

Pork Council of Australia Limited

28 October

Mr Bruce Gooday
Inquiry Manager
Pig and Pigeat Industries Inquiry
Productivity Commission
Locked Bag 2
Collins St East Post Office
MELBOURNE VIC 8003

Dear Mr Gooday

The purpose of this Supplementary Submission by the Pork Council of Australia is to respond to the Submission lodged by the Queensland Sugar Corporation (QSC) entitled "*Exporting Queensland Sugar to Canada*".

Council would like to draw your attention to paragraph 3 on page four of the QSC Submission which, among other things, states "*if by way of retaliatory action the Canadian Government sought to exclude sugar from CANATA (a relatively small step in the context of WTO rules), the impact would be to effectively exclude Australia from the Canadian import market*". Council considers that statement to be grossly erroneous, and would like to draw your attention to the points we made on the question of retaliation, both in our Submission on Safeguard Action (Number 55), and in the Productivity Hearing on 6 October 1998 in Melbourne.

In Annex 3 of Council's submission - "Commentary on WTO Provisions", Council noted the following: "*there is no practical point in introducing the issue of the impact of retaliatory action. It is impossible to know what retaliatory action might be contemplated.. First, there has to be failure by the Government to negotiate compensation with affected parties. Second, an idea of the form of safeguard measure to be imposed and its likely effect need to be known. Third, the Agreement does not permit imposition of retaliatory measures until three years after the imposition of the measure*". Article 8.3).

These three points were further emphasised during the course of the Productivity Commission Hearing on 6 October 1998 where Council had indicated that since the first term for an application of safeguard measures is 4 years (and retaliatory action cannot be contemplated for 3 years), the issue of what form retaliation may take is, therefore, hypothetical in the extreme.

The fact that QSC has raised the possibility of retaliation in this way is a clear indication that it does not understand the nature and purpose of the Safeguard measures to which it is so opposed. The fact is that Safeguard measures are not unfair trade measures that might legitimately warrant retaliation. Rather, as this Council's Submission to the Commission points out, Safeguard measures as requested by the

pigmeat industry are legitimate rights under the WTO Safeguards Agreement, designed to address a situation whereby serious damage is caused to an industry as a result of an unexpected import surge. It is for that reason that the Agreement specifically prohibits retaliation, as Safeguard measures represent the exercise of legitimate rights under the Agreement. Such measures do not constitute unlawful action in any respect.

The failure of QSC to understand this fundamental aspect of the pig industry's case is disappointing. Whatever the reasons for this, the Productivity Commission must publicly (in the published report) reject the inflammatory and inaccurate assertions made by QSC in its Submission, if the Commission is to be seen as being objecting and accurate in its advice to the Government on the Safeguards inquiry.

Given the conclusive nature of the evidence presented by the Council in this regard, if you are unwilling to so reject QSC's unfounded assertions regarding retaliation, Council insists that you subpoena the Department of Foreign Affairs and Trade, the Federal Attorney General's Department and Queensland Sugar Corporation to provide evidence and be subject to cross examination on this matter. This is the only way in the event of your refusing to reject QSC's assertions, by which natural justice can be extended to the pigmeat industry by the Productivity Commission in this Safeguards Inquiry.

Yours sincerely

Brian Ramsay
CEO