
**REPORT OF THE 2005
BEEF QUOTA REVIEW PANEL**

ON

**ADMINISTRATIVE ARRANGEMENTS
FOR THE EU HIGH QUALITY BEEF QUOTA**

Report to the Minister for Agriculture,
Fisheries and Forestry

July 2005

Beef Quota Review Panel

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BEEF QUOTA REVIEW PANEL 2005

Beef Quota Review Secretariat: GPO Box 858, Canberra ACT 2601

28 July 2005

The Hon Peter McGauran MP
Minister for Agriculture, Fisheries and Forestry
Parliament House
CANBERRA ACT 2600

Dear Minister

I have attached for your consideration the report of the Quota Review Panel on administration of the Tariff Rate Quota (TRQ) for High Quality Beef to the European Union for 2006/07 and beyond. As you know, the Panel submitted a separate report on the administration of the TRQ for beef exports to the US to your predecessor, the Hon Warren Truss, on 30 June 2005.

In undertaking this review the Panel has had careful regard to recent quota outcomes, previous reports on this matter, including the Phase 1 2002 review of the Red Meat Advisory Council, and the views of industry. The Panel conducted a comprehensive consultation process involving both written submissions and one-on-one meetings with industry participants.

In developing its report the Panel considered underlying principles of quota administration and then used them to examine the appropriateness, effectiveness and efficiency of the current quota administration, as well as alternative approaches. Close regard was also given to the market outlook for Australia's high quality beef exports to the EU.

The Panel notes there are some differences of view within industry on the need for, and the rules of, any quota allocation arrangements for the EU TRQ and as such its recommendations may not be supported by all participants. Nevertheless, the Panel considers the changes it has recommended in this report should improve effectiveness and efficiency of TRQ utilisation. The Panel recommends the new arrangements be put in place for the commencement of the 2006/07 quota year and that industry be given as much notice as possible.

Given the role that the Secretary to the Department of Agriculture, Fisheries and Forestry has under the legislative arrangements in relation to quota, the Panel has taken the liberty of providing a copy of this report to her at the same time as you.

Yours sincerely

Jan Taylor
Chairman
Quota Review Panel

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Foreword

This report from the Quota Review Panel details the second of two reviews of Australia's export beef quotas (to the United States and the European Union).

Both reviews have involved lengthy and intensive consultation with the beef industry. I am particularly indebted to the other members of the Review Panel, Dr Sandra Welsman and Mr Ross Donald, for their willingness to travel throughout Australia as a means of ensuring optimal input from industry. They have expended a great deal of time, effort and research in making certain that the recommendations contained in this report have the potential not only to maximise opportunities in the EU market for a wider cross-section of the Australian beef industry market but also to result in a better return for the national economy.

The Panel has had the benefit of an expert Secretariat led by Mr Michael Alder. Michael and his team of Ms Auli Uotila, Mr Steve Rodgers and Mr Lachie Wilkins provided invaluable assistance and support throughout the review process, including many evenings and weekends. Their professionalism, integrity, technical expertise and commitment were an essential component both in meeting deadlines and the quality of the final outcome.

Finally, I would like to express my appreciation to those industry participants who expended time, knowledge and good will in ensuring the Quota Review Panel was fully informed. Many individuals, companies and industry associations availed themselves of the consultation opportunities. The energy, innovation and commercial expertise industry participants demonstrated was important in ensuring the Panel was fully informed and aware of present and potential issues affecting the beef sector.

Jan Taylor
Chairman
Beef Quota Review Panel

Executive summary

The current administrative arrangements for the European Union (EU) High Quality Beef (HQB) Tariff Rate Quota (TRQ) have operated since 1 July 2000 following Government consideration of a report from the Red Meat Advisory Council.

On 17 February 2005 the Hon Warren Truss, then Minister for Agriculture, Fisheries and Forestry, announced the establishment of a Quota Review Panel to review the appropriateness, effectiveness, and efficiency of the current United States (US) and EU quota arrangements. This report deals with EU arrangements only. A report on US beef quota arrangements was provided to Minister Truss on 30 June 2005.

Australia's share of the 59 100 tonne total EU HQB TRQ is 7 000 tonnes. Product exported under this TRQ must conform to product specifications set out in European Commission Regulations. HQB specifications relate to weight, age, colour and appearance of shipped beef. Product shipped under the TRQ is subject to a concessional *ad valorem* duty of 20%. Product shipped out of quota is subject to a duty of 12.8% plus a specific rate tariff of between €1.7 per kilogram and €3.34 per kilogram (approximately equivalent to an *ad valorem* tariff of 60-90%).

The key features of the current EU TRQ administration arrangements are:

- eligibility for the allocation of EU TRQ is restricted to licensed exporters that own EU accredited processing plants or source product from such plants
- standard quota is allocated at the commencement of each year to companies on the basis of their shipments of HQB to the EU in the previous twelve months
- standard quota is fully tradable with transfers registered
- 400 tonnes is set aside conditionally for new entrants, with the unused portion being redistributed to those allocated quota that year
- unused quota is compulsorily withdrawn in March each year and redistributed
- minimum quota allocation is twelve tonnes.

Review Approach

The Panel undertook its task in three stages which in part paralleled the Panel review of Australia's administration of the US beef TRQ. The first stage involved collection of information through a series of briefings, reference to past inquiries and reports, and consideration of submissions and discussions during April-May 2005. The second included development of principles and an analysis of market projections. The third stage involved an assessment of the performance of current EU TRQ administration, consideration of options and development of recommendations.

Principles identified by the Panel for optimising use of Australia's EU TRQ were used to assess the appropriateness, effectiveness and efficiency of the current arrangements and to make recommendations for improvement.

The Panel conducted a comprehensive public consultation process which included written submissions as well as meetings with interested parties around Australia. This enabled the Panel to clarify and seek further information on issues raised in the submissions.

Principles for quota administration

The 7 000 tonne EU TRQ allocated to Australia was achieved through government to government market access negotiations; the level cannot be influenced by quota administrative arrangements. While noting that consistent filling of the EU TRQ may provide a stronger basis for future negotiations to increase the TRQ, in the Panel's view the primary administrative objective should be to optimise the TRQ's commercial use by exporting companies (and maximise its value to Australia). Quota administration is not intended as a mechanism for creating property assets for individual companies.

The Panel considers the TRQ should be managed to achieve sound public policy outcomes for the broader Australian community. Such public policy objectives include promoting economic prosperity by increasing the competitiveness of Australian industry and consideration of social, environmental, equity and regional development needs.

Against this background, the Panel identified a set of principles to guide its evaluation of the *appropriateness, effectiveness and efficiency* of TRQ administration arrangements as per its Terms of Reference.

1. Minimise government intervention in the marketplace

The EU TRQ will be utilised most effectively by Australian exporters where market forces are allowed to operate to the greatest extent possible, with individual firms able to make decisions in response to domestic, EU and global market signals. However, market forces relating to Australian beef exports to the EU can be affected by the TRQ when it is reached or if fill is anticipated.

2. Optimise the TRQ's commercial value to Australia

Optimal economic outcomes associated with the TRQ are more likely to be achieved where company decision making is focused on maximising commercial returns rather than meeting conditions established by quota arrangements.

Quota administration should not seek full utilisation of TRQ where such outcomes are contrary to market signals and potentially reduce the overall value of Australian beef exports.

3. Minimise barriers to exporting

Administration should minimise barriers to TRQ use by companies willing to compete in the marketplace. The TRQ value will be enhanced by a competitive, innovative and profitable Australian beef production, processing and exporting industry. If a system creates undue barriers to companies entering the market or to company expansion, less efficient incumbents may retain quota and possibly utilise it in a sub-optimal manner.

4. Consider commercial arrangements

Changes to existing TRQ administration need to consider production, processing and exporting investments, existing commercial relationships, current or planned capital expenditure, and how affected businesses might make adjustments.

5. Administer consistently, transparently and efficiently

Any administrative system should seek to be user-friendly and transparent to all segments of the industry and other observers. This provides the optimal basis for

business planning and commercial decision making. In particular, it should seek to minimise the use of discretionary decisions or changes to quota rules.

Market outlook for beef exports to the EU

A question central to consideration of appropriateness, effectiveness and efficiency of current TRQ administration is whether the EU TRQ is likely to be filled over the short to medium term. The Panel sought briefings on the global and EU beef market outlooks from the Australian Bureau of Agriculture and Resource Economics (ABARE), and Meat and Livestock Australia (MLA).

Despite TRQ underfills between 2001/02 and 2003/4, MLA and ABARE forecast the EU TRQ will be filled over coming years. Cattle supply is seen to be critical to EU TRQ shipments. MLA and ABARE consider there will be more EU-suitable cattle together with prices sufficiently attractive to ensure the EU TRQ will be filled.

The Panel considered the following factors in regard to the likelihood of Australia filling the EU TRQ over the next five years:

- the National Livestock Identification Scheme is being extended to all cattle from 1 July 2005. This will reduce one of the financial disincentives for producers to place cattle in the EU accreditation scheme
- the introduction of some flexibility within Australia's European Union Cattle Accreditation Scheme plus potential revision by the EU of Australia's HQB specification to remove the maximum carcass weight of 327 kilograms should increase cattle availability
- EU demand for imported beef is predicted to remain strong in coming years.

Taking into account the patterns and factors discussed above, the Panel believes there is a high probability that Australia's EU TRQ will be filled each year in the short to medium term. However, Australian arrangements for TRQ administration need to take into account that shipments in some recent years have been significantly below quota and there continues to be some uncertainty about TRQ fill.

Industry perspectives on EU beef TRQ administration

The Panel notes there are differences of view on market outlook for Australian beef exports to the EU and on the need for an administration scheme.

Four processor-exporters argue for retention of the current system of quota allocation. Others consider the current scheme should be modified to provide easier access to new entrants and to unused quota at the end of the quota year. Another group of exporters and processors argue against allocation arrangements for reasons that include the TRQ not being filled in coming years. This group advocates a return to a first-come first-served (FCFS) non-allocated system with a safeguard mechanism that would be triggered in high fill years.

Analysis of quota administration options

The Panel identified the following TRQ administration options:

- current annual allocation
- modified annual allocation
- no quota allocation ('FCFS' until TRQ filled) or with safeguard
- annual allocation with a low-fill suspension trigger.

Current annual allocation

The Panel acknowledges the major aim of the current EU TRQ administration arrangements was to facilitate its maximum use. A company-based allocation system continues to be appropriate given the small size of the EU TRQ and market forecasts that indicate it will be filled in coming years. However, the Panel considers elements in the Australian Meat and Livestock Industry Order (AMLI Order) and associated Guidelines operate as barriers to trade, particularly provisions restricting new entrants. This has reduced returns from the TRQ and has resulted in an increasing concentration of quota amongst a small number of processor-exporters.

The Panel considers the current EU TRQ administration arrangements are not appropriate for the next five years.

