

4. STAKEHOLDER VIEWS

This chapter sets out a summary of stakeholder views. These views are mostly set out with reference to questions asked by the Committee. These questions were posed in the process set out in Chapter 1, and stakeholder responses were considered in detail. Material in this chapter therefore relates to stakeholder views only. All quotes in this chapter are from submissions received by the Review, and the Committee's assessment of the most important issues arising from this process is given at the end of this chapter.

4.1 Impact on Competitiveness

The most immediate concern for most stakeholders was the impact of Government activity on their costs, so reducing the resources which they needed to conduct their business. However, stakeholders did not specify exactly where their cost problems are.

Restrictions under the legislation, such as the need for registration of premises, drew a mixed response. Some stakeholders saw it as promoting compliance with required standards (and quality) and hence competitiveness overseas, while others saw it as a barrier to entry, and hence restricting competition. The elaborateness of the legislation and inherent restrictions, such as time taken to implement new arrangements, was seen as working against innovation and entrepreneurial capture of new markets:

Legislation which is too prescriptive inhibits innovation, and fails to exploit other means of achieving a safe food outcome. [*Victorian Government*]

The requirement to meet detailed legislation imposes unreasonable limits on innovation in the industry as very prescriptive legislation can be prohibitive to prospective opportunity for trade. [*Queensland Department of Primary Industries*]

The bounds of responsibility should be set at which industry in general is free to pursue and develop both domestic and export business without either regulation or interference from government. Regulatory requirements should be set in order to protect the safety of the population and to protect the industry from any individual acts which may either undermine or harm the industry's reputation in the international marketplace. ... Regulation should only be required in situations where there is an obvious potential of major risks to the Australian food and beverage industry. . . . It is recognised throughout industry that the development of export markets requires significant capital and that overall returns are lower than those on the domestic market. When the costs imposed by regulation are taken into account, the commercial viability of developing export business is brought into question. Within the industry the costs are definitely not perceived to be fair and reasonable, mainly due to the fact that industry sees little benefit from the costs imposed. . . . The costs of compliance are high and can ultimately result in (or be a significant factor in) a company's failure to establish a viable export market. Moreover, complying with the existing orders does not provide any benefit to the company in the domestic market which would assist in alleviating the financial burden compliance imposes. [*WA Food and Beverage Exporters Association*]

There was more agreement on the effectiveness of the Act in aiding market access in general, and on its value in demonstrating compliance with importing country requirements.

The Act and AQIS should be seen as a positive support for the export of Australian foods. [WA Government]

The benefit to the Industry of complying with the requirements of the Act is foreign market access. Access is more likely when the export of a food item has to meet a set of enforceable requirements and follow prescribed protocols, which can be identified through the Act. [Australian Dried Fruits Association]

The resource needs of AQIS to rapidly respond to market opportunities are essential. [Australian Oilseeds Federation]

Nevertheless, successful access has its own requirements:

Those hoping to seek out and develop new markets and customers (the 'big' markets of the future) are conscious that competing nations such as Canada appear to be able to export quickly and flexibly - they can provide Canadian standard product to any export customer but, of course, must meet importing country requirements. Hence, the decision to supply a customer is a relatively quick and commercial one. The basics for market development are also clear. [Victorian Quality Assured Meats]

There is a significant body of opinion in favour of the promotion of Australia's domestic standards as a suitable basis for export:

Access to export markets is not currently available to much Australian red meat which is prepared in accordance with Australian Standards and eaten daily by Australians. This is a real issue for the meat industry and associated regulators. [Victorian Quality Assured Meats]

There is a market failure rationale for restricting access by Australian exporters to markets on the basis of domestically set quality standards. For example, it is often argued that the actions of an individual exporter exporting products of 'low or variable quality', will result in negative 'spill-overs' in the form of lower prices, loss of markets etc, to other Australian exporters. [NSW Government]

The Authority would encourage the removal of the prescriptive detail contained in the current Orders and believes that the new Food Standards Code should form the basis of any "national standards for prescribed goods" as any alternative standards would create unnecessary duplication and confusion for the food export industry. [ANZFA]

VQAM seeks significant progress toward a model which does not restrict competition into export markets for any Australian meat and meat products produced as set out by the Australian Standards for preparation of meat for human consumption. [Victorian Quality Assured Meats]

