

---

# 14 Compliance with food import and export regulations

## Key points

- Fees for importing food into Australia are higher than those faced by New Zealand importers. Despite charging for import clearance for food safety on an hourly basis, the time taken for the process is not monitored or recorded in either country.
- A lack of consistency in the interpretation of food safety regulations across Australian jurisdictions increases the costs to businesses in ascertaining import requirements and managing imported product recalls.
- Application of food safety requirements throughout the production chain for domestic businesses, but not for imported businesses, may unduly raise the opportunity costs of domestic businesses (unless similar requirements are made in the importer's home country) and has contributed to some products that are not approved for production nevertheless being imported.
- Charges faced by Australian exporters of food, with the exception of meat exporters, are generally higher than those for similar activities in New Zealand, even with the benefit of a 40 per cent Australian government rebate. The costs to business of AQIS services are higher than some comparable domestic services provided by other agencies.
- Duplication in export and domestic regulation puts an undue compliance burden on some Australian primary product exporters, while the integrated regulatory structure in New Zealand means this is less of an issue there. Both countries sometimes impose stricter requirements than necessary on exports going to countries with less demanding requirements than their own.
- The extent to which multiple and overlapping audits impose additional costs on businesses varies more between industries than jurisdictions.
  - All Australian jurisdictions have memoranda of understanding between regulators to facilitate the recognition of audits and reduce business compliance costs.
  - In both Australia and New Zealand, meat exporters incur greater costs and more regulatory intervention than other businesses. In Australia, about \$80 million per year, or 80 per cent of export certification costs, relate to red meat.
- Businesses in both Australia and New Zealand noted areas in which a lack of skills or knowledge in regulator staff result in additional regulation compliance costs.
- Compared with New Zealand, Australia's regulatory system for exports relies less on electronic processing to reduce business compliance costs and is less able to embrace improvements in the domestic food safety system associated with shifts toward outcome based standards.

---

## 14.1 Introduction

Across Australia and New Zealand, there are just two authorities with responsibility for the regulation of food imports and exports — in Australia, the Australian Quarantine and Inspection Service (AQIS) has this role; in New Zealand, the New Zealand Food Safety Authority (NZFSA) regulates all food imports and exports. Each authority enforces a set of legislation that is applicable to all jurisdictions (and businesses) within their respective country.<sup>1</sup>

One consequence of this regulatory framework is that, for the purposes of this study, benchmarking of the regulation of food imports and exports is relatively straightforward as it requires a comparison of just two regimes (refer to benchmarking criteria 1 in chapter 4). On the other hand, stakeholders have raised concerns about the consistency with which this regulation is enforced across jurisdictions within Australia and between industries, and at a broader level, the costs imposed on business with differential application of food safety principles to domestic versus traded food production (see benchmarking criteria 3 in chapter 4).

This chapter examines differences between jurisdictions and industries in some of the fees and charges levied on importing and exporting food businesses and the broader costs incurred by these businesses as a result of the way in which food safety is enforced. As a basis for the analysis, the chapter draws on appendix C, which contains a description of the framework in place in Australia and New Zealand to regulate food imports and exports.

## 14.2 Issues with the administration of food import regulations

The safety of food products for human consumption is one of the main objectives for the regulation of food imports into Australia and New Zealand. Over the course of a number of regulatory reviews, industry organisations and businesses have noted several areas in which the implementation of food safety regulation on imported products causes excessive costs for businesses. Some of these costs are the direct costs incurred by domestic importers of food through interaction with regulatory authorities, including fees and charges to import and additional costs due to implementation of the import inspection process. Other costs are indirect

---

<sup>1</sup> In some areas, execution of this responsibility requires interaction with other authorities including Food Standards Australia New Zealand (FSANZ) or delegated inspection agencies such as the Auckland Central Clearing House in New Zealand, and state dairy authorities in Australia.

(opportunity) costs incurred by other domestic food producers associated with differential application of food safety standards between jurisdictions and product sources.

## Import fees and charges

There is a range of fees that importing food businesses incur in both Australia and New Zealand in relation to product safety. These can include fees for the application, lodgement and assessment of import declarations; inspection of the imported product; lab testing; and transport and storage associated with the inspection and testing process.<sup>2</sup> Fees for these activities are detailed in appendix C and summarised in table 14.1.

**Table 14.1 Key food safety related fees to import food**  
Australian dollars, 2008-09<sup>a</sup>

<i>Requirement<sup>b</sup></i>	<i>Charging unit</i>	<i>Australia</i>	<i>New Zealand</i>
Assessment of information in an entry of food	per item	30	
Inspection of food	per ½ hour	80	39
	per ¼ hour after the first ½ hour	40	

<sup>a</sup> Estimates for New Zealand are based on an average \$A/\$NZ exchange rate of 1.23 in 2008-09.

<sup>b</sup> Additional charges related to quarantine requirements may apply for some food items. There are also fees that apply for the supervision of treatment for imported food found to be unsafe and for food that is re-exported.

Sources: AQIS and NZFSA websites; RBA (2009).

AQIS and NZFSA both charge for their border services on a cost recovery basis and for some services they are the sole provider in their respective country. In general, fees for importing into Australia are higher than those faced by New Zealand importers. The extent to which this may be due to differences between the two countries in services offered under each category is unclear. The AQIS charging structure for imports is also considerably more complex than that of NZFSA, but mainly due to quarantine rather than food safety requirements.

In a submission to the Commission's 2003 *Review of Mutual Recognition* (PC 2003), AQIS provided evidence that costs to importing businesses could be even higher but for absorption of some costs by Australian taxpayers associated with government to government import arrangements:

<sup>2</sup> Some food importers into Australia may incur fees associated with the approval, maintenance and audit of a Quarantine Approved Premises. These fees are not detailed separately here as they relate more to bio-security than to food safety.

---

...where AQIS has a government to government certification with the exporting country, certification is accepted and there is only minimal inspection of the product upon entry to Australia — in these circumstances AQIS pays for the inspection and analysis that is conducted. (AQIS 2003, p. 2)<sup>3</sup>

These certification arrangements, in addition to agreements such as the *Trans Tasman Mutual Recognition Agreement* (TTMRA) and the *Australia New Zealand Closer Economic Relations Trade Agreement*, are particularly important for trade between Australia and New Zealand. Australia and New Zealand are the major source of food imports to each other. The combination of this dominance in food trade, certification arrangements and TTMRA, means that most food imported into Australia and New Zealand is not inspected, and therefore involves minimal regulatory costs to importing businesses. Only food from New Zealand that is regarded as ‘risk food’ is subject to inspection at the border by AQIS and, similarly, NZFSA only inspects food from Australia if it is a ‘prescribed food’ (appendix C). Even then, some high risk foods (such as some ready-to-eat seafood) are covered by certification arrangements and, if compliant, may be inspected at a lower rate.

However, AQIS notes more generally that ‘... while Australia and NZ continue to inspect risk foods, there is little, if any added health outcomes from this costly exercise.’ (AQIS 2003, p. 1)

### **Costs due to import inspection delays**

For businesses that import fresh food, the speed with which the imported product clears customs and quarantine processes can be critical to the shelf life of the product and sales revenue. Food safety inspection processes undertaken by AQIS or NZFSA that are not timely will therefore result in additional costs to importing businesses.