Modified annual allocation

The Panel considers that TRQ allocation is warranted in the projected market environment but that modifications to the current arrangements are vital. These should be structured to reduce a number of barriers to entry and trade in the current scheme, to facilitate a more effective use of the EU TRQ and to minimise discretion in allocation decisions. Government intervention should not increase, but current and future exporters should be provided with a basis for planning export operations and EU market development.

No quota allocation ('FCFS' until TRQ filled) or with safeguard

A no allocation system would be the optimal administrative approach where the TRQ is unlikely to limit beef trade to the EU, as was the case from 2001/02 to 2003/04.

It is now projected that the TRQ will be filled in the short and medium term so no allocation could encourage distorting and anti-competitive behaviour with the potential for reduced returns to the Australian economy. Greater government intervention may be required to smooth access to the TRQ before the limit is reached.

The limited size of the EU TRQ means it can readily be filled by a small number of exporters. This factor and the projected market outlook for high TRQ fill in future years, has led the Panel to conclude a no allocation approach (with or without a high-fill trigger) would not be appropriate, efficient or effective administration of the EU TRQ over the next five years.

Annual allocation with a low-fill suspension trigger

The Panel considers this option offers no particular benefit to the meat industry or Australian economy, and there was no support for it in any industry submission. If market circumstances change significantly and underfill is experienced in a given year

government and industry could consider moving to a no allocation system for the following quota year, rather than mid-year suspension.

Recommended TRQ administration

Based on market projections outlined in *Section 4* the Panel considers the EU TRQ for beef is likely to be filled in the short and medium term (2006/7 to 2010/11). In light of this market outlook, the small size of the TRQ, the principles in *Section 3*, and industry submissions, the Panel recommends that an administered allocation system operate for Australia's 7 000 tonne EU TRQ for beef for the next five years.

The Panel considers an unallocated FCFS-based approach is more likely to encourage rushes by companies to obtain quota certificates where the market is strong, TRQ is small and size differences among companies are significant.

Adding one or more safeguard trigger points to an unallocated arrangement could partly address this issue. However, when high-fill is projected, trigger points would increase incentives and capacity for companies to manipulate the marketplace and quota usage.

The Panel considers current TRQ administration arrangements include provisions that operate anti-competitively and create barriers that have contributed to under-utilisation of the EU TRQ. Accordingly, the Panel recommend that a number of changes be made to the current allocation arrangements, particularly those governing new entrants, to address these issues.

The Panel recommends, as explained in *Section 7*, that the following arrangements should apply for future EU TRQ administration.

Annual allocation of standard quota

- a) Allocations of 'standard quota' to licensed meat exporters for the quota year will be made by DAFF at the commencement of each year.
- b) A standard quota allocation will be based on 100% of a company's shipments of HQB or equivalent product to the EU in the twelve months preceding the quota year (i.e. including TRQ and out-of-quota shipments).
- c) Standard quota will be fully transferable (i.e. quota transfers will not affect future allocations, only shipments will count toward allocation).
- d) Minimum allocation for standard and non-standard quota will be one tonne.

Allocation of non-standard (new entry) quota

- a) Licensed meat exporters not allocated EU quota, and genuinely independent of any other company receiving EU quota, are eligible to apply annually for non-standard quota
 - for a period of five years from the date of first application *or*
 - until a cumulative non-standard allocation of 150 tonnes is reached over the application period *or*
 - until combined standard and non-standard quota obtained in any year reaches 150 tonnes,whichever comes first.

- b) Licensed meat exporters allocated EU quota of less than 150 tonnes at the commencement of the 2005/06 quota year are eligible to apply annually for non-standard quota during an application period commencing in the 2006/2007 quota year and terminating in the 2010/11 quota year. Eligibility will:
- be for the difference between their 2005/06 allocation and 150 tonnes
 - cease when cumulative allocation of non-standard quota reaches the above amount *or*
 - apply until the combined standard and non-standard quota obtained in any year reaches 150 tonnes.
- c) Non-standard quota allocated to a licensed exporter will not be transferable. Standard quota obtained by a recipient of non-standard quota can be transferred but the company would no longer be eligible for non-standard quota allocations.
- d) Once a company ceases to be eligible for non-standard quota it will be ineligible to reapply if it has shipped any HQB or equivalent to the EU in the five year period prior to application.
- e) Applications for non-standard quota made to the Quota Management Unit of DAFF by 30 April each year will be considered for the following quota year on the basis that:
- all applicants will share in the 500 tonnes on an equal basis and
 - no allocation exceeds the eligible amount for that applicant or the amount requested by the applicant.
- f) Any part of the 500 tonnes of non-standard quota not allocated in the initial process will be reserved for allocation, as defined in a) and b) above, up to the recall date for unused quota. After that date remaining non-standard quota will be returned to the pool of recalled quota for distribution under unused quota provisions (below).

EU TRQ allocation formula

The standard quota allocation formula each year would then be:

$$\text{Allocation} = (\text{TRQ} - 500 \text{ tonnes}) \times \frac{\text{company EU HQB and equivalent shipments}}{\text{total EU HQB and equivalent shipments}}$$

Unused quota

Any licensed meat exporter will be eligible to receive unused quota. Otherwise current arrangements, including recall timing for unused quota, will continue.

TRQ administration

The TRQ should continue to be administered by the Australian Government on a cost recovery basis. The recommended arrangements should commence on 1 July 2006 with industry notified as soon as possible. The current AMLI Order and associated Guidelines for the allocation of non-standard quota will need to be revised in the light of these recommendations.

Abbreviations and shortened forms

ABARE	Australian Bureau of Agricultural and Resource Economics
ABS	Australian Bureau of Statistics
ALFA	Australian Lot Feeders' Association
AMIC	Australian Meat Industry Council
AMLI Order	Australian Meat and Livestock Industry (Export of High Quality Beef to the European Union) Order
AQIS	Australian Quarantine Inspection Service
CCA	Cattle Council of Australia
COAG	Council of Australian Governments
DAFF	Australian Government Department of Agriculture, Fisheries and Forestry
EU	European Union
EUCAS	European Union Cattle Accreditation Scheme
FCFS	first-come first-served
HQB	High Quality Beef as defined in European Commission Regulation EC 936/97
MFN	Most Favoured Nation. (the lowest tariff rate given to any other nation. GATT members offer most favoured nation status to each other).
GATT	General Agreement on Tariffs and Trade
Guidelines	DAFF Guidelines for Allocation of Non-standard Quota Entitlement
MLA	Meat and Livestock Australia
NCP	National Competition Policy
NIDP	New Industries Development Program
NLIS	National Livestock Identification Scheme
Non-standard quota	The amount of TRQ set aside for new entrants
Quota	Allocations of TRQ to individual companies
RMAC	Red Meat Advisory Council
Standard Quota	Quota allocated annually to companies based on prior shipments
TRQ	Tariff Rate Quota (Australia's 7 000 tonnes of high quality beef which is permitted to enter the EU at a concessional tariff rate of 20%)

1. Review process

On 17 February 2005, the Hon Warren Truss, then Minister for Agriculture, Fisheries and Forestry, established an independent panel to review arrangements for the administration of the European Union (EU) High Quality Beef (HQB) Tariff Rated Quota (TRQ). The Minister stated the main task of the Quota Review Panel would be to review the appropriateness, effectiveness and efficiency of the current arrangements and, if need be, identify changes which should be made¹. The Terms of Reference (Box 1) asked the Panel to consult widely with the Australian beef industry including relevant industry organisations and individual processors and exporters.

Box 1: Terms of Reference for 2005 Review of EU beef quota arrangements

In December 1999, following the review by the Red Meat Advisory Council (RMAC) of the European Union (EU) meat quotas and subsequent consultation between the Department and industry, the Minister agreed to a quota administrative regime for the management of Australian high quality beef (HQB) exports to the EU. At the time, the Minister also agreed that these quota arrangements would be reviewed after three years.

Consistent with this agreement, in 2002 the Minister asked RMAC to review the EU HQB quota arrangements in two phases. The first, a review of new entrant provisions, was completed in March 2002 and recommended changes were implemented for the 2003-04 quota year. The second phase, a review of the overall arrangements, was never concluded.

The Minister has agreed that a review is still required and that it should be undertaken by the independent Quota Review Panel (QRP).

Terms of Reference

The QRP will examine and report on:

1. The appropriateness, effectiveness and efficiency of the current quota arrangements.
2. As needed, identify areas where improvements to the quota management arrangements could be made in the areas of:
 - options for the allocation of quota entitlement;
 - minimum allocations, having regard to commercial practices;
 - provision for new entrants to the EU beef market;
 - quota transfer arrangements;
 - measures to deal with unused quota, including incentives and/or penalties if applicable, that will ensure maximum utilisation of Australia's in-quota access to the EU beef market;
 - cost recovery mechanisms;
 - transitional arrangements from the current procedures to those recommended by the QRP; and
 - any other area the QRP considers is relevant.

Considerations

In undertaking the review, the QRP should also have regard to recent quota fill outcomes, costs of quota administration, and commercial requirements of individual quota holders.

The Panel should also take into account the outcomes of the previous RMAC phase one review and the views of industry representatives and individual exporters and processors.

Timing

The QMP should provide its report to the Minister not later than 30 June 2005 (*extended to 31 July 2005*).

¹ The Hon Warren Truss, *Media Release*, 17 February 2005

1.1. Methodology

The Panel undertook its task in three stages which in part paralleled the Panel's review of Australia's administration of the US beef TRQ. The first stage was collection of information through a series of briefings, consideration of past inquiries and reports, and submissions and discussions during April-May 2005. The second included development of principles and an analysis of market projections. The third stage involved an assessment of the performance of current EU TRQ administration, consideration of options and development of recommendations.

Principles identified by the Panel for optimising use of Australia's EU TRQ were used to assess the appropriateness, effectiveness and efficiency of the current arrangements and to make recommendations for improvement (see *Section 3*).

In approaching the review, the Panel considered previous inquiries into the administration of the EU TRQ. Submissions were sought from industry and briefings were provided by policy areas of the Australian Government Department of Agriculture, Fisheries & Forestry (DAFF) as well as the Quota Administration Unit.

The Panel conducted a comprehensive public consultation process as follows:

- submissions on the EU TRQ administration were sought in March 2005 via public advertisements in national and rural newspapers, through the DAFF website, and by mail to all registered exporters of meat and chairs of beef industry organisations .
- submissions were received from 27 companies and four organisations (Appendix 1)
- the Panel met with interested parties enabling it to clarify and seek further information on issues raised in the submissions. Hearings were held on an individual and confidential basis to promote the full and frank exchange of views
- meetings were held in Canberra (27-28 April), Cooma (4 May), Melbourne (5 May), Sydney (6 May), Brisbane (9-11 May), Beenleigh and Dinmore (11 May), and Fremantle (21 May). Two discussions were held by teleconference
- the Panel visited three beef processing plants. The selection of plants was made following discussions with the Australian Meat Industry Council (AMIC).

Report structure

Section 2 provides an overview of the history of quota administration arrangements for beef entering the EU.