National standards, based on quality assurance using HACCP procedures, will achieve better market outcomes than prescriptive export control orders, especially if strongly negotiated and promoted by AQIS and DFAT. [Victorian Government]

The need for the use of the prescribed goods provisions would be eliminated if standards applying to domestic and export were equal (except where particular country requirements apply). [WA Government]

International standards are seen as relevant, too:

The basic level of regulation to achieve the stated objectives should be such that produce destined for export complies with the base international standards required under the WTO, or that apply to the sale of that produce within Australia, whichever of the two is the greater. This is a moral concern in that Australia should not export produce that is not of a quality acceptable to Australian consumers. [*Queensland Department of Primary Industries*]

4.2 Market Access Overseas

There was some confusion among the respondents regarding the term market access. A majority interpreted it as facilitation of exports (which is the intended meaning) but a significant minority interpreted it as control or restriction of access, either domestically or internationally. Most respondents were opposed to the Act being used to impose quotas; a notable exception was the Department of Foreign Affairs and Trade.

International obligations (eg SPS and TBT) and standards (eg Codex) set the frame in which Australia trades food outside its borders. This was emphasised by the Department of Foreign Affairs and Trade, but little commented upon by other stakeholders.

Further, a number of stakeholders believe that food is not traded internationally in a free market, typically:

The international market for grain is not a free market. It is a market that is characterized by market failure and corrupt practices. Many governments engage in policies that are trade distorting and these policies adversely affect the prices received by Australian growers. As a consequence, Australian growers need every advantage that they can gain in order to compete effectively on these international markets. The continued operation of the present export control arrangements is thereby beneficial to Australian grain exporters and is thus in the national interest. [*Grains Council of Australia*]

Respondents accepted that importing countries, rather than exporting ones, set the rules. Additionally, political considerations were instanced, including:

- trade-distorting policies adopted by other governments, and
- use of export failure (in Australia) as a weapon against Australian exports.

Stakeholders pointed out that damage to the whole industry or a sector could occur from an incident concerning a specific exporter. This view commonly came from those industries exporting commodities such as grains and meat rather than 'branded' products.

In any case, fair or not, importing country requirements are at the heart of market access, a view supported by most stakeholders. Unless these requirements are observed, there is little hope of exporting. However, there is a general view (see 4.7 'Standards'), that an opportunity exists to promote Australia's own food standards as a suitable basis for food export.

Most stakeholders thought that regulation should cover health and safety, but should leave trade description as the responsibility of the exporter, though not all shared this view. For example:

Accurate product description on export certification is essential to maintain integrity of product and to satisfy the importation requirements of our trading partners. [*Pork Council of Australia*]

The preferred situation would be that trade descriptions are commercial issue and not government issue. However, as the international market may not be mature enough to rely on contractual arrangements between companies at the present time some government intervention in this matter may be required. [*Queensland Department of Primary Industries*]

Trade specifications and product description requirements are a commercial and/or industry self regulatory responsibility. In the past however there has been the need to manage supply into some markets (eg Jordan and Saudi Arabia) because the country either has specification requirements, or the nature of the market requires that supply be regulated to avoid over or under supply. [*Livecorp*]

Some were in favour of a more comprehensive set of responsibilities:

Government control over exports can also be important when access for particular products is restricted by a tariff-rate quota (TRQ). Even when the importing country does not require formal government control to ensure the orderly administration of the quota, the absence of government controls may have commercial impacts. The EC, for example, has hinted that it would like to change the administration of some of its quotas. Any lessening of Australian controls might spur the Commission to assume control of quota allocation. [*Department of Foreign Affairs and Trade*]

Stakeholders were generally in agreement on the importance of Government (and, as most saw it, AQIS) certification:

Confidence in the certification and inspection process has . . . seen new dairy export facilities certified by Brazil, sight unseen. This confidence was also a key factor in securing Brazilian agreement in late 1998 to allow importation of wheat and grass seeds. [*Department of Foreign Affairs and Trade*]

Even those in favour of minimal regulation saw benefits:

The bounds of responsibility should be set at which industry in general is free to pursue and develop both domestic and export business without either regulation or interference from government. Regulatory requirements should be set in order to protect the safety of the population and to protect the industry from any individual acts which may either undermine or harm the industry's reputation in the international marketplace. [*WA Food and Beverage Exporters Association*]

State Governments were more firmly in favour:

The responsibility of government lies in the development of umbrella legislation to meet the objectives stated and to work with industry on codes, standards and to bring these into the regulations where appropriate. Government also has the responsibility of ensuring that there is International acceptance of its capacity to ensure compliance.

