

## FOREWORD

The Review of the *Export Control Act* is part of the comprehensive examination of all legislation affecting competition agreed by the Commonwealth and State Governments when the National Competition Policy was adopted in 1996.

As its name suggests, the *Export Control Act* authorises restraints on business engaged in export. The Review Committee was required to assess the extent to which the restraints affect competition within the individual export industries, and the competitiveness of Australia's export industries overseas. Costs and benefits were also to be assessed. Using the outcome of these assessments, a third task was to make judgements on retention of the legislation and, if positive, to recommend changes which would improve effectiveness and maximise consistency with NCP principles.

The Committee strongly recommends retention of the Act, but the Committee also recommends amendments to the Act and changes to the way it is administered.

The key objective of the latter recommendations is to set a direction for the administration of all programs so that they accord with NCP principles, and are based on active cooperation between government and individual industries.

A vision has been set. It establishes clear goals and structure for each program. The Committee commends the recommended approach to Government for implementation within the next five years.

Many people and organisations contributed to the Committee's tasks.

Foremost among them were the representatives of individual businesses and industries covered by programs authorised under the Act. They were forthright in advising the Committee about "what helps" and "what hinders". The Committee sincerely hopes that increased exports is the ultimate reward for their valuable and constructive inputs.

The Committee's work could not have been completed without the input of the Australian Quarantine and Inspection Service (AQIS). Management and staff at all levels provided reams of information, valuable assistance and constructive suggestions. The Committee was most appreciative of the help provided.

Special mention must be made of the group servicing the Committee with research, industry contacts, drafting, redrafting and general administration. The most conspicuous were Hilary Cuerden-Clifford, Glenda Owens and Alex Cockinos. However, the Committee is aware that there were others who made valuable inputs. Thank you to all.

Peter T Frawley  
Chairman

Lyndsay Makin  
Member

Roly Nieper  
Member

Barbara Wilson  
Member

23 December 1999

## Executive Summary

The Export Control Act Review is part of the comprehensive examination of legislation by the Commonwealth Government to ensure compliance with the National Competition Policy. This Review focuses on those parts of the *Export Control Act 1982* which restrict competition or which result in costs or benefits for business.

The Review received 54 written submissions from a cross-section of the individuals, companies and industry associations affected by the Act. The Review Committee consulted with exporters, peak industry organisations, relevant government instrumentalities in Australia, and representatives of importing countries. The Review also comprised industry site visits and discussions with policy and operational staff of AQIS. All this information was incorporated into the Draft Report, which was released in August. Comment on that draft has been incorporated in the Final Report.

The Committee undertook its task in the following steps –

- assessment of the existing arrangements,
- development of approaches to address deficiencies and improve the effectiveness of arrangements,
- formulation of a vision for export assurance and a strategy for its implementation.

On the positive side, the Committee found that the Act is:

- fulfilling its purpose,
- providing a recognisable economic benefit,
- presiding over expanding agricultural sector exports,
- effectively guarding against the threat of market failure, and
- providing a framework for introducing progressive practices in the export sector.

In economic terms, the ECA facilitated \$13 billion worth of exports in 1998-99. Although food exports would still occur in the absence of the Act, the Committee assessed that withdrawal of export controls would lead to market losses in the order of billions of dollars. The Committee also concluded that the benefits of the legislation for industry are well in excess of the costs.

Balancing this, the Committee is of the opinion that policies and procedures now in place under the Act and its subordinate legislation could lead to major competitive distortions. This potential for distortion would, however, be lessened by addressing the shortcomings of the present system and changing the emphasis of some functions managed by AQIS.

Stemming from this, there is a need to address the following:

- a pervasive culture of control in the export community,
- dual systems (domestic and export) for managing food safety,
- complexity and cost incurred in meeting export systems,
- a lack of objectives and performance measures in the legislation,
- a lack of specification over product coverage under the Act,
- a lack of provision for meaningful review of the legislation,

- some problems with consistency in application of the legislation, and
- the need for development of information and transaction management through electronic databases and documentation.

The Committee's vision is for exports based on Australian standards, enabled by a true partnership between government and industry, with single-body certification by government, where this is required by importing countries.

The Committee's impetus for change is found in the recommendations, which advocate retention of the *Export Control Act*, but with amendments to more closely reflect NCP principles and the partnership process with stakeholders. These include:

- adoption of an integrated export assurance system based on 3 tiers:
  - Tier 1: Australian Standards harmonised with International Standards/Agreements (Codex, OIE, IPPC).
  - Tier 2: Importing country conditions not covered by Australian Standards
  - Tier 3: Emergency or special requirements by industry or government,
- setting of appropriate objectives for the Act to promote clarity of purpose and measurability,
- harmonisation of domestic and export standards for the production of food and agricultural products,
- export certification by a single government based agency,
- contestability of monitoring, auditing and inspection,
- extending the focus of the Act through the entire food chain, and
- government and industry co-responsibility for strategy and program priorities.

The Committee believes that a shared vision and a strong partnership is central to industry and to government administration of the Act, to ensure fair and committed application of the Act's provisions, consistent with its objectives. Implementation and monitoring of activities under the Act must reflect the shared purpose and commitment to uphold the reputation of Australian goods exported with the full endorsement of the Act.

The Committee has briefly assessed the status of the existing programs against the approach defined in the model it has proposed. Some programs are close, but clearly others will require considerable work.

The Committee urges the Government to incorporate the implementation of this Review into the COAG process with a timetable and assigned responsibilities.