Despite charging for import clearance for food safety purposes by the hour, neither AQIS nor NZFSA were able to provide information on the range of time typically taken to clear imports at the border. AQIS advised that document clearance is required to occur within one business day and where inspection and sampling is required, it will be conducted within two business days after the service is booked by the importing business. The time taken to release risk foods held depends on how long it takes for test results to be available and may be around two weeks in the case of a microbiological assessment. NZFSA similarly advised that the target is to clear perishable goods within one working day and non-perishables within two working days. If sampling is required, then this is to occur within three days of notification

---

<sup>3</sup> Since July 2009, importers to Australia pay inspection fees for certified shipments.

---

that goods are available, with time for results dependent on the method of analysis. The extent to which the clearance of imports into Australia and New Zealand meets these targets is unknown. Some sectors of New Zealand industry advised the Commission that the speed of clearing particular products into Australia through AQIS appears to depend on which shipping company is used.

**Box 14.1 Interaction with regulators: importing fresh seafood into Australia**

Imported fresh seafood typically needs to reach its market destination within hours of its arrival into the country in order to ensure premium prices for the importer and minimal product spoilage.

Seafood Services Australia reported to the *Quarantine and Biosecurity Review* (2008) that imported fresh seafood needs to be traded within 12 hours of its arrival into the country to ensure premium prices and product spoilage is minimised but that ‘...under the current 9 to 5 operations of the IFIP [Imported Food Inspection Program] fresh seafood product arriving in the country often cannot meet the desired turnaround timeframe.’

In its submission to the same Review, the Sydney Fish Market (SFM) indicated that their product auctions commence at 5:30am and normally conclude by 8:30am on Monday to Friday each week. To meet this timetable, any imported product needs to arrive in Sydney either very early in the morning for auction that day, or late in the day for auction on the following day. The SFM adopt a number of strategies to speed up the import clearance process including pre-clearance of the product and prior arrangements for IFIP inspections outside of ordinary hours.

For pre-clearance, all shipping documents must be presented to AQIS before 4:00pm on weekdays. When this is not possible (for example, when the product arrives late into Australia), a day of product shelf life is lost. SFM also indicated that they make prior arrangements for an IFIP officer to be present early to conduct inspections and enable the sale of the product on the same morning. However, they reported that:

...rarely is the inspection commenced on time, thus resulting in product being held over to the next auction day. When this occurs on the last trading day of the week sale of the product may be delayed by three days, or even longer if there is a public holiday before the next auction day.

SFM also reported in their submission that occasionally an overseas supplier includes product not listed on the SFM Import Permit in shipments for the SFM. They argue that AQIS’s approach of delaying clearance of the entire shipment until an application for inclusion of these products is completed, is unnecessarily costly for importers. Amendments to import permits are subject to a ten day approval period – such a delay is ‘...almost always detrimental to the saleability of fresh chilled seafood.’

*Sources:* SSA (2008); Sydney Fish Market (2008).

---

In reporting to past reviews of regulation, the seafood industry in Australia has detailed some costs that importers of fresh seafood incur because of a lack of timely inspection and clearance of products (box 14.1).

### **Lack of consistency between jurisdictions**

A lack of consistency between jurisdictions in implementation of domestic food standards (as discussed in chapters 5–12) has ramifications for the application of standards to imported food.

Australia and New Zealand's World Trade Organisation (WTO) obligations under the *Sanitary and Phytosanitary Agreement* and *Technical Barriers to Trade Agreement* mean that safety requirements for imported food should not be more stringent than the requirements imposed on domestically produced food.<sup>4</sup>

This requirement is potentially relatively straightforward in New Zealand as there is national coordination on the setting, implementation and enforcement of standards. The situation is more complicated in Australia's federal system. Although standards for domestically produced food are uniformly adopted across Australia's states and territories under the Food Agreement, there is no such requirement to ensure consistent implementation and enforcement of these standards in the jurisdictions (see chapter 5 for further discussion on this). Consequently, for the most part, each jurisdiction implements and enforces the food safety standards according to its own interpretation and situation. The Implementation Sub Committee of the Food Regulation Standing Committee (FRSC) has striven to improve national consistency and coordination in the implementation of standards, although there remains much discrepancy. In the presence of any inconsistency within Australia, the requirements placed on imported food can be no more onerous than the *least stringent* domestic requirement.

This has had implications in Australia for:

- the clarity of information provided on Australia's requirements to overseas trading partners
- the coordination and consistency of recalls of imported food across the country

In practice, the lack of consistency between jurisdictions is not so much an issue for the clearance of imports at the border but rather, with the subsequent 'acceptability'

---

<sup>4</sup> The WTO *Sanitary and Phytosanitary Agreement* details how governments can apply food safety and animal and plant health measures. The *Technical Barriers to Trade Agreement* ensures that regulations, standards, testing, and certification procedures do not create unnecessary obstacles to trade.

---

and treatment of the food product by businesses and regulators within each jurisdiction.

### *Clarity of information on import requirements*

It is the responsibility of the business which is importing food into Australia or New Zealand to determine food safety requirements and ensure compliance of imports with these requirements. In order to meet these obligations, businesses wishing to import food products to Australia are potentially faced with eight different approaches (one for each state or territory) to implementing a food safety standard for a given product. For food importing businesses, these differing requirements have the potential to create confusion, necessitate contact with multiple jurisdictions/agencies and lead to additional costs in demonstrating compliance with food standards, both at border inspections and post-border. Some primary production industries in New Zealand reported to the Commission during consultations for this review that they have had difficulties importing to Australia with different information on requirements provided by AQIS staff in different states.

### *Cost of product recalls*

The lack of consistency in implementing and enforcing domestic standards can be particularly evident when an imported product is recalled from sale.

Inspection of imported food at the border is risk-based in both Australia and New Zealand and most food enters the domestic market place without being inspected (appendix C).

- In Australia, the only group of imported food that is withheld from distribution to the market is the sample of risk food product lines that undergo inspection. All other food products — both risk foods that are not inspected and surveillance foods that may or may not be inspected — are released for sale before test results from any inspections are received.
- In New Zealand, only a proportion of a defined list of foods (prescribed foods) are inspected at the border and withheld from sale in the market place until their safety has been verified — most imported foods enter New Zealand without restriction.

Once imported food is released by AQIS or NZFSA, responsibility for enforcement of food safety requirements shifts to other regulatory bodies (chapter 2). The NSW Food Authority (NSWFA) reported that:

---

Products are being released into the NSW marketplace not in compliance with the Food Standards Code ... This presents a potential risk to public health where agencies are attempting to identify importers or distributors of imported product which may have been required to be withdrawn from sale ... Foods tested by AQIS upon entry are often released into the NSW marketplace before results are available. When testing results reveal non-compliance the recall of these products is then left to the NSW enforcement agency with little or no AQIS field involvement in tracing and recall. Strengthening border and pre-border monitoring and surveillance of imported product is a preferred approach to post-border activities. The recall of non-compliant product in the market is costly for both government and business. (NSWFA 2008e, p. 1–2)

While allowing a high proportion of food to enter the country unchecked may impose additional enforcement obligations on state and territory regulators, it is not clear that the alternative (increased inspections at the border by AQIS) would necessarily provide either higher food safety standards or equivalent standards at a lower cost to businesses or the community.