As there is significant risk in the actions of a few jeopardising market access for all, there needs to be a capability for Government to assess compliance and ensure remedial action is taken and this be supported by heavy penalty where compliance is not subsequently met. [*Queensland Department of Primary Industries*]

While most stakeholders saw validity in trade facilitation, some found problems:

It is probably inappropriate to denote this facilitative role as an export control. In reality, the most important controls on the production of dairy products for commercial sale are those which apply domestically to ensure the health and safety of consumers on the Australian market. [*Australian Dairy Products Federation*]

4.3 Purpose and Value of the Act

The value of the Act was universally attested, as was the need for a clear and meaningful objective to the legislation. Issues canvassed for consideration of the objective included:

- participation of industry in the decision-making process,
- specification of the purpose of regulation,
- specification of the objective the government wishes to achieve by export control,
- outcome-basis,
- objective: efficiency, effectiveness and accountability,
- objective: facilitate export to and competition in the international marketplace,
- objective: enhancement of the reputation of Australian primary products,
- objective: safety for human consumption and truth in labelling.

Desirable regulatory characteristics included:

- reduction of duplication,
- reduction of costs to industry,
- alignment with food safety programs proposed by ANZFA,
- alignment with the Australian Food Standards Code,
- flexibility,
- removal of regulation which concerns purely commercial decisions,
- licensing of food processing plants (to the Australian standard).

The basic proposition was put by the Australian Wheat Board:

'Regulation of export quality and standards is extremely important and central to maintaining the reputation of Australian agricultural exports overseas'

The question of why and when Government should regulate saw a divergence of views. The requirement for regulation was accepted, but coverage was seen as greater than strictly needed (bodies like the Australian Wheat Board being obvious exceptions):

The Act has been used over the years to ensure certain market access conditions are satisfied by exporters. While on the face of it this may seem to be an inappropriate role for the Act to play, in actual *practice* we believe it has resulted in improved levels of market access. Countries have the confidence to import Australian products in the knowledge that exacting quality compliance requirements have been met. [*Australian Wheat Board*]

More industry responsibility and less prescriptive legislation were popular themes:

The prescriptive nature of the regulations which are currently in place retards industry's access to the most appropriate means of achieving a safe food outcome. [*Victorian Quality Assured Meats*]

The AMC believes that amendments to the *Export Control Act* to make it simpler and easier to use, less prescriptive and more orientated to coregulation and to ensure that all exporters compete on a 'level playing field' would enhance competition. However, the AMC considers that, if Australia is to maintain its share of the international red meat market, the special circumstances of the international and Australian red meat export trades require the maintenance of an effective regulatory regime. [*Australian Meat Council*]

The Cattle Council is of a similar view, with detail to back their assertions:

It is widely accepted that the current Act (and therefore the associated Orders) is highly prescriptive. It can be argued that this hinders innovation, induces higher than necessary compliance costs and is resource intense. The revision of the Orders by AQIS (1999) is an attempt to rectify these problems, but at the same time maintain the integrity of the system.

Cattle Council supports a more flexible approach to industry regulation. It is counterproductive to enforce a 'checklist' approach, where individuals are penalised for not adhering to a strict schedule that may have no bearing on the variables of 'importance'. . . . To clarify this point, refrigeration guidelines can be used as an example. It is well accepted that refrigeration is a critically important step in the preparation and storage of a safe, wholesome product. Under the current legislative framework of the Act, the Export Control Orders for refrigeration are highly detailed. The Orders list temperature limits at specific time periods for different products. Variable inputs are accounted for and a step-wise approach for compliance is provided.

Under the AQIS *Control Orders Exposure Draft (1999)*, a more flexible approach has been developed. An outcomes based approach is utilised, where the principles that need to be satisfied to achieve an outcome are identified and a framework put in place to facilitate the meeting of these requirements in an efficient manner.

