© Commonwealth of Australia

Ownership of intellectual property rights

Unless otherwise noted, copyright (and any other intellectual property rights, if any) in this publication is owned by the Commonwealth of Australia (referred to as the Commonwealth).

Creative Commons licence

All material in this publication is licensed under a Creative Commons Attribution 3.0 Australia Licence, save for content supplied by third parties, logos and the Commonwealth Coat of Arms.

Creative Commons Attribution 3.0 Australia Licence is a standard form licence agreement that allows you to copy, distribute, transmit and adapt this publication provided you attribute the work. A summary of the licence terms is available from creativeworks.org/licenses/by/3.0/au/deed.en. The full licence terms are available from creativeworks.org/licenses/by/3.0/au/legalcode.

Internet

Agricultural Export Regulation Review—Discussion Paper is available at:

Inquiries regarding the licence and any use of this document should be sent to: copyright@agriculture.gov.au.

The Australian Government through the Department of Agriculture has exercised due care and skill in the preparation and compilation of the information and data in this publication. Notwithstanding, the Department of Agriculture, its employees and advisers disclaim all liability, including liability for negligence, for any loss, damage, injury, expense or cost incurred by any person as a result of accessing, using or relying upon any of the information or data in this publication to the maximum extent permitted by law.
Agricultural Export Regulation Review ................................................................. 1
  What is being reviewed ...................................................................................... 1
  What isn’t being reviewed .................................................................................. 2
  Consultation activities and next steps .............................................................. 2
  Discussion questions ......................................................................................... 3

Process for making submissions ........................................................................ 4
  Publication of submissions .............................................................................. 4

Terms ..................................................................................................................... 5

Part A—How are agricultural exports regulated? ............................................... 7
  What goods does the export regulation apply to? ............................................ 9
  What requirements need to be met to export? ............................................... 10
  What standards need to be met to export? ....................................................... 13
  What documentation or permissions are needed to export? ........................ 15
  Ensuring compliance with agricultural export regulation .............................. 17
  Who else has a role? ......................................................................................... 19

Part B—What does the future look like? ............................................................ 22
  Increasing flexibility and enabling innovation ............................................... 22
  Cooperation and communication ..................................................................... 23

References .......................................................................................................... 25
Agricultural Export Regulation Review

Agriculture is a vital part of the Australian economy. In 2014–15, agricultural trade generated an estimated $40.3 billion in export revenue from trading partners such as China, Indonesia, Japan, the United States of America, the Republic of Korea and New Zealand.

One of the Department of Agriculture’s (the department’s) primary goals is to grow more sustainable, productive, internationally competitive and profitable Australian agricultural (including food, fish, forestry and fibre) industries by promoting innovation and self-reliance, and maintaining and improving access to international markets.

To help maintain and improve market access and maximise opportunities for exporters, the department regulates agricultural exports through several pieces of legislation to:

- ensure exports meet importing country requirements (for example, being fit for purpose or safe for human consumption) and international obligations
- maintain a fair trading environment for exporters that supports competition and enables businesses to export regardless of their size
- ensure the integrity of products proposed for export and trade descriptions for exported products are accurate (that is, the product is what the label says it is)
- ensure appropriate enforcement tools are available in the event that an exporter does not comply with the export conditions that have been set.

What is being reviewed

The department is undertaking a review to assess whether current export regulation:

- meets the needs of industry and government today and into the future
- is flexible and enables industry and government to respond to a range of situations and contemporary issues
- ensures that importing country requirements are met without imposing an unnecessary regulatory burden on users of the system
- is clear, transparent and easy to understand.

The review forms part of the department’s investigation of opportunities to cut unnecessary red tape and make it easier to export. Reducing the burden of red tape on the agriculture sector is a key focus for the Australian Government and the department and is critical to achieving better returns at the farm gate.

The review also satisfies requirements under the Legislative Instruments Act 2003 to review delegated export legislation (which includes regulations, orders and declarations) to ensure they are still relevant and required before they ‘sunset’ or cease to be law in 2020.

At the end of this review, the department will make recommendations to government on whether, and how, the regulation of agricultural exports could be improved to ensure it remains relevant into the future. Any changes recommended will be subject to government consideration and agreement.
What isn’t being reviewed

Aspects of the export system will not be considered as part of this review because they are being considered as part of other reviews, reforms and processes. These are:

- the comprehensive review of the department’s cost recovery arrangements
- reforms to live-stock export regulation

Outcomes of these reviews and reforms will be considered as part of any recommendations made to the government resulting from this review.

While the review will consider how export regulation assists exporters to meet importing country requirements and how the regulation is administered, it will not consider importing country requirements themselves as these are matters for our trading partners to decide on in line with their appropriate level of protection and are subject to negotiation between governments.

Consultation activities and next steps

As a user of the export system we would like to know what you think about export regulation and your ideas for improvement. Your feedback will help us identify where improvements can be made.

This discussion paper forms part of the department’s consultation activities for this review, which will include a number of discussion groups and an opportunity to provide submissions. It is divided into two parts:

- Part A—a description of how agricultural exports are regulated
- Part B—a general discussion with questions seeking your views on what the future could look like.

The outcomes of consultation—including the results of discussion groups, comments and written submissions—will be gathered, consolidated and incorporated into the department’s recommendations to government on how the regulation of agricultural exports could be improved.

The department encourages comments and submissions on questions in this discussion paper plus any other relevant feedback from anyone with an interest in how agricultural exports are regulated by 5pm on 21 September 2015.
Discussion questions

While reading this paper, we would like you to consider the following questions:

<table>
<thead>
<tr>
<th>What does the future look like?</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. What are the emerging export related challenges or opportunities for your business over the next 5, 10, 20+ years?</td>
</tr>
<tr>
<td>2. To what extent would current export regulation make these challenges harder, or restrict you from pursuing opportunities?</td>
</tr>
</tbody>
</table>

**Increasing flexibility and enabling innovation**

| 3. What do you see as unnecessary regulation (or ‘red tape’) when exporting? Please provide specific examples. |
| 4. Can you identify any improvements, initiatives or technologies that would make exporting easier for you? Please provide detail. |

**Cooperation and communication**

| 5. Are there parts of the export process the department currently undertakes that your business could manage? If so, what assistance (if any), would you require from the department to establish these processes? |
| 6. What information about exporting and export regulation does your business need? How would you prefer to receive this information? |
Process for making submissions

Submissions may be lodged by email (preferred) or by mail. Submissions must be accompanied by a completed cover sheet, available on the department’s website at www.agriculture.gov.au/export-regulation-review.

