

# **PCA Submission to the Joint Standing Committee on Treaties Inquiry into Australia's Relationship with the World Trade Organisation**

## **1. INTRODUCTION**

As a nation that benefits greatly from the export of agricultural produce, it is in Australia's interest to maintain our involvement in, and influence on, major international trade systems such as represented by the WTO. The pork industry has a vital interest in strengthening Australia's relationship with the WTO. Its future viability depends on an active partnership between the industry and the Australian government to influence the WTO process. The industry is now looking to use the WTO and the SPS agreement in a strategic way to access, develop and defend its export markets.

## **2. BACKGROUND TO THE PORK INDUSTRY**

The Pork Council of Australia (PCA) is the peak national body representing the interests of Australia's pork producers. There are currently 2600 pork producers in Australia producing some 5 million pigs annually. Our membership, which is voluntary, comprises 80% of national production and includes small family farm enterprises through to large vertically integrated operations.

Pork production in Australia is an important and growing industry that generates significant employment and economic activity in rural areas. The majority of farms are small to medium sized, family owned and run operations.

Australia's pork meat production is small in international terms, accounting for less than 0.5% of world production. However, Australian pork producers invest in, and apply, some of the leading technologies in the world to produce quality stock to meet consumer requirements. As a result the average herd size and productivity of the pig farming and pig meat processing industries has continued to increase with pig meat production almost doubling since the mid 1970s.

The trade impact of quarantine changes in the past decade has led to fundamental changes in the domestic market. As quarantine policy moved from 'no risk' to 'managed risk' in line with Australia's international obligations, pork imports surged causing serious injury to the industry. In response, the industry shifted focus and began to develop export awareness and activity.

Today the industry has excellent export growth prospects. It has made the transition from a defensive domestic industry to one of Australia's fastest growing agricultural export industries. Export growth was 6.8% in 1999 compared to only 3% per year in the early 1990s.

As a growing export industry, the pork industry relies on the framework and rules of the WTO to provide processes to handle potential trade disputes and achieve fairer trade practices.

### **3. KEY ISSUES FOR THE INQUIRY**

#### **3.1 Developing Australia's Negotiating Position**

In the last WTO round, Australia's pork tariffs were bound at zero. While the pork industry is not, in principle, opposed to zero tariffs in our domestic market, government failed to consult with industry prior to the zero-tariff binding. Pork Council seeks assurance that in future government will consult with the industry prior to, and during, trade negotiations.

It is imperative that domestic stakeholders be given appropriate consideration. A comprehensive consultation process with industry must be pursued – one where input is actively canvassed and taken into account as opposed to stakeholders merely being informed of events and/or progress. Early consultation will engender a partnership approach between industry and government on trade issues.

Achieving a real partnership between industry and government requires communication and consultation with industry, including producers on trade policy directions, decisions and the potential implications for the industry.

#### **3.2 Effectiveness of WTO Dispute Settlement – Building Government Expertise**

The lack of a specialist office of international law with overriding responsibility for dealing with international legal matters also critically weakens Australia's position in WTO dispute settlement procedures. To date, Australia's resources in this area have effectively been tied up with defending our position rather than pursuing our interests as aggressively as other WTO member countries. The more rigorous dispute settlement process of the WTO and the increasingly legalistic nature of the WTO demand the dedication of highly specialist resources.

We therefore concur with the findings of the Senate Rural and Regional Affairs and Transport Legislation Committee in its report in June 2000 on the import of salmon products, "...that it is in Australia's interests to ensure that legal input is a fundamental part of any negotiation or policy development process and that specialist ability to litigate the case before the WTO must be available."

#### **3.2 Other Considerations Influencing the WTO**

##### **3.2.1 Quarantine & Trade**

The agreed principles as embodied in the various trade agreements between member countries and enforced by the WTO provide not only scope for sustainable export growth, but also the defence of Australia's own market from unfair trade practices or unacceptable quarantine risk.

Yet trade disputes are often tightly linked to quarantine policies - an issue of growing concern to Australian agricultural industries. The high quarantine status of Australian agriculture has enormous immediate and long-term value to the nation. Australia commands a premium in the international market for food products as a result of its disease free status.

Like many agricultural industries in Australia, the pork industry is in the enviable position of having a national pig herd with a 'world's best' health status. And the industry would like to keep it that way. The high quarantine status underpins pork exports and is vital to the future competitiveness and growth of the industry.

The pork industry provides an excellent example of benefits accruing to Australia from its unique quarantine status. A ban on imports of Malaysian pigs in March 1999 opened the Singapore market to Australia. This ban was imposed due to an outbreak of the newly discovered 'Nipah' virus in the Malaysian pig herd. Nipah virus caused the death of over 100 people and led to slaughter of some 900,000 pigs.