Under this scheme the role of AQIS 'shifts' from being inspectionist and regulatory to more of a verification and partnership approach. Importantly, this places an obligation on the operator to inform AQIS of any problems or breakdowns in the system. The question for industry is if there is enough incentive to ensure this obligation is met? The issues of effective verification and subsequent penalties are, therefore, extremely important.

And the Western Australian Government stated that:

AQIS should not have the dual role of setting the standards and policing them.

The Queensland Department of Primary Industries summarised the issues succinctly:

Government should regulate the export of food and fibre to cost effectively meet the objectives stated above. There is also a need to regulate to meet very specific international obligations and standards. Australian standards may exceed International standards due to peculiarities of our environment. In all cases, regulatory controls should ensure conditions of World Trade Organisation endorsed agreements such as Sanitary and Phytosanitary agreements and technical Barriers to Trade are met.

4.4 Co-regulation

The variety of responses and viewpoints indicate that this term requires further public definition and standardisation.

Co-regulation was seen to extend the setting of standards:

‘which is government regulation, [and] should be developed in an open, consultative manner involving all participants in the industry, and with careful considerations of costs and benefits, including potential impacts on competition and innovation.’ [*Victorian Quality Assured Meats*]

One stakeholder said:

Co-regulation is the interaction of both industry and government to mutually service the best needs of the industry. [and more specifically, the] responsibility of ensuring their preparation systems and products meet audited standards. [*WA Food and Beverage Exporters*]

Further:

All along the meat chain, commercial operators should be responsible for, and accept responsibility for, regulating their own operations to ensure that their products meet the expectations set out in rules/standards. It should be for commercial operators to innovate, check and decide best methods to do this. [*Victorian Quality Assured Meats*]

There was little comment on how to go about achieving co-regulation, and this is another obvious area for an extensive consultative process to assist in defining the policy and its practical outcomes.

Some stakeholders had faith in the strength of the marketplace as a ‘regulator’. Yet, there was concern that co-regulation could involve as much ‘red tape’ as the original regulation, and that any move toward co-regulation should be accompanied by the recognition of this danger and the need to avoid it.

Caution needs to be exercised by industries and businesses when considering co-regulation (industry codes backed by law), and/or industry prescriptions, as alternatives to government regulation. Such schemes can add as much 'regulatory red-tape' to an industry as a government system. That red-tape can become entwined with business interests in a way that is helpful to some in the industry, but not to others. Innovators of any size in some industries have found difficulties dealing with 'competitors as supervisors'. [*Victorian Quality Assured Meats*]

Others shied away from self-regulation:

While industry self regulation would in the end be a desirable outcome the reality is, quite simply, that this is not possible. The disparate nature of industry participants, the range of products and markets and the confidence levels required by importers, means that regulation remains necessary to preserve product safety and quality . . . AWB does not believe that private enterprise should perform any of the principle functions of AQIS. [*Australian Wheat Board*]

Bodies such as the EU place considerable value in Government certification and (commonly) in Government inspection, seeing these as mandatory to exporting.

Stakeholders had varying views on the benefits AQIS could contribute in its role, some of the views including:

- a cost-efficient inspection service,
- certification of export products,
- the 'pull through' of some industry QA reforms through formal linkage between company participation in those schemes and eligibility for product export certification,
- the issuing of per consignment health certificates underpinned, in the case of meat, by the NRS chemical residue sampling program,
- as a by-product of the above, huge data bases, and
- promotion of Australian standards as the basis for export.

Stakeholder comments concentrated on the introduction of quality assurance and ISO systems as mechanisms to facilitate co-regulation, but did not appear highly focused on alternative administrative systems of achieving export success.

In summary:

Traditional end-point export inspection arrangements administered by the Commonwealth would be replaced by transferring responsibility to the companies, with registered third party independent auditors or local government to monitor the system. This places the onus on the manufacturer to conform and be subject to audits by a registered organisation, rather than placing the onus on government to police the industry to try to catch companies breaking the rules. [*WA Government*]

4.5 Prescribed Goods

Stakeholders wanted all currently prescribed goods treated in the same fashion, allowing for differences in product types. The Australian Meat Council extended this argument, calling the provision of exemptions under the Act for export of meat from domestic (only) approved establishments a 'grave anomaly'.