Online submissions of up to 500 words can be lodged via an online form at www.agriculture.gov.au/export-regulation-review.

Submissions and comments can also be provided to:

**Email:**
biosecurityconsultation@agriculture.gov.au

**Mail:**
Agricultural Export Regulation Review
Australian Government Department of Agriculture
GPO Box 858
Canberra ACT 2601

**Online:**

If you have any questions regarding the review or the submission process, please contact our hotline on 1800 068 468

Publication of submissions

Submissions will be published on the department’s website at www.agriculture.gov.au/export-regulation-review, unless you request otherwise. Please indicate clearly on the front of your submission if you wish for it to be treated as confidential, either in full or part.

The Australian Government reserves the right to refuse to publish submissions, or parts of submissions, which contain offensive language, potentially defamatory material or copyright infringing material. A request may be made under the Freedom of Information Act 1982 for a submission marked confidential to be made available. Such requests will be determined in accordance with provisions under that Act.

Personal information provided by you in your submission will be used by the department for the purposes of the review. Contact information, other than your name and organisation (if applicable) will not be published. Your name and organisation will be included on the department’s website to identify your submission. See the department’s privacy policy web page to learn more about how the department collects, uses and stores personal information (http://www.agriculture.gov.au/about/privacy).

Where you provide personal information about an individual other than yourself, you must ensure that you notify the individual that you have provided their personal information to the department, make that person aware of this privacy notice and draw their attention to the department’s privacy policy.
## Terms

The following table lists and defines the main terms used in this document.

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
</table>
| Approved arrangement                      | An arrangement between the department and a registered establishment that covers each stage of production and documents the establishment controls used to ensure:  
  - legislative and food safety requirements are met  
  - importing country requirements are met  
  - there is a sound basis for issuing an export permit or government certificate.                                                                                                                                                                                                                                                                                                                                                     |
| Australia New Zealand Food Standards Code | Lists requirements for the composition, preparation and labelling of foods and includes specific standards such as for additives, food safety, labelling and genetically modified foods. The Code is developed by Food Standards Australia New Zealand. Enforcement and interpretation of the Code is the responsibility of state and territory government departments and agencies.                                                                                                                                                                                                                     |
| Australian Grape and Wine Authority (AGWA)| A Commonwealth statutory authority established under the *Australian Grape and Wine Authority Act 2013*                                                                                                                                                                                                                                                                                                                                                               |
| Department                                 | Australian Government Department of Agriculture.                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Establishment                              | Includes the following:  
  - a building, aircraft, vehicle or ship; and  
  - a place (whether enclosed, or built on, or not).  
  
  While there are some exceptions, an establishment must be registered by the department to export prescribed goods.                                                                                                                                                                                                                                                                                                                                                             |
| Exporter                                   | A person or company who prepares goods for export and exports the goods themselves or sells the goods to another party for this purpose.                                                                                                                                                                                                                                                                                                                                                       |
| Export Control Orders                      | Legislative instruments that specify administrative arrangements and controls that apply to the export of goods, such as meat and meat products or plant and plant products.                                                                                                                                                                                                                                                                                                  |
| Export permit                              | Permission given by the department (either electronically via EXDOC or in hardcopy) to export a consignment of a prescribed product. Permission is given when legislative and importing country requirements are met. Export permits are also given by AGWA to export a consignment of wine in excess of 100 litres.                                                                                                                                                                                                                                 |

---

Department of Agriculture
<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Export licence</td>
<td>Licence to export given by the department to exporters of meat, livestock and forestry products following satisfaction of certain criteria. Licences are also given by AGWA to exporters of wine.</td>
</tr>
<tr>
<td>Government certificate</td>
<td>A document issued by the department that certifies goods have met relevant importing country requirements (such as animal health requirements). Government certificates are only provided by the department to exporters if they are required by the importing country.</td>
</tr>
<tr>
<td>Importing country requirements</td>
<td>Requirement set by a government body in an importing country that must be met in order for a product to be imported into that country. These are generally sanitary (food safety, animal health and human health) and phytosanitary (plant health) requirements.</td>
</tr>
<tr>
<td>Legislative instruments</td>
<td>Also known as delegated legislation – legislative instruments are laws made under Acts of Parliament that provide detail on how legislation will be implemented (these include regulations, orders and declarations).</td>
</tr>
<tr>
<td>Non-prescribed goods</td>
<td>Goods that are not regulated under export legislation, unless they require a government certificate to meet importing country requirements.</td>
</tr>
<tr>
<td>Notice of Intention to Export (NOI)</td>
<td>A notification from an exporter to the department of their intention to export prescribed goods. For some products, this is referred to as a request for permit.</td>
</tr>
<tr>
<td>Preparation</td>
<td>includes the following:</td>
</tr>
<tr>
<td></td>
<td>• slaughter or killing of animals and the dressing of carcasses</td>
</tr>
<tr>
<td></td>
<td>• capturing or taking of fish</td>
</tr>
<tr>
<td></td>
<td>• processing, packing or storage of goods</td>
</tr>
<tr>
<td></td>
<td>• pre-export quarantine or isolation, treatment and testing of live-stock</td>
</tr>
<tr>
<td></td>
<td>• treatment of goods</td>
</tr>
<tr>
<td></td>
<td>• handling or loading of goods</td>
</tr>
<tr>
<td>Prescribed goods</td>
<td>Goods that are regulated by specific Export Control Orders that set conditions that must be met in order to export.</td>
</tr>
<tr>
<td>Registered establishment</td>
<td>An establishment that is registered by the department to prepare goods for export.</td>
</tr>
<tr>
<td>State regulatory authority</td>
<td>A state or territory government agency responsible for regulating things such as food safety, animal welfare, etc).</td>
</tr>
</tbody>
</table>
Part A—How are agricultural exports regulated?

