

BETWEEN

COMMONWEALTH OF AUSTRALIA

AND

STATE OF NEW SOUTH WALES

AND

STATE OF VICTORIA

AND

STATE OF QUEENSLAND

AND

STATE OF WESTERN AUSTRALIA

AND

STATE OF SOUTH AUSTRALIA

AND

STATE OF TASMANIA

AND

NORTHERN TERRITORY OF AUSTRALIA

AND

AUSTRALIAN CAPITAL TERRITORY

MEMORANDUM OF UNDERSTANDING ON ANIMAL AND PLANT
QUARANTINE MEASURES

MEMORANDUM OF UNDERSTANDING made on the *twenty first* day of *December* 1995.

BETWEEN

COMMONWEALTH OF AUSTRALIA represented by the Minister for Primary Industries and Energy

AND

STATE OF NEW SOUTH WALES represented by the Minister for Agriculture

AND

STATE OF VICTORIA represented by the Minister for Agriculture

AND

STATE OF QUEENSLAND represented by the Minister for Primary Industries and Minister for Racing

AND

STATE OF WESTERN AUSTRALIA represented by the Minister for Primary Industry

AND

STATE OF SOUTH AUSTRALIA represented by the Minister for Primary Industries

AND

STATE OF TASMANIA represented by the Minister for Primary Industry and Fisheries

AND

NORTHERN TERRITORY OF AUSTRALIA represented by the Minister for Primary Industry and Fisheries

AND

AUSTRALIAN CAPITAL TERRITORY represented by the Minister for the Environment, Land and Planning

WHEREAS:

- A. The Commonwealth of Australia is a signatory to the Final Act of the Uruguay Round of Multilateral Trade Negotiations.
- B. Australia is party to the Agreement Establishing the World Trade Organization ("WTO Agreement") which, among other things, binds Members to conform with

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the Agreement on the Application of Sanitary and Phytosanitary Measures ("SPS Agreement")

- C. Members of the World Trade Organization are obliged to formulate and implement positive measures and mechanisms in support of the observance of the provisions of the SPS Agreement by other than central government bodies. The provisions of the General Agreement on Tariffs and Trade 1994 relating to compensation or suspension of concessions or other obligations apply in cases where measures applied by regional or local governments or authorities do not conform with the provisions of the SPS Agreement.
- D. The dispute settlement procedures of the WTO Agreement may be invoked in respect of measures affecting the observance of Agreements under the WTO Agreement, including those taken by regional or local governments or authorities within the territory of a Member.
- E. The States and Territories have legal competence for establishing and maintaining quarantine measures to the extent that they are consistent with Commonwealth legislation.

NOW THIS MEMORANDUM WITNESSES AS FOLLOWS

DEFINITIONS

- I. In this Memorandum of Understanding:

"ARMCANZ" means the Agriculture and Resource Management Council of Australia and New Zealand

"Memorandum" means this Memorandum of Understanding

"Parties" means the signatories to this Memorandum

"SCARM" means the Standing Committee on Agriculture and Resource Management

"SPS Agreement" means the Agreement on the Application of Sanitary and Phytosanitary Measures at Annex 1A of the WTO Agreement

"Relevant sanitary and [or] phytosanitary measures" means measures as defined in Annex A of the SPS Agreement which relate to the functions of State and Territory authorities responsible for primary industries

"States and Territories" means States and Territories party to this Memorandum; and

"WTO Agreement" means the Agreement Establishing the World Trade Organization done at Marrakesh on 15 April 1994.

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APPLICATION

2. This Memorandum shall be known as the Memorandum of Understanding on Animal and Plant Quarantine Measures.
3. This Memorandum shall apply to all animal and plant quarantine measures which are relevant sanitary and phytosanitary measures and which may directly or indirectly affect trade into Australia.
4. This Memorandum shall be deemed to have come into effect on 1 January 1995, the date on which Australia assumed its obligations under the WTO Agreement.
5. This Memorandum may be varied by agreement in writing signed by the parties.
6. A party to this Memorandum may withdraw by giving two years' notice in writing of its intention to withdraw.
7. This Memorandum shall not create legal obligations binding on the parties.


