Consultation Draft Export Control Rules 2020 Version 2 – Meat and Meat Products

Cattle Council of Australia (Cattle Council), Sheep Producers Australia (SPA) and the Australian Lot Feeders' Association (ALFA) welcome the opportunity to provide a joint submission to the Consultation Draft Export Control Rules 2020 Version 2 – Meat and Meat Products (*the Rules)*.

As Australia's peak industry organisations representing beef cattle producers, sheep meat producers and lot feeders, the interests of our membership are aligned in achieving efficient export regulatory mechanisms to promote the growth of Australian red meat exports into the future. Maintaining market access is vital to our produers and the Export Control Rules are an important construct in delivering that market access.

As noted in prior submissions, it is essential that any changes to the Rules (or to the administration of the Rules) does not impose an additional cost burden on industry, and changes result in measurable improvements to the administrative process to reduce costs and provide greater certainty for all involved.

We support the Australian Meat Industry Council's (AMIC) submission to this process. In addition to the specific feedback regarding the draft provisions for the Rules provided by AMIC, we make the following comments.

We have appreciated the Department of Agriculture, Water and the Environment's (DAWE's) efforts to enable industry to contribute to Version 2 of the draft Rules currently under consultation. We have also valued the ongoing and supported workshop consultations that have provided industry the opportunity to contribute to early drafting of version 3 of the Rules, and believe that the suggested changes proposed during this current consultation period will further clarify provisions within the Rules.

As highlighted in prior consultation to the Rules process, we assert that the current process presents an opportunity to not only consolidate administrative practices, but to mould an efficient system that promotes consistent administrative interpretations and rule compliance that will guide those within the industry into the future.

Our two key comments involve the inclusion of specific importing country requirements within the export rules; and the means by which an importing country requirement is defined, identified and accepted as falling underneath the jurisdiction of the export control rules.

We assert that the current practise of having particular importing country specific requirements within the Rules is problematic on several fronts. The Rules provide for the general requirement for exporters to comply with all importing country requirements. Having specific and detailed requirements for a handful of markets is inconsistent in application.

It is particularly problematic when the Rules do not specifically refer to the country to which they apply (and the knowledge of the reference is assumed). There is considerable reference within the Rules to European Union (EU) country specific requirements that are not specified that they are applicable to trade to the EU exclusively. It is also unclear why only some country requirements are listed in the regulations and the process that determines this outcome. This issue has been raised within the current workshop consultations between industry and DAWE, and industry appreciates that DAWE is looking to rectify this in the third drafting of the Rules.

Aside from the assumed EU country specific import requirements references, there is an entire section of the Rules devoted to the requirements of EUCAS and EU production. We contend that specific verification programs like EUCAS or even HALAL, should in fact be separate to the Rules. We suggest that all reference to country specific requirements, particularly those that are implied, be removed from the Rules and instead be referenced within the Manual of Importing Country Requirements (MICoR).

Given the Australian Government is in negotiations with the EU to establish a free trade agreement, we believe there is a unique opportunity to negotiate (in parallel to the FTA discussions) alternative mechanisms for meeting EU importing requirements that are less economically and administratively burdensome than the current EUCAS system.

The FTA negotiations with both the EU and UK, may lead to improved market access, which in turn, may involve request for additional country requirements. Keeping any requirements out of the legislation, not only simplifies the regulations, but allows greater flexibility and easier referencing for industry and regulators alike.

As raised in the ongoing industry Rules workshops, there is no definition for an importing country requirement within the current Rules. This lack of clarity within the Rules of what defines an importing country specific requirement allows for the perverse outcome of inconsistent interpretation and potential evolution of importing country specific requirements.

The rules of trade must be clear. The current process underway provides an opportunity to clarify and streamline procedures for all parties. A clearer understanding of the importing country specific requirements should deliver greater compliance. It is important for future trading prosperity that there is a clear process for a 'requirement' to come into force.

We contend that the SPS Agreement, to which all WTO members are signatories, provides an excellent basis for the acceptance of an importing country requirement. The current situation with China illustrates the need for certainty in managing importing country requirements. All importing country specific requirements should be firstly notified to and received by DAWE and then considered and assessed against Australian standards (or international standards should there be no Australian equivalent) to maximise opportunities for harmonisation. Claims of importing country specific requirements need to meet the tests of the WTO SPS agreement (notified, scientifically based and non-discriminatory), and if met then listed by DAWE in MICoR.

Whilst we recognise that enhancements are necessary for MICoR to be fit for its intended purpose, having all importing country specific requirements listed there would ensure that producers and exporters have certainty on the requirements needed by any individual country. Importantly, it also becomes a filter for new technical barriers into the country and a systematic method for assessing and recording accepted requirements rather than just all audit demands being deemed as automatically accepted.

We recognise that the intention of government is to not make significant changes to export policy or to the current baseline of regulations as a result of changes to the legislative framework, and believe that the above consideration is not outside of this principle.

We look forward to further consultation of Version 3 with the Department of Agriculture, Water and the Environment on this important process.

Yours sincerely

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