Section 3 sets out key principles identified by the Panel for making its assessments.

Section 4 examines the market performance of Australian beef exports to the EU, setting the context for consideration of the current arrangements and potential options.

Section 5 outlines industry's views on the adequacy of the current TRQ administration and options for change.

Section 6 uses the principles outlined in *Section 3* to analyse the appropriateness, effectiveness and efficiency of current arrangements and four options.

Section 7 details the Panel's recommendations for administering the TRQ from the quota year commencing 1 July 2006.

1.2. Industry views

The Panel notes there are some differences of view on market outlook for Australian beef exports to the EU and the need for an administration scheme.

Four processor-exporters argue for retention of the current system of quota allocation (*Section 5*). Others consider the current scheme should be modified to provide easier access to new entrants and to unused quota at the end of the quota year. Another group of exporters and processors argue against allocation arrangements for reasons including the TRQ not being filled in coming years. This group advocates a return to a first-come first-served (FCFS) non-allocated system with a safeguard mechanism that would be triggered in high fill years.

2. Background to EU beef quota administration

2.1. The High Quality Beef tariff rate quota

The introduction of the High Quality Beef Quota dates from 1968 when the EU introduced a common policy for beef, where imports to the EU would face a common system of *ad valorem* duties and variable levies. This approach created three quota systems for beef, the General Agreement on Tariffs and Trade (GATT) frozen beef quota, the Quota for Frozen Beef for Processing (formerly the Manufacturing Balance Sheet quota) and the High Quality Beef TRQ. The first two quotas are allocated to EU importers, who then decide from which country they import beef, whereas the HQB quota is allocated to exporting countries.

In addition to the three quota systems, the EU has agreements with a number of developing nations in Africa, the Caribbean and the Pacific (ACP).

Botswana (18 916 tonnes), Namibia (13 000 tonnes), Zimbabwe (9 100 tonnes) and Madagascar (7 579 tonnes) share in a 52 100 tonne ACP quota. Imports under the ACP quota are not subject to an *ad valorem* duty and the specific import customs duties on these imports are reduced by 92% of the rate applying.

	1980	2002/03
<i>GATT frozen</i>	50 000	53 000
<i>Frozen beef for processing</i>	Variable	50 700
HQB	21 000	59 100
Argentina	5 000	28 000
Brazil	-	5 000
Uruguay	1 000	6 300
Australia	5 000	7 000
New Zealand	-	300
US/Canada	10 000	11 500
Paraguay	-	1 000
ACP	30 000	52 100
Eastern Europe	--	30 750
Total²		244 650

The EU also has an arrangement with Eastern European nations where the specific import customs and *ad valorem* duty are reduced by 80% of normal rate applying.

The HQB TRQ totals 59 100 tonnes from seven countries as set out in Table 1. Australia's share of this total is 7 000 tonnes. In-quota HQB product entering the EU is subject to an *ad valorem* duty of 20% of the landed price. Product that is not shipped with a HQB TRQ certificate is subject to a duty of 12.8% plus a specific rate tariff of between €1.7 per kilogram and €3.34 per kilogram (approximately equivalent to an *ad valorem* tariff of 60-90%). The EU's current specification for beef supplied by Australia under the HQB quota is set out in Commission Regulation EC 936/97. This regulation specifies:

selected cuts of fresh, chilled or frozen beef obtained from bovine animals which:

- do not have more than four permanent incisor teeth
- weigh no more than 327 kilograms (dressed weight)
- have a compact carcass appearance, with a good eye of meat, light and uniform in colour and must have an adequate but not excessive fat cover.

² MLA, *May 2004 EU Enlargement: Implications for Red Meat Imports* May 2004.

2.2. History of Australian EU HQB quota administration

Unlike the other two quotas, which are administered by importers within the EU, Australia's share of the HQB TRQ is administered by the Australian Government³.

Prior to 1 July, 2000 the major features of the EU TRQ were:

- 80% of the 7 000 tonnes (5 600 tonnes) was allocated to licensed meat exporters on the basis of export 'performance'⁴ earned from shipments to the EU in the previous year under the TRQ
- The remaining 20% of the quota (1 400 tonnes) was allocated on the basis of performance earned from global beef shipments
- No specific new entrant provisions
- A minimum of five tonnes of earned allocation was required for an exporter to be allocated a quantity of quota.

2.2.1. 1999 Red Meat Advisory Council (RMAC) review

In February 1999, the Hon Mark Vaile, then Minister for Agriculture, asked RMAC to review these arrangements, and put industry on notice that substantial change could be involved, particularly to the eligibility criteria.

The major recommendations of RMAC⁵ were:

- quota allocation should only be available to EU accredited plants or exporters sourcing product from accredited plants
- quota allocation should be earned on the basis of 80% shipments to the EU and 20% on global shipments
- from 1 July 2001 quota transfers between exporters could not separate shipments and 'performance'
- new entrants could only enter through allocations earned by global trade or transfers of quota
- quota administration costs should be recovered by a levy on EU HQB exports
- quota administration function should be subject to tender, and
- the minimum quota allocation should be increased to twelve tonnes.

The Hon Warren Truss, announced the Government's response to the RMAC report on 23 December 1999⁶.

³ Until July 1998 the EU TRQ was administered by the Australian Meat and Livestock Corporation. Since then it has been administered by DAFF.

⁴ **Performance:** Performance rules previously allowed quota allocation and/or credit for shipments 'performed' to be transferred between licensed exporters. This could take the form of the sale of the allocation and 'performance' to a licensed exporter where the purchaser gained both the right to export the sold quota and credit for the shipment (increasing the purchaser's eligibility for quota allocation in the next year). More commonly, under a performance system quota was sold among exporters with the proviso that any performance generated would be returned to the seller. Through this process the seller maintains 'ownership' of quota in perpetuity without necessarily participating in the market for which quota was granted.

⁵ RMAC, *Review of Beef and Sheepmeat Quota Allocations*, July 1999.

⁶ The Hon Warren Truss, *Media Release*, 23 December 1999.

The major features of the new arrangements included:

- eligibility for allocation of EU TRQ restricted either to owners of EU accredited plant or those that source product from such plants
- quota allocation based on shipment records
- trade in allocated quota would not separate allocation from credit for shipping
- quota allocations based 100% on EU shipments in the previous twelve months
- minimum quota allocation to be twelve tonnes
- these arrangements to be reviewed in three years by DAFF and RMAC to determine their ongoing market suitability and
- a new entrant provision of 400 tonnes, with RMAC to assist DAFF in the development of administration guidelines and the provision of expert advice on the distribution of this amount; if not required for new entrants the amount to be distributed among those allocated quota that year.

The decision to exclude 'performance' and move to 100% EU shipments as the basis for quota allocation was strongly influenced by the need to ensure recipients of quota post 1 July 2000 would not be required to buy additional quota. This was expected to free up resources to enable processors to pay premiums to producers for eligible EU cattle. This could assist producers to meet costs associated with EU compliance (including greater traceability and the ban on hormonal growth promotants (HGP)).

The effect of the changes was to transfer the capacity to earn annual quota allocation from 45 licensed meat exporters to 16 as of 1 July 2000. Some non-packer exporters were included in the new arrangements as they had shipped under their own name prior to the implementation of the new system.

The Australian Meat and Livestock Industry (Export of High Quality Beef to the European Union) Order 2000 (AMLI Order) was signed on 6 June 2000 and tabled in Parliament on 17 August.

2.2.2. RMAC 2002 review

In 2002 the Minister asked RMAC to review the EU TRQ arrangements in two phases (in line with a 1999 commitment to review the quota after three years). The first, a review of new entrant provisions and development of guidelines for new entrant access to EU TRQ, was completed in March 2002. The main outcome was to bring forward the date of application for non-standard (new entrant) quota to provide potential applicants with more time to be able to utilise any quota granted to them. The recommended changes were implemented for the 2003/04 quota year.

The second phase, a review of the overall arrangements, was never concluded.

3. Principles for beef quota administration

The EU TRQ was achieved through government to government market access negotiations; the level cannot be influenced by quota administrative arrangements. While noting that consistent filling of the EU TRQ may provide a stronger basis for future negotiations to increase the TRQ, in the Panel's view the primary administrative objective should be to optimise the TRQ's commercial use by exporting companies (and maximise its value to Australia). Quota administration is not intended as a mechanism for creating property assets for individual companies.

3.1. Public policy and regulatory contexts

The Panel considers the TRQ should be administered to achieve sound public policy outcomes for the Australian community. Such public policy objectives include promoting economic prosperity by increasing the competitiveness of Australian industry and consideration of social, environmental, equity and regional development needs.

Over the last decade, the Coalition of Australian Governments (COAG) has developed a set of principles to underpin effective regulations and review of those regulations⁷, including:

- *Minimising the impact of regulation*: the overall goal of regulation should be effective enforcement of stated objectives.
- *Minimising the impact on competition*: regulations should have minimal impact on competition, except where the 'public interest' is served, or where the only means of achieving regulation is through restricting competition.
- *Predictability of outcomes*: regulation should have clearly defined outcomes.
- *Regulations should not restrict international trade*: regulations should not be applied in a way that creates unnecessary obstacles to international trade.
- *Flexibility of standards and regulations*: regulations should be capable of being adapted to changing circumstances.
- *The exercise of bureaucratic discretion*: good regulation should attempt to standardise the exercise of bureaucratic discretion, but this should not preclude an appropriate degree of flexibility to permit regulators to deal quickly with exceptional or changing circumstances or to recognise individual needs.

These principles have been articulated by COAG into a series of tests for assessing the impact of making or reviewing a regulation (Box 2).

⁷ Council of Australian Governments, *Principles and Guidelines for National Standard Setting and Regulatory Action by Ministerial Councils and Standard Setting Bodies*. As at June 2004.

Box 2: Key regulatory impact assessment tests

In proposing a regulatory measure decision makers should consider the following questions:

- Is regulation needed?
- Is regulation likely to improve market outcomes?
- What are the likely benefits of regulation and who will reap them?
- What are the costs of regulation and who will bear them?
- Does the community support the proposed regulation?
- What is the likely impact of the proposed regulatory measure on competition, including the introduction of new processes and techniques?

These considerations were incorporated into National Competition Policy (NCP) principles and reviews, as recently summarised by the Productivity Commission.

The NCP represents the joint desire of Australian governments to deliver the benefits of competition through a national approach to competition reform. It aims not only to facilitate effective competition to promote economic efficiency and the social benefits which flow from that, but also to accommodate situations where competition conflicts with social objectives⁸.

NCP aims to remove regulatory arrangements that restrict competition among enterprises in order to facilitate a range of socio-economic benefits for the Australian community. It allows for restrictions on competition if such regulation can be shown to be in the 'public interest'. Factors that can be considered in determining levels of public benefit include:

- legislation and policies relating to ecologically sustainable development
- social welfare and equity considerations, including community service obligations
- economic and regional development, including employment and investment growth
- the interests of consumers generally or a class of consumers
- the competitiveness of Australian businesses, and the efficient allocation of resources.

