Australian Pork
LIMITED

APL Submission 2

Productivity Commission Australian Pig Meat Industry Public Inquiry

26 November, 2004

Table of Contents

1 Executive Summary

1. This is the second of four submissions Australian Pork Limited (APL) is providing for the Pig Meat Inquiry. APL's highlights that the submission dates and topics covered in the forthcoming third and forth submission have been altered from what we had originally advised the PC.

The third submission will be made in early December and will address in detail the competitiveness of the Australia's pork supply chain relative to key international pork trading nations, APL's export strategy, and also an assessment of the effectiveness of past APL R&D programs aimed at improving the competitiveness of the Australian industry.

The final submission will be tabled at the PC public hearing that APL will be attending in January 2005. This will provide updated information on the specific initiatives APL intends to pursue as part of the industry restructure as well as identifying specific government measures that can also enhance the competitiveness of the industry.

2. This submission builds on APL's first submission to the PC, which demonstrated that imports have caused serious injury to the domestic pork industry and, in turn, has impacted on the industry's competitiveness. It also demonstrated the necessity of immediate action in the form of provisional safeguards to restrict imports temporarily, as provided in the rules of the WTO. APL's first submission requested that the PC make an immediate request to the Government to restrict imports so as to provide breathing space in which to assess fully the condition of the industry; decide on appropriate measures to achieve competitiveness; and design and implement an orderly restructuring program. This submission draws upon and should be read in conjunction with this document.

3. This submission provides strong evidence that the Australian industry has suffered injury form imports and that provisional safeguard measures should be implemented by the Australian Government immediately as an interim measure to provide relief. A case also exists for the PC to request that the Government extends terms of reference of this inquiry to include a safeguard investigation. Failing this, the PC should recommend that a separate safeguard inquiry be undertaken.

4. This second submission demonstrates that a strong case to impose safeguards exists and that temporary controls at the border, which will be phased out over a defined period, are the most effective measures the Government can take to facilitate restructuring of the industry. In particular, APL is able to demonstrate that the test requirements for the implementation of safeguards have been fully met. These are:

- There are imports of like or directly competitive products.
- There is a domestic industry producing such products.
- Imports have increased.
- The domestic industry is suffering from serious injury or threat of serious injury.
- The serious injury is being caused by the increase in imports– existence of a causal connection.
- There are unforeseen developments which have lead to an increase in imports.

5. While this submission also identifies alternative options for assistance measures, both border and non border measures, that would assist the industry in overcoming the current injury it is facing, it finds that border measures (i.e. import restrictions) would be more effective in assisting the industry by providing the necessary breathing space in which to restructure.

6. Trade measures in the form of safeguard measures would be effective in addressing the depressed prices, excess capacity and falling profitability in the industry and have the advantage over payments and incentives by providing a more certain impact on the industry in reducing imports, especially where quotas are used.

7. APL recommends the following three means as being appropriate means for providing immediate respite from injury caused and threatened by imports, and to give the industry the necessary breathing space for adjustment over a four year period.

i. Provisional safeguard
APL recommends implementation of a provisional safeguard in the form of tariffs, for the allowable period of 200 days. The level of the tariff should be such as to immediately partially restrict trade, in particular proposing that a tariff rate of 85 per cent be applied on legs and 32 per cent for middles.

Whilst tariffs are clearly permitted for provisional safeguard measures, APL notes that the WTO Agreement on Safeguards does not preclude other measures such as quantitative restrictions and that these could also be considered.

ii. Full Safeguards and application of quotas
If a separate inquiry were to be undertaken into full safeguards measures, APL advocates application of a quota and a tariff, over and above the provisional safeguard proposed quota, which could be progressively reduced over time.

A quota has the advantage over a tariff of restricting imports absolutely to the amount specified and is thus more certain in its impact on the industry. APL's analysis indicates that there is a strong basis for a quota being set at 2,458 tonnes per month for Canadian imports and 1,561 tonnes per month for Danish imports, based on the average of the past three years imports of legs and middles.

Given that the trend is for rising imports at well above the average level, the average level of imported tonnage could be expected to be exceeded, hence a tariff over and above the quota is also suggested. This would be progressively reduced over time. The tariff would be set at the provisional level for six months beyond the 200 day for provisional measures (85 per cent for legs and 32 per cent for middles); reduced to the average level of the price gap at the end of two years (60 per cent for legs and 10 per cent for middles); and eliminated at the end of three years. It is proposed that quotas would then be eliminated at the end of the four year period. The combined effect of the quota and tariff would aim to keep imports at their average levels over the period of safeguards and not prevent trade altogether.

iii. Consideration of payments and incentives
This submission also outlines how payments to enhance exports, increase production capacity, increase industry adjustment and support incomes could potentially act as a means to help facilitate industry adjustment. Such measures, however, will not have an effect on prices received by the industry. Instead, such measures would facilitate improvements in the capacity to produce profitability at whatever prices prevail. Excess capacity may be reduced, but if measures do not result in a sufficient improvement in competitiveness against imports then this excess capacity could be exacerbated. Profitability and competitiveness may increase with payments and incentives, however the improvements would need to be sufficient to increase returns to competitive levels, as those prescribed by trade measures, with alternative use of resources.

8. **APL proposes that the Commission conclude that temporary import controls under the terms of the WTO provisions would be the most effective means to facilitate restructuring. It further proposes that the Commission seek approval to undertake a formal safeguards inquiry so that the Government has the option of adopting this approach promptly after it receives the PC's Report.**

9. Of great concern to APL is the fact that there are numerous forms of subsidies apparent in key pork global trading nations, which whilst being

WTO compliant, still have the effect of tangibly distorting the international pork market. Furthermore, countries that place substantial barriers on Australian imports often have unfettered access to the Australian market, subject only to restrictions that prevent a devastating disease outbreak in Australia. Under these circumstances, the ability of the Australian pig meat industry to compete internationally will continue to be constrained, irrespective of the increased efficiency the industry is able to attain through its restructure.

10. Further, while in principle it is possible for an industry to take anti-dumping and/or countervailing actions for caused injury from imports, in practice it is very difficult, extremely complex and costly, and can ultimately deter the initiation of legitimate defensive action by an affected industry.

APL believes that there is a potential role for Government in assisting with tracking this information, such as though key Australian Government departments developing monitoring mechanisms and ongoing analysis of direct and indirect subsidies and non-tariff barriers apparent amongst key competitor markets, such as in the steel industry. APL also advocates that the Australian legislation concerning "like goods" interpretation needs to be made simpler.

11. The Australian pork industry faces numerous restraints and a growing number of regulatory requirements, which also impact on its ability to position itself as a globally competitive industry. These include, but are not limited to:

- feed grain security of supply and pricing
- animal welfare standards and environmental requirements
- water availability and water rights
- evolving requirements regarding antibiotics, genetically modified organisms
- residue testing to meet market access requirements
- retailer power, contract negotiation and collective bargaining
- costs relating to transport and labour pose competitive restraints
- labelling and unfair trade practices

12. APL's concerns and responses to these issues are as follows:

- A significant challenge for both the pork industry, in relation to accessing affordable cost competitive feed, relates to concerns about the impact of the Government's policy regarding monopoly powers conferred by AWB's single desk and the inter-relationship with the domestic grains industry. In times of grain shortage, this is a significant cost to producers, directly attributable to a public policy which allows for the operations of the single desk without consideration for the flow on affect to grain user industries. Worse still, this policy fails to establish appropriate adjustment measures that will ensure that the future growth of grain user industries is not impeded during such cycles.

The intensive livestock industries, in general, are increasingly concerned about future feedgrain supplies in light of forecasts indicating there will likely be a shortfall of availability. The demand/supply balance for feedgrains is a fragile one; APL is particularly concerned that Australian Government subsidised development of a fuel ethanol based on grains industry will substantially distort regional feedstuff markets. The same policy initiatives that encourage regional ethanol industry development may well destroy the intensive livestock industries that government has been looking to encourage to add value to Australian rural communities, increase regional employment and increase export income

These issues highlight examples of how current public policy fails to consider what adjustments are necessary to avert well documented predicted future supply problems. The Government must consider and make appropriate adjustments to ensure its public policies which seek to promote the growth of one industry/sector are not at the expense of the growth of existing livestock feeding industries.

APL has undertaken specific programs aimed at securing access to feed ingredients at world competitive as part of its strategic objective to maintain an internationally competitive pork industry supply chain. These programs include the establishment of the Livestock Feed Grain Users Group, meetings with and a submission to the National Drought Review Taskforce, commissioning a feasibility study into methods to reduce the variability of feedstuff supply and also investigating treatment methods for the devitalisation of imported grain; and targeted grain research.

- APL is concerned about the lack of uniformity in the application of piggery planning guidelines, environmental policy and regulations between states and within states at regional and local levels. There are significant opportunity costs for each months delay in the construction of a new intensive piggery operating which represent a significant loss to the economy, especially to the regional economy where the new piggery is to be located.

  Initiatives APL has undertaken in to effectively address environmental regulations to minimise costs to the industry while meeting these growing regulatory requirements and public expectations include development of national environmental guidelines for piggeries, programs to assist implementation of Environmental Management Systems (EMS), and also recent completion of the Renewable Energy Industry Development (REID) project.

- Genetically Modified Organisms (GMOs) are an emerging issue that could greatly affect the Australian pork industry through the introduction and increased use of biotechnology in feed crops that are used in pigs' diets. Being "GM free" is considered by pork exporters a marketing advantage for the Australian pork industry, particularly in Asian markets. APL supports the introduction of regulations covering fully transparent product use, including labelling of GM crops used in animal feed to ensure product integrity and consumer confidence.

APL believes that Australia should be more cautious and withhold support of the endorsement of GMO crops as animal feeds until the issues of consumer resistance, market concerns, segregation, costs, farmers rights and co-existence have been addressed. At the very least infrastructure issues should be fully resolved.

- The National Health and Medical Research Council is conducting investigations into banning meat and bone meal (MBM). The rationale for a potential ban on intra-species recycling (i.e. the feeding of pig derived MBM to pigs) is to reduce the risk of Transmissable Spongiform Encephalopathies (TSEs) emerging in Australia. APL is opposed to any such a ban that is not made on a scientific basis; critically the banning of MBM use would have significant cost implications for the Australian pork industry since it is a primary source of protein.

  Such a significant effect of a ban on profitability would challenge the viability of the industry, unless there was compensating support from other sources during periods of low returns and high feed costs.

- APL does not promote or endorse the use of antibiotics as growth promotants, however it is clear that banning growth promoting antibiotics would have an adverse cost impact on Australian producers, (particularly in relation to the industry's ability to compete against North American pork product both domestically and internationally). Finding alternatives to antibiotics is therefore critical and it is imperative that APVMA speeds up of the registration of imported vaccines.

  APL continues to fund research into the issues of antibiotic resistance and also surveillance of antibiotic resistance in order to reduce the industry's reliance on antibiotics, whilst the industry's quality assurance scheme APIQ standards also entail producers meeting minimum standards in respect of antibiotics.

- New forms of residue testing are emerging annually that are necessary to undertake in order to meet different international market access requirements. This, in turn, places an ongoing increased financial burden on the industry. APL has streamlined its NRS Pig Monitoring Program, however with the industry Restructure Plan seeking to expand Australian exports to new markets, residue testing may need to be further expanded in order to meet market access requirement.

- Mounting worldwide public opposition to the use of close confinement systems for intensive animal production has resulted in restrictions being imposed on the future use of stalls to house pregnant sows in a number of western countries. With the review of the Model Code of Practice for the Welfare of Pigs currently being undertaken, industry anticipates there will be increased costs of infrastructure and staff training to cope with any proposed changes to animal welfare standards, particularly in respect of sow stall use. APL believes that the use of dry sow stalls is consistent with sow welfare and that any changes to the Code in this area would need to be supported by sound science as well as practical and affordable for producers to implement.

  APL is advocates that dry sow stalls should be permitted to be used for up to 10 weeks of any one gestation period, after sufficient lead time, as well as for occasional housing of individual animals for animal health reasons and/or restorative feeding, or for confining animals at feeding time. Furthermore, based upon financial analysis, long lead times for adjustment are a priority for industry, with indications at this stage suggesting a lead time of at least 14 years as necessary.

  Any proposed changes made by public policy to animal welfare standards that are based on opinion and perception and not science, and are clearly not financially sustainable or recoverable from the market must be a be a cost borne by Governments not industry. In such circumstances, a case would exist for Government financial assistance to assist producers meet these new welfare requirements.

  It is also important to recognize that the majority of imported product will not comply with Australia's new welfare standards and in effect provides countries with a cost advantage compared to Australian producers; further eroding the industry's ability to compete with imports. **APL advocates that the welfare standards of imported product should match Australia's or at the very least there should be some form of labelling requirement to inform consumers what percentage of an imported products content was produced at welfare standards below those required by Australian producers.**

  Animal welfare initiatives undertaken by APL include ongoing lines of communication with supply chain stakeholders, establishment of the National Animal Welfare Consultative Group, initiation of specific policies and standards for non-intensive production systems, funding of pig welfare research, APL's animal welfare obligations as a party to the Emergency Animal Disease Response Agreement and developing means of appropriately addressing the welfare problems relating to animal welfare raids.

- APL noted in our first submission that the trend lines for retail prices have moved upwards on an ongoing basis, whilst the prices received by producers remain comparatively flat, implying chain intermediaries are making increased profits and also that there is a breakdown of profit sharing down the supply chain to producers. The dominance of two large supermarket chains creates downward pressure on prices throughout the pork supply chain. As a result, pig farmer's profit margins are eroded over time combined with a breakdown of profit sharing back down the supply chain.

  The Department of Agriculture, Fisheries and Forestry noted in its Price Determination in the Australian Food Industry 2004 the 'lack of nexus between retail prices of products and the wholesale and farm gate prices for portions and carcasses'. This indicates that changes are required so as to ensure farmers receive prices that reflect market conditions.

