Australian Government

Department of Foreign Affairs and Trade

5 April 2013

Submission by the Department of Foreign Affairs and Trade to the Senate Rural and Regional Affairs and Transport References Committee Inquiry into Beef Imports into Australia

The Department of Foreign Affairs and Trade (DFAT) appreciates the opportunity to provide a submission to the Senate Rural and Regional Affairs and Transport References Committee inquiry into 'Beef Imports into Australia'. DFAT is the primary agency responsible for international trade issues and will therefore focus its submission on trade related matters.

Industry value

The beef industry is very important to Australia's economy in terms of both domestic production and export value. Australian exports of beef (including veal) in 2012 were worth $4.75 billion. Australia's key export markets for beef and veal are Japan, the United States and the Republic of Korea. In addition, in 2012 Australia exported $370 million worth of live cattle for fattening and slaughter (the key export markets being Indonesia, Israel and Turkey) and $236 million worth of breeding cattle (the key export markets being China, Russia and Pakistan).

International obligations applicable to the importation of beef

Australia accords primacy in our trade policy to the system of rules and disciplines that the World Trade Organization (WTO) provides for the global trading system. Without effective rules, global trade would be open to capricious and self-serving protectionist policies. As a major agricultural exporter, we have a very strong interest in striving towards a fair global trading system. If Australia attempted to unfairly restrict access to the Australian market by exporters from other countries, our credibility in advocating other countries open their markets would be severely constrained. With this in mind, it is vital that Australia's domestic rules and regulations remain consistent with our commitments under the WTO and other international agreements.

The primary trade obligations applicable to Australia's beef importation requirements are specified in the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (the SPS Agreement). The SPS Agreement provides a multilateral framework of rules governing the use of measures to protect the life and health of humans, animals and plants, with the aim of minimising any negative impact on trade. The SPS Agreement requires *inter alia* that SPS measures be applied only to the extent necessary to protect human, animal or plant life or health from risks arising from, for example, the entry and spread of pests, diseases, or disease carrying-organisms. The SPS Agreement also requires that any such measures be based on scientific principles and not maintained without sufficient scientific evidence. The SPS Agreement encourages WTO Members to harmonise their measures with international standards developed by relevant international organisations, including the World Organisation for Animal Health (OIE). SPS measures may differ from an international standard but their necessity for protecting life and health must be supported by a science-based risk assessment.

Australia's beef importation requirements

Australia's current risk-based bovine spongiform encephalopathy (BSE) policy, adopted in 2010, is consistent with our rights and obligations under the SPS Agreement. The policy requires a food safety risk assessment by Food Standards Australia New Zealand (FSANZ) before the import of any beef, as well as a biosecurity risk analysis for animal health risks (including foot and mouth disease (FMD)) by the Department of Agriculture, Fisheries and Forestry before the import of any fresh beef.

Australia's previous BSE policy, adopted in 2001, involved a blanket ban on the importation of beef and beef products from countries that had ever had a case of BSE. By 2009, this policy was no longer sustainable in light of advances in scientific knowledge (detailed in the Matthews Report[1]). Once new scientific knowledge was available, Australia was obliged to reassess its former BSE policy in line with the SPS Agreement provisions. The SPS Agreement also requires that Australia not place more onerous conditions on imports than it applies to like products produced domestically.

Australia has robust biosecurity and food safety systems that are founded on transparent and science-based decisions. These systems are designed to ensure an appropriate level of protection for our community, animals and plants.

Food labelling laws

The Australia New Zealand Food Standard Code Standard 1.2.11 (Country of Origin Labelling) has been amended to extend Australia's existing country of origin labelling requirements to unpackaged beef, veal, lamb, hogget, mutton and chicken with the amendment to enter into force on 18 July 2013.

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[1] *Review of Scientific Evidence to Inform Australia's Policy on Transmissible Spongiform Encephalopathies (TSEs), 2009.*

The primary trade obligations applicable to Australia's food labelling laws are specified in the WTO Agreement on Technical Barriers to Trade (the TBT Agreement). The TBT Agreement gives WTO Members the right to adopt standards or regulations they consider appropriate to prevent deceptive practices, protect human health or safety, animal health or safety, or the environment, and other legitimate objectives. The TBT Agreement requires *inter alia* that technical regulations (including food labelling laws) accord imported products treatment no less favourable than products produced domestically, and that technical regulations not be prepared, adopted or applied with a view to or with the effect of creating unnecessary obstacles to trade. Consequently, technical regulations must be no more trade restrictive than necessary to fulfil a legitimate objective. The provision of information to consumers is considered a legitimate objective under the TBT Agreement; this includes the provision of information on country of origin by means of labelling requirements.

There have recently been a number of WTO disputes involving labelling, including a dispute brought against the United States by Canada and Mexico over mandatory country of origin labelling.[2] In this case, the United States' country of origin labelling requirements were found to be inconsistent with the TBT Agreement, particularly the 'national treatment' obligation of Article 2.1 (which requires that products imported from the territory of any Member (e.g. beef and livestock) shall be accorded treatment no less favourable than that accorded to like products of national origin).

[2] See Appellate Body Report, *United States - Certain Country of Origin Labelling Requirements* (DS384 and DS386).