3.2. Principles

Against the above background, the Panel has identified a set of principles to guide its deliberations in evaluating the *appropriateness, effectiveness and efficiency* of the current quota administration arrangements and options as per its Terms of Reference.

Principle 1: Minimise government intervention

The Panel considers the EU TRQ will be utilised most effectively by Australian exporters where market forces are allowed to operate to the greatest extent possible, with individual firms being able to make decisions in response to domestic, EU and

⁸ Productivity Commission, *Impact of Competition Policy Reforms on Rural and Regional Australia*, 1999

global market signals. However, market forces relating to Australian beef exports to the EU can be affected by the TRQ when it is reached or if fill is anticipated.

As exports approach the TRQ, under a FCFS scheme, companies can engage in discounting to gain access to remaining TRQ and avoid paying the higher most favoured nation (MFN) tariff (this EU charge will generally be prohibitive and preclude further exports). In these circumstances, an administered quota allocation system may increase the certainty with which companies can operate, and the likelihood of the value of the EU TRQ being optimised.

Where projections of quota fill are uncertain from year to year, assessment of the need for government intervention should consider likely net gains from regulation. If an allocation scheme is applied each year but TRQ fill occurs only rarely, intervention is likely to be of no commercial and national benefit because of added costs, distortions driven by sales at lower prices to maintain allocations, and limitations on other companies developing markets in the EU and selling product within the TRQ.

Principle 2: Optimise the TRQ's commercial value to Australia

The TRQ's value is derived from the difference between in-quota and out-of-quota tariff rates and price premiums that may arise in high demand years. Optimal economic outcomes associated with the TRQ are more likely to be achieved where individual company decision making is focused on maximising commercial returns rather than meeting conditions established by quota arrangements.

Quota administration schemes can distort company behaviour by influencing decisions:

- to enter or exit markets, or to invest or not invest in productive capacity or supply systems
- to decide on export action to maintain or enhance quota allocations in future years or
- to choose a business model.

Quota administration should not seek to promote full utilisation of TRQ where such outcomes are contrary to market signals and potentially reduce the overall value of Australian beef exports. Similarly, quota arrangements may unintentionally encourage beef exports at discounted prices to increase sales into a quota market to protect future allocations, but at the expense of sales into other important markets where higher returns are available.

Principle 3: Minimise barriers to exporting

Quota administration should minimise barriers to TRQ use by companies willing to compete in the marketplace. TRQ value will be enhanced by a competitive, innovative and profitable Australian beef production, processing and exporting industry.

Factors likely to influence the capacity of companies to access TRQ include:

- new entrant and expansion provisions
- quota tradability and
- eligibility criteria for participation in any TRQ allocation arrangements.

If a quota administration system creates undue barriers to new companies entering the market or to company expansion, then less efficient incumbents may retain quota and possibly utilise it in a sub-optimal manner. New businesses often bring innovative technologies and market development practices to an industry. Ensuring the ability of new companies to enter the market can provide further incentives for existing companies to increase efficiency.

Tradability of allocated quota is, in theory, a key to facilitating optimal use of quota (i.e. enabling it to go to the most efficient users). However, the trading environment may restrict the ability of companies to obtain quota. Where quota is allocated annually an anti-competitive incentive exists for some companies to retain allocated quota for as long as possible into the year, even if it will not be used by them.

TRQ access should be made available to the widest range of companies able to make use of it. This will maximise the capacity to develop business models that utilise the beef supply chain and deliver product that meets a diverse range of market needs. This should optimise returns to cattle producers and supply chain participants.

Principle 4: Consider commercial arrangements

Changes to existing TRQ administration need to consider current production, processing and exporting investments, existing commercial relationships, current or planned capital expenditure, and how affected businesses might make adjustments. Some existing commercial arrangements may have been influenced by the rules of the quota system itself and may not reflect the most efficient and commercial outcomes. These may reduce industry and national returns from the TRQ.

Principle 5: Administer consistently, transparently and efficiently

Any administrative system should seek to be user-friendly and transparent to all segments of the industry and other observers. This provides an optimal basis for business planning and commercial decision making. In particular, it should seek to minimise the use of discretionary decisions or changes to quota rules or allocation. Frequent use of discretion can signal that the regulatory system needs revisiting.

More complex quota administration usually means higher costs for government (and industry through cost recovery) plus higher monitoring and compliance costs for individual companies. The objectives noted here are important but they alone should not determine the form of quota administration, especially where an approach offers greater economic benefits with only marginal cost increases.

4. Market outlook for EU High Quality Beef

4.1. EU market

In 2004 the EU market was Australia's eighth largest beef export market by volume although only 0.7% of Australia's total beef exports (Figure 1). In contrast to the US market, where the bulk of Australian exports are commodity type manufacturing products, the EU market features high value items, niche market differentiation and branded product. Markets are developed over a longer period and continuity of supply should assist business relationships.

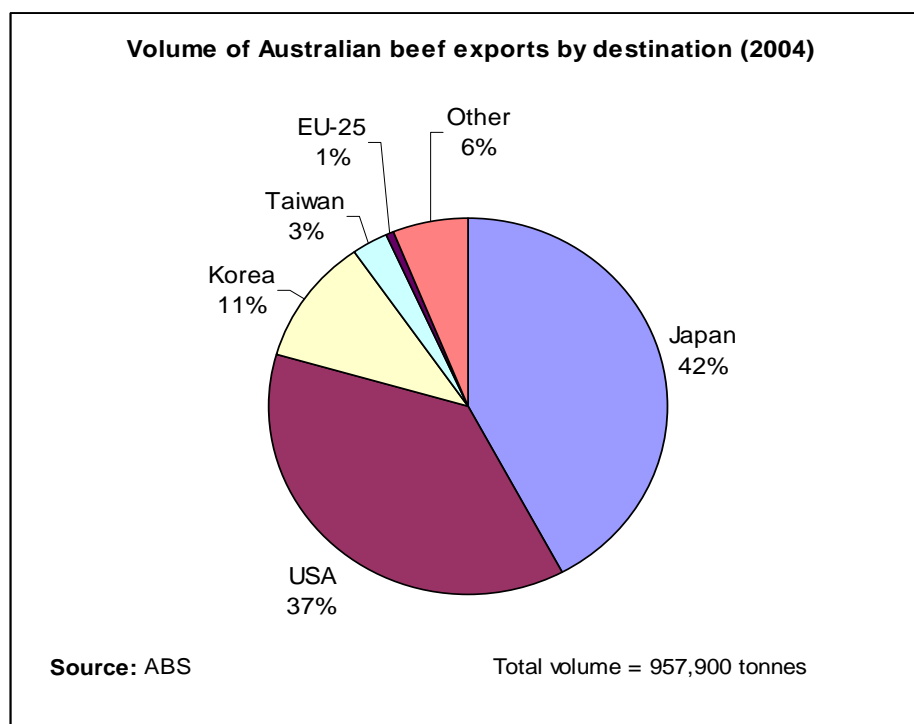


Figure 1: Volume of Australian beef exports 2004

The EU was Australia's fifth largest by value (AU\$65.57 million)⁹, and Australia's highest value market on a per kilogram basis in 2004. The average value of product shipped to the EU was \$9.30 per kilo compared with Japan, the next highest priced market, at an average \$5.55 per kilo¹⁰. This is due mainly to the market being limited by EU regulation to a few high quality cuts (*Section 2*) whereas other markets like Japan include lower value manufacturing product. The bulk of HQB is sent to the UK, Denmark and Belgium (Table 2).

Table 2: Main EU markets for Australian HQB - 2005 (kg)

YEAR	2005
BELGIUM	124 291
DENMARK	1 770 752
FRANCE	4 851
ITALY	12 895
NETHERLANDS	15
UNITED KINGDOM	5 045 169
TOTAL	6 957 973

Source: DAFF

⁹ ABS

¹⁰ ABS

Australia has exported very little beef to the EU outside the 7 000 tonne TRQ. The out-of-quota duties (*Section 2.1*) make it prohibitive for Australian exporters to compete against EU domestic product or product from South America. Australia's out-of-quota sales averaged only 30.8 tonnes a year from 2001 to 2005¹¹. In contrast, South American countries (mainly Brazil) export over 100 000 tonnes of out-of-quota beef paying full levy (equating to approximately €3.60-3.80 per kilogram) in 2005¹².

4.2. EU beef import requirements

From 1 December 1999 the EU required Australian HQB exported to meet the EU specification (*Section 2.1*) be sourced from properties with documented non-use of HGP. This required a system of source identification to ensure cattle transferred between properties were free of HGP. The Australian Quarantine Inspection Service (AQIS) in consultation with industry developed the European Cattle Accreditation Scheme (EUCAS) to meet EU requirements. EUCAS added costs to production, processing and transport (including saleyards, feedlots and cold stores) and reduced the number of cattle suitable for EU HQB.

For cattle producers, requirements to achieve EU accreditation of their properties included traceability of animals from birth, all handling stages to be within EUCAS (i.e. cattle only sold/transported to approved EU facilities) and nil HGP treatment.

As traceability is a key part of EUCAS, implementation of the National Livestock Identification Scheme (NLIS) from 1 July 2005 will mean most properties will meet this requirement. This could also facilitate the easing of other restrictions.

There are currently nineteen accredited EU processing establishments, of which thirteen routinely process HQB. There are some 2 101 EU accredited cattle properties in Australia and AQIS estimates there are 1.4 million cattle in the EUCAS scheme.

The distribution of EU accredited properties is set out in Table 3.

Table 3: EU Accredited Cattle Properties, Feedlots and Saleyards

	QLD	NSW	VIC	SA	TAS	NT	WA
Farms	592	736	292	172	302	7	0
Feedlots	12	2	0	2	0	0	0
Saleyards	5	13	11	1	8	0	0
Processing Facility	7	3	5	3	1	0	0

Source: DAFF

Maintenance and operation of an EU accredited processing plant incurs additional costs. AQIS currently administers a three tier export accreditation system. Tier 1 plants meet Australian standards, tier 2 plants meet Australian and most importing requirements including those of the USA and Japan. Tier 3 plants must meet particular criteria such as EU specifications which include electronic tag readers, carcass weights verified by an AQIS inspector, and steel cattle pens.

4.3. HQB product characteristics

Although it is possible to export full and half carcasses to the EU under the HQB TRQ, virtually all product shipped is in the form of cuts. Table 4 shows Australian beef shipped under the TRQ as cuts by volume and percentage for the 2004/05 quota

¹¹ DAFF

¹² International Meat Trade Association Inc, *Member letter*, 23 May 2005

year. Industry experts advise that three to seven cuts are usually taken from any one carcass for the EU market; the five most frequently shipped cuts would be around 70kg from a 319 kg carcass (DAFF).