  In order to address the issues of transparency, accountability and market returns a mandatory Retail Grocery Code for the whole of retail grocery industry should be introduced as but one possible mechanism by which producers can ensure that they are receiving a fair price for their product.

- There is a pressing need to establish market price discovery mechanisms to provide greater transparency of market pricing. APL notes that attempts at establishing a more open pricing arrangement between producers and processors has already been undertaken in the United States following the introduction of mandatory livestock pricing in 2001. **It would appear that lessons can be learned from the US experience so as to better bring about the potential benefits of introducing such a scheme in Australia, in particular the ensuing benefits to consumer that result from greater market transparency and increased competition. APL recommends that the feasibility of such a scheme be investigated as a matter of priority by Government.**

- Existing legislation regarding country of origin labelling has not enabled consumers to adequately identify the country of origin of produce they are purchasing. This has restrained Australian producers from being able to legitimately promote their Australian origin status. APL continues to pursue regulatory changes with respect to country of origin labelling, and at the very least is seeking labelling that identifies imported ingredients. APL has also responded commercially to this problem by initiating the Australian Homegrown campaign which identifies all food products sold in Australia that are, or made with, 100 per cent Australian home grown produce.

- Food safety and food integrity have become increasingly important requirements for selling pork in both domestic and international markets. Two major initiatives APL has undertaken to address the issue of quality assurance along various stages of the pork supply chain are the Australian

Pork Industry Quality Program (APIQ) and the Australian Pork Export Quality Program (APEQ). APIQ is an on-farm piggery quality assurance (QA) program designed to provide assurance to customers on the integrity of Australian pork. APEQ has been established to enhance consumer confidence in Australian pork products and secure valuable markets for the future.

13. The Australian pork industry does have the fundamental capabilities to become truly internationally competitive and as reported by ABARE (2004) is well positioned to specialize in particular export and domestic market segments, provided the whole of the supply chain is restructured to achieve global competitiveness and efficiency.

APL, therefore, believes the following recommendations are critically necessary in order to address the many restraints and growing regulatory requirements impacting on the competitiveness of the industry:

1. **APL recommends that the Productivity Commission (PC) should immediately recommend to the Australian Government that a safeguards investigation be established and that the first step of such an investigation should be the imposition of provisional measures to prevent further injury. APL accordingly recommend that the Productivity Commission seek authority from the Government to alter the terms of reference of this Inquiry to enable it to undertake the Inquiry required by provisions of the WTO to determine if the conditions exist to impose safeguard measures**

2. **APL recommends the most effective government measure to be taken to facilitate adjustment is a four year safeguard import control as proposed in this submission. This will give the industry breathing space to restructure in an orderly way.**

3. APL recommends implementation of a provisional safeguard in the form of tariffs, for the allowable period of 200 days. The level of the tariff should be such as to immediately partially restrict trade, in particular proposing that a tariff rate of 85 per cent be applied on legs 32 per cent for middles.

4. APL advocates key Australian Government departments developing monitoring mechanisms and ongoing analysis of direct and indirect subsidies and non-tariff barriers apparent amongst key competitor markets.

5. APL recommends that measures be introduced to minimise the impact of the single desk on feed supply during times of shortage and in particular, a trigger mechanism for grain importation if the domestic industry is unable to supply grain because of drought severity.

6. APL recommends reforms to planning and environmental regulations in the piggery approval process so as to reduce compliance and administration costs, especially for pig producers operating in more than one state.

7. APL recommends the Australian Government should be more cautious and withhold support of the endorsement of GMO crops as animal feeds until the issues of consumer resistance, market concerns, segregation, costs, farmers rights, co-existence have been addressed. At the very least infrastructure issues should be addressed.

8. APL recommends the NHMRC do not proceed with a recommendation to ban MBM if it is not made on a scientific basis. The profitability implications of a ban could potentially challenge the viability of the industry unless there is compensating support from other sources during periods of low returns and high feed costs.

9. APL recommends that the APVMA speeds up of the registration of imported vaccines so that the Australian pork industry can effectively investigate alternative antibiotics strategies (such as vaccination, probiotics, management etc).

10. APL recommends long lead times be allowed for the introduction of new animal welfare dry sow housing standards so as to allow appropriate time for adjustment in the industry. Indications at this stage based upon financial analysis suggest a lead time of at least 14 years.

11. APL recommends that the Australian Government investigate in further detail the feasibility of Australia introducing a mandatory pricing disclosure scheme, similar to that currently in place in the USA.

12. APL recommends that the Australian legislation concerning "like goods" needs to be made simpler.

13. APL recommends that during times of drought pork producers become eligible for transport subsidies under state drought assistance schemes.

2 Imports, Injury & Requirement for Full Safeguards

2.1 Background

The pig meat industry in Australia is currently facing serious injury from imports. An overall assessment of the industry reveals it displays the following characteristics:

1. It is evidently increasingly unable to compete internationally. Export growth has ceased and imports have risen steeply should we mention import growth;

2. The cost structure of the industry at an aggregate level appears to be high relative to international competition, based on available information;

3. Prices of domestic products have been depressed as a consequence of import competition;

4. The industry as a whole (pig production and processing) has been unprofitable in recent times, and for those producers and processors who are managing to break-even currently, the returns on capital invested are inadequate. Continuing losses and further inadequate returns are likely;

5. With producers leaving the industry, production is falling and there is excess production capacity at production and processing levels. This is serving to increase unit costs, and in turn make the industry uncompetitive;

6. Inadequate returns and continuing import penetration are leading to investment being withheld. The longer term competitiveness of the industry is thus being undermined.

The industry is committed to a restructuring program aimed at improving the industry's competitiveness. Whilst this program has not yet been finalised, it contains a number of elements being considered by the industry.

The aim of the restructuring program is to radically restructure the pork industry and its supply chains to create a globally competitive industry.

The industry's strategic business plan and its associated programs will focus on delivering key outcomes that are essential to achieving a globally competitive industry, long-term sustainability and to take advantage of new market opportunities. Aims are to:

- Benchmark the competitive profile of the Australian pork industry supply chain against other leading pork producing and exporting nations in order to realign the pork supply chain, establish world best practice business management and capture efficiencies to increase margins and remove inhibitors to market access;

- Increase international and domestic market access, expanding existing markets and developing new markets through increased competition and product innovation.

In APL's first submission, the need for urgent action to enable the industry to restructure in an orderly way was set out, i.e. the introduction of provisional safeguards. This submission explains why there is a case under WTO provisions to apply temporary controls on imports. It sets out the rationale and WTO requirements for the imposition of full safeguard measures and sets out the case for a full inquiry to be conducted by the Commission.

The submission then examines the impact of border and non-border measures on the industry and their impact relative to the problems facing the industry and measures required to facilitate restructuring. It argues that the most effective measure to facilitate restructuring by the industry is temporary border controls as provided for in WTO provisions.

2.2 The case for a safeguards inquiry into pig meat imports

2.2.1 Rationale for safeguards measures

The General Agreement on Tariffs and Trade (GATT) and the terms of the WTO Agreement on Safeguards (SG Agreement) allow for emergency action, or safeguard action, to be taken against imports of particular products. It is commonly contended that proposals for such action are motivated by the desire to reinstate trade barriers against imports. This is true in a narrow sense. The safeguards provisions are intended to provide a respite against imports. But it is not true in a broader sense. The measures are intended as a safety valve in the event commitments to liberalization created greater disruption to domestic producers than had been anticipated.

The drafters of the GATT realised that, in certain circumstances, which they did not foresee, commitments to open markets under the processes of the GATT might result in circumstances where an increase in imports might injure domestic producers. Article XIX allowed for temporary re-imposition of trade barriers if certain conditions were met. Clearly the philosophy was to give domestic industries time to adjust to the circumstances of greater competition.

However, over its years of operation, members of the GATT observed that the operation of Article XIX was imperfect. The negotiation of the WTO Agreement on Safeguards as part of the Uruguay Round was recognition of this. Whilst the Agreement echoed the intent (and some of the provisions) of GATT Article XIX , it aimed to correct the imperfection in the Article XIX processes and establish new rules for the application of safeguard measures provided for under Article XIX.

2.2.2 WTO requirements for the imposition of safeguard measures

i. Procedural rules

The rules for the imposition of safeguard measures are set out by both Article XIX of the GATT and the relevant provisions of the SG Agreement. The rules require an inquiry by "competent authority" that measures are warranted before they are imposed. This is to be distinguished from the application of provisional safeguards, which may be instituted at the determination of the government and which are the subject of an earlier submission by APL to the Commission.

After the WTO was established, the Australian Government nominated the Productivity Commission to undertake such inquiries. (The first inquiry was conducted in 1998 in response to a request from the Australian pig meat industry). In order to comply with the WTO requirements, Australia developed guidelines for the Commission for general procedures for an Inquiry into safeguard measures. These are set out in Commonwealth Gazette of 25 June 1998. The guidelines broadly replicate the language of the SG Agreement.

The legal test that must be met for the imposition of safeguard measures under the WTO rules and Commission guidelines is set out below.

ii. The test for imposition of safeguards

Safeguard measures may only be applied where a product is being imported in such increased quantities, absolute or relative to domestic production, and under such conditions as to cause or threaten to cause serious injury to a domestic industry producing like or directly competitive products.[2] In summary, before safeguard measures can be imposed, the WTO rules under the SG Agreement require that it be demonstrated:

- There are increased imports of specific goods in such increased quantities, absolute or relative to domestic production;
- The domestic industry producing "like or directly competitive" products is suffering from or is threatened with "serious" injury ; and
- The serious injury or threat of serious injury has been caused by the increased imports.

[2] See Productivity Commission, *Pig and pig meat industries, safeguard action against imports: Inquiry report*, Report Number 3, November 1998.

In addition, members must also comply with Article XIX of the GATT and demonstrate:

- That as a result of obligations incurred under the GATT, it finds itself confronted with "unforeseen developments" that have lead to the increase in imports.

All the arms of the test must be met and determined by the competent authority of a member as a matter of law and fact before the safeguard measure is imposed.

In its inquiry into imports of Canadian pig meat in 1998, the Commission stated, consistent with the guidelines, that this required it to apply the following test:

- Identify products which are like or directly competitive with the imported product;

- Identify the domestic industry producing those like or directly competitive products;

- Establish whether or not imports have increased;

- Determine whether the domestic industry is suffering serious injury or is threatened with serious injury;

- Determine whether imports are the cause of serious injury;

- Identify the measures which would remedy serious injury and facilitate adjustment.

iii. Interpreting the test for safeguards

The WTO Agreement on Safeguards sets out detailed provisions and tests for determining each of these requirements. There are provisions in the Agreement which set out requirements for determining "serious injury" and "threat of serious injury". Other provisions guide what constitutes the "domestic industry", and "like" or "directly competitive" product as defined in the Agreement. Some terms, however, are not defined.

Although WTO jurisprudence (where available) can act as a guide, their exact meaning is not always clear. There is some jurisprudence in the WTO on the application of the safeguards provisions, although it is limited. Past WTO cases can guide the interpretation of the provisions however there is technically no doctrine of precedent in the WTO. Each case must be considered on its own merits.

Like many WTO agreements, the SG Agreement seeks to achieve a certain economic result. In most cases, provisions of WTO agreements serve to constrain adoption of measures which have a protective effect. This is not the case with the WTO safeguard provisions. Their aim is to provide breathing space from a level of competition from imports, which was unforeseen, to provide time to re-adjust to the more competitive environment created by the reduction of trade barriers. Specifically, the Agreement provides for the reintroduction of protection on a temporary basis and on specified terms.

In the case of Article XIX and the SG Agreement, the extent to which they are successful in meeting their economic purpose will be measured by interpretation of their provisions in a way which permits protection to be introduced in the manner envisaged in the provisions. Where interpretation of provisions is necessary to decide whether or not safeguards should be applied, it is also important that the economic intent of the Agreement guide interpretation.

Like or directly competitive products

Articles 2 and 4 of the SG Agreement affirms that the legal basis for imposing safeguard measures exists only when imports of specific products have had prejudicial effects on domestic producers of products that are "like or directly competitive" with that imported product.[3] As a first step this requires establishing what products are like or directly competitive to imports.

There is no precise definition articulated in the Agreement. It appears to have been accorded a wide rather than narrow interpretation in WTO disputes cases. WTO disputes cases have focused on the "like or directly competitive" relationship between the products in determining such products[4]. This submission does not attempt to provide a legal definition. The Commission Guidelines state that "like product" means a product which is identical, i.e, alike in all respects to the product under considerations, or in the absence of such products, another product which, although not alike in all respects, has characteristics closely resembling those of the product under consideration.[5] It does not provide a definition of "directly competitive."

The Agreement does not require that the impact of imports on both like and directly competitive products be assessed, but that injury to producers of like or directly competitive products caused by imports be established. It is possible that injury could be established for the producer of one or another, rather than both classes of product.

[3] WTO, United States – *Safeguard measures on imports of fresh, chilled or frozen lamb meat from New Zealand and Australia*, Report of the Appellate Body, WT/DS177/AB/R and WT/DS178/AB/R, 1 May 2001.
[4] *Ibid.*
[5] Commonwealth of Australia Gazzette, no. S 297, 25 June 1998, page 3

Domestic industry
The second step is determining what constitute the domestic industry for the purposes of imposing safeguard measures. Article 4 of the SG Agreement states that the domestic industry "shall be understood to mean the producers as a whole of the like or directly competitive products operating within the territory of a member, or whose collective output is the like or directly competitive product constitutes a major proportion of the total domestic production of those products."

The term extends solely to producers of the "like or directly competitive product", and therefore focuses on producers of a specific group of products. It requires first, identification of products that are like or directly competitive with the imported product (see above) and second, identification of producers of this product.[6] The domestic industry may constitute either the total of producers of such products in Australia, or, producers whose output of such products, when measured collectively constitutes a 'major proportion" of the total production of such products in Australia. The latter phrase has been interpreted by WTO disputes panel to imply that complete data coverage may not always be possible, and is not always required.[7] "Producers" have been defined by the WTO Appellate Body as "those who grow or manufacture an article, "producers are those who bring a thing into existence". [8] What constitutes the domestic industry" must be considered in light of the structure and pattern of ownership of the pig meat industry in Australia.

