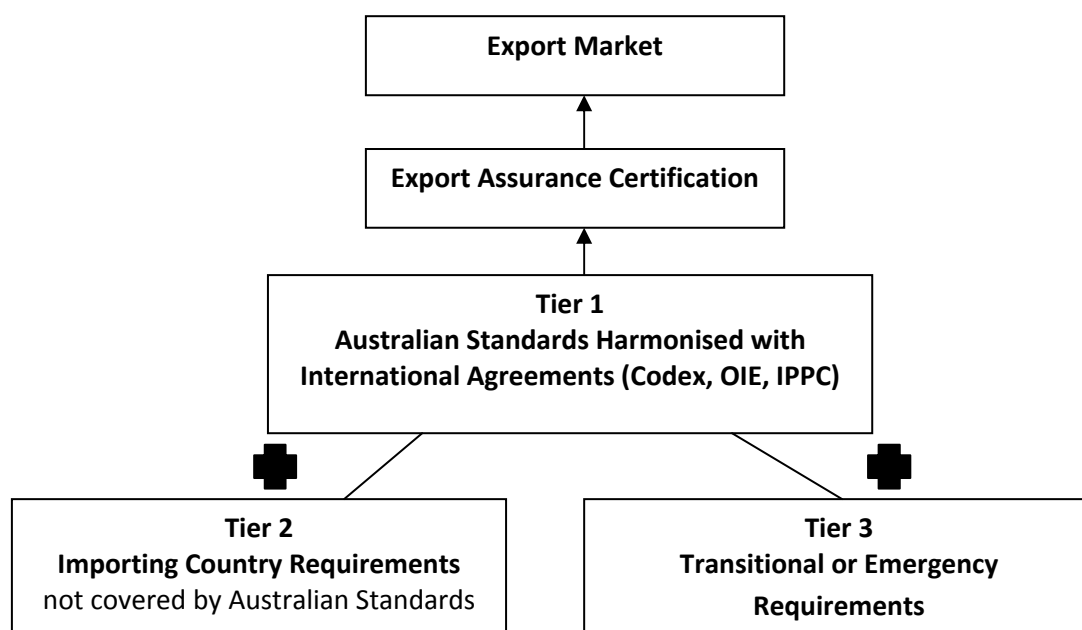
The Export Assurance report, said that ‘Australian exports of food and agricultural products have been disadvantaged by working under a combination of two systems – domestic and export – and legislation that is unnecessarily prescriptive’. It developed a Vision for more streamlined, efficient, trade-effective food processing regulation.

“The ... Vision is for exports based on Australian standards, enabled by a true partnership between government and industry, with single-body certification by government, where this is required by importing countries. ... The Committee believes the vision could not be attained without a fundamental change in the manner by which Australian food and agricultural products are currently regulated.

[The vision involves] adoption of Australian standards, rather than the most stringent foreign requirements, as the baseline for all export destinations [and] freedom for individual producers to invest to meet additional standards that may be required by individual governments... Export Assurance Report,”

A key recommendation of the Export Assurance model is that food manufacturing plants in Australia should all operate under Australian Standards (these harmonised with international agreements, Codex, OIE), implemented at State to local levels. This would be ‘Tier 1’ i.e. ongoing Australian manufacturing production of many types of food consistently safe for human consumption in Australia and if exported.

“ *Export Assurance report 2000 – Features of the Three-Tier Model*



Where an importing country specifies additional or different requirements not covered by Australian food safety standards, these ‘Tier 2’ criteria would be need to be met and verified with government certification if required by those countries.”

While reviews of AQIS Export Orders during 2005 added an 'outcome' orientation and incorporated Food Product standards, two food hygiene systems still clearly operate. The dairy industry had notably achieved some convergence of 'domestic' and 'export' through logic, performance and practicality of audit co-operation. VCEC, in its Sept 2007 Food Regulation report observes positively on sensible delegations between AQIS and State authorities on Dairy audit. Yet, there are signals in 2007-08 that these MOUs are breaking down for a range of reasons.

- **A number of pointers indicate the need and opportunity for fundamental review again of duplication of Australian standards and 'export standards'.** These include (i) the Dairy Industry securing a formal Primary Production and Processing Standard following independent FSANZ assessment of the safeness of food outcomes from State-based dairy hygiene regulation, and (ii) Federal and State Governments commitments from 2006 to seriously cut regulatory load.
- **Blocks of rules now need to be critically examined, including those as long-standing as Export Orders.** The Australian Dairy Industry's ongoing record of producing highly safe food makes scrutiny of regulation duplication and roles of regulators vital for policy, productivity and competitiveness reasons. Restructuring to remove the Milk Orders would be a prime 'deregulation action'.