Table 4: Product by cut code to the EU under HQB TRQ (2004/05 quota year)

Cut Code	Cut Description	Shipped kgs	Percentage
2030	outside (HQB)	1 526 539	21.9%
2010	inside (HQB)	972 172	14.0%
2140	striploin-3 rib (HQB)	922 624	13.3%
2070	knuckle (HQB)	917 128	13.2%
2240	cube roll(rib eye)-5 r(h)	544 477	7.8%
2011	inside-cap off (HQB)	503 041	7.2%
2090	rump (HQB)	306 045	4.4%
2150	tenderloin (HQB)	257 309	3.7%
2100	rump d trim (HQB)	254 235	3.7%
2110	roastbiff (HQB)	237 216	3.4%
2160	T'loin side strp off(HQB)	182 489	2.6%
2091	rump cap (HQB)	98 519	1.4%
2131	bot sirloin tritip (HQB)	88 039	1.3%
2300	blade or clod (HQB)	54 940	0.8%
	Other	93 192	1.3%
		6 957 972	100.00%

Source: DAFF

4.4. EU HQB quota distribution

Since 1999 there have been considerable changes to the number and identity of exporters allocated a portion of the 7 000 tonne HQB annually. Prior to introduction of current administration arrangements in July 2000, TRQ was allocated to 45 companies; 26 processors and 19 non-packer exporters (i.e. exporters not owning processing plants). The 2000/01 change, to base EU allocation on actual shipments, reduced the number of companies allocated EU quota to 16, of which 11 were processing plant owners. Since 2000/01 the TRQ has been allocated almost exclusively to processors. In 2004/05 the 7 000 tonnes was allocated to 10 processors.¹³

4.5. Export performance of HQB to the EU

The EU TRQ was filled until 2001/02 (Table 5, Figure 2). However, in that year and the following two years the TRQ was under-filled by 13.2%, 19.9% and 14.1% respectively. In 2004/05 the EU TRQ was almost filled (short 37 tonnes).

¹³ All figures in this paragraph based on DAFF data

Table 5: Main EU markets 1999-2005, Australian TRQ HQB (kg)

YEAR	1999	2000	2001	2002	2003	2004	2005
BELGIUM	187,657	173,668	225,413	142,420	75,346	84,045	124,291
DENMARK	113,740	120,197	82,359	245,828	834,394	1,203,034	1,770,752
FINLAND							
FRANCE	27	27	14,317	799		8,847	4,851
GERMANY		124	0	6,050	4,141	171	
GREECE			109	62	2,506	46	
ITALY							12,895
NETHERLANDS	2,661	12,080	10,596			12,992	15
REUNION			371	1,439			
IRELAND		12,568					
SWEDEN	15,749						
UK	6,684,672	6,675,423	6,563,886	5,681,874	4,742,173	4,705,890	5,045,169
TOTAL	7,004,506	6,994,087	6,897,051	6,078,472	5,658,560	6,015,025	6,957,973

Source: DAFF

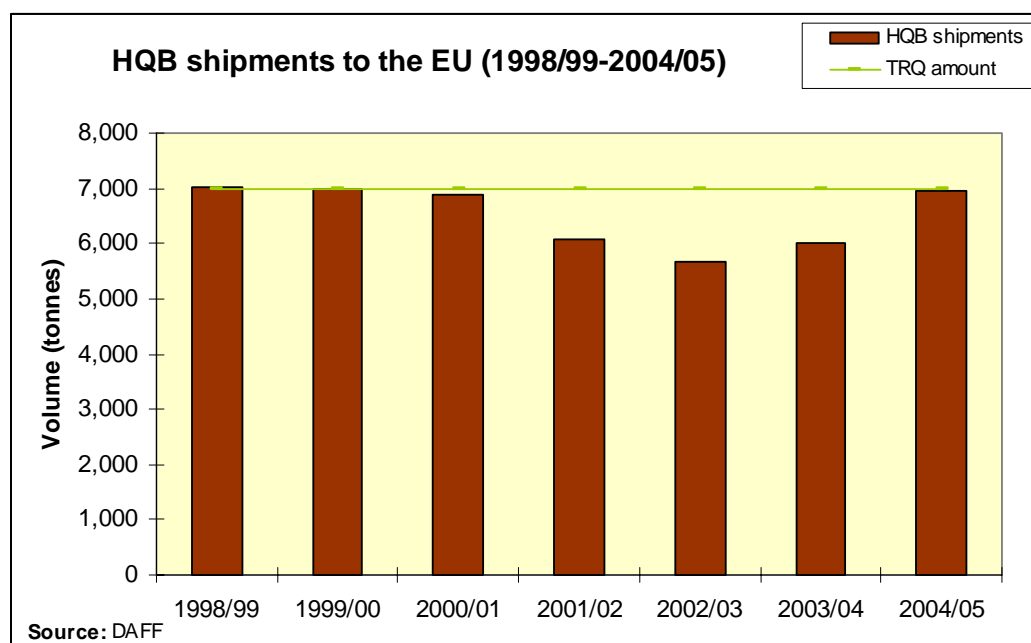


Figure 2: TRQ fill 1998/99 to 2004/05

Industry analysts and participants attribute the underfill in the period 2001/02 to 2003/04 mainly to cattle supply issues and competitive markets, particularly Japan. The following factors were identified:

- application of the more restrictive and costly EUCAS from 2000 reduced the availability of EU accredited cattle
- drought exacerbated the supply problem, particularly where cattle had been taken out of the EUCAS pathway for agistment
- price premiums for EU product were not sufficient, relative to those potentially available in other export markets, to maintain cattle in the more expensive EU accreditation system. At times the Japanese market offered better net returns than the EU, particularly after the US was excluded from that market in 2003.

4.6. Projected EU market outlook

A question central to consideration of appropriateness, effectiveness and efficiency of current TRQ administration is whether the EU TRQ is likely to be filled in the medium to longer term. At the commencement of this review, the Panel sought briefings on the outlook for the EU and other global beef markets from the Australian Bureau of Agriculture and Resource Economics (ABARE), and Meat and Livestock Australia (MLA).

Despite TRQ underfills between 2001/02 and 2003/04, MLA and ABARE forecast the EU TRQ being filled over coming years. Cattle supply is seen to be critical to EU TRQ shipments. MLA and ABARE consider there will be more EU-suitable cattle, together with sufficiently attractive prices to ensure the EU TRQ will be filled.

The Panel considered the following factors in regard to the likelihood of Australia filling the EU TRQ over the next five years.

Increase in domestic cattle supply for EU markets

- The NLIS is being extended to all cattle; it is already mandatory for cattle in NSW and Victoria and is being phased in elsewhere from 1 July 2005. This will reduce one of the financial disincentives for producers to place cattle in EUCAS
- Introduction of some flexibility within the EUCAS will also potentially increase the supply of EU cattle. For example, from 10 July 2005 EU accredited producers may seek AQIS approval to purchase cows and heifers from outside the EUCAS for breeding purposes. Such cattle will be identified in the NLIS database as 'not EU-eligible' as their HGP status may be uncertain. Their progeny may be eligible for the Scheme and export to the EU.
- Potential revision by the EU of Australia's HQB specification to remove the maximum carcass weight of 327 kilograms should also increase cattle availability.

EU demand for imported beef to strengthen

- EU demand for imported beef at current price levels is projected to increase due to reductions in EU production following Agenda 2000 Common Agricultural Policy reforms, and elimination of intervention stocks (i.e. beef stockpile) in 2004. Local production may further decline in the period to 2011. Beef imports are projected to grow, particularly from South America.¹⁴

Analysis

Taking into account the patterns and factors discussed above, the Panel believes there is a high probability that Australia's EU TRQ will be filled in the short and medium terms.

However, Australian arrangements for its administration need to take into account that shipments in recent years have notably been below TRQ and there continues to be some uncertainty about TRQ fill.

¹⁴ European Commission, Directorate-General for Agriculture, *Prospects for Agricultural Markets and Income, 2004-2011*, December 2004, p 30

5. Industry perspectives on EU TRQ management

This Review included a comprehensive public consultation process during April and May 2005 (*Section 1*). The Panel received 31 submissions from industry organisations and companies commenting on elements of current EU TRQ administration as well as its overall appropriateness. Many company submissions sought changes to aspects of current arrangements, and a submission from a mixed group of industry participants proposed an alternative approach. A few submissions argued for continuation of current arrangements without modification. Key areas of concern for companies seeking to change the arrangements were the overall need for TRQ allocation and access to EU TRQ for new entrants.

The current regulatory system is set out in the AMLI Order and associated Guidelines. Key features of these arrangements are summarised in Table 6.

Table 6: Key features of the current quota allocation system

Feature	Current settings
TRQ	7 000 tonnes in 2004-05
Administrator	Quota Administration Unit, DAFF
Method of quota allocation	Standard quota allocation is based 100% on a company's HQB exports to the EU during the previous year.
Period of allocation	One year
Allocation based records	Annual allocation is based on actual export shipments during the previous quota year
Quota year	1 July – 30 June
Minimum quota allocation	12 tonnes
Eligibility	Licensed meat exporters that have shipped against quota in a given year are eligible to receive an allocation of 'standard quota' the next year. New entrant' eligibility – see below
Administration fee	Allocations cannot be used until the prescribed administration fee has been paid; 0.05 cents per kg. No fee paid for use of redistributed quota. The administration fee is based on cost recovery principles.
Transfer of quota	Standard quota recipients may transfer allocation to another licensed exporter. Transfers do not earn future allocations. Non-standard allocations cannot be transferred.
New entrant provisions	400 tonne set aside annually for 'non-standard' allocations to companies that are licensed meat exporters and own an EU accredited processing plant. Licensed exporters can also obtain quota through transfer (e.g. purchase from another firm). If a company has obtained quota via transfer during a year they can also apply for unused quota, if any, later that year. The Guidelines prescribe a series of further tests for new entrant applicants.
Quota product ID	A quota certificate must accompany a consignment in order for it to enter the EU at the concessional tariff rate.
Uncommitted quota	By 15 February quota recipients must advise how they intend to use their remaining quota. After 3 March, unused quota is compulsorily withdrawn and made available to other companies that have received quota that year on a FCFS basis on application.

5.1. Overall need for allocation and administration

Of the eleven companies lodging individual submissions on EU TRQ arrangements seven specifically support the continuation of some form of allocated process for the EU TRQ. They variously argue that allocation is important because:

- the TRQ is expected to be filled in the foreseeable future
- the TRQ is small and therefore easily subject to manipulation if a FCFS approach were to be adopted and
- investment in EU accreditation is substantial and some certainty is required for companies to continue meeting these on-going costs.

Several companies, while not disagreeing with an allocated approach, believe current arrangements should be modified, particularly to increase access for new entrants. This was reinforced by a number of companies currently excluded from EU TRQ. An alternative approach suggested by one company was to allocate the majority of the TRQ and leave a portion for FCFS access (but only after a company's allocations had been fully used).