Increased imports
Articles 2 and 4 require that for measures to be imposed, there must be an increase in imports which causes or threatens to cause serious injury to the domestic industry producing like or directly competitive product. Article 2 refers to imports "being imported in such increased quantities, absolute or relative to domestic production, and under such conditions as to cause or to threaten serious injury". Article 4, in referring to the economic factors to be considered for determining injury, states that the "rate and amount of the increase in imports of the products concerned, in absolute and relative terms" must be examined by the competent authorities.

This requirement has been interpreted by the WTO Appellate Body as a requirement to analyse the trends of imports over the period of investigation[9]. It has also stated in recent cases that it requires more than merely a mathematical or technical determination such that there must be such increased quantities so as to cause or threaten to cause serious injury to the domestic industry. This requires that the increase in imports must have been

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[6] WTO, *United States – Safeguard measures on imports of fresh, chilled or frozen lamb meat from New Zealand and Australia*, Report of the Appellate Body, WT/DS177/AB/R and WT/DS178/AB/R, 1 May 2001.
[7] WTO, United States – *Definitive safeguard measures on imports of wheat gluten from the European Communities*, Report of the Panel, WT/DS/166/R, 31 July 2000.
[8] *Ibid.*
[9] See WTO, *Argentina – Safeguard measures on imports of footwear*, Report of the Appellate Body, WT/DS121/AB/R, 14 December 1999.

recent enough, strong enough and sudden enough, both quantitatively and qualitatively, to cause or threaten to cause serious injury[10]. There is thus not a requirement for an increase of a specific magnitude or amount. Rather the important thing to be considered is the impact of the increase, once established, in causing serious injury. (See next section below).

There is also no reference period over which imports must be shown to have increased, although some WTO jurisprudence notes that it is necessary to examine "recent imports" and not just those in a preceding period.[11]

Serious injury or threat of serious injury

The SG Agreement contains detailed provisions which govern the concept of serious injury. Articles 2 and 4 of the Agreement define the concept and set out the legal standards that must be met in order to establish that the domestic industry is suffering from serious injury. Article 2 notes that the existence of serious injury due to increased imports is a necessary requirement for the imposition of safeguard measures. Article 4 defines serious injury or threat thereof as meaning "a significant overall impairment in the position of the domestic industry". It further sets out criteria for determining whether increased imports have caused or are threatening to cause serious injury to a domestic industry under the terms of the Agreement. Broadly, impairment is measured by negative impacts on the levels of sales, production, profit, productivity, capacity utilization, earnings and employment in the domestic market.

The legal requirements for serious injury are set out in detail in Section 2 of this submission.

Causal connection between injury and imports

The SG Agreement requires that before measures are imposed it be demonstrated on the basis of objective evidence that there is a causal link between increased imports of the product concerned and serious injury (or threat) to the domestic industry.

The causal linkage between increases in imports and serious injury to the industry is established when increases in imports can be shown to have a critical impact in causing serious damage to industry. WTO jurisprudence has affirmed that the relationship between movement in imports (such as volume and market share) and movement in injury factors is central to a causation analysis.[12] WTO cases have also referred to the causal link as "denoting a

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[10] *Ibid*.
[11] *Ibid*.
[12] See WTO, *Argentina – Safeguard measures on imports of footwear*, Report of the Appellate Body, WT/DS121/AB/R, 14 December 1999

relationship of cause and effect such that increases in imports contribute to, bring about, or are producing or inducing the serious injury."[13]

Injury cannot be attributed to factors other than increased imports. The Agreement stipulates that injury caused at the same time by domestic factors cannot be counted. This, therefore, requires an assessment of other factors (noted by the PC Guidelines as performance of the economy generally; exports; weather conditions, such as drought; changes in consumer preferences; productivity; and the impact of changes in the price of substitute) that may affect the industry and negating them as the cause of injury.

However, it is not necessary that increases in imports are the sole factor causing serious injury. At any time in any industry, "domestic" factors can be regarded as causing injury. If imports clearly act as an independent factor and can be identified as such, then the cause of the increased level of imports can clearly be established.

The casual connection between imports and injury is examined in greater detail in Section 2 of this submission.

Unforeseen developments within the meaning of Article XIX of the GATT
Article XIX:1(a) states that members are entitled to suspend or modify concessions granted under the GATT, 'if, as a result of unforeseen developments and of the effect of the obligations incurred by a Member…., including tariff concessions, any product is being imported into the territory of that Member in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers in that territory of like or directly competitive products'.

The WTO has ruled in several safeguards cases that in order to comply with Article XIX, a member must demonstrate, as matter of fact, that as a result of obligations incurred under the GATT, it finds itself confronted with developments it had not foreseen when it incurred that obligation. There must be a "logical connection" between the unforeseen developments and the increase in imports (in the sense the unforeseen developments have led to the increase in imports). "Unforeseen developments" have been interpreted by WTO disputes bodies as developments that were "unexpected" at the time the obligation under the GATT was negotiated.

2.2.3 Applying the rules - the case for safeguards in the Australian pig meat industry

In 1998, the Productivity Commission considered the same test for applying WTO safeguards against imports of Canadian pork. It found that imports had

[13] WTO, United States – *Safeguard measures on imports of fresh, chilled or frozen lamb meat from New Zealand and Australia*, Report of the Appellate Body, WT/DS177/AB/R and WT/DS178/AB/R, 1 May 2001

increased following relaxation of import restrictions as a result of a commitment in the Uruguay Round to bind pig meat imports at zero. It further found that imports have increased at sufficient a rate to warrant temporary tariff protection.[14]

APL submits that similar conditions exist today: that all arms of the test have been met sufficiently and that grounds exist for the Commission to conduct a full Inquiry into safeguard measures in the pig meat industry. The grounds are summarized below.

There are imports of like or directly competitive products
In its inquiry in 1998, the Commission determined that "like or directly competitive" products includes those falling under tariff sub heading 0203.29 which covers frozen, boned cuts of pork, including legs, middles, loins and shoulders. Imports of boneless legs from Canada and imports of boneless middles from Denmark would constitute products that compete with the "like or directly competitive products" produced by the Australian domestic industry.

There is a domestic industry producing such products
The domestic industry producing like or directly competitive products comprises the producers of pig meat and the processors of pig meat, excluding downstream manufacturers of pork smallgoods. This is largely defined as the injured industry due to the pattern of ownership of pig meat. A high percentage of pork is owned by the growers until it reaches the stage where pig meat is eviscerated carcasses. Creation of boned legs, middles or other cuts are the next step from the carcass. There is a high degree of vertical integration in the industry. This was the domestic industry as defined by the Commission in its 1998 inquiry.

Imports have increased
Imports have increased steadily since the Productivity Commission found in 1998 that imports up to that point in time were causing serious damage. Import growth has been significant in the last three years, both in absolute terms and relative to production. Imports from Canada and Denmark have come to dominate key segments of the Australian market.

Canadian imports have continued to increase in absolute terms and Denmark has entered the market, virtually equaling Canadian imports. Imports were around 7000 MT at the time of the 1998 Safeguards Inquiry.[15] Five years later they are nearly eight times higher. Canadian imports as a share of total Australian pork production has risen from 3.9 percent at the time of the

[14] The Government did not impose safeguards, but instead provided limited package of industry development assistance.

[15] See Productivity Commission, *Pig and pig meat industries, safeguard action against imports: Inquiry report*, Report Number 3, November 1998.

safeguards Inquiry to 13.9 percent currently.[16] Canadian imports share of leg production has risen from 19.3 percent to 67.9 percent.[17] Imports from Denmark have grown from negligible levels at the time of the Commission Inquiry to over 29,000 MT currently, equivalent to over 56 percent of Australian production of middles for manufacturing and around 60 per cent of middles production.[18]

This is further supported by the economic case for safeguards set out in APL's first submission to the PC.

The domestic industry is suffering from serious injury or threat of serious injury

The domestic industry is clearly suffering from "significant overall impairment" constituting serious injury, and likely faces the threat of further injury in the future. The injurious state of the industry has been examined in detail in APL's first submission and should be referred to for further detail.

Imports have had an adverse impact on prices, production, and profitability in the domestic industry. Both leg and middles imports have a noticeably adverse impact on prices for pig meat products in the domestic market. The high levels of imports over the past few years have depressed prices for boneless legs and middles in the domestic market, as reflected in the downward trend in producer prices over the same period.

The depressed prices resulting from imports have undermined industry profitability and the ability of pig producers to cope with the cost increases experienced in recent times.

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The industry is accordingly starting to contract, with slaughter numbers for the year to July 2004 decreasing by approximately 5 percent over the previous year owing to difficult market conditions. APL estimates that 10 percent of pig producers have left the industry permanently since August 2002.

The serious injury is being caused by the increase in imports– existence of a causal connection

It is clear that imports have had a critical impact in causing serious injury to the domestic industry. Other factors, such as exports, the exchange rate, and weather conditions have also affected the industry, however evidence suggest that imports remain an independent factor in bringing about and inducing the serious injury suffered by the domestic industry.

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[16] Productivity Commission basis. See submission Part 1.

[17] *Ibid.*

[18] If annualised over the most recent three months

Overall, exports by Australia on a yearly average basis remain at reasonably high levels. Over the period of continuously rising imports since mid-2001, exports have served to ameliorate to some extent the amount of damage caused to the industry – since export growth has stalled over the past twelve months, the damage to the industry caused by imports has accentuated. The exchange rate likewise cannot be considered as a factor causing injury to the industry. The period in which the industry has suffered injury includes periods of both strong and weak exchange rates, yet imports have experienced a sustained and substantial rise in penetration of the Australian market.

The economic case to support this is discussed in detail in APL's first submission.

There are unforeseen developments which have lead to an increase in imports
The Productivity Commission found in 1998 that there were grounds under the relevant WTO provisions to impose safeguard measures. The rate and nature of increase of imports following commitments under WTO procedures to lower and bind the tariff and to change quarantine imports rules in accordance with WTO requirements was unforeseen and was damaging the domestic pig meat industry.

The same factors apply to today's circumstances. The rate of increase of imports today from Canada and Denmark is even greater than that which occurred in 1998. If the lower rate of increase in imports in 1998 was not expected, then a higher rate of increase today must also have been unforeseen by negotiators when the tariff concession was granted and the quarantine procedures changed.

2.3 Assessment of the benefits to the pig industry of trade measures for controlling imports under the WTO Agreement on Safeguards

2.3.1 Requirements for the imposition of trade measures under the WTO Agreement on Safeguards

Once it has been determined that members have a right to impose safeguard measures, members must also ensure that measures are applied in accordance with the WTO SG Agreement.

The SG Agreement is not concerned with how members reach their determinations in applying safeguard measures and does not prescribe the internal decision making process for making such.[19] What matters is whether

[19] WTO, *United States – Definitive safeguard measures on imports of circular welded carbon quality line pipe from Korea*, Report of the Appellate Body, WT/DS202/AB/R, 15 February 2002.

the measures, as applied, meet the requirements of the SG Agreement. It sets out requirements for the type of measure applied, the level and extent of measures and their duration. These are set out in Articles 5, 7, 8 and 11.

Table 1 below provides a summary of the requirements, which are then explained in greater detail at Annex 1 to the submission.

Table 1. Summary of WTO requirements for the imposition of safeguard measures

Scope of requirement	Requirement
Type of measure applied	For full safeguard measures, the type of measure to be applied is not specified, however it is clear that such measures must be the "suspension or withdrawal of concessions made under the GATT." Tariffs and quantitative restrictions clearly fall into this category and are expressly mentioned. For provisional safeguard measures, the SG Agreement states that tariff measures "should' be applied, however other measures are not prohibited. Consistent with the spirit and intent of the SG agreement, it seems reasonable that other measures, including quantitative restrictions could be applied where they are effective in remedying injury and facilitating adjustment to the domestic industry, although this is not clear.
Level and extent of measure applied	There is generally no prescribed level for safeguard measures applied under the SG Agreement, however they must be commensurate with remedying injury and facilitating adjustment. There is no requirement to demonstrate this or to consider adjustment plans before the measure is adopted, however it would be required should the measure be challenged by a WTO member. Where quantitative restrictions are applied which reduce imports the level of a "recent period", however, a "clear justification" is required at the time the measure is applied to explain how and why the measure was necessary to remedy serious injury and facilitate adjustment of the domestic industry. A "recent period" is defined in the Agreement as "the average of imports in the last three representative years for which statistics are available".
Scope of application	Measures must be applied to a product being imported "irrespective of its source". This requires that measures be applied to the imports in question from all sources. They could not be restricted to imports from one or only several countries.
Duration of the measure	Full safeguard measures must be applied "only for the period of time necessary to prevent or remedy serious injury and to facilitate adjustment." This must not exceed a four year period. It includes the duration of the application of any provisional safeguards. The application of provisional safeguards must not to

	exceed 200 days. Measures can be extended beyond this, however the total period of application must not exceed 8 years. Where measures are to apply for over one year, they must be progressively liberalized at regular intervals whilst applied.
Application to products previously subject to safeguard measures	There are some restrictions on measures applied to products which have been subject to measures in the past, although there are some options to reapply safeguard measures in certain circumstances.
Other obligations - maintenance of concessions	Members are obliged to "endeavour to maintain" equivalent concessions with exporting members affected by safeguard measures. As a first step, this requires providing an adequate opportunity for prior consultations with affected members on the proposed measures.

ITS Global 2004, Source: WTO SG Agreement and WTO disputes cases

2.3.2 Assessment of possible measures

i. Approach to the assessment

This analysis identifies the alternative options for assistance measures; both border and non-border measures, that would assist the industry in overcoming the current injury it is facing. The focus of the analysis is on impacts on the domestic pig industry, rather than the broader economy. Assessing the economic impacts on the broader economy would entail a much broader, national level analysis than is allowed for here.