OBJECTIVE

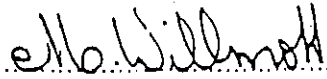
8. The objective of this Memorandum is to enable compliance by Australia with relevant obligations under the SPS Agreement.

ELEMENTS OF AGREEMENT

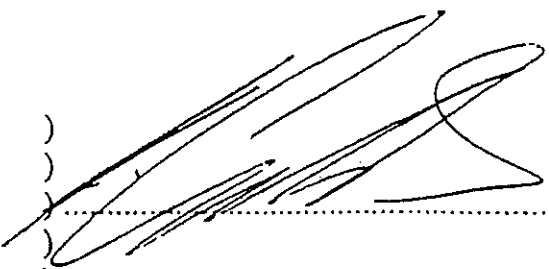
9. States and Territories shall consult fully with the Commonwealth before implementing any relevant sanitary or phytosanitary measures which could inhibit trade into Australia and which may not conform with the provisions of the SPS Agreement.
10. States and Territories, in consultation with the Commonwealth, shall:
 - (a) ~~review their existing relevant sanitary and phytosanitary measures with a view to identifying provisions which may be inconsistent with the provisions of this Memorandum; and~~
 - (b) ensure that their existing relevant sanitary and phytosanitary measures are in accordance with the provisions of this Memorandum by 1 October 1995.
11. States and Territories shall not apply any relevant sanitary or phytosanitary measures within their jurisdictions which would not conform with the provisions of the SPS Agreement.
12. If, in accordance with Article 11 of the SPS Agreement and the provisions of the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes, it is found that a relevant sanitary or phytosanitary measure applied by a State or Territory does not conform with the provisions of the SPS Agreement, the responsible State or Territory shall take appropriate corrective action as a matter of urgency.

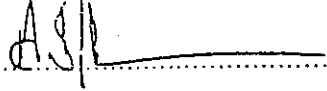
SIGNED for and on behalf of the
STATE OF VICTORIA by the
Honourable Bill McGrath MLA,
Minister for Agriculture,
in the presence of

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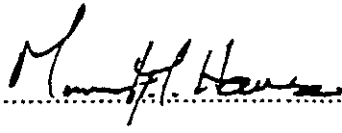

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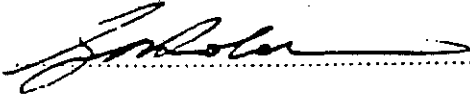
SIGNED for and on behalf of the
STATE OF QUEENSLAND by the
Honourable Robert Gibbs MLA,
Minister for Primary Industries and Minister
for Racing, in the presence of

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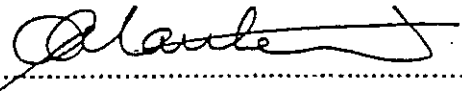

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SIGNED for and on behalf of the
STATE OF WESTERN AUSTRALIA by the
Honourable Montague Grant House MLA,
Minister for Primary Industry,
in the presence of

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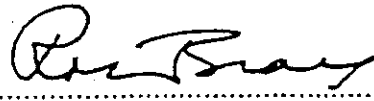

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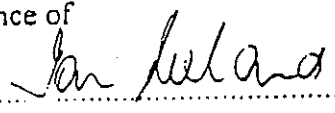
SIGNED for and on behalf of the
STATE OF SOUTH AUSTRALIA by the
Honourable Dale S. Baker MP,
Minister for Primary Industries,
in the presence of

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SIGNED for and on behalf of the
STATE OF TASMANIA by the
Honourable Robin Gray MHA,
Minister for Primary Industry and Fisheries,
in the presence of

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SIGNED for and on behalf of the
NORTHERN TERRITORY by the
Honourable Mick Palmer MLA,
Minister for Primary Industry and Fisheries,
in the presence of

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SIGNED for and on behalf of the
AUSTRALIAN CAPITAL TERRITORY by
Gary Humphries MLA,
Minister for the Environment, Land and
Planning, in the presence of

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G. Humphries
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