One issue for businesses that can arise with recalls is when differential application of food safety standards results in jurisdictions making different decisions on whether or not to instigate a recall. An example in recent years of inconsistent action by state governments on recalls of imported food occurred with the importation in late 2003 and early 2004 of oyster meat from South Korea and parts of Japan that was implicated in food poisoning outbreaks in both Australia and New Zealand (the product was eventually banned for import by Food Standards Australia New Zealand (FSANZ) in late 2004).

In a more recent case, FSANZ advised AQIS in early 2009 that cassava chips pose a medium to high risk to health based on hydrocyanic acid levels contained in the product. While AQIS tests cassava chips at the border on this basis, the Commission was advised by AQIS that the Australian states and territories continue to test the product on the basis of lower risk levels (further details on this example are provided in chapter 8).

### **Consistency between imports and domestic products**

Industry in Australia has noted a number of areas in which domestic food safety standards are being implemented more stringently on domestic businesses than on competing import businesses. In some areas this may be due to the impact that differences in implementation of food safety requirements across jurisdictions has on the standards imposed on imports (as discussed above). However, at a broader level, there are some requirements (such as the need for auditing and quality systems at all points in the food production chain) which apply at a minimal level to all food *within* the borders of Australia and New Zealand. One implication of this

---

has been the scope for products that are not approved for manufacture in Australia and/or New Zealand to nevertheless be imported into the country for sale to the public.

### *Extent of compliance checks*

In a submission to the *Quarantine and Biosecurity Review 2008*, seafood exporters argued that the registration, auditing and quality systems with which they have to comply (albeit, at least in part, to meet commercial requirements of overseas markets) are not similarly required of competing food importers to Australia, with ‘... assurances from trading partners virtually taken at face value ...’ (Austral Fisheries Pty Ltd, WA Seafood Exporters Pty Ltd, Vee Jay Fisheries, Austfish Pty Ltd 2008). The NSWFA similarly reported that:

The Authority is concerned that there is limited resources and minimal activity by AQIS to audit and verify businesses importing food into Australia. Many international food businesses are importing food into domestic markets with or without any quality systems in place and no verification of this system by AQIS in those countries as the appropriate agency. Whilst Australian exporters are subject to ever increasing importing country reviews of their systems there appears to be a substantial imbalance in the level of scrutiny applied to importers to Australia with many examples of product imported which has been poorly processed or not meeting standards (arsenic in seaweed, illegal additives in soya sauce, histamine in imported fish, hepatitis A in cooked prawns, norovirus in imported oyster meat, listeria in imported ham). (NSWFA 2008e, p.1)

The Western Australia Department of Agriculture and Food similarly noted that risk assessment ‘...should include a pre-border component, rather than just relying on testing at the point of entry.’ (Department of Agriculture and Food (Western Australia), 2007, p.6)

To the extent that domestic food safety standards are being implemented more stringently on domestic businesses than on competing import businesses, the additional costs incurred by domestic businesses could be considered a compliance cost of domestic food safety regulation.

### *Unapproved products may still be imported*

There are several factors that make it possible for food products banned or not approved for production in Australia or New Zealand to nevertheless, be imported into that country (often via the other):

- a ban on food products from entering Australia is not legally enforceable by AQIS under the *Imported Food Control Act 1992* (Cwlth). Department of

---

Agriculture, Fisheries and Forestry (DAFF) noted that AQIS ‘...have no legal power to prevent banned products from entering Australia from New Zealand or anywhere else. To implement a ban at the border, options other than relying on the Imported Food Control Act may need to be in place.’ (DAFF 2008d, p. 3)

- primary food production and safety standards, provisions on dietary supplements and maximum residue levels differ in the two countries (see chapters 5 and 13)
- Australia and New Zealand have different food products on their lists of high risk or prescribed foods that are inspected at the border (see appendix C)
- New Zealand’s inspection of food imports from all countries is limited to their list of high risk foods. This means that Australia’s import controls for low risk food can be bypassed by a third country which imports into New Zealand first, and then under the TTMRA, into Australia.

One case where this situation has arisen was noted in submissions to the Commission’s study on mutual recognition schemes. DAFF (2008d) noted that the ‘Red Bull’ beverage (deemed illegal during the 1990s under Australian standards) could be imported into Australia from New Zealand as it was legal under New Zealand’s *Dietary Supplements Regulations 1985*. As the product was not considered high risk in Australia, it was subject to the TTMRA and able to be imported from New Zealand without any valid regulatory action by Australian jurisdictions, but could not be made in, or directly imported into, Australia.

In response to this case, the Australia New Zealand Food Standards Code (ANZFS Code) was modified to specifically incorporate energy drinks. However, there remains scope for such products to be imported into Australia as food if they are compliant dietary supplements in New Zealand. For example, ‘energy shots’ produced and imported into New Zealand can be sold in that country under dietary supplements standards. These products can contain around 10 times the maximum amount of caffeine per litre allowed in a product under the ANZFS Code. In recent months, product of this type has been imported into Australia via New Zealand as a ‘food’ and, under TTMRA, has bypassed the Australian border inspection processes (even though such products cannot be legally manufactured in Australia).<sup>5</sup>

Another case in which a product which cannot be legally manufactured in Australia may nevertheless be imported is food products derived from unpasteurised milk. Some unpasteurised cheeses have been approved by FSANZ (on a case-by-case basis) for import and sale in Australia. However, similar types of cheeses are not

---

<sup>5</sup> In September 2009, the New South Wales government announced that it was taking action to ensure that the high caffeine energy drinks could no longer be legally sold in New South Wales (Macdonald 2009).

---

allowed to be produced within Australia. New Zealand, in contrast, has developed a regulatory framework which, from September 2009, allows unpasteurised milk products (that can be produced to a level of safety that poses a low level of risk to the general population) to be produced, sold, exported and imported (Wilkinson 2009b). These products may also be supplied to the Australian market under the TTMRA.

The New Zealand Retailers Association expressed similar concerns for those New Zealand businesses that are owned or controlled by an Australian company. In particular, they noted a potential for imports to Australia being passed on to the New Zealand arm of a business under the TTMRA (New Zealand Retailers Association 2008).

Bypassing the domestic food safety standards by whatever means reduces the integrity of the food safety regulatory regime. Those food businesses in Australia which compete with the imported product may evidence lower sales revenue than would otherwise be the case if food standards were consistently applied. If the imported product is an input or ingredient in further processed food, then domestic businesses unable to source the input directly would either have higher costs associated with sourcing the input via a preferential trading partner, or be required to substitute a more costly input for the imported input.

### **14.3 Issues with the administration of food export regulation**

Safety for human consumption is just one of a number of reasons why food exports are regulated. Food export regulations are also aimed at maintaining the marketability of products from the exporting country, enhancing the reputation of the country's regulatory authorities as assurers of the quality of food products, satisfying bio-security and cultural requirements, and meeting conditions of international obligations and agreements. As such, it can be difficult to separate out the cost to businesses associated with the regulation of food exports for food safety reasons, from costs incurred for other purposes.

Most businesses that incur costs associated with regulation of exports for food safety purposes are exporting businesses. However, over the course of a number of regulatory reviews, industry organisations and businesses have noted instances when export standards are imposed inconsistently across Australia (in particular), or applied to food products destined for the domestic market, and so the potential impact of food safety provisions in export regulation can be widespread.