However, given the Commission will focus on national economic impacts in its inquiry, analysis of some of the key broader aspects of the measures considered herein is provided at Appendix B.

The analysis in this submission is based on the assumption that all assistance measures are possible, unless they conflict with Australia's obligations under the WTO or other binding international agreements. In terms of measures that can be considered as safeguard measures, (the major focus of the industry's submission for consideration by the PC), the following should be noted:

- For provisional safeguards, the WTO SG Agreement provides that assistance "should" take the form of tariff increases, but does not expressly prohibit other measures. The requirements are set out in section 2.3.1 above and also discussed in greater detail in APL's first submission.

- For full safeguards, the requirements are set out above in section 2.3.1.

ii. Options for measures for the industry

There are a number of measures which could be applied to assist the pig meat industry in dealing with its current condition. For this analysis they have been characterised as border measures and payments/incentives (commonly referred to as subsidies). They should address each of the major adverse conditions facing the industry and summarized above viz. depressed prices; excess capacity; lack of profitability; improve competitiveness; and facilitate restructuring.

1. Border controls

Border controls are those which impact on the international trade of the industry through controls on trade flows at the border. The imports causing injury to the industry are frozen legs from Canada and middles from Denmark. Trade measures would be applied against such products. It should be noted that under Article 2 of the SG Agreement, safeguard measures shall be applied to a product irrespective of its source, so trade measures would need to be applied to imports of frozen legs and middles from all sources.

There are a number of different trade measures, the main ones being tariffs and quotas. A combination of the two measures is a tariff rate quota (TRQ). Under the WTO Uruguay Round, all non-tariff trade measures were converted to either tariffs or TRQs.

Impacts by industry condition

The impacts of broader measures can be analysed in terms of their contribution to addressing the adverse conditions facing the industry. See Table 2 below.

Table 2. The impact of border measures on industry conditions

Condition	Impact of border measures
Depressed prices	Prices should increase unless there is absorption of tariffs by importers; stronger certainty of price increased by means of quotas than tariffs.
Profitability	Profitability should increase depending on extent of higher prices, costs remaining unchanged.
Competitiveness	Selling prices in domestic market rise; the attractiveness of exporting is reduced; inefficiency can be introduced through research misallocation in the firm. In the longer term competitiveness can be improved through scale efficiency; investment certainty can be increased.
Restructuring	Can assist restructuring by stabilising and encouraging investment; then being progressively liberalised according to a timetable, increasing competitive pressure for rationalisation.

Source: SG Heilbron, 2004

Tariffs and quotas both serve to raise the price of the imported product higher than would otherwise be the case. However, trade can still occur under tariffs, with an increase in demand for the product resulting in higher volumes of the product being imported. The extent to which price increases generated by the tariff are absorbed by importers will determine how much extra consumers actually pay, and hence the impact on their demand.

However, quotas restrict the imports absolutely to the amount specified. Increases in demand cannot be accommodated. Quotas are thus more certain in their impact on the domestic import competing industry than tariffs.

In the case of tariffs, the Government receives the revenue generated from the tariff. However, the distribution of the revenue generated by quotas depends on how the quotas are allocated to importers. If quotas are allocated to importers by Government administrative mechanisms (e.g. based on historical shares of imports) it will mean the quota "rents" are given to those receiving the quota.

If the quotas are sold by the industry to the highest bidder on an auction basis, the rents will be competed away and the seller of the rights receives the revenue. In theory the Australian pig meat industry could allocate the quotas and receive the revenue, but Governments generally wish to keep control over rent receival.

An immediate, potential use of broader measures for the industry is their use as provisional safeguards.

Provisional safeguards

The provision in the WTO SG Agreement which states that assistance "should" take the form of tariff increases, and which is noted above, does not necessarily preclude the application of other measures. If one interprets this provision in the context and intention of the agreement as a whole, it seems logical and reasonable that the measure to be applied should be the one that is most effective in remedying the injury being experienced.

It should be noted that whilst the Productivity Commission may have a preference for applying tariffs in the first instance rather than other border measures, such as quotas, (as this, we know, certainly meets the requirements of the SG Agreement), it might be possible to apply another measure if it will be more effective for the industry.

Provisional safeguards in the form of tariffs, which provide immediate respite from the injury caused and threatened by imports, could certainly be applied. The level of such tariffs should be such as to immediately restrict trade; and should be determined by reference to the level of prices experienced over an appropriate period relative to the prices paid for a like competing domestic product.

For the purposes of this analysis, we have identified the difference in price over time between the imported products and the price of similar products in the domestic Australian market. This difference, or "price gap", gives an indication of how much cheaper or more expensive the imported product is compared to the domestic product. Of course, to some extent, the imported product's price influences the price of the domestic product, given the degree of penetration by imports in the domestic market. This analysis assumes that the imported and domestic products are essentially substitutes for each other. It also gives an indication of the competitiveness of imports in the domestic market.

If the price of the imported product is cheaper than the domestic product, then the price gap gives an indication of how big a tariff would need to be applied to imports in order to raise the imported product price to make it equal to the price prevailing in the domestic market as a whole.

Imports comprise two major products – frozen legs from Canada and frozen middles from Denmark. For the purposes of this analysis, the prices of imported legs are compared with the price of wholesale prices of legs and saddles in the domestic market. And then the price of imported middles is compared with the price of wholesale saddles in the domestic market.

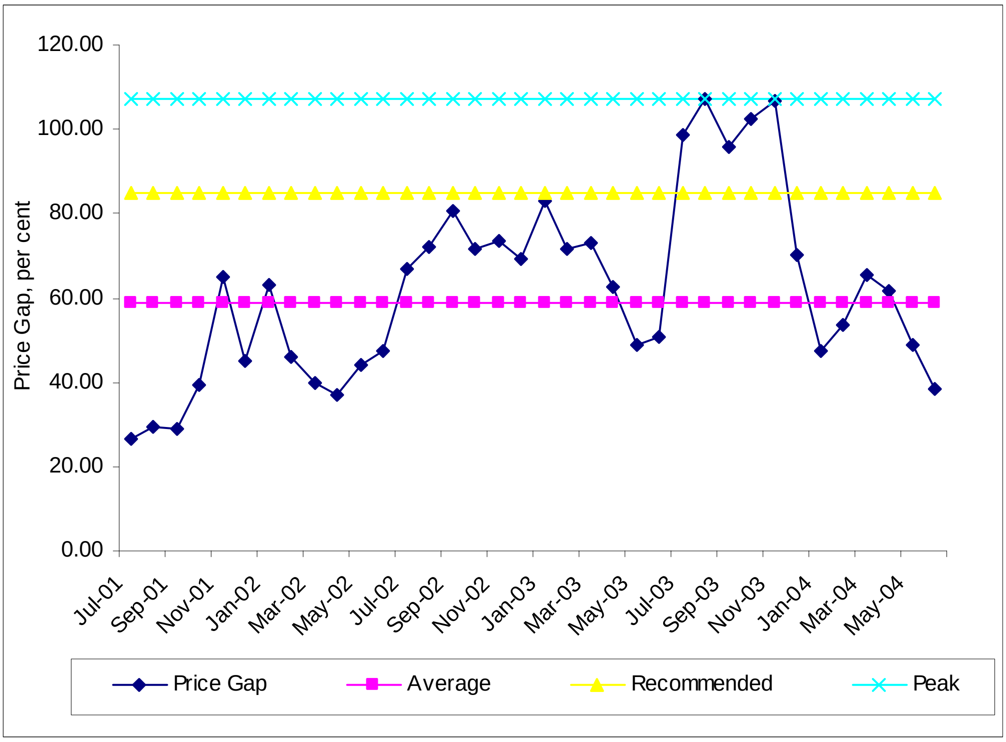
In both cases the difference between the imported price and the domestic price is measured. This is the "price gap" required to make them equal. Over the three years to the end of FY2003/04, this gap is illustrated in the charts below.

APL has identified a number of potential configurations in which a tariff could potentially be applied in the context of recent price gaps.

- *Price gap for legs*

Chart 1 shows the gap in the price between the imported and domestic market legs on a monthly basis since July 2001 (indicated by "price gap" in Chart 1). **The imported product has varied between approximately 20 per cent and nearly 110 per cent cheaper than the domestic market price over this period.** The average gap has been around 60 per cent (indicated by "average" in Chart 1); hence it would take a tariff of this amount to raise the average price of imported product sufficiently to equal that prevailing in the domestic market over that time.

Chart 1 Legs import price gap, per cent



Source: APL

Use of an average could, however, pose potential difficulties. If a tariff measure were to be applied based on the average price gap of the past three years, for critical parts of the year it is clear that the measure would not effectively restrict imports since it would not offset the very low price levels of imported product. It is evident that the gap increases substantially during certain periods of the year, notably towards the end of the year when the imported price is substantially below the domestic price. Viewed another way, this is the period when any tariff or other measure to raise the cost of the imported product, based on the price gap in the charts, would need to be much higher. Not surprisingly, this is also the period of the year when imports tend to increase. Hence, the measure would need to be based on a higher level of price gap.

- *Peak price gap scenario*

An alternative to the use of the average price gap could be the peak price gap. The highest peak of the gap experienced over the past three years could serve for such a measure. (Another method could entail predicting the future peak price gap, however identifying such a level would entail forecasting, which is hazardous at best). The previous three years' peak could serve as a guide that would most likely prevent trade altogether. In the case of both legs and middles this level is indicated as the "peak" in Charts. Noticeably, the highest level of this peak for legs occurred on two occasions last year and amounted to around 107 percent. However, totally preventing trade, even for the provisional safeguards, would adversely affect the industry given the high degree of import penetration currently.

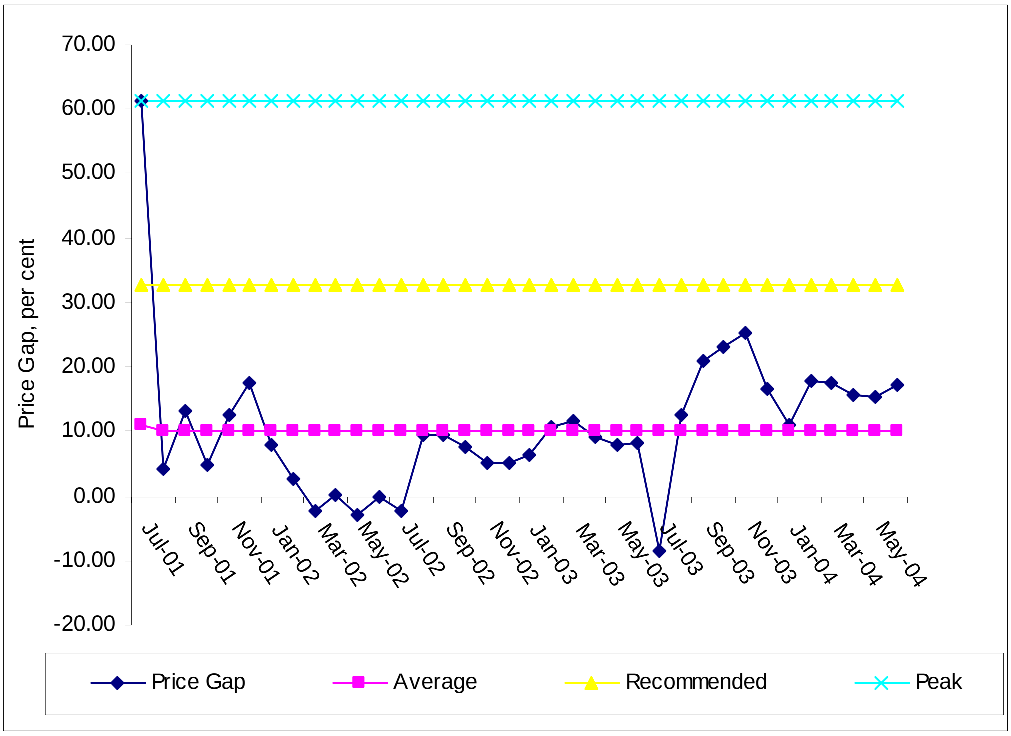
➢ *Average level of the peak gap scenario*

A potential means through which provisional safeguards could be pursued, whilst avoiding the problematic scenario of preventing trade altogether, could involve the initial measure covering the average level of the peak gap experienced over the past three years. **The average peak price gap which has occurred in each of the years shown for legs is around 80 per cent (see Chart 1). It would take a tariff of this level to ensure the price of imported product was equal to the domestic market price during periods of the lowest prices for imported product relative to domestic market prices on average over the past few years.**

- **Price gap for middles**

A similar analysis has been done on the price gap between imported middles and domestic market saddles, and this is shown in Chart 2. **In this case, the average price gap and hence tariff required is around 10 per cent (indicated by "average" in Chart 2). The highest peak over the period analysed was around 60 per cent (indicated by "peak" in Chart 2), and a tariff at this level could be expected to prevent trade altogether. The average peak over the period analysed is 32 per cent.** This would exceed the most recent peak for Danish product, but not by a great deal (32 percent compared with around 25 per cent tariff).