The Panel also received a group submission from sixteen companies arguing for an unallocated system with a safeguard mechanism for years of potential high fill¹⁵. The group submission argued the EU TRQ will not be filled in the foreseeable future and under these circumstances TRQ allocation will distort trade because companies feel compelled to export to the EU to maintain quota allocations rather than as a response to market signals. Under this proposal, all exporters (including new entrants) would have access to the EU during the open trade period.

This group submission also recognised the small size of the EU quota exacerbates the potential for 'exporters to rush in, or plunder, the market to ensure their share of the quota'.¹⁶ The proposed arrangements included a safety net with 'three trigger points' to introduce allocations when the EU TRQ is filling quickly. Of the sixteen parties to this submission, two currently export HQB to the EU using TRQ allocations; ten export to a range of markets and four are structured to focus on the US and other manufacturing beef markets.

Industry associations expressed a range of views. AMIC and the Australian Lot Feeders' Association (ALFA) support continuation of current allocated arrangements with the latter noting that exporters to the market 'require a stable quota allocation outlook to justify the investments necessary to supply through the quota system'¹⁷.

The Cattle Council of Australia (CCA) believes that 'with expectations of higher supply in the future, the management of quota allocation may be required'. The CCA is concerned about a potential collapse in EU cattle prices if 'market conditions have resulted in exporters rushing to get as much product into the EU before the quota is triggered...leaving significant periods of the year where there is little competition for stock'¹⁸. CCA suggested the Panel consider easing restrictions in the current system relating to minimum allocations and new entrants.

¹⁵ Hunt Partners, submission to 2005 QRP

¹⁶ Hassall and Associates (for Hunt Partners), 2005, Economic Evaluation of An Alternative System for Allocating Australia's US Beef Quota and EU High Quality Beef Quota, p.36

¹⁷ Australian Lot Feeders' Association submission to 2005 QRP

¹⁸ Cattle Council of Australia, submission dated April 2005

The Australian Beef Association believes the TRQ should not be allocated because it is unlikely to be filled in the foreseeable future, is inconsistent with the Government's emphasis on a market forces policy and it 'introduces costs to the beef chain which are ultimately worn by producers'¹⁹.

5.2. Obtaining access to quota

Barriers to TRQ access by new entrants was the issue of greatest concern raised in submissions.

Under the existing system, quota can be accessed by licensed meat exporters:

- by application for a standard allocation based on their EU beef shipments in the previous shipping year
- through purchase or transfer of a quantity of quota from a company allocated it in the current year
- by obtaining unused quota toward the end of each quota year (available only to eligible exporters i.e. companies already allocated quota that year) and/or
- by application for a non-standard quota allocation through the provisions set out annually in the Guidelines.

5.2.1. Application for standard quota

The formula for determining a licensed meat exporter's allocation of standard EU TRQ each year is:

$$(\text{TRQ} - 400 \text{ tonnes}) \times \frac{\text{company TRQ shipments to EU}}{\text{total TRQ shipments to EU}}$$

Under the formula, an exporter's part of total Australian in-quota beef exports to the EU is multiplied by the TRQ amount (less 400 tonnes set aside for non-standard applications). Licensed meat exporters are invited to apply for a standard quota allocation if DAFF has calculated using this formula that they are eligible for a minimum allocation of 12 tonnes. Amounts below this threshold are disregarded i.e. no allocation is made for that company and the quantity is incorporated into a pool for redistribution across other quota recipients. Allocations are then calculated to the nearest kilogram (shipment certificates are also issued by kilogram).

Since the calculations are based on proportionate shares of the prior year's in-quota shipments to the EU, those not obtaining quota (by allocation or purchase) to the EU in one year and shipping against it, and those exporting below the threshold quantity, are excluded from applying for 'standard quota'.

Companies near the threshold are at risk of losing their allocation during a high fill shipping year. For example, in a year when total Australian quota exports reach the TRQ of 7 000 tonnes, a company with twelve tonnes of quota would need to ship over thirteen tonnes ($13/7\ 000 \times 6\ 600$) in order to receive a twelve tonne allocation the following year. To access this extra tonnage, the only options are to obtain quota by purchase or applying for unused quota at the end of the year. If the company cannot obtain the extra one tonne of quota (as may be the case in a year of high-fill), and ship it, its allocation the following year will be zero.

¹⁹ Australian Beef Association, submission to the 2005 QRP

The Panel has been informed that some companies (without quota access) specialise in branded high value beef and at least one currently ships small volumes of out-of-quota product to the EU. The value of the product is high (in one case in the range of \$100-\$150 per kilogram) and tariffs are also high. One of these companies would be entitled to a standard allocation if out-of-quota product was included in calculations. Others may be able to obtain standard quota allocations if out-of-quota shipments were included in the export record and the twelve tonnes minimum was reduced.

5.2.2. Transfers of quota

Under the current system, standard quota can be traded and transferred at any time after allocation (non-standard allocations cannot be transferred). However, industry participants report trading is minimal with a number of major quota recipients stating they do not trade EU quota even in years of underfill. This is confirmed by records showing transfer volumes to be very small: in 2004/05, only two transfers (9.6 tonnes) took place between unrelated business entities (with 465 tonnes transferred within related companies)²⁰. In 2003/04, when the EU TRQ was under-filled by 985 tonnes, only three transfers (of 21 tonnes in total) took place between unrelated companies.

Several companies believe the existing trading arrangements are satisfactory and that details should remain a matter for commercial negotiation. However, many industry participants, including potential new entrants, consider the current transfer provisions have been shown to not provide access to Australia's EU TRQ to those working to develop markets and new business as quota is not readily available for purchase even in low-fill years.

5.2.3. Access to unused quota

Access to EU TRQ may be possible towards the end of a quota year (early March for year ending 30 June) when unused quota allocations are withdrawn by DAFF for redistribution. However, this is late in the quota year for new entrants who cannot plan on obtaining quota; both because it may not be available and because of other restrictions on their applications. This timing and unpredictability is considered by many companies to provide insufficient opportunity to confirm markets and take up available quota if any.

In April 2005, the AMLI Order was amended by DAFF to allow new entrants to apply for unused quota. However, the general rule is that new entrants are only eligible to receive unused quota if they already obtain quota during the year i.e. through purchase and transfer. Some new entrants have made use of unused quota in the past but potential new entrants emphasise this is not a reliable option for most businesses, particularly given the specialised nature of market development in the EU and investments required for product marketing.

5.2.4. Allocation of non-standard quota

Under current arrangements, licensed exporters owning or developing an EU accredited processing facility may apply for up to 144 tonnes of quota from the 400 tonnes set aside for new entrants. Any non-standard allocation cannot be transferred. Any exporter receiving quota under this provision cannot apply again until it has not exported TRQ beef for five years.

²⁰ DAFF Quota Administration Unit

The Panel met several companies that had investigated opportunities for access to quota through new-entrant provisions but were told they were ineligible because they did not own an accredited processing facility. These companies owned or had had access to EU accredited cattle and had developed beef markets internationally.

Several of these companies were very keen to obtain access, or wider access, to the EU market for high value branded beef products. One already sells quantities of very high value product out-of-quota but tariff rates and selling prices are limiting its expansion to the next market level (such as specialty supermarkets). This company is not eligible for a standard allocation because out-of-quota shipments are excluded and cannot apply as a new entrant because it does not own a processing plant.

Several potential exporters process beef through EU-accredited toll processors. They comment that the statutory requirement for ownership of an EU accredited plant did not apply to companies that received quota when current arrangements commenced in early 2000.

6. Analysis of quota administration options

This section summarises the Panel's evaluation of options for EU TRQ administration in future years against the Principles set out in *Section 3*. The Panel also considered industry perspectives and those of market and economic analysts.

The Panel identified the following quota administration options:

- current annual allocation
- modified annual allocation
- no quota allocation (first come first served until TRQ filled) or with safeguard
- annual allocation with a low-fill suspension trigger.

The Panel also discussed the notion of auctioning Australia's TRQ. An auction mechanism, at least in theory, would be capable of distributing the TRQ quantity in an economically efficient manner, to maximise any benefit flowing to the Australian community²¹. However, auctioning TRQ has no support within industry or government and has not been considered further.

6.1. Current annual allocation

The current scheme is outlined in *Section 5*. Allocations are made to licensed meat exporters each year on the basis of their previous year's in-quota shipments.

Principle 1: Minimise government intervention

Current arrangements involve a high level of government intervention. Regulations govern access to quota and limit the amount of HQB companies can export to the EU under the TRQ. Government policy is to review and remove restrictive regulations unless it is evident such arrangements will enhance the competitiveness or value of the market and the benefit to the Australian community.

Regulation can generate a range of market distortions, inefficiencies and anti-competitive effects. The current AMLI Order and Guidelines include measures directly restricting competition, including market development, and are inconsistent with Principle 1 and government policies (*Section 3*). A number of submissions to the review confirmed the current TRQ arrangements have prevented them from accessing EU quota despite having identified export markets, and unused quota being available. This has had the impact of reducing the value of the TRQ to Australia.

The EU TRQ is relatively small and the market outlook indicates it will be filled (*Section 4*). Taking into account these circumstances, the Panel concludes annual allocation of TRQ by government to companies should mitigate a number of market distortions and anti-competitive behaviours. This could include the risk that companies with production advantages could rush the market at the expense of smaller companies.

Principle 2: Optimise the TRQ's commercial value to Australia

The reasons for the TRQ not being filled between 2001/02 and 2003/04 appear to be supply and, to some extent, market price related (*Section 4*). Basing future allocations on current shipments can provide incentives for quota recipients to ship product to the

²¹ Industry Commission, *Report on Meat Processing*, 1994

EU regardless of price in other markets to maintain their allocation of the TRQ. The strength of this incentive depends on each company's view on the need for quota in following years, its ability to purchase quota, and its capacity to increase future quota allocations through uptake of unused quota. The latter issues are addressed below.

Unlike the 2002 allocation arrangements for the US beef TRQ, which take some account of shipments to non-US markets, EU TRQ allocation is calculated only on company shipments to the EU²². This avoids some potential distortions (e.g. needing to buy quota from companies receiving global-based allocations).

However, the EU TRQ formula excludes beef shipped out-of-quota (without TRQ certificates). The volume of such product is very small, of high value and delivered at considerable extra cost (due to the high EU duty, *Section 2*) by a few companies working to build high-profile niche markets for Australia in the EU. Given the specialist high value nature of the EU market and costs incurred by a company attempting to open market opportunities, the Panel considers these shipments should be taken into account in calculating quota allocations.

Principle 3: Minimise barriers to exporting

A number of elements in the current arrangements limit the ability of companies to enter the EU beef market. This reduces the capacity for TRQ to be used and filled in an optimal manner, and limits innovative market development.

Tradability

Current quota trading provisions have not been effective in opening access to quota, the EU market, or in moving TRQ to the highest value users. During the past five years, the number of quota sales (transfers) between unrelated companies has been very small (*Section 5*). Transfers have mainly been intra-company exchanges or trades within well defined, ongoing commercial relationships. This has contributed to the increasing concentration of TRQ in the hands of fewer exporters, all processors.