The Queensland Sugar Corporation was in favour of the single-desk marketing system but was not in favour of being subject to the *Export Control Act* (and losing responsiveness and flexibility):

Turning to the present review, as currently structured sugar is not a prescribed product under the *Export Control Act*. For this reason the QSC's export activities are not currently affected by the legislation. The QSC is keen to ensure raw sugar continues to be excluded from the operation of the Act. The QSC's ability to respond flexibly to the market changes in the light of increased competition from Brazil and other origins will be important to the ongoing profitability of the industry. The application of the *Export Control Act* to sugar would be a significant impediment to the QSC's ability to respond flexibly to changing market conditions.

There were requests for approaches which reflected the unique nature of products, for example, in the dairy industry:

Our industry depends crucially on the efficient and competitively priced provision of export services. The industry believes that as an exporter, it should be treated no differently than other food exporters such as confectionary, biscuits, sugar etc. These commodities are freely traded on the international market without any Government export controls.

However, the industry recognises that its products are biologically active and that importing countries have a number of Government requirements that must be met for the certification of food imports. [*Australian Dairy Products Federation*]

A good summation of the issue was made by QDPI:

Although there is an equity issue in the prescribed goods regulations, and it would be preferable if all industries were to be assessed against the same principles, it is not of paramount importance that equity should be achieved. However, the need for any prescription of products should be transparent and be clearly explained. The risk management based approach in fish and dairy exports is fully justifiable relative to the more regulated meat export requirements.

It is highly conceivable that some potential markets will require a higher quality assurance standard than that which applies as a base international standard. However there is no compulsion on producers to supply to that particular export market. Many producers may wish to target markets in which there are no additional quality assurance standards required. Therefore the decision to sell produce into a market with high quality entry standards is purely a commercial decision to be made by individual producers (or a group of producers).

The higher quality standards required impose significant additional costs by way of testing and certification of product quality. These additional costs should only apply to those producers who wish to access those markets and should not be incurred by those producers who do not need to comply with those same strict standards.

. . . the Government can provide the certification of quality assurance required without compelling those producers and exporters who do not need this level of quality assurance to meet the same standards and bear unnecessary costs. [Queensland Department of Primary Industries]

Opinion varied industry by industry and case by case, depending on the circumstances of the trade. Comments in other submissions have indicated that a large number of stakeholders wish to have the Act limited to health and hygiene. However, there is still a substantial opinion which wants an all-inclusive Act (grains in particular):

Many importing authorities, such as the importing State Trading Enterprises in countries like Japan, South Korea and China, maintain very strict conditions in relation to the particular requirements that must be met by those wishing to import products. These requirements relate to quality aspects such as hygiene, quarantine pests and trade and product descriptions. The present export control arrangements help to ensure that Australian grain exporters are able to meet those requirements. The GCA fears that changes to those arrangements could have the potential to restrict access to the quality conscious international markets for Australian grain products. [Grains Council of Australia]

DFAT is of the view that prescription of non-certified goods can be of assistance in gaining market entry in specific cases. The National Meat Association, on the other hand, sees no rationale for eliminating the current exemption process.

4.6 Commodities Regulated by Orders under the Act

Stakeholders held reasonably consistent views of significant benefits of being regulated under the Act. These included:

- safeguards for industry against problems,
- ease of access to markets,
- confidence overseas in Australian foods,
- importance in commerce,
- meeting of international obligations,
- damage control should problems arise, and
- maintenance of the quality of exported food.

However, stakeholders saw that these benefits imposed significant costs associated with:

- hardship in meeting prescriptive legislation,
- duplication of processes,
- documentation,
- compliance audits,
- fees and charges,
- costs of compliance,
- additional hidden costs,
- opportunity costs due to costs of compliance,
- time delays caused to exports through process, and

- disincentive for industry to innovate.

The Australian Chamber of Commerce and Industry, in their submission, suggested that 'A better informed and compliance-ready trading community would greatly ease the demands placed upon inspectors'. It also targeted cross-subsidisation of establishments.

Stakeholders also saw the need to demonstrate accountability in AQIS.

The South Australian Government identified some important cost issues:

Strategies that reduce costs and/or improve inspection efficiency need to be continually applied. There needs to be transparency in the setting of inspection fees.