---

## Export fees and charges

There is a range of fees that businesses incur to export from Australia or New Zealand. These fees include fees for services, documentation and registration of premises, and vary substantially in both amount and complexity between industries. Some export requirements that incur fees are not directly related to food safety and may be required of some non-food exporters — for example, export declarations, export permits, export licensing of premises. However, depending on the product and its destination market, a food exporter may also incur food safety related export costs associated with the following requirements:

- an approved arrangement — an arrangement between AQIS and the exporter that details, for each stage of production, controls that should be used to ensure that food safety and other legislative and importing country requirements are met. For food processors, this includes a Hazard Analysis and Critical Control Points (HACCP) plan
- registration of premises for export — required for most primary production of food for export. Registration requirements govern the need for approved arrangements, keeping of records, and the construction and operation of establishments
- inspection of prescribed goods to ensure that the goods are ‘safe, wholesome, accurately described and meet international market conditions and obligations’ (AQIS 2009a). For example, AQIS is required to inspect all meat carcasses (under the *Export Control (Meat and Meat Products) Orders 2005*)
- export certification — government to government assurance by AQIS to the importing country, that the exported food is wholesome, prepared under hygienic conditions and meets all health and safety standards of Australia and the importing country.<sup>6</sup>

A detailed listing of AQIS and NZFSA fees and charges for exports is in appendix C with a summary presented in table 14.2.

---

<sup>6</sup> Under the *Australian Meat and Live-Stock Industry Act 1997*, all export abattoirs, boning rooms and other businesses exporting meat must hold an Export Meat Licence, which in turn, requires Aus-Meat Accreditation. Businesses wishing to be accredited by Aus-Meat must implement an Aus-Meat approved quality management system designed to ensure consistency of quality and accurate product description. AQIS and Aus-Meat have a Memorandum of Understanding which allows Aus-Meat to manage industry standards for trade description and national accreditation standards for Aus-Meat Accredited Enterprises.

**Table 14.2 Fees to export selected key food products from Australia and New Zealand**

Australian dollars, 2008-09 <sup>a</sup>

		<i>Australia</i>	<i>New Zealand</i>
Export licence <sup>b</sup>	per year	500	
Registration application/transfer	per application	300 to 334	
Registration as exporter			
Meat <sup>c</sup>	per year	0	112
Seafood <sup>d</sup>	per year	1 281 to 1 481	112
Dairy <sup>d</sup>	per year	1 468 to 2 654	112
Registration of risk management plan	per year		112
Official assurance/certification <sup>e</sup>			
Meat	per application	12	29
Seafood	per application	16 to 42	29
Dairy	per application	6 to 15	29
Inspections/audits			
Meat	per hour	182	112
Seafood	per hour	172	112
Dairy	per hour	268	112

<sup>a</sup> Estimates for New Zealand are based on an average \$A/\$NZ exchange rate of 1.23 in 2008-09. Estimates for Australia include a 40% government rebate that does not apply from 1 July 2009. <sup>b</sup> The export licence fee is only applicable to exporters of livestock, meat and products of these. The fee is waived for those meat and livestock exporters that are registered as a meat export establishment and listed by AusMeat as a packer/exporter. <sup>c</sup> With the Australian Government rebate of export fees, there was no charge for registration of meat export facilities with AQIS in 2008-09. <sup>d</sup> Fee for Australia varies with the size of the export operation. <sup>e</sup> Rates apply to issue of original documentation associated with an electronic application. In both Australia and New Zealand, replacement documentation costs substantially more than original documentation.

Sources: AQIS and NZFSA websites; RBA (2009); AQIS pers. comm. (October 2009).

While the fee structure in New Zealand is relatively flat for exporters, export charges paid by Australian businesses vary substantially between industries and with business size. For those Australian export industries which rely particularly on quality assurance arrangements, registration charges are a substantial component of recovered regulatory costs.<sup>7</sup> For the most part, AQIS fees and charges to export businesses are higher than those for similar activities in New Zealand. While it may be the case that the higher AQIS charges cover additional services over those provided by NZFSA to New Zealand exporters, the Australian export fees are higher than those in New Zealand even with a 40 per cent Australian government rebate. Export inspection and certification charges faced by Australian businesses have been subsidised by the Australian Government since November 2001. The 40

<sup>7</sup> As part of an Australian Government rebate of export fees, meat exporters were not charged registration fees in 2008-09. AQIS (2009b) indicates that had registration fees for meat been charged, they would have varied with establishment size and been in the order of \$630 to \$20 834 for an export meat processor and \$38 184 to \$88 947 for an export slaughter facility.

---

per cent rebate was made on the basis that there were seen to be legitimate public benefits in the establishment of export market access and export overhead costs. Export certification costs around \$100 million in Australia each year — about 80 per cent of this is associated with red meat certification (Condon 2009). The rebate has been estimated to benefit Australian exporters (and cost Australian taxpayers) around \$40 million per year (Senate Standing Committee on Rural and Regional Affairs and Transport 2009). A return to full cost recovery of AQIS export services was recommended by the *Quarantine and Biosecurity Review 2008* (Beale, et al. 2008) and supported by some industry groups, contingent on reform within AQIS. For example, the Sheepmeat Council of Australia and the Cattle Council of Australia advised that:

... if the 40 percent rebate is removed without the necessary reforms being successfully implemented, Australia's red meat producers would be forced to shoulder the full cost of inefficiencies within Australia's monopoly export certification body. (Sheepmeat Council of Australia and the Cattle Council of Australia, 2009)

Legislation to implement removal of the rebate was rejected by the Australian Senate in September 2009 and consequently, provision of export services by AQIS continue to be subsidised.

Despite the higher per hour charges for Australian exporters, the total export audit costs for Australian meat and seafood businesses could potentially be lower than those faced by New Zealand exporters due to shorter audits/inspections. AQIS indicated that its export audits typically take 1.5 to 2 hours, while verification by NZFSA can be more in the order of 3 to 4 hours (Productivity Commission survey of food safety regulators 2009, unpublished).

The Commission was also provided with evidence that the costs of AQIS registration services are higher than domestic accreditation costs provided by some other agencies. For example, Safe Food Production Queensland (SFPQ) detail several cases in which their fees differ substantially from AQIS fees for similar services (SFPQ 2008b):

- Australian Country Choice exports less than 28 per cent of its production. Most of the exported product is a single line of offal to the European Union, the remainder is organic beef to South Korea. AQIS costs to this business are reported to be in excess of \$1 million per annum to cover approved arrangements (registration), online inspection costs and audits. SFPQ costs to this business would have been \$5835 in 2008-09, for equivalent access to the domestic market
- SFPQ estimates that dairy export establishments would be paying AQIS at least \$20 000–\$35 000 per annum, depending on their size. Accreditation of the same

---

establishment by an Australian state or territory authority would in most cases, be considerably less than this — for example, an exporter pays \$5835 per annum for accreditation with SFPQ and registration by a medium-size dairy exporting businesses in some other jurisdictions is less than \$2000. However, at \$225 per hour plus GST, SFPQ fees for the audits that it conducts on behalf of AQIS appear to exceed the audit fees of AQIS (table 14.2).

From the national competition policy review of Australia's export control legislation, Frawley et al. (2000, p.73) concluded that compliance costs of export regulation were 'not excessive' and that there was 'no evidence that the fee structure was inefficient, inequitable or unduly restrictive of competition.' However, they also reported there to be a wide range of views among stakeholders regarding the level of fees and their impact on business. These views ranged from a perception of fees as 'fair and reasonable' to being a significant burden that impeded the development of a viable export business.