Although the TRQ was not filled by quota recipients in the years prior to 2004/05, other licensed meat exporters have had little success in obtaining access to it through trading. Quota recipients appear to hold onto quota until the compulsory withdrawal date rather than trade it to a potential competitor.

Unused quota

Current distribution criteria applying to quota allocated but not used by recipients also act as a barrier to trade. The Panel supports the 2004 decision to bring the recall date forward by one month (i.e. to 3 March) to provide any successful applicants with more time to use quota.

Issues arising from current arrangements and standard allocation formula include:

- where unused quota is not utilised for shipments late in a year, that quantity is reallocated to all shippers the next year, including to those companies that did not fully utilise the quota they received the prior year
- only companies obtaining quota and shipping are eligible to apply for unused TRQ that year
- a number of companies (without quota) have sought access to unused quota but have been ruled ineligible. Associated export opportunities have not been realised

²² The US TRQ is allocated on the basis of 80% US shipments and 20% global shipments.

New entrants

Access to non-standard quota allocation by new entrants is restricted to applicants that have or are developing an EU-accredited meat processing plant. This arrangement, prescribed in the industry-agreed Guidelines but not in legislation, followed government consideration of the 1999 RMAC review and was to recognise the financial commitment companies made to gain EU accreditation for processing works. The aim was to increase the capacity of such companies to pay premium prices to attract cattle into the EUCAS.

At the same time as introducing this criterion for non-standard quota, the government also agreed standard quota could be made available to existing quota recipients providing they had shipped product to the EU, whether or not they owned an EU accredited processing plant. A licensed exporter (with or without an accredited EU plant) can also obtain quota through transfer if quota is available for purchase. However, it is apparent most companies currently allocated quota are not trading unused quota even in low-fill years. The Panel notes any beef exported to the EU must be processed in an EU-accredited plant.

In light of the above there is no justification for requiring new entrants to own a processing plant; contract processing in accredited plants meets the EU requirements.

The amount of quota available to a new entrant (144 tonnes maximum) is insufficient on its own to support the cost of establishing an EU-accredited processing plant. This has been reflected in part by the small number of companies applying for new entrant quota in recent years. However, some licensed exporters developing EU markets have applied on a number of occasions, apparently to demonstrate a case for change.

Lack of ownership of a processing plant has been the major reason for applicants being ineligible for non-standard quota despite meeting Australian export and EU import regulatory requirements. The Panel concludes the requirement for new entrant applicants to own an EU accredited processing facility is discriminatory, acts as a barrier to trade, and is unnecessary.

Further, under the current AMLI Order and Guidelines, a company can only access the non-standard quota once and the amount of quota it receives is largely dependent on the number of other companies applying. New entrants can be refused EU quota if their market development competes with the business of other Australian beef exporters. New entrants then have little opportunity to plan for and build a market of any size. These arrangements are barriers to optimising the value of Australia's EU beef export trade.

Minimum allocation

Current arrangements limit quota allocations to twelve tonnes and above. When the twelve tonne minimum was set it was based on a standard shipping container of beef. However, quota allocations above this minimum are calculated to the nearest kilogram, not multiples of twelve tonnes. Quota recipients can and do request TRQ certificates from DAFF for export in quantities smaller than twelve tonnes.

The Panel considers this rule is an unnecessary barrier to the EU market and TRQ access. Emerging business models, including export of high-value product in small volumes using air freight, are being encouraged by policy and investment strategies such as the Australian Government New Industries Development Program. These should not be discouraged or stopped by any quota administration arrangements.

Principle 4: Consider commercial arrangements

The Panel recognises commercial arrangements in the export industry have developed over a long period, although EU processing and shipments constitute a small portion of the operations of processor/exporters currently receiving allocations. When the 2000 EU system was introduced it had considerable impact on commercial operations of some companies including some that found themselves excluded from EU TRQ.

Principle 5: Administer consistently, transparently and efficiently

The Panel considers current arrangements are appropriately administered by the Quota Administration Unit.

Conclusion

The Panel acknowledges the major aim of the current EU TRQ administration arrangements was to facilitate its maximum use. A company-based allocation system continues to be appropriate given the small size of the EU TRQ and market forecasts that indicate it will be filled in coming years. However, the Panel considers elements in the AMLI Order and Guidelines operate as barriers to trade, particularly provisions restricting new entrants. This has reduced returns from the TRQ and has resulted in an increasing concentration of quota amongst a small number of processor-exporters.

The Panel considers the current EU TRQ administration arrangements are not appropriate for the next five years.

6.2. Modified annual allocation

This option assumes an annual allocation will continue but with a number of modifications to the current system which aim to address the issues identified in 6.1 above. These could include changes to:

- *new entrant provisions*: criteria could enable access to the TRQ for new entrants i.e. licensed meat exporters willing to develop valuable export markets for beef in the EU but prevented from doing so by current rules
- *minimum allocations*: reducing the twelve tonne threshold should encourage market development, particularly by businesses seeking TRQ access for high value specialised product. This would potentially increase TRQ return
- *allocation base records*: the current formula excludes out-of-quota shipments to the EU; this penalises market developers working to open high profile niche markets for Australian products
- *Allocation reference years*: the current single year basis could be extended to a two or three year rolling average. This might provide a buffer to individual companies for low shipments due to ‘disasters’ and should also help minimise market distortions due to quota shipments made simply to earn allocations.

To date ‘special circumstances’ provisions have not been included. Existing arrangements have allowed quota recipients to increase their allocations in years of quota underfill by accessing unused TRQ (either directly or as a proportionate allocation the next year). Although a two or three year shipment base in the formula may reduce the impact of ‘disasters’ and reduce market distortions arising from quota driven trade, it also slows company capacity to rebuild quota allocations. This would also limit new entrants who, under current arrangements, can apply for a maximum of 144 tonnes. If 100 tonnes were allocated and

shipped, the next year their standard quota allocation would be 50 or 33 tonnes under a two or three year base respectively.

Conclusion

The Panel considers that TRQ allocation is warranted in the projected market environment but that modifications to the current allocation arrangements are vital. These should be structured to reduce a number of barriers to entry and trade in the current scheme, to facilitate a more effective use of the EU TRQ and to minimise discretion in allocation decisions. Government intervention should not increase, but current and future exporters should be provided with a basis for planning export operations and EU market development.

6.3. No quota allocation (first-come first-served until TRQ filled) or no quota allocation with safeguard

Under this option the market would operate freely, with approvals to ship being issued on a FCFS basis until the TRQ quantity is reached.

If administrative procedures for acquiring TRQ certificates are clearly defined, market signals should steer commercial decision making; distortions from the quota system should not arise. There would be no in-built pressure for companies to export to the EU to retain or expand quota allocations in later years, nor would it favour particular business models. The Panel considers no allocation reduces the impact of non-market influences on company behaviour where exporting is not limited by the TRQ.

The Panel also recognises that not allocating quota minimises restrictions on an individual company's capacity to export to the EU. Decisions to export to the EU, including investment in production or processing capacity, will be directed by efficient, competitive, innovative and sustainable business practices. This will assist in optimising the value of Australian beef exports to the EU because companies, including new entrants, will not face barriers that occur in allocated systems, such as non-access or the cost of purchasing quota.

An open market model should simplify administrative arrangements as administrators will only need to issue TRQ certificates, monitor progress of beef exports against the TRQ limit and issue invoices for cost recovery. Although invoicing costs could increase as they would be based on shipments not annual allocations, there would be no requirement to calculate quota allocations, monitor and approve quota transfers or deal with unused quota allocated to individual firms. Costs for many individual firms should also be reduced through removal of the need for quota purchases, transfers and associated commercial negotiations. The Panel also considers administration of this option would be simpler than current arrangements, more transparent and have few if any discretionary elements.

However, the benefits of a FCFS arrangement are clearer in periods in which the TRQ is unlikely to be filled and exporters are utilising an amount of quota that is less than the TRQ i.e. akin to a free trade situation. By contrast, where the TRQ is consistently filled, as is projected for the EU TRQ, an unallocated approach may encourage companies to rush shipments to maintain or increase their share of the TRQ and potentially reduce its value. In high-fill years a no allocation model is more likely to result in the small EU TRQ being fully used well before the quota year closes, potentially creating commercial difficulties for some companies.

A no allocation approach could include a safeguard mechanism which would trigger an allocation of part of the TRQ in years of high quota fill. This would help smooth access to that portion of the TRQ and reduce potential TRQ rush. However, given the size of the EU TRQ the Panel does not believe such a proposal is practicable.

Conclusion

A no allocation system would be the optimal administrative approach where the TRQ is unlikely to limit beef trade to the EU, as was the case from 2001/02 to 2003/04.

It is now projected that the TRQ will be filled in the short and medium term so non-allocation could encourage distorting and anti-competitive behaviour with the potential for reduced returns to the Australian economy. Greater government intervention may be required to smooth access to the TRQ before the limit is reached.

The limited size of the EU TRQ means it can be readily filled by a small number of exporters. This factor and the projected market outlook for high TRQ fill in future years, has led the Panel to conclude a no allocation approach (with or without a high-fill trigger) would not be appropriate, efficient or effective administration of the EU TRQ over the next five years.

6.4. Annual allocation with a low-fill suspension trigger

Under this option annual allocations would be made to companies but the regulatory scheme would include a mechanism to suspend quota controls part way through the year if predetermined criteria were met. Once allocations were suspended, any exporter could apply for TRQ export certificates on a FCFS basis. This option seeks to moderate the negative impacts of quota allocation in years where TRQ fill rate is low, allowing the market to function in response to demand and supply signals.

This allows for the extent of government regulation of TRQ usage to be varied, but does not reduce intervention. It could encourage lobbying about any decision to suspend the administration scheme. Further, it would raise issues in relation to the treatment of refunds of fees paid by companies for annual quota allocations.

For this option to work reasonably in optimising the commercial value of the TRQ to Australia, the allocation criteria would need to be modified to address identified issues with the current arrangements, including distortions and barriers to export. It will be administratively (and perhaps commercially) more complex.

Conclusion

The Panel considers this option offers no particular benefit to the meat industry or Australian economy, and there was no support for it in any industry submission. If market circumstances change significantly and underfill is experienced in a given year then government and industry could consider moving to a no allocation system for the following quota year rather than a mid year suspension.

7. Recommended EU TRQ administration

Based on market projections outlined in *Section 4* the Panel considers the EU TRQ for beef is likely to be filled in the short and medium term (2006/07 to 2010/11). In light of this market outlook, the small size of the TRQ, the principles in *Section 3*, and industry submissions (*Section 5*), the Panel recommends that an administered allocation system operate for Australia's 7 000 tonne EU TRQ for beef for the next five years.

Administered allocation of EU TRQ is more appropriate than an unallocated approach for the reasons set out in the sections above. The Panel considers an unallocated FCFS-based approach is more likely to encourage rushes by companies to obtain quota certificates where the market is strong, the TRQ is small and size differences among companies are significant.