Australian exports to Japan also continue to expand following a serious outbreak of foot and mouth disease in 1997 in the pig industry of Taiwan, which had previously been the major supplier to the Japanese market. An outbreak of foot and mouth disease in Korea this year has opened further opportunities for pork exporters to supply the Japanese market.

These disease outbreaks enabled the Australian pork industry to double its export trade from 15,890 tonnes, worth \$58 million in 1998/99, to 38,557 tonnes worth \$149 million for the year ending 30 June 2000.

When it comes to quarantine status, the pork industry would argue that the world is not a level playing field and that Australia's appropriate level of protection must reflect this.

### **3.2.2 Determining the Appropriate Level of Protection (ALOP)**

Australian industry, government and the community acknowledge the value of Australia's unique quarantine status in the world. We are relatively free from most of the world's serious pests and diseases despite the massive increase in international trade and movement of people. And it is quarantine that helps to keep it that way. It is therefore in Australia's interest to continue to take a 'very conservative' approach to determining the appropriate level of protection (ALOP).

The SPS Agreement recognises that it is the sovereign right of a nation to determine its own appropriate level of protection, consistent with government policy and community expectations. As the Senate Rural and Regional Affairs and Transport Legislation Committee found in its review of salmon imports:

"...while a member has considerable freedom to determine its ALOP, because the extent of quarantine measures which can be imposed are unfettered, ie, they are constrained by the requirements of the various international agreements entered into by Australia, the determination of the ALOP may be of little practical significance."

As the ALOP currently stands it is too vague a concept with no real guidance as to what it is in reality and how it is determined. Credible ALOP assessment means that a range of important factors, including the ability of diseases to be contained or eradicated, the potential impact on industries, the environment and biodiversity should also be taken into account as WTO Rules allow.

The Senate Committee also found that the determination of the ALOP is a matter for government and no one agency should be required to explain or defend the ALOP. In other words, it is not the role of AQIS to determine ALOP.

Australia is coming under increasing pressure from trading partners (with a lesser quarantine status) to reduce quarantine requirements. It is vital that AQIS ensure overseas trade and/or WTO pressures do not erode the integrity of Australia's import risk analysis process. It is Australia's sovereign right to go through *full and due* process on any quarantine decision.

As the Senate Rural and Regional Affairs and Transport Legislation Committee noted, "...there is substantial national interest in having a quarantine regime which is framed to protect Australian agriculture and biodiversity. However, there is a general perception that trade issues take priority over the quarantine regime. Such concerns highlight the very real possibility that one outcome of challenges over quarantine standards could be the emergence of 'lowest common denominator' standards for quarantine protection."

Australia should continue to work within the SPS agreement in handling quarantine issues. Yet, there appears to be a strategy where Australia wants to 'lead by example' in its approach to quarantine. The rationale presumably is that our trading partners will respond in kind on similar decisions that could affect Australia. Such a policy approach is misguided and out of step with the practices of our trading partners.

Our trading partners have consistently demonstrated that they will use any legal measure they can to advance their trade agenda. For example, safeguard measures are regularly used when domestic industries come under serious threat from import surges such as occurred with lamb imports into the US. Australia needs to take the same pragmatic approach to its own trade agenda.

However, without a more objective definition of the value of Australia's unique quarantine status now and for future generations, government and AQIS are vulnerable to trade and political pressures to accept higher levels of risk than industry and the community are prepared to accept.

The Senate Rural and Regional Affairs and Transport Legislation Committee, in its report in June 2000 on the import of salmon products, recommended that a more explicit ALOP be established. The pork industry strongly supports this recommendation. It will provide the government and AQIS with credible argument and the necessary basis for applying quarantine measures that are consistent with the Appropriate Level of Protection as determined by the Australian industry, community and government.

#### **4 THE FUTURE**

Australia needs to continue to develop its ability to influence the WTO process. Industry involvement is a key to this success. It is imperative that industry and government work in a real partnership to facilitate trade – ensuring sustainable export growth and defending domestic markets within the framework of the WTO.

If Australia is to provide real influence on the WTO and build its advocacy, it must ensure:

- Effective communication and consultation between government and industry including producers on trade policy directions, decisions and the potential implications for the industry. This means government allocating the necessary resources.
- The development of specific resources within government, such as a specialist office of international law which is dedicated solely to WTO issues.
- A more explicit definition of Australia's Appropriate Level of Protection be established that reflects Australian's unique quarantine position in the world.
- Quarantine import risk analysis must be able to go through a *full and due* process without trade and/or WTO pressures eroding the integrity of Australia's import risk analysis process.