Chart 2 Middles import price gap, per cent



Source: APL

- **Recommended tariff**

On the basis of the price gap analysis conducted by APL, it is recommended that a provisional safeguard measure be applied with a tariff on imported legs on 85 per cent (which is the average of the peak price gap level and which is indicated by "recommended" in Chart 1) **and imported middle of 32 per cent** (also indicated by "recommended" in Chart 2). These are equal to the average peak level of the price gaps for these products over the period analysed. **They would not prevent trade altogether, and would provide sufficient impact to reduce the price competitiveness of the imported product.**

Full safeguards measures

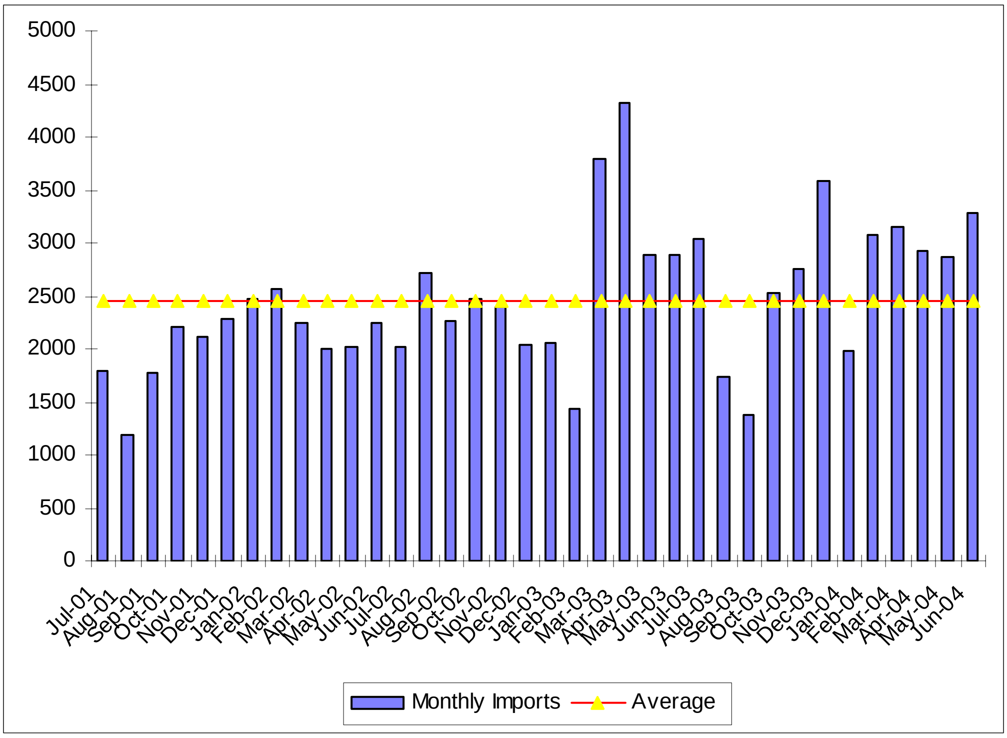
The abovementioned provisional safeguard would not, however, provide the certainty provided by a quota, so for full safeguards the measure applied should be a quota based on the average of the past three years imports of legs and middles. For the former, based on Canadian imports the quota for legs should be set at 2,458 tonnes per month, and based on Danish imports the quota should be set at 1,561 tonnes per month.

This average level of imported tonnage, however, could expect to be exceeded, for two reasons:

- Given that imports have increased over the years, the level of imports in the most recent year period will be higher than the average over the whole period;

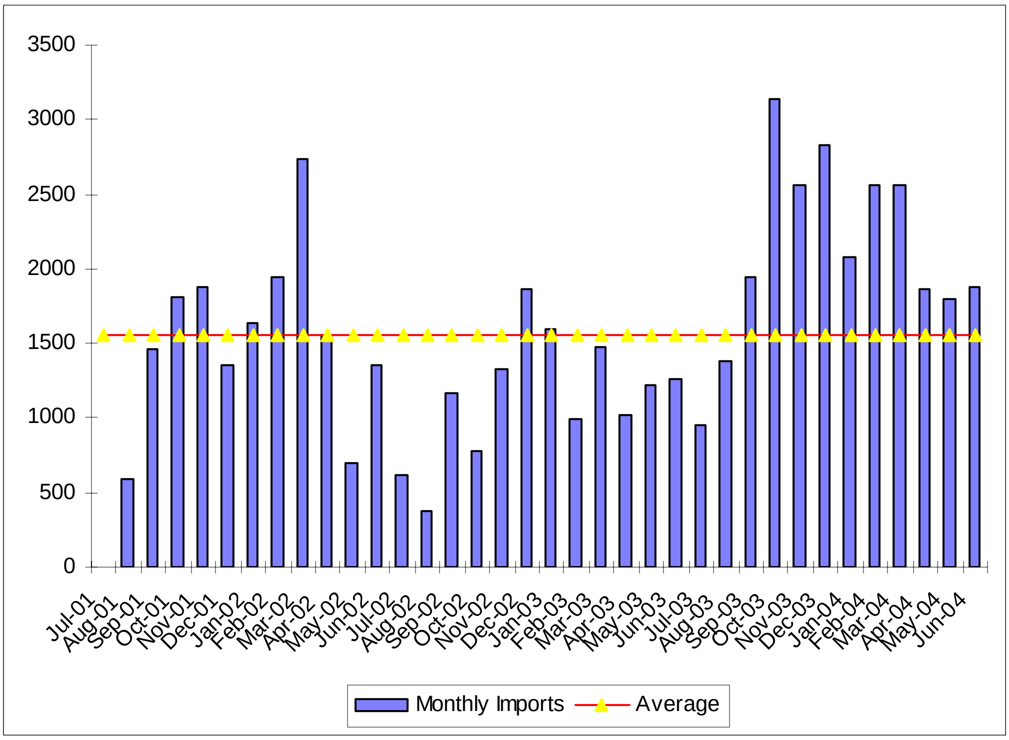
- Imports on a monthly basis tend to be higher in the months towards the end of the year, and imports in these months for the most recent year will be higher than the average monthly figure over the three years.

Chart 3 Imports from Canada, MT



Source: APL

Chart 4 Imports from Denmark, MT



Source: APL

For this reason, certainty for the industry that the injury caused by imports will be addressed by the trade measure will require a tariff over and above the quota. This tariff can begin at that of the provisional measure (i.e. 85 per cent for legs and 32 per cent for middles) and should stay at this level for a further six months (i.e. beyond the 200 day expiry of provisional safeguards – taking the industry period of safeguards measures to one year).

The requirement that safeguards support adjustment in the industry could be met by the following measures:

- Phasing out the trade measures over an appropriate period. The tariffs should be reduced to the average level of tariff indicated in the charts at the end of two years, and eliminated at the end of three years. The quotas for legs and middles should then be eliminated at the end of four years. This timetable will provide a deadline for the industry participants to determine whether they wish to stay in the industry on a long-term basis.

- Use of non-border measures as incentives for adjustment. These are discussed below. At this stage it should be noted that such measures could also ensure any adverse impacts on the competitiveness of the industry flowing from border measures are minimized.

Impact of measures on industry revenues
Assuming imports at current levels of around 60,000 tonnes, and an average tariff (across both legs and middles) of around 60 per cent (half of 85 per cent and 32 per cent), and average import values of $4 per kg, the tariffs should serve to increase prices to the industry by up to $144m. Based on current slaughter value of industry output of around $1 billion, industry revenues should rise by up to around 14 per cent. This is before any subsequent impacts on demand and supply are measured.

2. ***Payments and incentives***

Apart from tariffs and quotas, a number of other support measures, which impact on the industry, but are not applied at the border, could be considered. The main measures of this kind are payments to or incentives for producers or processors.

These can take many different forms. They can include assistance for investment, research and development, production, training, relocation, and others. The best means of characterizing these measures is by the purpose they serve. For the purposes of this analysis, they include:

- Payments to enhance exports;
- Payments to increase production capacity;
- Payments to increase industry adjustment;
- Payments to support incomes.

Payments to enhance exports
Assistance is provided for exporters generally, but direct payments for exports of pig meat potentially increase revenues for the industry and help to offset revenues lost through imports. **However, it would be very difficult under WTO rules for Australia to introduce a major new export subsidy program for pig meat.**

Payments to increase productive capacity
Payments can generally comprise direct payments which enhance physical productive capacity through investment (e.g. grants to build plants, or concessionary interest rates) tend to have a more immediate, direct effect on an industry than payments or incentives for R&D and training which have longer term, indirect impacts. Payments to enhance plant capacity can simply replace or crowd out investments that would have been made by private firms anyway, and can involve governments second-guessing the market (or "picking winners").

Payments to facilitate industry adjustment
Some payments/incentives are aimed at facilitating the movement of resources out of industries to ones where they can be put to more efficient use. For example, it is important in improving industry efficiency that suitable measures to enable those participants in a protected sector (which do not wish to remain in the sector on a long-term basis, because they are unviably employed therein) to exit.

Adjustment measures may be provided to facilitate such exit. These may take the form of direct payments to those wishing to exit, and/or education/training assistance to help improve the ability of those leaving to find new work, and/or relocation assistance to help them move to an area with greater economic attractiveness.

These payments have formed part of industry policies on many occasions, including in the pig meat industry.

Payments to support incomes
Payments to support incomes can take a number of forms:

- Payments that increase revenues – for example, the Canadian Income Stabilization Scheme, which allows farmers to purchase a whole farm income guarantee, up to 74 per cent of the cost of which is borne by Government. Farmers can thereby protect themselves from yield or price events that reduce whole farm income. When losses occur, an indemnity is paid;

- Payments that reduce costs – for example, in many States of the USA concessions or rebates are given on State taxes on property or fuel.

The impacts of payments/incentives measures can be analysed in terms of their contribution to addressing the adverse conditions facing the industry. See **Error! Reference source not found.** below.

Table 3. The impact of payment measures on industry conditions

Condition	Impact of payments measures
Depressed prices	No effect on prices, but rather improvements in the capacity to produce profitably at whatever prices prevail.
Profitability	Profitability should increase depending on extent of improved competitiveness.
Competitiveness	Competitiveness should improve but there is an issue as to whether improvement is sufficient to increase returns to competitive levels with alternative uses of resources.
Restructuring	Assists restructuring depending on the form of payment chosen e.g. exit grants.

Source: SG Heilbron, 2004

In June 2004, APL sought short-term assistance for producers from the Government to address the difficult economic circumstances facing the industry and its future sustainability, while the industry moved to complete an agreed Australian pork industry restructure plan. The draft Restructure Plan is designed to deliver in the long-term fundamental changes necessary across the supply change to establish global competitiveness and efficiency and create new market opportunities. The request for assistance was based on the fact that the industry could not (and cannot) continue to absorb losses of the magnitude i.e of approximately $24 per pig – see footnote 21: the ongoing viability of many individual producers and the industry as a whole is, and continues to be, under threat, which in turn has serious consequences for rural and regional Australia.

At the time of this request, time APL had estimated that short term assistance in the form of a one-off Pork Income Support Payment[20] totalling approximately $37m over a five month period to enable producers to remain sustainable in the short term by becoming cash flow neutral and provide the industry with the opportunity to develop a long-term restructuring plan to secure the future sustainability of the industry. With the finalisation and implementation of an the Industry Restructuring Plan producers would then have the option to either become more competitive or exit the industry.

[20] Australian Pork Industry Strategic Restructure Plan submitted to the Australian Government 25 June 2004. Note that DAFF identified the proposed payment as being WTO compliant.

iii. Comparison of border measures and payments/incentives to address pig meat industry conditions

Impact of border measures as against payments/incentives

Condition	Impact of border measures c.f. payments/incentives	Comments
Depressed prices	Border measures are better	More certain impact in reducing imports, especially with quotas.
Profitability	Border measures are better	More certain impact in reducing imports, especially with quotas.
Competitiveness	Payments can be effective	Can reduce production costs, do not raise domestic prices.
Restructuring	Payments can be effective	Can be conditional on resource movement e.g. exit.

Source: SG Heilbron, 2004.

NB. The above assumes border measures and payments/subsidies providing effectively the same level of support to producers i.e. the proportion of the producers' income accounted for by the two different types of measure is the same.

2.4 Action by the Productivity Commission

APL submits that the most effective government measure to be taken to facilitate adjustment is a four year safeguard import control as proposed in this submission. This will give the industry breathing space to restructure in an orderly way. Knowledge that the measures are to be phased out within four years will create incentives for the industry to select its preferred form of restructuring. Limited forms of subsidies are sought to assist that transition, but it is not proposed that they be so large as to dictate the form of restructuring**. The process of adjustment will be much more efficient and the negative impact on welfare minimized if industry is given time to manage its own process of restructuring.**

APL accordingly recommend that the Productivity Commission seek authority from the Government to alter the terms of reference of this Inquiry to enable it to undertake the Inquiry required by provisions of the WTO to determine if the conditions exist to impose safeguard measures, so that the Government has the capability to use this instrument to facilitate restructuring of the Australian pig meat industry, promptly after the Productivity Commission reports. **Failing this, APL recommends that the Productivity Commission recommend to Government that a safeguard inquiry is warranted.**

3 Subsidies and Market Distortions in Key Competitor Countries

Of great concern to APL is the fact that there are numerous forms of subsidies apparent in key pork trading nations, which whilst being WTO compliant, still have the effect of tangibly distorting both the domestic and international pork market. Such subsidies are apparent in Canada, the United States, the European Union (including Denmark), and Japan. The Canadian income support measures have been brought to light recently through the anti-dumping action taken by US pork producers. Apart from direct subsidies specifically for the pork respective sectors, many of the subsidy schemes also apply indirectly to the livestock sectors, for example the various support arrangements for feed industries.

Injury to the Australian pork industry resulting directly from imports is clearly proven in the previous sections. The subsidies and non-tariff barriers described below, while WTO compliant, add further to the injury being incurred by the industry. Trade may well be free, but the notion of a level playing field is a misnomer which is paid for by industry. These measures distort market forces both domestically and globally for traded pork and continuously erode the industry's ability to compete and mobilize resources to improve its global competitiveness.