Agricultural exports are primarily regulated through the *Export Control Act 1982*, the *Australian Meat and Live-stock Industry Act 1997* and several supporting legislative instruments that set conditions that must be met to export certain goods.

The Export Control Act was initially introduced to provide greater controls over the inspection and certification of goods being exported from Australia. This was to establish greater credibility with, and provide greater assurance to, importing countries.

The Act provides the legal basis for the regulation of exports and enables the department to set conditions that must be met to export certain goods from Australia. These conditions include standards for preparing, packaging and handling goods, transportation and registration of export establishments.

It also provides authority for officials to carry out inspections and certification activities (supported by audit and verification) along the export supply chain to ensure those conditions are met. The department sets guidance for officials through administrative documents, such as guidelines and policies, to administer and undertake export–related services and activities.

These activities enable the department to provide assurance for the integrity of our agricultural exports to overseas countries which helps in maintaining and expanding overseas markets.

The number of conditions for export and the extent of the supply chain can vary in size and complexity depending on the type of good being exported, which can lead to differences in the regulatory burden.

Additional elements of the export supply chain (including issuing of export quota certificates) are regulated under other Acts (such as parts of the *Dairy Produce Act 1986*, the *Australian Wine and Grape Authority Act 1980* and the *Horticulture Marketing and Research and Development Services Act 2000*).

The full list of legislation can be found at [agriculture.gov.au/export-regulation-review](http://agriculture.gov.au/export-regulation-review) and a diagram showing the major pieces of legislation administered by the department can be found below.

Exporters are also subject to other regulation, such as excise levies and customs charges legislation, the *Competition and Consumer Act 2010*, the *Customs Act 1901* and environmental and food preparation regulation in the relevant state or territory.
Figure 1: Export legislation administered by the Department of Agriculture
At its simplest level, export regulation enables the oversight of both the export supply chain and the provision of certification to confirm goods proposed for export meet food safety, animal health and product integrity conditions and specific importing country requirements.

Examples of specific importing country requirements include assurance that:

- egg and egg products do not contain blood or faecal matter
- consignments are free from pests, soil, weed, seeds and extraneous material
- products meet veterinary sanitary requirements
- products are fit for human consumption.

Historically, export regulation has been used to guarantee product integrity and ensure the safety and hygienic preparation of agricultural products for export. It has expanded over time to include other elements to increase trade opportunities, including product descriptions, volume limitations (quotas) and industry requirements. Flexibility in the export regulation has helped Australian exporters to gain market access.

Examples of where the export regulation enables certification of things (for export purposes only) other than product integrity, health and safety of food to meet industry and importing country requirements, include:

- organic produce – organisations accredited by the department certify produce exported with the trade description ‘organic’, ‘bio–dynamic’, ‘biological’ or ‘ecological’ has been produced in compliance with the National Standard for Organic and Biodynamic Produce
- wine – the Australian Grape and Wine Authority requires all wine shipments over 100 litres to seek export approval to protect the reputation of Australian wine by assisting operators in the Australian wine sector to comply with international regulatory requirements, monitoring compliance with relevant elements of Australian law and investigating breaches when detected
- Halal meat – Islamic organisations are accredited under the Export Control (Meat and Meat Products) Orders 2005 to issue certificates stating meat and meat products are Halal
- quotas – products eligible for importing country tariff-rate quotas will receive a tariff-rate reduction on presentation of a valid quota certificate.

What goods does the export regulation apply to?

The types of goods that the export regulation applies to can generally be divided into two categories: prescribed goods and non–prescribed goods.

Prescribed goods have specific export conditions placed on them to ensure they are fit for export to Australia’s trading partners, who set import conditions on the entry of food, grain, horticulture, animal reproductive material and live animal products.

Prescribed goods include: dairy, live animals, animal reproductive material, fish, plants and plant products (grain, fresh fruit and vegetables), eggs, meat and meat products, animal food (frozen raw meat), organic produce, and pharmaceuticals (raw animal material).
The export of these types of goods are regulated by Export Control Orders which set out specific matters that must be complied with depending on the type of goods and can include:

- specifications for establishments undertaking processing and preparation of goods for export
- procedures for audits and routine inspections
- operational requirements (good manufacturing practice, hygiene measures and traceability)
- risk-based hazard assessment and process control
- management commitment to adhere to requirements
- processes for obtaining export documentation (such as export permits and government certificates)
- descriptions of goods including appearance, origin and preparation (known as trade descriptions).

**Non-prescribed goods** are goods which generally do not have export controls placed on them because government to government certification for these goods is often not required by importing countries.

Government certification is often not required as they are routinely subjected to additional processing in importing countries (such as wool, skins and hides). This further processing may correct or eliminate any health, hygiene or safety concerns associated with those products.

Non-prescribed goods are generally derived from animals and plants and do not fall under the category of prescribed goods.

*Non-prescribed goods include: nutritional supplements, cosmetics, animal by-products, wool, skins and hides, inedible blood, rendered meats, prepared dry pet food and processed foods.*

The department does not issue certification for non-prescribed goods if it is not required by importing countries. If an importing country does require certification for a non-prescribed good, an exporter can apply for a direction as to the procedures to be followed, and requirements to be satisfied, for the issue of the certificate.

The procedures and requirements are subject to the particular importing country requirement and can include that the good be fit for sale in Australia. They can also be to the effect that procedures and requirements in an Export Control Order is to apply to the preparation of the good for export.

**What requirements need to be met to export?**

There are a number of different regulatory requirements that must be satisfied to be able to export goods from Australia. These vary depending on what type of good is being exported and can range from obtaining a single certificate (if it is a non-prescribed good) to a number of requirements, such as licensing and registration (if it is a prescribed good).