The compliance burden of export regulation is potentially a more significant part of business costs for smaller than for larger exporting firms. Export documentation requirements and fees charged by AQIS and NZFSA are the same for all businesses in an industry, regardless of the size of the exporting business. The duration of an export verification may, however, be shorter for smaller businesses.

### **Duplication and inconsistency in requirements for primary production**

All food exports from Australia are regulated under the *Export Control Act 1982* (Cwlth) (appendix C). In addition, there are eight commodity-specific orders created under the Act that impact only on primary producers who export (for businesses in the meat industry, there are also a number of other relevant Acts that regulate their export activity). The export orders are prescriptive and require exporters: to comply with specified food standards; to ensure that the exported product is fit for human consumption; and to make sure that statements made in relation to the condition and preparation of the product are accurate.

These export orders were, in addition to the relevant (non-government) Australian Standards and various state codes of practice, the main regulation on dairy and seafood exports prior to the development in Australia of the *Primary Production and Processing Standard (PPPS) for Dairy* and the *Primary Production and Processing Standard for Seafood* (see chapters 11 and 12). The Dairy PPPS is based on both international codes and the state and industry regulated food safety systems. While the export orders reference the ANZFS Code and Australian testing standards, the *Export Order (Milk and Milk Products) 2005* in particular, duplicates

---

substantial aspects of processing hygiene systems now regulated under the Australian Dairy PPPS. Having achieved the Dairy PPP Standard through FSANZ, the dairy industry claims that it ‘...now reasonably anticipates removal of detailed Export Orders and streamlined systems for export certification and trade.’ (Dairy Australia 2008, p. 15) Some progress toward this has been made through the Food Export Regulators Steering Committee (Dornom 2009, pers. comm.), but three years after the gazettal of the PPPS, areas of duplication with the export order remain.

In addition to duplication in requirements, there are also areas of inconsistency between requirements under Australian export legislation and those requirements specified in non-government Australian Standards and embodied in state and territory legislation. For example, the construction and production standards specified in export legislation are often different to those required of domestic producers under state and territory legislation, particularly in the meat industry (Frawley et al. 2000). Frawley et al. (2000) reported that the costs associated with construction and maintenance of premises to export standard is significant enough to act as a disincentive for smaller establishments to enter the export market.

Duplication and inconsistency in requirements have not been raised as regulatory issues by industry in New Zealand. The relationship between New Zealand’s industry-agreed standards and requirements for primary production and their implementation through either a risk management program or a regulated control scheme (depending on the industry), are described in New Zealand’s *Animal Products Act 1999* for both domestic producers and exporters.

### **Multiple and overlapping inspections and audits**

The audit and inspection process can be one of the most costly aspects to business associated with proving compliance to food safety regulations. As discussed in chapter 8, some food businesses undergo audit or inspection by a state regulator in addition to audits for key clients and markets. For those that export food, there may be additional audits undertaken by a national regulator — NZFSA in New Zealand or AQIS in Australia. The 2000 National Competition Policy Review of Australia’s *Export Control Act 1982* (Frawley et al. 2000) concluded that:

Australian exports of food and agricultural products have been disadvantaged by working under a combination of two systems – domestic and export – and legislation that is unnecessarily prescriptive.

Since that report, a number of regulators in Australia and New Zealand have created memoranda of understanding (MOUs) and other agreements to facilitate the

---

recognition of audits by other agencies, remove duplication in implementation of food safety standards and thereby reduce the compliance costs of business. For example:

- In Victoria, state regulators, local governments and AQIS have MOUs that allow recognition of each others audits. This reduces the need for several audits for differing purposes (such as an audit for domestic safety and an audit for export purposes). PrimeSafe auditors (covering meat and seafood) can also undertake audits that encompass AQIS specific regulations. Use of private auditors in Victoria for compliance checks and audits of dairy businesses may have helped to reduce regulator overlap and the costs of regulation to businesses in that sector.
- In South Australia, AQIS accepts Primary Industry and Resources South Australia (PIRSA) audits of primary producers but audits PIRSA on PIRSA's approach. The European Union also conducts similar audits on PIRSA and PIRSA's audit processes. The Dairy Authority of South Australia undertakes audits twice a year on manufacturers supplying the domestic market and also audits those dairy businesses that export, both for itself and on behalf of AQIS (that is, the one audit serves the purposes of both bodies).
- SFPQ has inspectors 'in the field' completing audits of high risk areas to verify compliance and also undertake some work under contract for AQIS.
- Similar coordination arrangements exist with AQIS in other states/territories of Australia. For example, to assist AQIS with the issue of official certificates with respect to edible meat for export, the NSWFA will issue a standard letter of assurance to AQIS as to the performance at last audit of any meat establishments licensed and audited by the NSWFA.
- In New Zealand, the agency responsible for verifying compliance with regulation differs by industry and/or the compliance tool in use and overlap in government audits has not been raised as an issue. Exporters of primary products have their risk management program audited either by NZFSA's Verification Agency (meat, seafood and poultry sectors) or by NZFSA-approved third party auditors (wine, dairy and other primary products not required by export markets to provide verification by government). For non-primary food production, Food Safety Programs are audited either by approved third party auditors or by NZFSA-approved local government environmental health officers. Several of the primary production industries in New Zealand advised the Commission during consultations that there is a perception in that country that Australian producers have to undergo fewer audits than their New Zealand counterparts.

Despite the progress in reducing duplication in audits and inspections in Australia, there remains a number of areas where this is a burden for business. The Australian

---

Meat Industry Council (2008) reported that to achieve adherence to overseas requirements, AQIS places inspection and verification staff in every export facility and subjects these facilities to multi level verification audits to ensure compliance. Some of the matters considered by AQIS in their audits is comparable to the matters state and territory regulators consider in fulfilling their food safety oversight obligations. Reflecting the level of direct involvement by AQIS, the Australian National Audit Office (ANAO) reported that Australia's meat export program has the 'most robust audit regime' (ANAO 2007).

SFPQ also reported that:

AQIS continues to operate in a manner that: ...

- limits recognition of company based quality systems for export assurance
- relies on direct input of AQIS inspection for market access at cost to the company.

There is no effective contestability for these arrangements and so the company is a price taker in this arrangement. (SFPQ 2008b, p. 4)

The Commission was advised by a number of industry organisations and businesses of considerable overlap between AQIS/NZFSAs audits and inspections (particularly assessments for export certification) and commercial audits of the key supermarket chains and overseas buyers. For example, some poultry processing plants in Australia have around 25 full-day audits per year. While two of these include the state health department (or equivalent) and another one or two per year are from AQIS, the remainder are private commercial audits. Some of the private commercial audits for poultry (and other foods) are premised on ensuring compliance with government regulation. That said, many of the commercial audit requirements are directed at food quality rather than food safety.

To the extent that commercial requirements exceed the domestic and export standards enforced on businesses, the costs to business of separate audits by government agencies may be reduced.

### **Intensity of export regulatory activity**

The existence of additional inspections and audits for export purposes imposes added costs on business if the manner in which regulatory and enforcement activities are undertaken is considered by business to be unduly intense, compared with the risks involved. Regulatory activity that is unduly intense or onerous could be determined, for example, by a comparison with other businesses, by comparison with requirements for other markets (such as the domestic market), or by comparison with benefits derived from the activity.