Further, the following is an extract from the Australian Dairy Industry 2008 submission to the Productivity Commission second annual review of Regulatory Burdens on Business – manufacturing and distributive trades.

- **The existence of parallel, duplicative food hygiene regulation in Australia has long been contentious,** particularly as (i) major food industries with value-adding stages in Australia depend equally on domestic and export markets, and (ii) competitiveness in price (necessarily reflecting cost structures), quality and delivery are increasingly vital in all markets.

There is a consensus that processing sectors of industries such as dairy and meat have advanced strongly in quality assurance and plant and product performance over 10 – 15 years (much due to companies taking responsibility for QA and outputs). Many consider regulatory systems have not progressed commensurately, and there has been limited advance toward Australian Standard export.

While the recommendations of the *Export Assurance model* was agreed by the Australian Government as policy in 2003, this policy has not been implemented and Industry is concerned that implementation of such recommendations are very slow.

This is evident as AQIS continues to operate in a manner that:

- *Does not recognize the advances made through COAG arrangements to harmonise food safety requirements under a bi-national framework*
- *Limits recognition of company based quality systems for export assurance*
- *Relies on direct input of AQIS inspection for market access at cost to the company. There is no effective contestability for these arrangements and so the company is a price taker in this arrangement.*
- *Allows the same organization (AQIS) to propose, negotiate and implement the rules for export (with limited accountability for the costs they impose on industry).*
- *Relies on the highest common denominator being applied as the standard for all export markets. An example of this is the current arrangements proposed for the Australian dairy industry that are based on access to the EU market when less than 4 percent of our production is actually sent to this market.*
- *Allows costs to be introduced without the rigor of parliamentary scrutiny and RIS that is the case for State based regulatory arrangements.*

The desire by AQIS to control the production systems for primary produce in a manner reflected in current meat industry arrangements means that industries such as dairy and horticulture are faced with escalation of costs and demands to be met in order to maintain and hopefully increase market access. Whether new entrants to export will be able to meet AQIS requirements and get over the line in an establishment phase is a concern.

Meat has been through a long process of change in the delivery system and philosophy of export controls. Numbers of over three thousand export inspection and vet staff on site in the early nineties have reduced to less than four hundred and fifty meat inspection and one hundred and fifty veterinary staff in the meat program today. Yet Australia is exporting more meat to more markets and with less rejections than ever recorded in the past. Most of the changes in the meat program rely on the companies taking responsibility for their food safety and quality requirements and ensuring they meet the markets requirements without intervention on line by AQIS. These reforms should be continued and carried out over into other export programs administered by AQIS.

While the advances that have been made are welcome, many members of the meat industry are still at a loss to identify the value that AQIS adds to their business (apart from processing requests for export permits).

Safe Food Production Qld (SFPQ) accredits over 7,500 businesses in Queensland. A small proportion (42) of these are also export registered with AQIS. The following information is relevant to these businesses:

- *None of these businesses deal exclusively in export. All rely on the majority of their product being sold on the domestic market. For example, Australian Country Choice (ACC) exports less than 28 percent of its production. Most of this is a single line that is offal to the EU, the remainder being organic beef to Korea. This export product is based on an organic program of production certified by SFPQ. AQIS cost to this business is reported to be in excess of \$1,000,000 per annum to cover approved arrangements (registration), online inspection costs, and audits. SFPQ cost to this business is \$5,567.90 per annum for equivalent access to domestic market.*
- *Dairy export establishments would be paying AQIS \$20,000 - \$35,000 per annum (minimum) depending on size. SFPQ cost for accreditation of the same establishment would be \$5,567.90.*
- *SFPQ conducts audits on behalf of AQIS and charges a service fee of \$225 + GST per hour.*
- *Cost of AQIS registration is higher than domestic accreditation costs.*
- *Inspection and veterinary costs are charged in addition to the export registration costs.*
- *Companies have very limited options available to them to reduce these cost. AQIS requirements are prescriptive and are enforced in a rigid way by the AQIS on line staff. Companies meet the cost of accommodating AQIS staff on site as well as the cost of importing country reviews scheduled by AQIS.*
- *AQIS has proven over time that they are change averse, both at an organizational and a staff level. The best intention of broad Government initiatives in red tape reduction and minimising intervention in industry are not being passed down through DAFF and AQIS and implemented at a practical level.*
- *AQIS is not held accountable because companies prefer to pay up and have a whinge on the side rather than argue too directly with AQIS and risk disruption or market access.*

What is happening within AQIS?