The below diagram provides an overview of the process for exporting meat (a prescribed good) from Australia.
Overview of the process for exporting meat from Australia

Registered establishments and approved arrangements

The registration of establishments (or in some cases, premises) is the principal way the department ensures the preparation of the majority of goods for export is undertaken in a way that meets Australia's export requirements and importing country requirements. In most cases, establishments that prepare prescribed goods for export must be registered with the department.

Regardless of the size of the exporter, establishments must be registered before commencing preparation of prescribed goods for export (which includes production,
storage, handling and/or presentation). There are some exceptions (such as where an exporter’s activities fall outside the definition of ‘preparation’).

Generally speaking, establishments are registered when they satisfy three key elements:

1. The persons in management and control of the establishment are assessed as ‘fit and proper persons’.

The ‘fit and proper person’ test enables an assessment to be made of whether persons or companies wishing to register an establishment to prepare goods for export will properly conduct their business. Criteria include whether the person or their associates have been convicted of criminal offences.

2. Any outstanding debts owed to the Commonwealth in connection with the establishment are paid.

This allows the Secretary to refuse to register an establishment if there are unpaid fees, charges or levies attached to the establishment when it was previously registered. This was developed in response to situations where occupiers would attempt to avoid their debts by, for instance, going into liquidation and forming another company, often with similar directors or shareholders to the first company, to take over the establishment.

3. Where applicable, an approved arrangement is in place.

An approved arrangement is a fully documented system that has been approved by the department and includes controls for food safety, traceability and verification. This enables an exporter to determine how they will meet regulatory and importing country requirements. Establishments preparing plants and plant products for export do not require an approved arrangement.

It identifies the controls used to ensure compliance with the regulation and any additional importing country requirements. The department undertakes audits and inspections to ensure an approved arrangement is working and requirements are being met.

In the case of a dairy registered establishment, the approved arrangement must:

- include a Hazard Analysis and Critical Control Points (HACCP) plan
- document the controls and records used to ensure regulatory requirements will be complied with
- identify those importing country requirements where compliance with the export regulation would not be sufficient to result in compliance with the importing country requirements (that is, requirements that are additional or more restrictive than those already in export regulation)
- document the controls used to ensure these importing country requirements will be complied with
- document any other measure necessary to ensure there is a sound basis for issuing export permits or government certificates.

Licences

In addition to registering establishments and meeting requirements under the Export Control Act 1982, exporters of meat and livestock are required under the Australian Meat and Livestock Industry Act 1997 to obtain a licence to export their product. The requirements for a licence include that the applicant be:

- a person of integrity (e.g. whether they have been convicted of an offence)
• competent to hold the licence (e.g. having the necessary qualifications, skills or experience)
• a person of sound financial standing.

Exporters of unprocessed wood and woodchips are also required to obtain a licence to export wood (where it is two tonnes or more). Exemptions to this requirement apply to wood sourced from regions covered by a Regional Forest Agreement or wood sourced from a state or territory with a code of practice for plantation forestry approved by the Australian Government.

Exporters of grape products are also required to obtain a licence to export wine and other grape products.

**What standards need to be met to export?**

Exporters are responsible for ensuring the conditions associated with the export of goods and the relevant importing country requirements for the goods are met for them to be exported from Australia.

**Meeting Australian export conditions**

A number of goods have specific export conditions placed on them to ensure they are fit for export to Australia’s trading partners. These conditions and requirements vary depending on the type of good being exported and are set out in the Export Control Orders.

The preparation of some goods for export, such as food, must comply with various standards set out in the Australia New Zealand Food Standards Code (e.g. fish, eggs and dairy products must comply with residue requirements in Standard 1.4.2).

*Compliance with the Australia New Zealand Food Standards Code is also mandatory for production of food for the domestic Australian market.*

Some Export Control Orders incorporate provisions of Australian Standards, which set out requirements for export and preparation. For example, the Export Control (Meat and Meat Products) Orders 2005 (Meat Orders) incorporate the requirements of the Australian Standard AS 4696: Hygienic Production and Transportation of Meat and Meat Products for Human Consumption (with the exception of specified clauses).

In some cases, there are additional steps that must be taken to satisfy particular importing country requirements which are set out in specific provisions, such as those relating to the European Union Cattle Accreditation Scheme in the Meat Orders. These provisions enable the accreditation of farms for the export of beef to member states of the European Union.

Other standards are incorporated in the Export Control Orders, such as the Export Control (Fish and Fish Products) Order 2005, which incorporates by reference the Australian Shellfish Quality Assurance Program – Export Standard (2004).

All food exports must comply with applicable food standards. This includes Standard 1.2.4 of the Australia New Zealand Food Standards Code (labelling and naming of ingredients and compound ingredients). This Standard requires food produced for export to be labelled and named to the same standard as food produced for our domestic market.

**Meeting importing country requirements**

Australia’s trading partners place varying requirements on agricultural goods being imported into their countries and it is the responsibility of the exporter to ensure they are obtaining and addressing the most up to date importing country requirements.
The department maintains the Manual of Importing Country Requirements (MICoR), which is a regularly updated database of known importing country requirements that can be accessed by exporters to ensure they are aware of the most recently known requirements. MICoR does not include information on importing country requirements in relation to wine—AGWA maintains information on requirements of major wine importing countries and provides this information to wine exporters.

A number of Australia’s trading partners also conduct regular audits of Australian systems to check that processes, procedures and standards being applied are effective in meeting their requirements.

### Regular review by overseas authorities

Overseas authorities, such as the European Commission and the United States Department of Agriculture Food Safety and Inspection Service, conduct regular reviews of the operations of Australia’s export registered establishments (for example, meat establishments) and the legislation that regulates the operations of those registered establishments. This is to ensure ongoing market access. Some other countries (for example, certain South American countries) accept Australian goods on the basis that the goods are acceptable to the United States.

The department has regular discussions and negotiations with trading partners to clarify their requirements and describe how Australian systems will meet their expectations. It also negotiates technical market access arrangements with trading partners and works with the Department of Foreign Affairs and Trade to achieve the best possible outcomes for Australian agricultural and food export interests in trade negotiations.