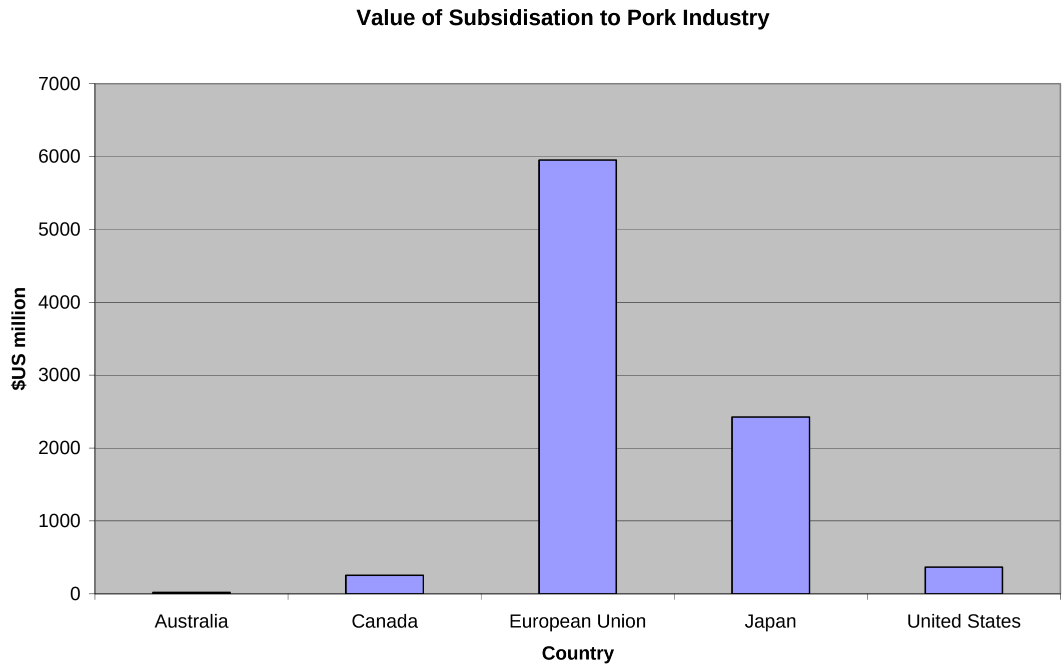
3.1 The Value of Subsidization in Competitor Markets

The OECD measures the support given to agriculture using the Producer Support Estimate (PSE). The Producer Support Estimate measures support from policies against the situation if there was no such support. This includes policies of market price support, direct payments to producers, reduction of input costs, and general services.

The PSE can be expressed as a dollar amount or as a percentage. To compare between different sized industries, it is expressed as a ratio between the total value of production as measured by gross farm receipts and the budgetary support i.e. the 'percentage PSE'.

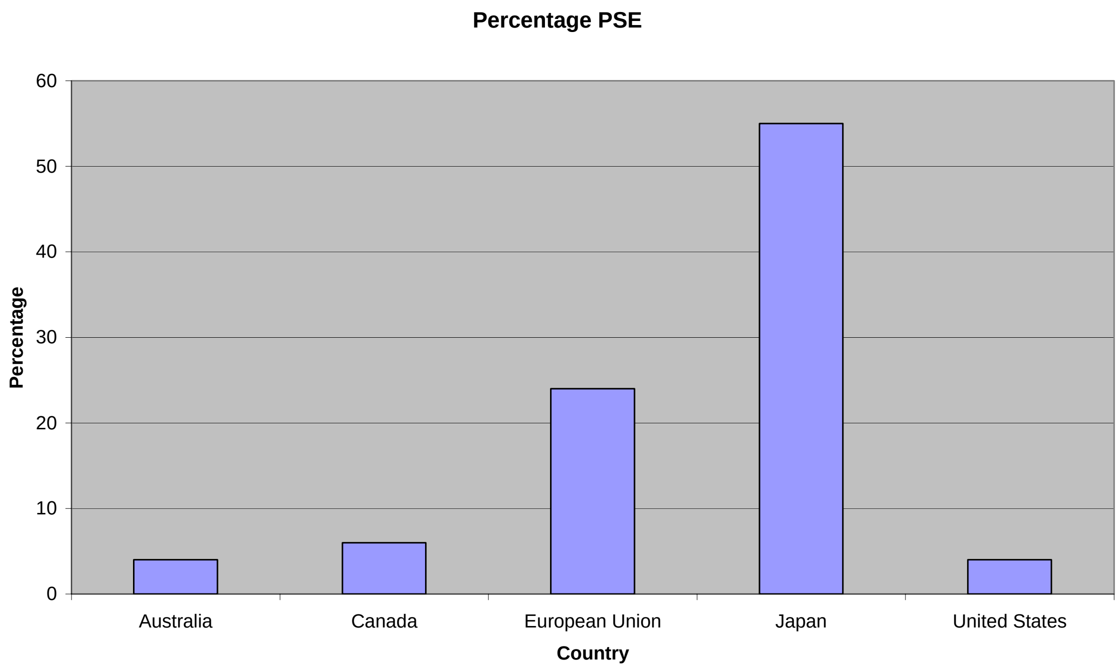
Chart 5 and Chart 6 consider the value of subsidization as a nominal PSE value PSE and as a percentage PSE.

Chart 5 Value of Subsidization in $US millions



Source: Compiled by APL from the Producer and Consumer Support Estimates OECD Database 1986-2003, http://www.oecd.org/dataoecd/32/49/32360704.xls

Chart 6 Value of Subsidization as Percentage PSE



Source: Compiled by APL from the Producer and Consumer Support Estimates OECD Database 1986-2003, http://www.oecd.org/dataoecd/32/49/32360704.xls

These charts demonstrate the substantial advantages a Danish pork producer has over his Australian counterparts. This is true of both subsidization as a gross dollar amount, or when the differing size of the industries are taken into account.

Specific information on the types of subsidies operating in the US, Canada, Denmark and the EU, and Japan are provided in an Appendix G. A summary of this information is available at Table 4.

The world market for pig meat, therefore, is highly distorted by domestic subsidies and trade barriers. Countries that place substantial barriers on Australian imports have unfettered access to the Australian market, subject only to the quarantine restrictions that prevent a devastating disease outbreak in Australia. **The ability of the Australian pig meat industry to compete internationally will therefore continue to be constrained regardless of the foreseeable efficiencies that are sought to be achieved through the Industry Restructure Plan**.

Table 4. Subsidies and Market Distortions in Key Countries

	Income Support – insulation against risk	Loans and Insurance	Stabilise supply	Tariffs	Export Promotion
Canada	- Non-commodity specific insurance against drops in income, funded 70-80 per cent by government. - Value $136 m 2000-03 for hogs, $4-$6 per pig.	- Export Development Co (govt business) provides loans, insurance, and guarantees for export transactions.			- Export development corporation.
USA	- No ongoing support to hog farmers, only emergency payments; Although some payments to small hog operators. - Producers of feed grains subsidized through direct payments, counter-cyclical payments, commodity loans, disaster assistance and subsidized crop insurance.	- Livestock indemnity program reimburse farmers in natural disasters. - Farm Service Agency provide direct loans and guarantee private loans. - Export credit guarantee programs.			- $US 3-4 million p.a. distributed to pork to aid market access. - Export Enhancement program to help commodity providers match subsidized prices of other suppliers, including EU frozen pork.
EU	- Basic pig price set indefinitely at €1509 per tonne. When price drops measures to stabilize supply and protect farmers incomes are introduced. - Grains are subsidized through farmer support payments, decoupled from production.	- Some export credit and guarantee programs.	- Private storage aid funding private storage when goods oversupplied	- Tariff-rate quotas on imports.	- Export pork refunds – payments to subsidise cost of product in export markets. - €2 million Fund for promotion of Danish products in export markets
Japan	- Standard price set annually. If prices drop Regional Pork Production Stabilization Fund distributes income from local government contributions and per-hog levy.	- Government insurance against on-farm loss in the case of industry-wide down-turn.		- Tariffs on pork, and if priced below gate-price pay difference as tarrif. Safeguard measures allow increases in gate price	

3.2 APL investigations into an Import Levy

In late 2003 APL investigated the feasibility of introducing a marketing and/or R&D levy on imports. APL's analysis included research reports on the costs and benefits of a potential levy and also consideration of relevant WTO compliance issues. Two separate consultancies were engaged to complete research reports into the legal, administrative and economic issues involved. In December 2003 APL's Import Levy Taskforce Committee comprising representatives from DAFF, the supply chain and APL considered these reports. The research reports and the Taskforce both concluded that an import levy for marketing and/or R& D is not feasible and would be an additional cost to the industry. APL, in turn, has adopted the position that at this time the levying of pork imports for promotional and/or R& D use on processed pork products is not advantageous to the industry. APL will, however, reassess this situation on an ongoing basis.

4 Restraints & growing regulatory requirements

In attempting to position itself as a globally competitive industry, the Australian pork industry must address a multitude of challenges; the draft Industry Restructure Plan focuses on those key areas which are critical to the industry's long-term profitability and sustainability so as to make best use of the industry's finite financial and human resources and competitive advantages. That said, the pork industry still faces numerous restraints and a growing number of regulatory requirements, which in turn pose competitive constraints, including but not limited to:

- The impact of the Australian grain market structure on feed grain supply and pricing
- The future impact of ethanol production subsidy arrangement on feed grain supply and pricing
- Water availability and water rights
- Emerging new animal welfare standards and increasingly stringent environmental requirements
- Evolving regulatory and market and consumer requirements regarding antibiotics, genetically modified organisms (GMO's) and meat and bone meal (MBM) regulations
- The growing cost of testing for residues through the National Residue Survey (NRS) in order to satisfy international market access requirements and the Australian Standard for Hygienic Production of Meat
- Ongoing issues regarding pricing arrangements between producers and buyers along the supply chain and the inability of the voluntary Retail Code of Conduct to address transparency, accountability and market returns
- Costs relating to transport and skilled labour shortages pose competitive restraints
- Existing Australian rules and regulations in respect of labelling continue to pose significant obstacles to Australian pork producers being able to inform consumers regarding pork's country of origin and address unfair trade practices respectively

A number of the restraints and regulatory requirements discussed in this section are in part also addressed within the draft Industry Restructure Plan strategies. These strategies are addressed in Section 6, however a more substantive outline of the restructure plan will be provided in APL's fourth submission.

4.1 Impact of Grain Market Structure on Pig Feed Costs

A significant challenge for both the pork and broader intensive livestock industry in relation to accessing affordable cost competitive feed relates to concerns about the impact of the Government's policy regarding monopoly powers conferred by the Australian Wheat Board's (AWB) single desk and the inter-relationship with the domestic grains industry. A major expense incurred by intensive livestock industries is the purchase of feedgrain. While the single desk system undoubtedly has had a positive impact for grain growers in ensuring that Australia is a strong seller on world markets, it also results in a situation whereby domestic grain prices are affected by export marketing strategies. This issue was explored within APL's first submission to the PC.

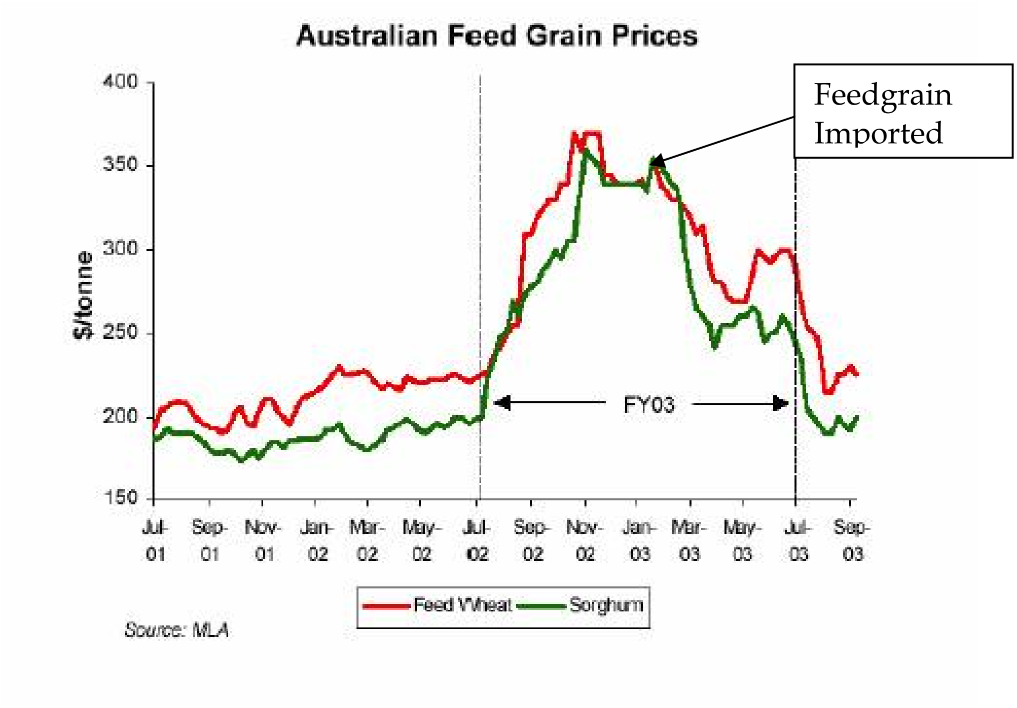
The Australian Wheat Board (International) exclusively manages and markets all Australian bulk wheat exports through a Single Desk system. The AWB also markets and trades a range of other grains including barley, sorghum and oilseeds.

Typically, if it has been a good growing season, there is a plentiful supply of grain in Australia, and domestic feed grain prices are close to world market prices. However, during times of shortage, primarily influenced in Australia by drought conditions, Australian domestic grain prices have risen significantly above the world price average. In these situations, the AWB is able to use its buying power to seek out additional supplies from stocks that would otherwise be sold on the domestic market and place those stocks into higher priced sectors of the world grain markets. This is clearly favourable to Australian grain growers by helping to mitigate decreased yields with higher prices, but exposes the intensive livestock industries to additional cost imposts. With quarantine restrictions that limit grain imports[20], along with transport and storage costs, this effectively creates a mechanism causing imported grain prices to be higher than the export price.

Anecdotal evidence suggests that the single desk selling mechanism may have caused grain prices to exceed export parity during the recent drought of 2002/03. During times of drought, the rise in feedgrain prices can detrimentally affect the economic viability of these enterprises. Chart 7 reveals the Australian feedgrain price trend for the July 2001 to September 2003 period. During this period, feed wheat and sorghum prices increased as the drought intensified, peaking in late 2002 to early 2003. The first cargo of imported feedgrain to Australia for seven years occurred in January of 2003 contributing to the decline in feedgrain price.