Currently, AQIS has responsibility for administering the Export Control Act, including policy advice and execution of functions. Additionally, AQIS is responsible for developing the Regulation and Orders under the Export Control Act. This entails negotiations with the importing country so as to reflect those importing countries requirements into Regulation / Orders.

Under these subordinate instruments AQIS has the role of implementing export requirements, monitoring, ensuring compliance, issuing certification/ registration, conducting inspection and auditing (as applicable) for export registered premises. AQIS's expectation regarding this role is that they act on behalf of the importing country, i.e. they are the importing countries' regulator. This can not be the case as the importing country can not delegate this responsibility and under law retains this role as the regulator.

Hence, the question that arises is does AQIS provide a service to Australian industry in the promotion of Australian product into the overseas markets or are they serving only the importing countries requirements?

In the interests of Australia it could be argued that the role should be a service provider to Australian industry, in assisting with the promotion of Australian product into export markets. If this is a sound argument then some significant processes need to be implemented. That is, who should set the tasks for the service provider, who set the performance criteria to measure the deliverables, to whom is the service provider (AQIS) accountable and finally what independent body then assesses whether or not the service provider has met this criteria.

If AQIS is the service provider for the importing country then the abovementioned principles should apply. There can not be discrimination and freedom from accountability in what is implemented from country to country and especially no service provider should be afforded a monopoly situation. In the national interest it must be accountable.

As a service provider there needs to be a clear separation of power, in that a service should not be by definition developing policy, implementing policy and then monitoring performance. "Caesar judging Caesar".

What should be happening?

Exports

Government initiatives to reduce impost on industry and to harmonise food safety requirements are sensible and are making progress. This should be used as a lever to produce significant change in the role AQIS plays in the export chain.

While their role as national certifier must continue and their electronic certification systems further updated, the online inspection functions AQIS intervention in production programs and the prescription of methods of production and food safety controls should be wound back to reflect changes in Australia's animal and plant health status.

This can be done without compromising either food safety or market access because of the proven track record of industry and companies implementing standards and the improvement of national level controls run by State and Territory Governments.

AQIS should be asked to demonstrate their acceptance of the domestic standards as the base for export (Tier one) and argue this case with importing countries (that is implement existing Australian Government policy). Their presence on line should not be extended beyond meat and their control of arrangements directed at effective information gathering and analysis based on existing company and State systems of verification and reporting.

SFPQ already has a well established process for regulating Standards on this basis.

Company registrations should be rationalised so there is mutual recognition of an existing state registration and the food safety management systems of a business and minimal add

on cost and administration to have an endorsement added to this for export. At the moment there is a costly parallel system operated by AQIS that duplicates state run systems.

Provided the operating principles are in place, an argument can be made that the export related fees could be substantially reduced if AQIS accepted information from State run systems.

Imports

There is no harmonisation within AQIS between the export division and importing division. It is suggested that these roles should be harmonised in that the same principles e.g. Tier one (Frawley Report) must also apply to product being imported into Australia.

The AQIS testing regime for imported food is risk based and foods are categorised as either risk or random surveillance. The categorisation is undertaken by FSANZ. Foods are categorised as risk when they present a medium-high risk to public health. Risk foods are sampled and inspected at 100%. Once they have demonstrated a history of compliance, the inspection rate is reduced. All other foods are by default random surveillance foods on the basis that they represent a low food safety risk. Random surveillance foods are inspected at a rate of 5% to monitor compliance with Australian standards. Chemical residues, especially at low levels are not generally a medium to high risk to public health and are therefore monitored at the surveillance rate of inspection.

In addition to applying Australian Standards to all imports (not just sample testing of product) AQIS can consider greater use of import clearance off shore as a means of ensuring equivalent Standards are observed in the production of food commodities into Australia.

Summary

It is imperative that the brand of AQIS be retained and supported by the Australian Standards developed by FSANZ and delivered by a service provider who is accountable in the National interest. Some of the current functions performed by AQIS can be retained however, if AQIS's role is redefined as a service provider applying Tier one principles, many of the current functions become redundant.