### Protocol with China to support $1.5 billion wheat and barley trade

China is a vitally important trading partner for Australia, and is our largest agricultural export market, worth around $9.8 billion each year. It is a key market for Australia’s wheat and barley exports.

Australia and China recently signed a revised protocol that covers phytosanitary requirements for Australian wheat and barley imports into China, which came into force on 23 April 2015 and will remain valid for a minimum period of three years. The first protocol was developed in 2003.

Discussions between both countries and a visit by a Chinese technical delegation to Australia helped build an understanding of each country’s systems for phytosanitary control.

Negotiations allowed Australia to develop and implement an industry management plan to meet China’s requirements. By working collaboratively with China and our domestic industry, Australia has arrived at a protocol that meets China’s requirements and will enable exports to continue.

The wheat and barley protocol supports trade between Australia and China worth more than $1.5 billion a year.

In developing import requirements, countries need to observe broader international trade obligations.

Australia and many of its trading partners are members of the World Trade Organization and as a result, are bound by the Agreement on the Application of Sanitary and Phytosanitary Measures (the SPS Agreement).
The SPS Agreement focuses on sanitary (relating to human or animal life or health) and phytosanitary (relating to plant life or health) issues in the context of international trade. It references three standard-setting bodies that deal with these issues:

- International Plant Protection Convention (IPPC) dealing with plant health
- World Organisation for Animal Health (OIE) dealing with animal health
- Codex Alimentarius Commission (Codex) dealing with food safety

The Australian Government is an active member of all three bodies and provides significant input to the development and review of the standards they set. The department strongly supports international cooperation to prevent the spread of pests and diseases to other countries through exported products.

Australian exporters need to comply with varying requirements for certain goods consistent with these international obligations. For example, under the IPPC, specific treatments are mandatory for certain goods (such as cold disinfestation treatment against fruit fly for citrus fruits) before importation can be permitted.

What documentation or permissions are needed to export?

Permissions and documentary requirements for exporting also differ depending on the type of goods being exported.

**Notices of intention to export and export permits**

Some goods, such as live animals, require a notice of intention (NOI) to export. This is used to inform the department of an exporter's preparation for export and may act as the request for an export permit. For other goods (for example, meat and meat products), documentation is issued electronically through EXDOC. In these instances a request for permit is required in place of a NOI.

An export permit is issued once the department is satisfied that a consignment meets regulatory and importing country requirements. It is given to the exporter and is required by the Department of Immigration and Border Protection in order for export to occur.

*The process for applying for an export permit is set out in each Export Control Order and, while there are differences, the requirements are largely the same.*

In some cases (for example, most fresh fruit and vegetable consignments), the department will issue an export permit once an inspection of the product has been conducted and it is satisfied the conditions have been met. In other cases (for example, dairy and fish consignments) export permits are issued based on documents provided by the manufacturer and assurance obtained through the department's oversight of the export chain.

**Government certificates**

In the case of some goods (for example, meat and meat products, live animals, wine and some plant products) a government certificate may be required by the importing country. These certificates are issued by the department (or in the case of wine, AGWA) and provides confirmation specific regulatory and importing country requirements (such as animal health requirements) have been met.

*The process for applying for a government certificate is also set out in each Export Control Order. In the case of some prescribed goods (dairy, fish and*
eggs) the certificate can be issued on the basis of the application for the export permit.

Examples of certificates provided by the department include:

- phytosanitary certificates to provide assurance plants or plant products have been inspected and are free from pests
- health certificates to provide assurance biological or live animal products are free from specific diseases
- government certificates for goods other than prescribed goods (such as Australian origin and availability for sale for human consumption in Australia).

Quota allocation

Exporters can access reduced tariff rate arrangements for certain products administered via quotas under some of the bilateral and multilateral agreements Australia has with trading partners. Quotas provide a limited number of exporters with exclusive access to tariff–free or tariff–reduced overseas markets for a specified amount of specified product. This enables exporters to reduce import taxes on a certain volume of goods into a particular country—which can result in savings for Australian businesses. Any exporter that wishes to export product to the same market without a quota allocation is subject to the full tariff rate.

The department is responsible for providing an allocation service which enables exporters to access quotas at reduced or zero tariff rates for specific goods exported to the European Union (high quality beef, sheepmeat, goatmeat and dairy products), the United States (beef and dairy products) and Japan (bovine offal, poultry, pork, preserved meats, honey, orange juice and apple juice). This involves allocation of quota entitlement, issuing of quota certificates as well as monitoring and reporting on the use of quotas. The way a quota certificate is issued depends on the product and/or destination.

Continual improvement in administration

The department currently administers 33 unique export quotas. Each quota features different rules around who can apply for that quota, how it is allocated and how past performance is rewarded. These differences are reflected in the separate legislative instruments underpinning the quotas. The number of different rules, procedures and pieces of legislation can be administratively demanding, posing a challenge for exporters.

The department is working with exporters to streamline the administration of quotas, creating consistency across quotas where possible.

As part of this process, the department is looking to improve service delivery to exporters, and the establishment of systems to manage quotas under the Japan–Australia Economic Partnership Agreement (JAEPA) has provided a catalyst to consider improvements to user interfaces more broadly.

Electronic submission of documents

Exporters of a range of goods are able to submit and electronically process notices of intention to export and applications for export permits and government certificates through two systems managed by the department—EXDOC and TRACE. For some goods (for example, dairy and fish goods) the use of EXDOC to obtain export documentation is
mandatory. The EXDOC system also facilitates use of the eCert system for direct
government to government certification exchange.

EXDOC was introduced in 1992 for the certification of meat exports, and in 2001 was
expanded to include fish, dairy, grain and horticulture export certification. It provides
the ability to electronically transmit information for the purpose of applying for an
export permit and or a government certificate providing flexibility and consistency in
the issuance of export documentation.

eCert is an electronic system that generates export certificates for traded food and
agricultural goods. The eCert message is sent from an exporting government agency
directly to an importing government agency. Certificates provide assurances to
importing countries concerning food safety and animal and plant health. The eCert
standard was approved at the United Nations Centre of Trade Facilitation and Electronic
Business (UN/CEFACT) as an international standard in 2009.