[20] Whilst grain imports are possible, the cost of devitalising to meet Australia's quarantine conditions to enable the movement of imported grain to regional areas makes importation cost prohibitive as described in the Review Options to Reduce Feedstuff Variability in Australia (Macarthur Agribusiness November 2003). This report also found that there is limited grain processing capacity available in eastern seaboard ports.

Chart 7 Australian Feed Grain Prices



In times of grain shortage, this is a significant cost to producers, directly attributable to a public policy which allows for the operations of the single desk without consideration for the flow on affect to grain user industries. Worse still, this policy fails to establish appropriate adjustment measures that will ensure that the future growth of grain user industries is not impeded during such cycles.

The intensive livestock industries, through the Livestock Feed Grain Users Group, believe that the grains industry has failed to recognise the current and growing needs of the domestic feed grain using industries. Australian pork producers use approximately 20 per cent of all feedgrain produced (1.8m tonnes)[21]. It is forecast that there will be a significant growth in domestic demand for feedgrains over the next five years[22]. Projections indicate that cattle feedlotting, dairy, pig,

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[21] WJ Yates and R Coombs 2003 "Review Options to Reduce Feedstuff Supply Variability in Australia"; Macarthur Agribusiness; November 2003.

[22] Towards a Single Vision for the Australian Grains Industry; The First Five Years – 2005 to 2009; Volume 3; August 2004; www.singlevision.com.au

aquaculture and poultry production will consume more than 11 m tonnes of grain by 2009 and will continue to grow strongly, aided by robust growth in Aquaculture production in Australia.

APL and the Livestock Feed Grain Users Group would like to see the impact of the single desk on their industries minimised, and in particular, a trigger mechanism for grain importation if the domestic industry is unable to supply grain because of drought severity. Details of this recommendation and others addressing feed grain security of supply are provided in Section 4.1.1 (i) below.

4.1.1 Feed grain initiatives

As part of APL's 2003/2006 strategic plan objective of 'maintaining an internationally competitive pork industry supply chain' rices is being pursued. Specific programs undertaken as part of this strategy include the establishment of the Livestock Feed Grain Users Group, meetings with and a submission to the National Drought Review Taskforce, commissioning a feasibility study into methods to reduce the variability of feedstuff supply and also investigating treatment methods for the devitalisation of imported grain; and targeted grain research. These are further documented in this section.

i. Livestock Feed Grain Users Group

The Livestock Feed Grain Users Group (LFGUG) was established to address supply shortages and the associated high cost of feed grain experienced by farmers during times of drought and was discussed in APL's first submission.

A long-term strategy for the LFGUG has been agreed by the industry group aimed at:

- Reducing the impacts of drought on feed grain prices
- Treatment of grain imports
- Development of a professional competitive feed market
- Drought assistance

At a recent meeting, the LFGUG, it was agreed in principle with the Grains Council of Australia (GCA) to establish a feed grains consultative body that will focus on feed grain use and long-term security of supply. It was proposed representation must be at a high level with an independent Chairman and Secretariat proposed to be funded by Government. Representatives from the LFGUG will meet with the GCA to progress this proposal, including disbanding the Feed Grain Action Group (FGAG), which was established during the drought.

This proposal will then be taken to Government, seeking among other things ongoing secretariat support. The GCA has already canvassed this initiative with the Federal Minister for Agriculture and we understand from GCA that it has the Minister's broad support.

The LFGUG sees itself as having a role in educating grain stakeholders about the intensive industries and our use of grain. The LFGUG believes that the industries are a significant and growing customer and therefore the economic viability and sustainability of both the grain and intensive livestock industries is inter-related and to our mutual benefit. Group members will be presenting to various grain bodies and state farming organisations to discuss the role and objectives of the LFGUG, and to clarify our joint position on building a long-term feed grain industry. The LFGUG has also engaged with the Grains Council and the Wheat Export Authority (WEA) to learn more about the roles and responsibilities of these organisations and explain the concerns and strategic direction of the LFGUG

ii. Feasibility Study to reduce the variability of feedstuff supply

APL, along with Meat and Livestock Australia, Dairy Australia and Australian Wool Innovation commissioned a broad ranging feasibility study[23] into the options available to livestock end users to reduce the impact of recurrent feedstuff supply shortages. It provides analysis of the real options available to industry, along with their costs and benefits.

The Report's recommendations, which have been largely embraced by the LFGUG in its long-term strategic plan, include:

- Review of drought assistance and drought management decision making and resources used by state and federal government to initiate exceptional circumstance provisions.
- Taxation breaks applicable to on-farm storage of grain and roughages.
- Formation of a peak decision making body comprising the Chief Executive Officers of key stakeholder groups to initiate feed security options.
- A trigger mechanism for imports if AWB and ABB are unable to supply grain because of drought severity. There should be an obligation on those agencies to regularly disclose to government (on a confidential basis) levels of uncommitted grain stocks and location so that there is a core ongoing knowledge about the national capacity to manage drought.

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[23] WJ Yates and R Coombs 2003 "Review Options to Reduce Feedstuff Supply Variability in Australia"; Macarthur Agribusiness; November 2003

- Government capacity, if necessary through the exercise of export approval powers, to require the release of uncommitted stocks in accordance with drought strategy.
- Australian government and industry support for the CSIRO project – the fumigation of imported whole grain – as a key priority project.
- Harmonisation of grain quarantine arrangements between states.

iii. APL Submission to and Meeting with National Drought Review Taskforce

APL made a submission to the National Drought Review and met with the drought task force to outline the impacts of the ongoing drought, and the associated feed grain price increases on pork producers. APL made a number of recommendations for potential changes to the current system. Key recommendations were:

i. Drought declarations should account for individual farm level circumstances and use industry based criteria to reflect the impacts on different farming systems and that regional impact criteria be expanded so that impacts can be demonstrated in either the region in which the property is located, or the region from which the main production inputs (ie feed grain) are sourced.

ii. The criteria of severe financial impact should be considered as a severe downturn in income, and/or severe increase in costs of production. This would include:

   - livestock enterprises can demonstrate that severe feed cost pressures (high portion of total costs) have existed for at least six months and are likely to continue for at least another six months as part of the criteria.
   - livestock enterprises in the application region can provide financial data (including a forecast year) demonstrating that the business is usually viable but is currently experiencing a severe downturn in net income.
   - independent data from feed suppliers can demonstrate that feed prices in or adjacent to the application region have risen for more than 12 months duration and have or will be at levels at least 40% above normal (say a five year average) for six more months.

iii. If AWB and ABB are unable to supply grain at competitive prices due to severity of the drought, then a trigger mechanism should be put in place to activate imports or to divert wheat out of export pipelines. This could be activated when required in severe drought where there is evidence of market failure in grain supply.

iv. The Australian Government work in tandem with the commercial sector such as banks to investigate and develop schemes to actively engage and train producers in risk management activities. We recommended that an income contingent loan for farmers based on the Higher Education Contribution (HECs) scheme should be investigated.

The Australian Government held the National Drought Summit on 14 April 2004, where the findings of the Drought Taskforce were discussed. APL attended on behalf of the pork industry. While the roundtable process agreed on the key elements that need to be addressed, overall it was disappointing in that the issues raised, while important, failed to cover feed grain security of supply and the inequity of some drought measures on intensive industries. While these issues have been raised regularly by various stakeholders there has been no response from either the Australian or state Governments on how this will be addressed.

Key elements agreed by the Summit included but not limited to:

- continued support for the main elements of the National Drought Policy, particularly the underlying principles of encouraging self-reliance and risk management;
- the importance of drought preparedness as the key focus in future drought policy;
- the need for the Australian Government, and the State/Territory governments, to reach agreement on new national criteria for drought/Exceptional Circumstances (EC) declarations; and
- continued support for the reform of EC to make it more efficient, effective and equitable.

Proposals for a new national drought policy have been out on the Primary Industries Ministerial Council (PIMC) agenda, however no plans have yet been released. It is unlikely that the issue of drought assistance from both the Australian and state governments, and its resulting impacts on intensive livestock producers, will be resolved in the near future. The Australian Government has clearly indicated that livestock industries must find commercial solutions to their feed grain problems. APL will continue to be actively involved in this issue but believes its focus needs to be directed to other areas which will address the industry's primary concern.

iv. Grain Devitalisation

CONFIDENTIAL INFORMATION REMOVED

v. Risk Management Initiatives

The reliance of pork producers on feed grain leaves them vulnerable to sudden increases in grain prices as a result of domestic climatic conditions or swings in international markets. As part of the National Pork Industry Development Program (NPIDP) in 1999, a handbook on "Managing Business Risks in the Pig Industry" was produced and distributed by Pork Council of Australia to assist producers develop risk management strategies. This handbook covered production risk, marketing risk, financial risk, human risk and legal risk.

Another project under the NPIDP was the "Feedgrains Project", a Victorian based project, facilitated through the Victorian Farmers' Federation Pig Group. The aim of the project was to reduce the cost of pork production via reduced feed costs. It included four components; benchmarking of feed grain costs, formation of a feed buying group, producer training in risk management and facilitators to drive the program.

The concept of group buying was promoted to pork producers and there have been a number of successful groups since that have purchased grain in forward positions. The grain risk management training sessions were held to increase producer awareness of the options and tools that could be used to manage the risks associated with buying grain. However, only one Grains Risk Management training session was held with a second session was cancelled due to lack of numbers. The apparent lack of interest was attributed to "training burnout" – the course was five days long and was being run in the same period as many "Porkbiz" courses, meaning that producers may have been unwilling to commit to too many training courses. Another reason offered was that many farmers need convincing that grain risk management is the future of grain buying.

In March 2003, the South Australian Farmers Federation sponsored "Dealing with Risk" workshops, free of charge for pork producers, after securing funding from the South Australian Primary Industry Pig Industry Fund[24]. These highly successful workshops included speakers from Brentnalls SA Chartered Accountants, ABB Grain Ltd and National Australia Bank. The three companies discussed risk management strategies involving cash flow; tax; asset and income protection; estate and succession planning; purchasing grain and other input costs associated with grain (hay etc); and risk management products associated with interest rates and associated banking products.

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[24] South Australia Primary Industry Funding Schemes (pig industry fund) regulations 2001; No. 196 of 2001: *Gaz*. 23 August 2001, p. 3275

APL is currently developing a training program to skill producers in risk management methods for purchasing their grains. This program will be trialled in 2005 in one state initially, then rolled out in other states if successful. There are also plans for the training program to be web based for more remote producers This training will be linked to a competency standard through the Australian National Training Authority that producers can use towards a rural training program such as a diploma in rural management. The benefits of linking the program to a national competency include:

- It could contribute to a formal qualification.
- It would be recognised nationally
- It could carry third party endorsement.

vi. Premium Grains for Livestock Program

The Premium Grains for Livestock Program (PGLP) has been in progress since 1996. APL has contributed $400,000 to this program over the last four second years. PGLP has been a unique project involving scientists from a wide range of backgrounds and disciplines in the most comprehensive effort yet undertaken to understand the characteristics of cereal grains that determine their nutritional value for different classes of livestock including sheep, feedlot cattle, pigs broilers and laying hens. The most important outcomes are the development of rapid methods for measuring the characteristics of grains determining nutritional value and the ability to predict the impact of grain type and processing on animal performance so the economic value of any grain sample can be determined for each major livestock industry. This information can then be made available to grain growers, traders and end-users as the basis for the rational trading of grains for livestock with the added value being shared across the feed industry chain.

4.2 Ethanol

APL is extremely concerned that Australian Government subsidies being provided to the evolving ethanol industry will substantially distort regional feedstuff markets. The Australian Government announced a package for the ethanol industry, which includes a subsidy at the excise rate of approx 38 cents per litre to enable the industry to establish. If there is a mandated 10 per cent ethanol blend in all petrol by 2010, then 1,818 GL of ethanol would be required annually. This would require 4.5 MT of grain; Australia produces approx 9 MT of feed grain per year. Subsidised development of a fuel ethanol industry based on feed grains makes little sense given that it will come at the expense of existing livestock feeding industries.

Aside from the ethanol producers excise subsidies, the Australian Government is providing capital grants of up to $10 m per ethanol plant established and assistance measures, such as start up assistance for individual projects and test marketing of ethanol. Unfortunately, these subsidies will adversely affect intensive livestock producers as the proposed ethanol plants in QLD and northern NSW would compete directly with the intensive livestock industries for grain. The excise subsidy of 38 cents per litre equates in real terms to an indirect subsidy on the industry's grain inputs of $152 per tonne of sorghum.

The report by Macarthur Agribusiness 'Review Options to Reduce Feedstuff Feedstuff Supply Variability in Australia' (November 2003) drew attention to the forecast growing demand by intensive livestock industries for feedgrains and the resulting increased pressure on domestic supplies. The Macarthur report, which drew on ABARE modelling, found that feedgrain demand in Australia will increase from 7.7 million tonnes per year to around 10 million tonnes by 2010. Consequentially, since Australian feedgrain production is expected to rise much more slowly, the margin between domestic supply for all purposes, including export, and domestic demand, is likely to narrow substantially.

The report highlighted that it is likely that there will be decreasing exports of feedgrains from the eastern States, where the majority of intensive livestock industry activity is located. In serious droughts, large scale imports from western states will be required, along with overseas imports into metropolitan areas. The shipments from western producing regions could amount to 1.6 million tonnes in a severe drought, and be supplemented by several hundred thousand tonnes from overseas. However, such projections assume that domestic feedgrain is not forward contracted and that coastal shipping would be affordable. **Domestic users do not have the flexibility normally available to other businesses in Australia to adjust to tighter supplies, particularly when government subsidies introduce a further distortion into a market place already distorted by coastal shipping regulations that result in added costs in shipping grain from western States as well as quarantine prohibitions on inland movement of unprocessed imported grain.**

The Australian Government's policy initiatives encouraging regional ethanol industry development may well destroy the intensive livestock industries that government has been looking to encourage to add value to Australian rural communities, increase regional employment and increase export income. This will have the effect of redistributing rather than increasing employment in regional Australia. The taxation excise concession for the ethanol industry gives ethanol plants an unfair advantage over piggery operators in purchasing feed grains.