---

### *Meat is the most intensely monitored industry*

The food safety risks associated with most meat and meat products have been assessed by FSANZ to be low (FSANZ 2009e). While higher risks are presented by ready to eat manufactured meat and meat products, these are comparable to some other food products. Despite this, the meat industry is one of the most intensely monitored industries, for public health and safety purposes, in both Australia and New Zealand.

The Australian Meat Industry Council reported that:

...the red meat processing industry is subject to a level of scrutiny no other commodity has to endure...’ and that the AQIS presence at every export facility is ‘... not simply an oversight but an active controlling input that is not risk based, does not ensure food safety outcomes are achieved, and does not add value to the processors output in any way. (Australian Meat Industry Council 2008, p. 8)

For exporting abattoirs and boning rooms in particular, the frequency of audits for export purposes is also comparatively high (table 14.3) — monthly in Australia and three monthly for New Zealand businesses that are generally compliant. In other industries, there is some scope (with demonstrated compliance) for less frequent audits in Australia than for the equivalent business type in New Zealand.

SFPQ similarly reported that although the number of export markets supplied by Australian meat has expanded over recent years, rejections of the product at foreign borders have declined. Given these trends, they noted that:

While the advances that have been made are welcome, many members of the meat industry are still at a loss to identify the value that AQIS adds to their business (apart from processing requests for export permits). (SFPQ 2008b, p.4)

The Commission was advised that the level of AQIS involvement in meat largely reflects additional requirements of Australia’s export markets. Specifically, 138 of the 160 countries to which Australia exports meat, require measures additional to certification by AQIS and compliance with the Australian Standard (*Hygienic production and transportation of meat and meat products for human consumption*), which forms the basis of most state and territory legislation on meat safety (AQIS, pers. comm., 2009).

**Table 14.3 Frequency of audits for export purposes**

2008-09

<i>Industry sector</i>	<i>AQIS<sup>a</sup></i>	<i>NZFSA<sup>a</sup></i>
Meat and meat products		
Abattoirs & boning rooms	1 month	1-3 months
Food processors	3-6 months	1-3 months
Cold stores & container stores	12 months	1-6 months
US approved cold stores	3 months	
Dairy products <sup>b</sup>		
Primary producers	6 months	3-12 months
Secondary & other processors of milk & milk products	6 months	1-3 months
Handlers, transporters & storers of milk & milk products	12 months	6-12 months
Fish and fish products	1-12 months	1-6 months
Low risk	2-12 months	
Medium risk	1.5-9 months	
High risk	1-6 months	
Eggs and egg products	1-12 months	1-3 months
Low risk	2-12 months	
Medium risk	1.5-9 months	
High risk	1-6 months	

<sup>a</sup> Range in audit frequencies reflect maximum and minimum frequencies – actual frequency within these ranges depends on the type of product and the business's performance. <sup>b</sup> In addition to these inspections for dairy, 'load out inspections' are carried out on each exporter at least once per year.

Sources: DAFF (2008a); ANAO (2007); NZFSA (2009g).

Parallel concerns were expressed in the New Zealand meat industry. While not disputing the role of the NZFSA Verification Agency (NZFSA VA) recognised verifiers on site in export meat facilities, the NZ meat industry advised that the productivity of the NZFSA VA staff when on site was questionable at some facilities, given a lack of continuity in activity requiring NZFSA VA attention. This can be particularly an issue in smaller premises or in those that operate with multiple shifts (and may have an overlap of vets on-site at slower times of the year). The cost of having NZFSA VA on site is borne by the business but is a cost that business chooses to incur in order to supply (or be ready to supply) to overseas markets. NZFSA advised the Commission that 97 per cent of NZFSA VA staff time is spent on verification-related activities (including both auditing and inspection tasks), with the remainder related to the provision of official assurances. Furthermore, NZFSA advised that they attempt to utilise their staff resources in other areas (and transfer costs accordingly) during meat premises shut-down periods (NZFSA, pers. comm., 2009).

---

### *Maintenance of reputation and a 'safety factor'*

Other industry groups advised the Commission that they considered intervention by AQIS to be more related to the overall protection of Australia's 'food brand' (which has broader public benefits) than to specific export-destination requirements. The Australian Horticultural Exporters Association (AHEA), for example, considered the rigorous implementation of export requirements to be an inadvertent consequence of attempts to maintain Australia's reputation as a producer (and consumer) of high quality produce:

AQIS in the past has attempted to interpret import protocols in a heavy handed way, and foreign trading partners have in turn expected rigorous export inspections, which unnecessarily increases the costs of doing business ... sometimes inspection regimes for imports are imposed on exports because Australia wants to be seen as even handed. (AHEA 2008, p. 4)

Further, there is a perception in some jurisdictions and industries that foreign country requirements are amplified by AQIS to create a 'safety factor'. SFPQ reported that in clearing food products for export, AQIS operates in a manner that:

... relies on the highest common denominator being applied as the standard for all export markets. An example of this is the current arrangements proposed for the Australian dairy industry that are based on access to the EU market when less than 4 percent of our production is actually sent to this market. (SFPQ 2008b, p. 4)

These concerns were also expressed to the Commission by some industry groups in New Zealand, with the European Union (EU) requirements being applied to all food exports irrespective of the destination country. Since the EU audit requirements are some of the most demanding (appendix C), this potentially imposes unnecessary costs on some exporters. However, these costs may be part of the commercial decisions of exporters, made to maximise market flexibility and profit potential. The New Zealand Government (pers. comm., 2009) suggested that compared with Australian exporters, many businesses in New Zealand may have insufficient economies of scale to justify segmented production lines for different country food safety requirements.

### *Specificity of documentation increases the regulatory interaction*

Some groups in Australia's seafood industry advised the Commission that the distinctiveness of AQIS export certification can unduly increase business compliance costs. In particular, AQIS certification is undertaken by species and product and so being certified to export frozen spanner crabs for example, does not enable that business to also export cooked and chilled spanner crabs. A separate AQIS certification for each species and product combination is required. As noted

---

earlier, each electronic certification provided under the Fish Exports Program was a cost to the exporter of up to \$42 in 2008-09 (excluding any associated inspection or audit fees).

## **Consistency of treatment across jurisdictions**

Inconsistent regulation of exports for food safety means that those businesses subject to more stringent requirements incur additional costs (and are potentially at a competitive disadvantage), compared with businesses that are not obliged to comply with such requirements.

The Tasmanian Freight Logistics Council reported a lack of uniformity in the enforcement of export orders, compliance and audits by AQIS:

Some companies have more stringent controls required of them by AQIS than other companies who seem to get away without such controls. (Tasmanian Freight Logistics Council 2008, p.2)

The AHEA similarly contended that the consistency of export inspection varies across Australia and is not accountable:

... there can be as much as 100% variation in inspection costs, depending on the inspector, the market, the product and the day. A lack of bench marking hides inefficiencies and accountability. (AHEA 2008, p.5)

On this basis, the AHEA endorsed the need for a benchmarking of AQIS export inspection operations against those of other countries such as New Zealand, Chile and South African (AHEA 2008). Inconsistency in the implementation of export inspection requirements is potentially less of an issue in New Zealand, with the joint domestic/export role of the NZFSA and an absence of coordination issues that can arise in a federation such as in Australia.