TRACE (Tracking Animal Certification for Export) currently provides for
electronic management of the application and approval processes for livestock exports and related
applications, including electronic submission of applications for export licences and
notices of intention to export (NOI) livestock by sea and air.

Ensuring compliance with agricultural export regulation

The department and AGWA undertake a range of activities to ensure goods meet the
conditions set in export regulation and are consistent with importing country
requirements, including audits and inspections and provision of information to exporters.

Authorised officers

Inspections and audits are typically undertaken by authorised officers (authorised under
the Export Control Act 1982) who are trained to perform export audit and inspection,
treatment verification and sampling functions. Authorised officers can be officers of the
department, officers of state and territory government agencies, a designated exporter or
an employee of a third party business or individual. When undertaking these functions,
authorised officers are acting on behalf of the Australian Government. Departmental
guidelines provide that authorised officers must be able to show they are fit and proper
persons and have no conflict of interest in undertaking their job.

Inspections

Inspections involve the examination of a product or document by an authorised officer to
detect any unacceptable abnormalities which means the product does not comply with
regulatory specifications or requirements.

The type and range of inspections depend on the skills and training qualifications of the
authorised officer and the goods being prepared at the establishment.

Whilst inspections are carried out by department officers, they are also carried out by
other people, including employees of state regulatory authorities (further described
below) or authorised officers employed by exporters or a third party.

Audits

The department undertakes auditing activities to ensure establishments comply with all
relevant regulatory requirements. This can include whether:
the facilities are and continue to be fit for the purpose of preparing, handling, storing and/or inspecting products for export

there are appropriate hygiene and necessary measures to produce the goods according to trade description and other applicable requirements

the goods being produced at the establishment comply with conditions in export regulation and importing country requirements.

As noted below, audits are not always conducted by the department itself, such as in the case of dairy export establishments which are audited by state regulatory authorities. Organic/biodynamic products are audited by certifying organisations that are accredited by the department.

**Approved auditors**

An approved auditor is a person who is authorised by the department to audit export registered establishments engaged in the preparation or storage and loading of fish, egg, dairy and meat products for export as food.

Approved third party auditors can be engaged by registered establishments with good compliance histories to conduct audits for compliance with export regulation and importing country requirements. In some cases, an establishment can also seek approval from the relevant state regulatory authority to have an approved auditor conduct its domestic audits as well (where permitted).

In the case of export registered abattoirs, there may be a need for ongoing departmental presence (for example, an On-Plant Veterinarian and/or a Food Safety Meat Assessor).

**Enforcement**

In circumstances where requirements are not met or are suspected of not being met, monitoring, investigation and sanctions may become necessary.

A range of powers can be exercised by an authorised officer for the purposes of monitoring to ensure regulatory requirements are being met, or for investigating whether an offence has been committed. These include entry into premises and the ability to search and seize goods by consent or through a warrant, and entry into premises that form part of a registered establishment without consent or warrant.

A range of administrative and operational sanctions can also be used by the department and authorised officers where there is non-compliance or suspected non-compliance with regulatory requirements.

*Administrative sanctions that can be applied include refusal to grant an export permit or revoking the registration of a registered establishment, as well as imposing conditions on a licence (in the case of meat and livestock exports).*

*Operational sanctions that can be applied include subjecting an exporter to a higher level of inspection/audit, giving directions that must be complied with and suspending operations of registered establishments.*

For more serious instances, criminal penalties can be imposed by courts, including imprisonment ranging from six months to five years and fines of up to $51,000 for an individual or $255,000 for a body corporate. The imposition of a criminal penalty on an exporter can also affect the registration of their establishment due to the requirement for persons who manage and control registered establishments to be ‘fit and proper persons’.
Communication and provision of information

The department uses various advice notices across different types of goods to publicly provide information about the department’s significant export–related food safety and biosecurity work. This can include changes to legislation, importing country requirements, guidelines and work instructions as well as advice about new protocols or market access opportunities. Such notices are sent to registered stakeholders and are placed on the department’s website to allow for greater availability to those not registered.

Contact is maintained with industry clients and stakeholders through industry consultative committees. These committees generally include the peak bodies for each class of goods and are used to engage industry stakeholders in the delivery of services.

Stakeholders can indicate to the department areas of interest and the way they prefer to receive information, through subscription services to a range of departmental bulletins and Rich Site Summary (RSS) feeds, as well as following the department on Twitter.

Who else has a role?

Commonwealth departments and agencies

While the department regulates the export of agricultural goods, other Commonwealth departments and agencies have a role (beyond the Department of Foreign Affairs and Trade mentioned above), including:

- the Department of Immigration and Border Protection, which through the Customs Act 1901 ensures all goods being exported from Australia are reported as required and information regarding the nature and volume of exports is gathered
- the Australian Trade Commission (Austrade) which provides exporters (and businesses aspiring to become exporters) with information and advice to assist Australian companies in reducing the time, cost and risk of exporting
- the Office of Transport Security (within the Department of Infrastructure and Regional Development) which is responsible for administering an intelligence-led, risk-based preventive security regime for the aviation and maritime sectors and works to improve security and prevent transport security incidents

State and Territory Governments

State and territory governments also play a key role in the export supply chain. Exporters are subject to separate state and territory legislation (such as transportation and animal welfare laws). These laws are enforced by relevant state and territory authorities. State and territory authorities also have regulatory responsibility for on-farm activities.

To ensure there is minimal duplication (especially for exporters preparing goods for the domestic market) the department and state and territory governments have a number of arrangements that enable inspections and audits to be undertaken on each other’s behalf.

In most cases, if an establishment produces goods for export and the domestic market, the department has agreements with state regulatory authorities in the relevant state or territory (such as the New South Wales Food Authority) to undertake audits on its behalf or vice versa. A Memorandum of Understanding or similar document details the scope and responsibilities under the arrangement, including necessary authorisations, communication and information sharing arrangements.
These arrangements may include inspecting establishments or facilities, and conducting audits to ensure businesses are maintaining regulatory standards. State regulatory authorities may also provide assistance to the department for market access activities when required, including supporting importing country reviews of relevant elements of the export inspection system.