Adding one or more safeguard trigger points to a no allocation approach (*Section 5*) could partly address this issue. However, when high-fill is projected, trigger points would increase incentives and capacity for companies to manipulate the marketplace and quota usage.

As discussed in *Section 6* the Panel considers current administration arrangements in the Order and Guidelines include provisions that operate anti-competitively and create barriers that have contributed to under-utilisation of the EU TRQ.

Accordingly, the Panel recommends that a number of changes be made to the current allocation arrangements to effectively address these issues. The Panel particularly recommends changes to those criteria governing access to TRQ by new entrants to the EU marketplace. Current provisions have significantly restricted the ability of some companies to access the EU market, even in years when the TRQ has not been filled.

The Panel considers the modified allocation arrangements recommended below will:

- optimise the TRQ's commercial value (*principle 2*) particularly through minimising barriers to access to TRQ and the EU market (*principle 3*) and
- provide a consistent and transparent basis for future quota allocations to enable companies to plan export operations and market development (*principles 4 and 5*).

The Panel considers the industry will support an allocated system for the EU TRQ although there will be different views on the modification of the allocation rules.

7.1. Recommended model - modified allocation

Key features follow.

7.1.1. Annual allocation of standard quota

- a) Allocations of 'standard quota' to licensed meat exporters for the quota year will be made by DAFF at the commencement of each year.
- b) A standard quota allocation will be based on 100% of a company's shipments of HQB or equivalent product to the EU in the twelve months preceding the quota year (i.e. including TRQ and out-of-quota shipments).
- c) Standard quota will be fully transferable (i.e. quota transfers will not affect future allocations, only shipments will count toward allocation).

d) Minimum allocation for standard and non-standard quota will be one tonne.

This recommendation largely continues current allocation arrangements for standard quota as set out in the AMLI Order but also provides for shipments of out-of-quota product to be recorded for the purpose of calculating an exporter's allocation of the standard quota for the following year. This change recognises the effort and investment costs incurred by some exporters in developing high value niche markets for Australian beef in the EU. Reducing the minimum allocation to one tonne removes an unnecessary barrier to the EU market and TRQ access for some companies. On balance the Panel decided the current one year shipment record base should continue.

7.1.2. Allocation of non-standard (new entry) quota

Five hundred tonne of the 7 000 TRQ will be set aside as non-standard quota for allocation to new entrants and recipients of standard quota of less than 150 tonnes in 2005/06.

a) Licensed meat exporters not allocated EU HQB quota, and genuinely independent of any other company receiving EU HQB quota, are eligible to apply annually for non-standard quota

- for a period of five years from the date of first application *or*
- until a cumulative non-standard allocation of 150 tonnes is reached over the application period *or*
- until combined standard and non-standard quota obtained in any year reaches 150 tonnes,

whichever comes first.

Example

Company A, a new entrant, applies for and receives 100 tonnes of *non-standard* quota in year one. It is then eligible to apply for 50 tonnes over the next four years.

Company A ships this entire amount and receives a *standard* allocation of about 95 tonnes in year two. It applies for additional non-standard quota of 20 tonnes giving total quota for year two of 115 tonnes. The company only ships 100 tonnes of this allocation in year two.

Company A receives a standard allocation of about 95 tonnes in year three. The company also receives 30 tonnes of non-standard quota bringing its total allocation for year three to 125 tonnes. It ceases to be eligible for non-standard quota having received a cumulative total of 150 tonnes of non-standard quota over three years.

b) Licensed meat exporters allocated EU quota of less than 150 tonnes at the commencement of the 2005/06 quota year are eligible to apply annually for non-standard quota during an application period commencing in the 2006/2007 quota year and terminating in the 2010/11 quota year. Eligibility will:

- be for the difference between their 2005/06 allocation and 150 tonnes
- cease when cumulative allocation of non-standard quota reaches the above amount *or*
- apply until the combined standard and non-standard quota obtained in any year reaches 150 tonnes.

Example

Company B has been allocated 60 tonnes of *standard* quota in 2005/2006 based on its shipments in 2004/05. Company B is eligible to apply for a maximum of 90 tonnes of *non-standard* quota over the next five years. Company B applies for 40 tonnes in 2007/08. It ships 100 tonnes in that year and receives standard allocation of about 95 tonnes in 2008/09.

Company B remains eligible to apply for another 50 tonnes of non-standard quota until 2010/11 after which it can no longer apply for non-standard quota.

Its eligibility will cease if it obtains a total of 150 tonnes of quota in any year from any source.

- c) Non-standard quota allocated to a licensed exporter will not be transferable. Standard quota obtained by a recipient of non-standard quota can be transferred but the company would no longer be eligible for non-standard quota allocations.
- d) Once a company ceases to be eligible for non-standard quota it will be ineligible to reapply if it has shipped any HQB or equivalent to the EU in the five year period prior to application.
- e) Applications for non-standard quota made to the Quota Management Unit of DAFF by 30 April each year will be considered for the following quota year on the basis that:
 - all applicants will share in the 500 tonnes on an equal basis and
 - no allocation exceeds the eligible amount for that applicant or the amount requested by the applicant.
- f) Any part of the 500 tonnes of non-standard quota not allocated in the initial process will be reserved for allocation, as defined in a) and b) above, up to the recall date for unused quota. After that date remaining non-standard quota will be returned to the pool of recalled quota for distribution under unused quota provisions (below).
- g) The current guidelines for the allocation of non-standard quota will need to be revised in the light of these recommendations and the points below.

7.1.3. EU TRQ allocation formula

The standard quota allocation formula each year would then be:

$$\text{Allocation} = (\text{TRQ} - 500 \text{ tonnes}) \times \frac{\text{company EU HQB and equivalent shipments}}{\text{total EU HQB and equivalent shipments}}$$

7.1.4. Unused quota

Any licensed meat exporter will be eligible to receive unused quota. Otherwise current arrangements, including recall timing for unused quota, will continue.

7.1.5. TRQ administration

The TRQ should continue to be administered by the Australian Government on a cost recovery basis. The recommended arrangements should commence on 1 July 2006 with industry notified as soon as possible.

7.1.6. Comments on recommended approach

These recommended changes address the Panel's conclusion that current new entry arrangements have been overly restrictive, present barriers to competition and have decreased export opportunities for Australia. A number of companies are willing and able to meet EU beef import requirements but unable to satisfy EU TRQ allocation criteria even in years where the TRQ has not been fully utilised.

The current requirement that new entrant applicants own a boning or production facility is the major obstacle but barriers are also presented by

- the twelve tonne minimum allocation
- the timing of new entrant applications
- requirements for applicants to demonstrate they are not competing with established EU exporters and
- limiting applications for unused quota to those already receiving quota.

These restrictions on market development and competition are inconsistent with policies summarised in Principle 1.

The Panel's recommended changes to the TRQ administration arrangements will address these problems and provide consistent eligibility criteria for access to and allocation of EU TRQ.

The Panel has marginally increased the non-standard allocation limit to 150 tonnes and has extended access to companies with annual allocations under 150 tonnes; it also allows five years (rather than the present one year) for companies receiving non-standard quota to build to 150 tonnes.

Current EU TRQ arrangements set aside 400 tonnes a year for non-standard quota applications. The Panel recommends increasing this to 500 tonnes a year, recognising there are a number of potential applicants disadvantaged by the rigidity of the current arrangements. The longer period for application should also encourage new entrants.

Together, these arrangements will reduce 'lottery' outcomes where the amount an applicant receives depends on the number of other eligible exporters also applying in a particular year for non-standard quota.

The Panel considers new entrant rule changes could comparatively disadvantage existing quota recipients with small allocations. Accordingly, as a transitional measure, the Panel recommends quota recipients allocated less than 150 tonnes in 2005/06 be eligible until the 2010/11 quota year to apply for non-standard quota.

Current arrangements prohibit non-standard quota from being transferred. The Panel supports this constraint as it reduces opportunities for speculative trading in quota. As the primary purpose of the non-standard quota provisions is to open access to a portion of the EU TRQ, the Panel considers that recipients of non-standard quota should not be allowed to transfer any portion of their standard quota allocation while seeking non-standard quota. Accordingly, the Panel recommends that where a

recipient does transfer standard quota during their five year application period, they cease to be eligible for allocations of non-standard quota.

The Panel also recommends that any undistributed portion of the non-standard quota amount be reserved up to the recall date for unused standard quota. During this period new entrants or existing recipients of small allocations can apply for new or additional non-standard quota subject to the overall limit of 150 tonnes. It would be allocated on a FCFS basis.

The Panel sees no justification for limiting eligibility for unused quota to companies that had obtained quota in that year. It should be available to all licensed exporters consistent with the criteria applying to standard quota allocations. The Panel does not see a need for penalties for non-use of quota; the twelve month shipment based record provides sufficient disincentive for under use.

The above recommended changes will necessitate a substantial revision of the current AMLI Order and associated Guidelines initially developed in 2001. Such revisions should accord with the principles in *Section 3* and take into account the Panel's observations on minimising barriers to competition and trade in the EU marketplace.

7.2. Conclusion

In summary, the Panel considers these recommendations will facilitate effective use of the EU TRQ and potentially increase returns to Australia by reducing the eligibility barriers for non-standard quota access. While these changes might result in some redistribution of the TRQ from existing quota recipients, such an outcome can occur under current arrangements for non-standard quota. The Panel considers the EU TRQ has been undergoing considerable redistribution since 1999 and further changes can be accommodated within the commercial arrangements of companies, particularly as EU HQB forms a small proportion of total exports for the majority of companies.

Appendix 1: List of submissions

(This list relates to those whose submissions were directly related to the EU beef quota review).

- Australian Beef Association
- Australian Lot Feeders' Association
- Australian Meat Holdings Pty Ltd
- Australian Meat Industry Council
- Australian Certified Wagyu Beef Pty Ltd
- Castlebar Holdings Pty Ltd
- Cattle Council of Australia
- Hunt Partners - on behalf of the Free Trade Quota Group:
 - Bindaree Beef Pty Ltd
 - E C Throsby Pty Ltd
 - Fletcher International Exports Pty Ltd
 - Homebush Meat Export Company Pty Ltd
 - HW Greenham & Sons Pty Ltd
 - John Dee (Export) Pty Ltd
 - Kilcoy Pastoral Company Ltd
 - Liberty Meats
 - Midfield Meat International Pty Ltd
 - Monbeef Pty Ltd
 - Norvic Food Processing
 - OBE Beef
 - Ralph Meat Company
 - Riverina (Australia) Pty Ltd
 - Stanbroke Beef Pty Ltd
 - Stockyard Pty Ltd
- Kimberley Red
- Nippon Meat Packers Australia Pty Ltd
- Northern Cooperative Meat Company Ltd
- Tasman Group Services Pty Ltd
- Teys Bros (Holdings) Pty Ltd
- Top Hat Fine Foods Pty Ltd
- W.A. Meat Exports Pty Ltd
- Withersfield Pty Ltd