For the Meat Industry, which is highly regulated under the Act, the costs to industry are high, much higher than our competitors in NZ and USA. With horticultural products, AQIS inspection fees often represent 3-6% of export documentation and administrative costs. Inspection fees are often a more pressing problem where:

- the commodity is facing strong competition in the market place and has a small profit margin
- packing facilities are remote from inspection services and incur high travel costs
- competing countries subsidise their inspection fees
- inconsistency of charging for like services occurs between regions.

[*South Australian Government*]

4.7 Standards

There was a strong message from a number of stakeholders on the desirability of harmonising domestic and export standards, and promoting Australian standards as a suitable basis for export. Significantly, the current 'two-tiered' domestic and export standard was criticised as expensive and as sending out messages that Australian companies manufacture to a lower standard for domestic markets. To take a typical response:

Under domestic regulations, when the proposed National Food Safety Standards are implemented a food business in Australia must be:

- registered;
- have an approved HACCP based food safety plan in place;
- undergo systems audits to ensure the food safety plan is achieving its objective that is the hygienic production of safe food;
- ensure the products it produces conform with the relevant food product codes eg general standards such as labelling, additives and, microbiological requirements and product specific standards.

The *Export Control Act* should recognise these domestic requirements and not duplicate them. The aim of the *Export Control Act* should be to allow the responsible agency (AQIS) to certify to the extent required by foreign governments and our export customers that exports are fit for the purpose to which they will be put (eg human consumption, animal consumption, other applications). Where necessary, the agency may also agree to certify other qualities to the extent required by foreign governments and our export customers if there is a reasonable basis for doing so.

Where the certification concerns fitness for human consumption on an export market, compliance by the processor with the National Food Safety Standard should be sufficient. [*Australian Dairy Products Federation*]

Access to export markets is not currently available to much Australian red meat which is prepared in accordance with Australian Standards. [*Victorian Quality Assured Meats*]

It needs to be recognised that within the framework of ANZFA and current legislation, Australia's domestic food standards are well positioned to replace many of the areas contained in the current *Export Control Act*. [*WA Food and Beverage Exporters Association*]

Feedback from exporters indicates that regulatory arrangements can be made more efficient through further harmonising (of) domestic standards between the Commonwealth and the States. [*Pork Council of Australia*]

4.8 Regulation and its Administration

The Review expected many comments about the length, structure and complexity of the legislation, but this was not the case. There were few comments in this category, although there were more on the subject of over-prescriptiveness.

The requirement to meet detailed legislation imposes unreasonable limits on innovation in the industry as very prescriptive legislation can be prohibitive to prospective opportunity for trade. The costs involved in meeting such legislation may have no benefit other than to satisfy the legislation. An example of this can be seen where the prescription calls for levels of compliance above those required to meet base international standards of acceptance by a specific market and, as a result of this, a new market opportunity may be lost. [*Queensland Department of Primary Industries*]

Prescriptive criteria specified by export orders also excludes exporters who can meet importing nation requirements but not the prescribed criteria. [*Victorian Government*]

Current regulatory arrangements restrict active competition in, and competitiveness of, the Australian meat industry both directly and indirectly, via . . . prescriptive detail in the export regulations, and to a lesser degree the Australian Standard, which tell meat industry businesses 'how' to conduct their operation, rather than 'what' product and conduct standards they are expected to achieve, so limiting commercial innovation, initiative and decision making. [*Victorian Quality Assured Meats*]

On the other hand:

Legislation by definition must be prescriptive; without this, national goals and interests would not be reached. [*Southern Game Meats*]

Most stakeholders thought the benefits outweighed the costs, although most thought that the situation could be improved. According to the Australian Meat Council, benefits strongly outweighed costs, a cost-benefit analysis being required before any further changes to the Act.

DFAT and other stakeholders (see Sections 4.1 and 4.3) advocated reduction of compliance costs where possible and indicated that electronic trading/certification initiatives were worth considering.

Substitution of Government-provided services with third party (contestable) performance of some audit/certification functions is an obvious proposition to satisfy competition issues and may contribute to cost reduction, yet comments were far from positive on this issue. Stakeholders had two principal concerns - not to compromise Australia's reputation and to contain costs.