The department verifies service delivery undertaken by the state regulatory authority. Verification activities cover relevant elements of the state regulatory authority system such as its audit management system and the auditor appointment process and programs to ensure compliance throughout the export supply chain.

State regulatory authorities must be able to demonstrate to the department that auditors of establishments are competent and independent of the establishment being audited.

**Audit arrangements between state regulatory authorities and the Department of Agriculture**

<table>
<thead>
<tr>
<th>Category</th>
<th>New South Wales</th>
<th>Victoria</th>
<th>Queensland</th>
<th>South Australia</th>
<th>Western Australia</th>
<th>Tasmania</th>
<th>Northern Territory</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dairy</td>
<td>SRA</td>
<td>SRA</td>
<td>SRA</td>
<td>SRA</td>
<td>na</td>
<td>SRA</td>
<td>DA</td>
</tr>
<tr>
<td>Fish</td>
<td>DA</td>
<td>DA</td>
<td>DA</td>
<td>na</td>
<td>DA</td>
<td>na</td>
<td>na</td>
</tr>
<tr>
<td>Eggs</td>
<td>SRA</td>
<td>na</td>
<td>SRA</td>
<td>na</td>
<td>DA</td>
<td>na</td>
<td>na</td>
</tr>
<tr>
<td>Game meat harvest</td>
<td>SRA</td>
<td>na</td>
<td>SRA</td>
<td>SRA</td>
<td>na</td>
<td>na</td>
<td>na</td>
</tr>
<tr>
<td>Meat processing</td>
<td>DA</td>
<td>DA</td>
<td>DA</td>
<td>DA</td>
<td>DA</td>
<td>na</td>
<td>na</td>
</tr>
<tr>
<td>Poultry</td>
<td>SRA</td>
<td>na</td>
<td>SRA</td>
<td>DA</td>
<td>DA</td>
<td>na</td>
<td>na</td>
</tr>
<tr>
<td>Red meat – tier 1</td>
<td>SRA</td>
<td>SRA</td>
<td>SRA</td>
<td>na</td>
<td>SRA</td>
<td>SRA</td>
<td>na</td>
</tr>
<tr>
<td>Red meat – tier 2</td>
<td>DA</td>
<td>DA</td>
<td>DA</td>
<td>DA</td>
<td>DA</td>
<td>DA</td>
<td>DA</td>
</tr>
<tr>
<td>Shellfish (ASQAP)</td>
<td>SRA</td>
<td>SRA</td>
<td>na</td>
<td>SRA</td>
<td>SRA</td>
<td>SRA</td>
<td>na</td>
</tr>
<tr>
<td>Wild game meat processing</td>
<td>DA</td>
<td>na</td>
<td>DA</td>
<td>DA</td>
<td>na</td>
<td>na</td>
<td>na</td>
</tr>
</tbody>
</table>

*ASQAP* Australian Shellfish Quality Assurance Programme. DA Department of Agriculture. SRA State regulatory authorities. na Either no agreement or no export registered establishments for that class of goods in the state/territory.

**Farmers, producers, exporters, establishments and industry bodies**

Farmers, producers, exporters and establishments play a vital role in the export process. They are responsible for developing systems to ensure they meet regulatory and importing country requirements as well as adhering to those systems to ensure traceability along the supply chain.

The ability of Australian farmers and producers to adapt to changing market and environmental conditions has been critical to our success in the agricultural export process. They are essential to the export supply chain because the quality of goods exported often depends on the quality of cultivation and production. By implementing effective processes, farmers and producers can help to ensure the integrity of agricultural goods that are exported. Good processes can also increase the quantity of production, which will inevitably support better returns at the farm gate.

*The livestock industry’s use of the National Livestock Identification Scheme and National Vendor Declaration has underpinned traceability for the movement of cattle, sheep and goats and supports the export of livestock and meat and meat products.*
Exporters and establishments are also responsible for ensuring their goods meet the requirements of importing businesses which are often even higher than those set out by the importing country. For example, some overseas restaurant chains require all food suppliers to undergo independent third party audits and are far more rigorous in checking for bacteria and dangerous pathogens than the importing country.

Industry bodies also play a major role in the export process. They exist to represent and promote the interests of their members and can represent a single industry or many industries. They represent the interests of exporters and businesses and undertake advocacy, provide information and can be sources for professional support, industry events and even financial assistance.

Some industry bodies are also accredited by the department to undertake functions in the export process, such as AUS-MEAT Limited (an industry owned company) which is responsible for setting standards for meat for export.

A number of exporters and industry bodies also develop quality assurance systems that offer the prospect of stricter control (through continual monitoring, audit and evaluation) than periodic visits by the department. These quality assurance systems push companies to improve processes continually rather than get by with the minimum requirements.

Cooperation to improve outcomes and efficiency

Greater efficiency and increased access to markets can be achieved through industry and the various levels of government working together. To this end, there are a range arrangements between the department, industry and state and territory governments in place that illustrate varying degrees of cooperation and collaboration. These arrangements include:

- shared responsibility between the Commonwealth and states and territories for the:
  - audit of dairy establishments that manufacture product for export
  - monitoring and issuance of declarations pertaining to pest area freedom status for plant export certification
- quality assurance systems whereby export meat businesses are required to comply with the department’s requirements and are audited on that basis
- third party inspection (such as where other bodies are accredited to perform certification for organic produce).

National Dairy Food Safety Regulatory Framework

Food safety regulation in the dairy industry is an example of what can be achieved through strong partnerships between businesses, industry and different levels of government. It is an integrated system involving federal and state regulatory agencies, dairy farmers, dairy companies and Dairy Australia, with internationally recognised Codes and Standards providing a basis for regulation.