## **Widespread use of the most stringent export standards**

### *Breadth in enforcement of export standards*

From its national competition policy review of Australia's export control legislation, Frawley et al. (2000) recommended adoption of a tiered approach to export standards whereby the domestic food safety standards would represent a starting point for export certification (rather than have a separate 'export standard'). The NSWFA considers that there has been a general reluctance by AQIS and the Commonwealth to fully implement these recommendations. They contend that this

---

lack of recognition of the domestic system has resulted in Australian food businesses having to comply with stringent export requirements (which are generally the EU or US importing standards) — even when exporting to countries that have food safety standards below the Australian domestic system (NSWFA 2008e). Similarly, the Victorian Department of Primary Industries reported that:

Audits against the current Approved Arrangements, under instruction from AQIS, must meet all the requirements of EU directives even though the export-registered establishment does not export product to the EU. Cases can be cited where high value specialty dairy products can be imported into Asian markets where SRA approval would be acceptable rather than the specific requirements of the EU. AQIS has stated it cannot allow flexibility for market access requirements as this introduces complexity for its administration. Industry is seriously disadvantaged because of this lack of flexibility. (Victorian Government 2008, p.3)

Frawley et al. (2000) reported that the standards required of businesses under Australia's *Export Control (Meat and Meat Products) Orders 2005* are largely those needed for access to the US market. Where the US standard is above that required by other countries, to have that as the benchmark for granting export registration would impose higher than necessary costs on some potential meat export businesses.

Similar concerns with broad application of EU standards have been expressed by the Australian seafood industry:

‘... businesses not interested in trading with the EU shouldn't subsidise those who are.’  
(Seafood Executive Consultative Committee 2007).

The Commission was advised by New Zealand businesses that a similar lack of distinction (or at least, a perceived lack of distinction) exists between domestic and export requirements in that country — to the extent that in some industries, it is difficult to obtain information from NZFSA on what the domestic standards actually are. The Commission was also unable to ascertain any differences in requirements for New Zealand production destined for the domestic market compared with export markets — for products covered under the *Animal Products Act 1999*, it appears that there are no separate New Zealand government requirements for export (other than export registration and official certification). To some extent, this reflects the dominance of export markets as a destination for most of New Zealand's primary production.

It can be also be burdensome to business if the standards of different export markets are not differentially applied by the domestic regulator such that exporting businesses consequently bear the costs associated with maintaining their country's

---

reputation as a producer of top quality food (rather than just the costs associated with meeting the requirements a particular export market). For example:

- The Commission was advised that EU and US standards are routinely required for all production of certain products (such as meat, seafood, and increasingly, dairy) even where only a proportion of a business' production is exported to these countries. This situation can arise if it is too costly, or not possible, for businesses to segment their production to different markets. For example, some meat processors may apply EU or US standards in the processing of an entire animal body, even if only a part of an animal is exported to those countries.
- Controls on the use of hormonal growth promotants (HGPs) is an export requirement imposed on the entire NZ beef herd, even though only a small proportion of NZ beef goes to markets which have this requirement. Similarly, bans on the use of oestradiol in certain food producing animals is a prohibition which applies to all NZ farmers, but is only necessary to meet requirements of some overseas countries. The Commission was advised that it is neither cost effective nor acceptable to the market to apply controls on HGPs and oestradiol other than via a complete prohibition (New Zealand Government, pers. comm., 5 October 2009).

For businesses which export to markets with these requirements, any costs associated with meeting the overseas requirements are a commercial burden rather than a burden of food safety regulations in Australia or New Zealand – indeed, the business may receive some benefit from its export market associated with the increased certainty derived from having the particular requirement so broadly applied in the country. For businesses which do not export to such markets, widespread application of these requirements across all businesses is part of the broad regulatory framework in which they operate (of which food safety is only a part).

Breadth of application of export standards is potentially less of an issue for Australian businesses exporting food only to New Zealand. Under TTMRA, Australian suppliers to New Zealand do not require export registration or AQIS inspection of premises. In contrast, foods exported to Australia from New Zealand must be sourced from New Zealand business premises that are approved for export (DAFF 2008d). However, given the high proportion of New Zealand's food that is exported, this may not be an issue for many New Zealand businesses.

### *Voluntary use of export standards*

In some industries and jurisdictions, there are businesses which maintain export standards voluntarily either to enable ready access to overseas markets as desired or

---

because it is less costly than separating out the export product from the domestic product.

For example, Queensland food businesses are encouraged to export or achieve export ready status as part of their business planning – and state government programs promote and assist businesses to reach this objective. SFPQ reported that of the 7500 businesses in Queensland that it accredits, 42 of these are also export registered with AQIS. However, none of these 42 businesses deal exclusively with exports — rather, all rely on the majority of their product being sold on the domestic market (SFPQ 2008b). They further noted that the cost implications of this ‘export readiness’ vary with business size:

While the large businesses cope reasonably well with both the complexity and cost of current requirements set by AQIS, they employ quality assurance managers for this purpose, small and medium size enterprises and those who do not employ specialist staff are finding it hard to manage these requirements. (SFPQ 2008b, p. 1).

Aquaculture in Tasmania is similarly all produced at export standard and monitored by AQIS. The Commission was advised that a small quantity of seafood not destined for export markets is processed in export registered premises. AQIS currently do not inspect these products, except to ensure that they do not contaminate the exported product. On the one hand, this reduces the regulatory burden that would exist if the business needed to demonstrate that the domestic product also met export standards. However, this benefit may be lessened if the lack of AQIS involvement with the non-export product in the export certified shed means that the business must undergo an additional inspection to demonstrate compliance with food safety requirements for another regulator (such as a local council).

The New Zealand Government advised the Commission (pers. comm., 2009) that given the very high share of New Zealand’s food production which is exported (over 80 per cent), many New Zealand businesses find it cost-effective to apply export market requirements to all of their production.

## **14.4 General organisational and procedural issues**

### **Skills and knowledge of enforcement staff**

A key determinant of the costs that businesses incur associated with the enforcement of food safety regulation for imports and exports is the skill level and breadth of knowledge of enforcement staff in AQIS and NZFSA.

---

The consistent view of industry organisations and businesses in both Australia and New Zealand is that skills and knowledge of enforcement staff vary substantially across jurisdictions and products. Specifically, businesses reported additional costs incurred to demonstrate compliance because some AQIS and NZFSA staff were:

- skilled in one product but not in the range of products necessary to undertake verifications adequately — for example, ability to recognise different fish species
- not sufficiently knowledgeable about production systems in the industry that they were assessing — this can mean that business effectively incurs additional costs to ‘educate’ the AQIS and NZFSA inspection staff
- attempting unsuccessfully to draw parallels between different industries — for example attempting to enforce food safety practices and documentation requirements of the red meat industry on poultry meat industry
- unable to understand and interpret their own requirements in a consistent manner resulting in different AQIS inspectors requiring different modifications to a particular business’s food safety plan.

