



**Australian Government**

**Department of Foreign Affairs and Trade**

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Commissioner Baxter and Commissioner Lindwall  
Regulation of Australian Agriculture  
Productivity Commission  
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Dear Commissioners

**Inquiry into the regulation of Australian agriculture**

Thank you for the opportunity to provide input to the Commission's Inquiry into the regulation of Australian agriculture. The following comments represent the coordinated views of the Department of Foreign Affairs and Trade (DFAT) and Austrade. The comments focus on the impact of agricultural regulation on:

- Australia's compliance with its international trade law obligations;
- Australia's reputation as a safe and reliable supplier of quality products; and
- the effectiveness of Australia's foreign investment regime in promoting and facilitating much-needed investment in Australian agriculture.

The Foreign Affairs and Trade portfolio has particular responsibilities with regard to Australia's trade and investment policies and performance. As a major agricultural exporter, regulations governing Australian agriculture have implications for trade and investment performance. In 2014, Australia's food exports were worth nearly \$37 billion. This is around two-thirds of Australia's total agricultural production.

*Consistency with Australia's international trade law obligations*

In the conduct of its trade and investment relations, Australia has entered into a wide range of agreements with other countries. The majority of these are legally binding agreements, and many include dispute settlement provisions. They range from the 1995 agreements on the creation and operation of the World Trade Organization (WTO) through to regional and bilateral free trade and investment agreements.

Australia's compliance with the obligations in these agreements is critical to our capacity to advance our interests ensuring an effective, rules-based international economic order. The consequences of non-compliance can include legally-sanctioned action that could result in considerable losses to exporters and significant financial damage to the Commonwealth.

Accordingly, it is important that consideration of regulation in Australian agriculture takes into account any potential intersection with our international obligations. Early and comprehensive consultation with this Department provides the most effective protection against the possibility of regulations being enacted that are at odds with our legal commitments. This department has a strong and cooperative relationship with the Department of Agriculture and Water Resources and generally this has been successful in developing regulatory proposals with close input on trade law elements. It is important to sustain and deepen this to ensure that problems are identified at an early stage and steps taken to manage the risk to the Commonwealth.

#### *Australia's reputation as a safe and reliable supplier*

Agricultural regulations also play a role in maintaining Australia's overwhelmingly positive international image as a safe and clean supplier of high-quality agricultural commodities.

This positive reputation enhances our export competitiveness and creates benefits including decreased price sensitivity and improved and more stable access to high value foreign markets. In short, effective agricultural regulations have a role to play in maximising Australia's success in export markets particularly in key areas such as biosecurity, food safety, traceability and export certification.

Australia's highly vigilant biosecurity regime ensures that Australia remains free from many of the pests and diseases prevalent in other parts of the world. This facilitates exports, as trading partners recognise our biosecurity status and accept sanitary and phyto-sanitary certification by DAWR. However Australia has also been criticised by some trading partners for slow progress on their requests to export fresh produce to Australia. As a net agricultural exporter and a strong advocate for open agricultural markets, it is important that Australia processes import requests, including science-based import risk analyses, without undue delay. This will also help to ensure that trading partners are responsive to Australia's market access requests.

Acceptance of Government export certification has additional value to some sectors. For example, the Government-regulated Authorised Halal Program for red meat exports enables our red meat exporters to access markets that require these imports to be accompanied by government-endorsed halal certification. This is critical to sustaining what is already an area of our export trade worth \$1.4 billion a year.

Australia's stringent regulations on food safety further increase the level of confidence that foreign governments and consumers have in the quality and safety of Australian products. These regulations improve returns and reduce

risks for a range of food producers, manufacturers and brand owners. They assist exports, as evidenced by the success of an increasing number of Australian food brands across the immediate region.

The relationship between strong food safety regulation and export competitiveness is likely to remain for the foreseeable future, either as a positive differentiator for Australian products against international competitors, or potentially becoming a non-negotiable baseline expectation of foreign consumers, trade customers and regulators.

### *Foreign investment in agriculture and agribusiness*

Agribusiness and food is one of the Government's five national priority areas for investment. Foreign investment has long supplemented domestic saving to provide the capital needed to take maximum advantage of Australia's agricultural resources.

Australia's food industry will need up to \$1 trillion in additional capital between now and 2050 to increase its size, productivity and global competitiveness. Foreign investment will play a key role in helping to achieve this as demands for high quality food and products among Asia's growing middle class increase.

But despite this, there are significant economic factors that serve to limit both domestic and foreign investment in the agriculture sector relative to other sectors of the economy. In addition, Australia faces growing global competition for agriculture investment. It is therefore important that our foreign investment regime as it relates to agriculture, while addressing legitimate community concerns, is also internationally competitive and effective in promoting new – and retaining existing – investment.

Certain themes consistently influence how investors rank competing investment jurisdictions. They want government to foster a commercial environment with low sovereign risk in which policies and regulations are stable, consistent and predictable; have a well-considered policy rationale; and provide for a level playing field.

In the competitive business of investment attraction, regulatory uncertainty and the perception of regulatory burden can be as powerful as actual regulatory burden in influencing an investor's consideration of competing locations. Likewise, the experiences of foreign companies with regulatory agencies in Australia can significantly impact not only their own reinvestment decisions but also peer company perceptions of Australia as a commercially viable investment location.

Responding to community concerns, the reforms to the foreign investment framework in 2015 will ensure there is increased scrutiny of foreign investment in agriculture and increased transparency. This includes lower screening thresholds and the development of a register of foreign investment in ownership of agricultural land.

These reforms strike an appropriate balance between maintaining community confidence in foreign investment, protecting the national interest, and ensuring Australia remains an attractive destination for foreign investment. They are

designed to ensure that the application process occurs in a timely, efficient and transparent way.

Over time, it will be important to monitor the implementation of this new framework to ensure that it is meeting its objectives. In addition, there is a clear continuing role for government agencies in helping investors better understand the scope and complexity of these and other agribusiness regulations across the three tiers of Australian government, and to streamline approval processes, where possible.

DFAT and Austrade are ready to assist the Commission with its inquiry, where appropriate. Should you require further information, please contact in the first instance Gita Kamath, Assistant Secretary, Agriculture and Food Branch,

Yours sincerely

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