Industry monitors the safety and quality of milk products through the supply chain, while State Dairy Food Authorities (who have arrangements with the department to provide audit and enforcement on our behalf) enforce food standards and monitor compliance with businesses Food Safety Programmes. The outcome is a preventative approach to food safety and risk management that reduces regulatory burden and costs for business and a viable dairy industry that is among the top four largest global exporters of dairy products.
Part B—What does the future look like?

Overseas markets are worth billions of dollars to the Australian economy. Australia’s performance in overseas agricultural, food and fibre markets, and particularly our ability to meet the needs and preferences of individual consumers in those markets, is vital to the future profitability and competitiveness of our agriculture sector.

Australia is part of an expanding international trade environment with an increasing consumer demand for evidence of product integrity (for example, food that is what the label says it is) and a greater emphasis on sustainability. These trends present challenges and opportunities for our industries. A continuing challenge is negotiating new opportunities with countries and meeting the evolving importing standards and certification requirements of existing trading partners.

Regulation of agricultural exports helps to meet this challenge. It provides Australia’s trading partners with a level of assurance that goods exported from Australia will meet the necessary human, animal or plant health importing requirements. The integrity of our export systems is an important basis for market access negotiations.

Australia’s export certification system and supporting regulation affords an advantage for agricultural exporters and it must enable exporters to meet future challenges and take hold of future opportunities to ensure Australian products are globally competitive.

**Question 1**

What are the emerging export related challenges or opportunities for your business over the next 5, 10, 20+ years?

**Question 2**

To what extent would current export regulation make these challenges harder, or restrict you from pursuing opportunities?

**Increasing flexibility and enabling innovation**

Effective and appropriate regulation is essential to a well-functioning economy. It is a mechanism for (among other things) managing risk and safeguarding the environment and community. Regulation can impose administrative and compliance burdens on business, consumers, government and the wider community. Where these burdens are unnecessary, they can impede competition, productivity, investment, innovation and can result in additional costs to industry.

> Unnecessary regulatory burden can also prevent smaller businesses from being able to enter, remain and actively compete in the international trade environment.

Regulation should be easy to understand and follow. Compliance with regulation can create costs for business, in addition to the cost of complying with generic business requirements and state and territory legislation. This can be particularly difficult for companies whose scale of operation extends across jurisdictional borders and for those companies who are competing in export markets alongside international competitors who may be subject to lower regulatory standards.

Since the 1970s there has been significant reform to the agriculture sector toward a focus on efficient and effective risk-based regulation and investment to help meet the challenges
of the future. This has included a shift away from prescriptive regulatory requirements to a more flexible approach, so, instead of setting out every step that has to be taken, objectives are defined and business can decide how to meet them.

Stakeholders have previously expressed concern over excessive export regulation and the costs associated in achieving and maintaining compliance with regulatory requirements. Stakeholders have also expressed concern about complex, duplicative, inconsistent and overlapping regulatory requirements.

Overlapping regulatory requirements can place a burden on businesses that produce goods for both the domestic and export market, especially where they deal with multiple classes of goods. For example, each of the Export Control Orders contain provisions that deal with the same function (such as audits or issuing export permits) but impose different requirements for each type of good, often for no apparent reason.

Businesses that deal with many types of goods are required to meet these requirements in multiple Export Control Orders. Overlapping requirements can also make it harder for smaller businesses to comply with regulation.

**Question 3**

What do you see as unnecessary regulation (or ‘red tape’) when exporting? Please provide specific examples.

Export regulation also needs to encourage innovative practices. It can do this by supporting change that creates more effective processes, products and ideas. The adoption of innovative practices can help save time and money for business and can also provide a competitive advantage.

Export regulation should support innovation now and into the future, building a culture that is adaptable and rewards enterprise.

An aspect of innovation relates to changes in technologies and practices used by industry, both in the administration and operation of their business. The ability for industry to identify and respond to opportunities, and the department’s ability to enable them, can assist in improving cost effectiveness and export efficiencies for everyone. This includes non-prescriptive and outcomes-focused regulation, which can allow for new technologies and ways of doing things without constant legislative changes.

An example of this is the work that is currently underway with trading partners to develop and refine an electronic government-to-government export certification system, which aims to reduce fraudulent activity, increase efficiency and replace manually issued, paper-based certificates. This can encourage more productive and competitive Australian businesses through faster clearance of consignments.

**Question 4**

Can you identify any improvements, initiatives or technologies that would make exporting easier for you? Please provide detail.

**Cooperation and communication**

Growing more sustainable, productive, internationally competitive and profitable Australian agricultural industries requires cooperation between the department, business and state and territory governments.

Activities such as inspections and audits are undertaken by the department to ensure risks associated with exported goods are adequately mitigated, particularly in areas of human
health, food safety, and animal welfare. These activities help Australian business to meet importing country requirements and maintain Australia’s reputation as a provider of healthy and safe products overseas.

This level of intervention could be reduced through greater cooperation and can already be seen through the development of arrangements for the delivery of inspection and audit activities on the department’s behalf.

Farmers and producers need to make business decisions that will make them profitable and competitive. The department’s role is to provide proper guidelines to support farmers and producers in making these commercial decisions, not to make decisions for them.

Everyone can play a role in identifying possible improvements in the export process and it is important that we constantly question whether there is a better or more efficient way of doing things. Improving efficiency through cooperation and collaboration can assist to reduce the costs of exporting and promoting an environment that fosters growth and profitability.

For example, working more closely with Australian business and state and territory governments could create opportunities to reduce the administrative and regulatory burden on exporters, while still ensuring that importing country requirements are met.

Question 5

Are there activities in the export process the department currently undertakes that your business could manage?
If so, what assistance (if any), would you require from the department to establish these processes?

Strong relationships with business through open communication, information exchange and two-way feedback is vital to the effective administration of export regulation.

Although there are a number of methods used to communicate with Australian businesses, there may be scope to better target communication methods to meet business needs. Feedback can help to ensure that Australian business is provided the most relevant information, at the most relevant times, using the most relevant medium. Receiving the right information at the right time can help business increase voluntary compliance and gain confidence in, and transparency of, the export process.

Question 6

What information about exporting and export regulation does your business need?
How would you prefer to receive this information?
References