The Tasmanian Freight Logistics Council reported that:

... a major frustration expressed by many of our members was not being able to speak to a single person in Tasmania who has responsibility and authority to talk to them on AQIS ... the separation of duties amongst AQIS staff further frustrates our members – AQIS staff dealing with fish can only do fish, those that do dairy can only do dairy and the same applies to meat and vegetables. Why do companies need to deal with a different AQIS representative for fish, dairy, meat and vegetables? In some instances our members need certification from four different areas of AQIS and consequently have to deal with four different people from AQIS. (Tasmanian Freight Logistics Council 2008, p.2)

While a number of industry organisations have commented on inconsistent application of food safety requirements for domestic production, imports and exports, SFPQ attributed this, in Australia, to be partly due to coordination and communication within AQIS: ‘... there is no harmonisation within AQIS between the export division and importing division.’ (SFPQ 2008b, p.7)

## **Technology and information of the regulators**

AQIS and NZFSA have taken steps in recent years to greater use of electronic formats for export and import documentation and approval processes. Replacement of paper based systems with electronic is seen to be a significant source of compliance and enforcement cost savings for businesses both directly (as exporters

---

only have to input export data once to satisfy food safety, quarantine and customs requirements) and indirectly (as many of the regulator services are cost recovered from industry). For example, NZFSA has, since 1998, relied on electronic certification of all exports of animal products, dairy products and plant products (see appendix C for further detail). During 2008-09, over 150 000 such certificates were issued (NZFSA pers. comm. 2009). AQIS adopted the system into Australia in 2001 and although ANAO (2007) reported that adoption of the system varies substantially between industries, most export certification of meat, dairy and seafood is done electronically.<sup>8</sup>

Nevertheless, in discussing reforms to the export certification process in Australia, the Minister for Agriculture described the current system as ‘in desperate need of modernisation, with an outdated IT system and heavy reliance on time-consuming paperwork rather than electronic processing.’ (The Land 2009)

Industry organisations have similarly advised that AQIS has some way to go in the use of technology in its enforcement processes. The AHEA contended that:

The imposition of ExDoc’s by AQIS on industry has been a commercial disaster, very costly and today is technically a dinosaur... (AHEA 2008, p.6)

Tradegate (a not-for-profit provider of trade and e-commerce services) reported that:

AQIS still relies heavily on various pieces of paper and manual interpretation of documentation ... the current heavy reliance on paper acts as a significant barrier to trade by imposing unnecessary costs on importers and exporters ... the provision of information in electronic data format would assist Australia’s exporters to more efficiently have their goods imported into the country of destination. (Tradegate 2008, p.2)

More generally, industry groups have reported that AQIS requirements of exporters are based on outdated concepts and approaches. In particular, the Australian Meat Industry Council reported that:

... many (if not all) of the requirements of the regulators are outmoded procedures based on early 1900s knowledge and technology. (Australian Meat Industry Council 2008, p. 8)

The NSWFA similarly reported that additional regulatory burden is incurred by some prescribed food exporters because ‘AQIS has not recognised advancements in the Australian food safety system particularly with the move by domestic regulators

---

<sup>8</sup> Use of electronic certification for other products such as grains and horticulture remains low, but these are not regulated by AQIS for food safety purposes.

---

to outcome based standards underpinned by science based analysis of hazards.’ (NSWFA 2008d, p.3)

NSWFA reported that ‘database issues’ and the self categorisation of food types by importers means that AQIS is unable to adequately identify different categories/types of foods coming into Australia NSWFA 2008d). Another consequence of a lack of adequate information technology identified by the Food and Beverage Importers Association, is that there is limited capacity for reviewing whether import conditions remain necessary or are too restrictive (FBIA 2008).

On the export side, the Tasmanian Freight Logistics Council noted that when there are changes in regulations in Australia or in other countries that impact on AQIS responsibilities, AQIS is not pro-active in advising local exporters of such changes (Tasmanian Freight Logistics Council 2008, p.3). These situations can result in businesses incurring additional costs to comply with irrelevant, redundant or superseded requirements.

### **Availability of regulator and testing facilities**

The availability and timeliness of AQIS and NZFSA staff in assessing compliance of imports and exports with food safety requirements impacts on a range of business costs including transport and storage of products and product shelf life. As discussed in box 14.1, this may be particularly an issue for businesses with fresh food products (such as fresh seafood).

The AHEA (2008, p.3) claimed that exporters have difficulty booking export inspections between Christmas and New Year and inspection charges at this time ‘prevent exporters from shipping viably between Christmas and New Year, while all Asian markets are open for business. Similarly, exporters have to book a week in advance to ensure AQIS inspections are available over the Easter break, or alternatively produce is inspected by AQIS days ahead of export, which is not ideal for perishable products.’

For exporting businesses in regional and remote parts of Australia, which are not serviced by a local AQIS office, delays in inspections and flow of documentation can be a source of additional costs (Frawley et al. 2000). However, it should be recognised that there is considerable cross-subsidisation of services for export businesses in some regional and remote areas — and more so in Australia than New Zealand. This is particularly evident with respect to the extent of cost recovery contributed by businesses toward the travelling time of inspectors visiting regional and remote establishments. Subsidisation of establishments in particular locations via the broader export charging regime leads to distortions and inefficiencies. For

---

example, the costs to businesses of export regulation may be lower than would otherwise be the case for those in some regional areas, but higher for the majority of businesses in urban localities.

Locality is also important for businesses with regard to compliance costs to meet product testing requirements for export. As part of the verification/auditing process, AQIS and NZFSA require a proportion of high risk imported products and prescribed exported products to undergo analytical testing. Each authority provides a listing on their website of laboratories that have been approved to undertake particular tests. For example, for meat exports approved testing laboratories are located in all states of Australia (but not in the Northern Territory or the ACT). The Commission was advised that in remote parts of Australia and in the Northern Territory, a lack of accredited laboratories can mean that samples are sent interstate for testing. This adds to the time and cost of the process to the business seeking to demonstrate compliance with food safety regulation.

### **Need for skills/consultant to meet food safety requirements**

Industry organisations and businesses across Australia and New Zealand advised the Commission that it is not unusual for larger businesses — which may already employ staff to implement food safety provisions — to employ additional staff to handle the external inspectors and auditors that come on site and to demonstrate the business's compliance with food safety regulation.

In the Northern Territory seafood industry, for example, the Commission was advised that many operators rely on consultants to prepare food safety plans under the export control requirements. The cost for these consultants is typically \$5000 to \$6000 and the plans are often based on a template and extend to several hundred pages. In many cases, these plans are not used on a day to day basis and not all staff involved in seafood handling or processing are aware of the contents of the food safety plan for their business. AQIS can, but does not typically, inspect fishing vessels at sea. As an alternative, AQIS audits paperwork and periodically inspects vessels in port. The Commission was advised that a company with five or six boats would usually require a full time staff member on shore for ongoing management of its food safety plan and other related paperwork. Seafood businesses may also require staff to be trained in testing of their product and the water used in product storage and processing, in order to be able to demonstrate compliance with food safety regulations.

---

## **Appeals process for AQIS and NZFSA decisions**

NZFSA has a formal internal appeal process in place to handle complaints on its operations, including those of NZFSA VA. The manner and timeframe in which complaints will be handled and considered is clearly spelt out.

In contrast, AQIS has an informal process for registering complaints through regional investigations managers or ultimately, via the Commonwealth Ombudsman, but it does not appear to specify the way in which such complaints will be dealt with. This means that for most imported and exported food products in Australia, there is little formal recourse for businesses that dispute decisions made on the compliance of their products. Industry organisations in the Northern Territory advised the Commission that debate with AQIS typically stops within the Darwin office, while SFPQ note that perceived repercussions for business limit the likelihood of direct complaints to AQIS:

AQIS is not held accountable because companies prefer to pay up and have a whinge on the side rather than argue too directly with AQIS and risk disruption or market access. (SFPQ 2008b, p.5)

A formal legal challenge through the court system on a ruling by AQIS or NZFSA VA is a possibility for all businesses, but as this could prove more costly than the derived benefits, it is unlikely to be a viable option for a small to medium business.