While positive about the benefits of regulation, stakeholders voiced concern about some of its administration. Comments were made on delays, cost issues and the 'double layer' of legislation and processing control. There were comments on the relatively high cost of AQIS inspection, but these were not common. There were tangential comments about AQIS's effectiveness (most stakeholders are of the opinion that some good comes out of the activity) but little direct comment.

Among positive suggestions was the creation of a database of mandatory and non-mandatory import requirements and the development of a database on microbiological testing.

The Grains Council was convinced of efficiency and effectiveness:

The GCA believes that the present arrangements for the control of Australian grain exports, as outlined in the *Export Control Act*, provide for the most efficient structure for control of prescribed exports. AQIS has the necessary expertise and experience to enable it to provide an efficient export testing service with regard to grain and to thereby help Australian grain marketers to operate effectively in international markets. The GCA believes that these efficiency considerations mean that the export control function has natural monopoly characteristics and is thus best handled by a body operating on a national basis which can reap the benefits of economies of scale and scope.

It can also be argued that the present export control arrangements provide for the operation of an efficient and cost effective service. If the present arrangements were not in place there would still be a need for Australian grain marketers to provide some form of certification of their product in order to ensure that they could compete effectively internationally on quality and reputation grounds. It would be likely that, without the existence of the present arrangements, the provision of such certification would be significantly more costly for the Australian grain marketers.

The GCA concludes its view that there are very significant public benefits that stem from the present export control arrangements that are outlined in the *Export Control Act*. The GCA firmly believes that these benefits act to outweigh any anticompetitive detriment that may arise out of the legislation. As a consequence, the GCA would like to take the opportunity to advocate to the Review Committee that any changes to the *Export Control Act* that may be recommended by the Committee need to ensure that the benefits that arise from the present arrangements, both to the Australian community generally and to the grains industry in particular, are not lost. [*Grains Council of Australia*]

At a more specific level, there have been criticisms:

Exporters expressed concern that AQIS is not flexible enough in processing requests for meat inspection on weekends. Potential customers from Singapore, Hong Kong and Japan have apparently had difficulty in obtaining meat products from Australia during weekends. AQIS's requirement for two full working days' notice to process weekend inspections results in potential export orders being lost. PCA recommends that AQIS be more flexible in its inspection policy, especially as industry bears the full cost. A more flexible approach by AQIS will boost Australia's export competitiveness. [*Pork Council of Australia*]

4.9 Importing Country Requirements

A very detailed submission was received from the Department of Foreign Affairs and Trade which outlined what importing countries valued about the Australian export certification system. The main points were as follows:

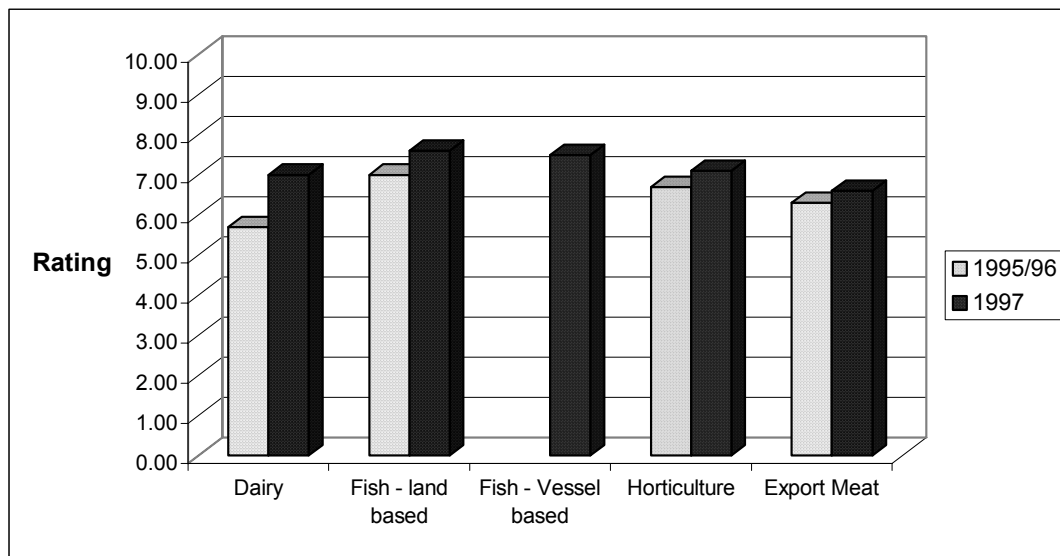
- There is strong support for government involvement in export certification.
- Importing countries have greater confidence with government inspection.
- Confidence in Australian products would decline if government involvement were withdrawn.
- Many countries accept government assurance without being familiar with the internal operation of our system.
- Some governments are receptive to detailed logical argument about changes to export inspection or certification—other governments are not receptive.
- There are links between ease of establishing market access and government based certification.
- The time taken to restore confidence in an Australian product when problems arise is shorter with government involvement in inspection/certification than without.
- Food safety is a priority universally, with many countries less concerned about issues such as labelling and product quality.
- Attention needs to be given to directing resources to resolving market penetration issues, which will give the best market return.

DFAT believes that there is scope for reforming Australia's inspection and certification regime with the possibility of using non-government inspectors. However, with the strong desire for the continuation of government involvement, there are many hurdles to overcome. Discussions should be avoided if they are potentially damaging commercially.

4.10 Stakeholder Feedback obtained by AQIS

AQIS has set up a client feedback process which encourages clients to report back on its service performance, particularly where client expectations have not been met. The client feedback information is acted on by the managers of the various AQIS export programs with an undertaking to give a prompt response. This is included in the AQIS service charter for each of the export programs. The following table shows some recent results.

Figure 4.1: AQIS Client Satisfaction



This chart, drawn from information in the regular surveys, shows the relative satisfaction for the various programs from 0 (poor) to 10 (excellent).

4.11 Committee's Assessment of Key Points

The Export Control Act in Principle

- *Stakeholders view the Export Control Act as essential to the bulk of Australia's food and agricultural products export trade. Consumer protection, health and hygiene, animal welfare and common product descriptions were all stated by stakeholders as reasons why the Act is needed.*
- *Arrangements under the Act, in particular AQIS certification, are held in high regard by Australia's major trading partners and supported by the majority of Australia's food and agricultural product industries.*

Objectives and Coverage

- *Virtually all representations supported the need for a clear statement of objectives in the legislation to cover facilitation of trade, access to markets, compliance with food, plant and animal health requirements set by foreign governments and protection of Australia's trading reputation.*
- *There was support for the Act to be based on Australian requirements, which are promoted to overseas governments as the export standard.*
- *Stakeholders were generally of the opinion that specific products or groups of products should only be prescribed when there is a need for certification to gain access to export markets, either when specifically sought by industry or in the event of market failure.*
- *Responses from industries not already subject to the Act argued such status should be retained. However a number of submissions sought all food products to be subject to the requirements of the Act.*
- *Trade specification and product description requirements are viewed as commercial and could be excluded from the Act. However some submissions argued for inclusion of descriptions if the trade is new, if description is a requirement of importing countries, or, if the actions of individual participants could threaten the trade for all exporters.*

Discharge of responsibilities under the Act

- *There was a majority view that the Act is overly prescriptive and that the degree of regulatory scrutiny is not risk related. Inhibitions to innovation increased with the degree of prescriptiveness within the administration of export 'rules'.*
- *HACCP based QA and risk/performance based monitoring and auditing are the preferred means for achieving compliance.*
- *The existing Act imposes burdens on food and agricultural export industries in the areas of administration costs, inspection arrangements and registration of premises. Such burdens are a concern under National Competition Policy (NCP) principles.*

Co-regulation and contestability

- *The concept of reduced responsibilities for governments and increased roles for the exporter (co-regulation) has strong support. However there was not a common view on the exact roles for government and industry.*
- *The limited scope for contestability of services and the involvement of AQIS in all activities under the Act — establishment of certification assurance programs, supervision of implementation (inspection) and final certification - is potentially at odds with NCP principles.*

Administration of the Act

- *Perceptions are strongly held within industries about AQIS programs which administer the Act. Particular criticisms were:*
 - *inconsistency of application within the same program across regions within Australia,*
 - *inconsistency of application of 'rules' by approved third party providers, and*
 - *overlaps between programs especially in dairy and processed foods.*
- *Users are especially critical of the cost of registration of premises and requirements for first time exporters.*

Prospects for the future (technology)

- *There is strong support for advancing the rate of introduction of electronic based certification. Concern was expressed, however, about the costs associated with such introduction especially on small exporters.*