APL supports the objective of fostering regional development on the basis that the government intervention and subsidies do not discriminate between businesses competing for common inputs. **Subsidised development of a fuel ethanol industry based on grains that can be utilised as stockfeed makes little sense given that it will come at the expense of existing livestock feeding industries. The LFGUG have agreed to continue to lobby Government on the impacts of the ethanol issue.**

4.2.1 The updated ABARE Study

A study in December 2003 by ABARE/ CSIRO/BTRE[25] found that ethanol, in particular, was not viable at 2003 levels of assistance. In late 2003, the Australian Government announced, as part of a change to its Biofuel Subsidy Program, that the excise rebate to Australian ethanol manufacturers would be extended by over 5 years until 2011 to improve competitiveness against bio-fuel imports and other liquid fuels produced in Australia.

Following this announcement, ABARE was commissioned by the Government to update the earlier study to take account of the more generous excise concession taken with the capital grants which APL understands is intended to assist the Australian Government's meet its bio-fuel production goal. In summary, the new study found that "the new excise arrangements…are likely to provide sufficient assistance to the ethanol and biodiesal industries to underpin their economic viability over the longer term, given the various oil price, exchange rate and cost assumptions made in the study". However, at a more detailed level, the study also found that a grain based ethanol plant (even with a start up grant) would be marginally non viable at forecast grain prices, with viability less attractive than biodiesal production. These analyses no doubt were taken into account in the recommendations put forward on the allocation of start up grants.

However, the ABARE study factored in an average price of US $21 per barrel over the next decade, and at the current levels of over US $50/ barrel the economies of ethanol production must now be much more attractive than is assumed in the ABARE study.

At least one ethanol plant utilising grain is now being proposed. A July 2004 report to GRDC by Australian Biofuels Pty Ltd stated that Australian Biofuels Ltd plans to construct three ethanol production facilities at Swan Hill, Coleambally (NSW Riverina) and in the Darling Downs. An article in "The Land" of 7 October

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[25] Appropriateness of a 350 Million Litre Biofuels Target; Report to the Australian Government Department of Industry, Tourism and Resources (DITR) by CSIRO/ABARE/BTRE; December 2003

2004 reported that the Swan Hill plant could be using 250,000 tonnes of grain per annum within five years, and has now received a planning permit by Swan Hill Rural City Council. Mitsui and Co (Australia) Ltd is reportedly an initial investor.

There is a risk that start up grants might be allocated to grain ethanol based facilities given the improved economics brought about by higher oil prices and the more generous excise concession, therefore putting further pressure on the feed grain market.

4.3 Environmental Regulations

APL is concerned about the lack of uniformity in the application of piggery planning guidelines, environmental policy and regulations between states and within states at regional and local levels. As communities demand increasingly stringent environmental regulation, authorities continue to increase regulatory requirements for piggeries, sometimes without adequate consultation with the industry. These regulations often include misconceptions and technical errors. As a result, producers face increasing barriers to piggery developments, even in isolated and relatively environmentally insensitive sites.

In 2002, APL commissioned the Western Research Institute (WRI) Socio-Economic Impacts of the Australian Pork Industry study, which included a survey of producers experiences in relation to planning and environmental regulations and requirements for piggeries. The main issues identified by this study of the approval process related to approval cost, delay time, clarity and predictability and lack of information[26].

- *Approval cost* – During interviews a number of producers said that the costs associated with the approval of a piggery development were excessive and that the annual costs of complying with environmental requirements were both excessive and increasing exponentially. The report noted that given that the pig industry receives little by way of subsidies or assistance to compensate for these charges and costs, such imposts penalise the international competitiveness of the industry. The high cost of piggery regulation also increases the cost of investing in a new piggery and reduces the profitability of operating a piggery, which is likely to result in lost opportunities in regions suited to piggery developments.

[26] Socio-Economic Impacts of the Australian Pork Industry; Western Research Institute (WRI); December 2002.

- *Delay time - T*he time taken for development approval was considered excessive by many producers, with delays of a year or more not uncommon. This delay, and uncertainty over when approval will finally be received means that producers cannot make commitments to buyers and therefore risk losing sales in both domestic and export markets. Furthermore, the risk associated with the approval of new piggery developments is effectively a barrier to entry into the industry.

- *Clarity and predictability* – The approval process for piggeries is subject to varying standards of clarity (i.e. what requirements need to be met in advance and guidelines as to how to meet them) and predictability (i.e. that where requirements are met that approval will be automatic). A number of producers argued this situation arose as the regulations relating to piggery approval are subject to interpretation in relation to individual cases. Thus, differences in interpretation between officials may sometimes make the approval process seem unclear and unpredictable to pig producers operating in different states and shires.

The WRI study also identified that the opportunity cost for each months delay in the construction of a new intensive piggery operating with 1,800 sows resulting in lost pig sales of $450,000 per month. These opportunity costs represent a significant loss to the economy, especially to the regional economy where the new piggery is to be located.

The study suggested that the efficiency of the approval process for piggeries in each state can be improved by developing a comprehensive guide for piggery approval that includes:

- All requirements for a successful application, including a comprehensive list of individual approvals required by each authorising government department;
- All fees specified for each requirement of the approval process;
- Estimates of the associated costs of complying with government regulations at different scales of operation (i.e. consulting costs);
- Estimates of the actual time taken for the approval of a piggery development;
- One application form that should be used, with multiple copies permitted to be lodged simultaneously to each relevant government authority.

APL endorses the study's findings that reforms to the piggery approval process could be expected to reduce compliance and administration costs, especially for pig producers operating in more than one state.

4.3.1 Environmental Initiatives

Initiatives APL has undertaken in regards to addressing environmental regulations include development of national environmental guidelines for piggeries, programs to assist implementation of Environmental Management Systems (EMS), and also the recent completion of the Renewable Energy Industry Development (REID) project.

i. National Environmental Guidelines for Piggeries

APL released the National Environmental Guidelines for Piggeries (the Guidelines) in August 2004. The Guidelines provide a benchmark for assessing environmental sustainability of piggeries. They are to be used by the pig industry, regulatory authorities and the wider community to:

- assess environmental performance of piggeries;
- obtain information on best practice; and
- achieve positive environmental outcomes.

A consistent environmental regulatory approach throughout Australia, based on up-to-date technical information, will facilitate new development proposals, facility upgrades and compliance with licence and approval conditions. In addition, it is important that industry stakeholders are kept up-to-date with the latest research and development conducted by the industry. In order to facilitate this, APL has developed the Guidelines.

To date the level of endorsement of the Guidelines differs from state to state. NSW is adopting the document 'as is' with an annexure that will describe in detail the planning issues specific to the state. South Australia is currently considering adoption, whilst Tasmania has indicated they will 'adopt' it. Victoria has stated that they will not use the Guidelines as they have their own guidelines (dated 1992) that are incorporated into an environmental regulation. However, they will use the national guidelines to update their state document 'as appropriate'. QLD has adopted a similar position but indicated greater enthusiasm to use the national guidelines, particularly in relation to where they provide more up-to-date information. WA has advised they will refer to the Guidelines for updated information when they revise their state based one.

ii. EMS Program

APL, with funding from the Australian Government Department of Agriculture, Fisheries and Forestry (DAFF), has commenced a program to assist piggeries to implement environmental management systems (EMS) to an agreed national standard.

An EMS is a systematic approach that any enterprise can use to identify and manage its impacts on the environment. Piggery EMS will help:

- Identify inefficiencies in resource use and potential impacts on the environment.
- Prioritise actions to improve resource use efficiency and minimise potential impact on the environment.

The objectives of the APL's EMS program are to:

- raise producer awareness of potential environmental impacts of piggeries
- train producers to develop environmental management plans for their piggeries
- develop industry-specific EMS tools (e.g. implementation guidelines and a standard)
- develop an EMS standard and a certification program for piggeries
- run a trial project at a national scale to develop environmental management systems for 15 to 20 piggeries and quantify the benefits.

iii. Renewable Energy Industry Development Project

APL, with funding assistance from the Australian Greenhouse Office, has completed a project that investigated the economical feasibility of generating electricity from piggery effluent. Known as the 'REID project', its purpose was to provide pig producers and others that are interested in renewable energy projects with an economic framework to assess the commercial feasibility of proposed on-farm bioenergy generation plants. The project:

- Investigated the economic and technical factors that influence electricity generation from piggery effluent in various states.
- Developed a simple spreadsheet model to determine the economic viability of electricity generation using either a biodigestor, a purpose-built covered pond or by covering an existing pond.
- The impacts of the different greenhouse gas legislation and reduction incentives in each state have been included in the model.

The project indicates that, over a ten year period, bioenergy generation combined with use of sludge as organic fertilizer substituting inorganic fertilizers for crop production could be economically viable for piggeries with 600 to 800 sows by using pond covers, whilst the more expensive biodigester option would be viable only for larger piggeries with 2,500 to 4000 sows.

APL has also been successful, through written submissions and representation, in facilitating changes to the NSW Government's Greenhouse Gas Benchmark Rules. Specifically, APL sought to provide reasoning as to why such projects are no different to the use of land-fill material in generating electricity and should therefore be considered renewable energy projects and eligible to create Gas Abatement Certificates . In addition to this submission, APL also liaised with various relevant NSW Government officials to secure the industry's position. The relaxation means that piggery effluent will now be recognized as eligible material for renewable energy generation and be eligible for the creation of Gas Abatement Certificates (NGAC's). This amendment in the NSW legislation has important national implications for the Australian pig industry as is provides an impetus for other states to recognize bioenergy generation, using piggery effluent, for similar incentives in their respective legislative schemes. APL plans to undertake representations with other state governments to also secure their recognition of this matter in legislation.

4.4 Water availability

In some parts of Australia availability of water has proven particularly difficult in time of drought. During the most recent drought, pork producers in parts of Victoria (Wimmera Mallee, Murray Goulbourn Valley), QLD (Darling Downs) and western NSW reported difficulties in sourcing adequate supplies of water on farms and had to revert to water cartage from other areas. Pork producers, unlike extensive livestock producers, were not eligible for any transport subsidies under state drought assistance schemes. Water cartage resulted in further increases in the cost of production of pork.

In Queensland, the 2002/03 drought presented significant challenges for pork producers due to increased water pricing and reduced water allocations to supplemented systems (e.g. irrigation scheme, pipeline, town water or regulated water course). Water availability from unsupplemented systems such as unregulated watercourses, farm dams and creeks also caused significant problems for producers due to reliability of supply.

Some of the broad challenges faced by Australian producers in respect of water rights were highlighted in the recent House of Representatives Standing Committee on Agriculture, Fisheries & Forestry Inquiry into Future Water Supplies for Australia's Rural Industries and Communities. In particular, APL endorses the Inquiry's report[27] recommendation that the Commonwealth urge the Council of Australian Governments to give top priority to the establishment of a clearly defined and robust system of perpetual water access rights under the National Water Initiative.

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[27] 'Getting Water Right(s) – The Future of Rural Australia' June 2004; House of Representatives Standing Committee on Agriculture, Fisheries & Forestry Inquiry into Future Water Supplies for Australia's Rural Industries and Communities

4.5 Genetically Modified Organisms

Genetically Modified Organisms (GMOs) are an emerging issue that could greatly affect the Australian pork industry through the introduction of and increased use of biotechnology in feed crops that are used in pigs' diets. Current market demands indicate that this impact could be negative, at least in the medium term. Being "GMO free" is considered by pork exporters a marketing advantage for the Australian pork industry, particularly to Japan where APL has set strong growth targets. This market is currently protected through commercial vendor declarations by the supplier declaring supplied pigs have not been fed GM feed stuffs.

Stockfeed ingredients that may be derived from GM plants or microbes that could currently be used in the Australian pork industry include imported soybean meal (up to 1 per cent of a weaner ration); cottonseed meal (up to 5 per cent in rations) and imported maize (up to 30 per cent in rations). Canola meal may also be affected in the future, with commercial release now approved by the Office of the Gene Technology Regulator (OGTR); however, at present every state except for QLD has issued moratoriums on growing GMO canola despite the OGTR's approval. Canola can be used at a rate of up to 5 per cent in rations. Field trials have been underway for GM wheat and sorghum, which make up 55 per cent and 25 per cent of rations respectively, however these crops are unlikely to be commercialised in the medium term due to opposition from the grains industry.

Market access has become an issue with the European Union (EU) tightening regulations and broadening labelling requirements to include food additives and animal feeds. There is, however, no requirement for labelling meat derived from animals fed on GMOs as yet, although there has been strong lobbying from some environmental groups such as Greenpeace to have this in place.

GMOs have the potential to impact on the pork industry through:

- Different GMO threshold and labelling requirements of different countries. (These are detailed in Appendix F);
- Commercial release of GM food crops in Australia and the trade and economic impacts on value adding grain industries[28];

[28] The OGTR has the responsibility of making decisions relating to gene technology reasearch and development across Australia. It does not look at the costs and benefits of their considerations or the market impacts of decisions.

- Potential further savings to industry from increased supply of GMO feed grain at lower cost versus potential increased costs as a result of lost markets and/or increased costs to access GM free feed grain;
- Domestic labelling requirements, identity preservation and segregation;
- Genetically engineered pigs; and
- Anti-GM activism.

The pork industry recognises the questions being raised by environmental and consumer groups over the use of GM products in food production and believes that everyone should be given the fullest available information to enable choice. Hence **APL would support the introduction of regulations covering fully transparent product use, including labelling of GM crops used in animal feed to ensure product integrity and consumer confidence. However, it is vital that the costs of implementing a system to identify GM feed ingredients should not be borne solely by livestock producers.**

The costs of identity preservation and segregation are difficult to assess, as they depend on the tolerance levels set, either by government regulations or market requirements. It is commonly accepted that identity preservation systems of conventional and GM crops can add an extra 15 per cent onto the cost of feed grain[29] which is already a major input to production cost. Most studies conclude that the major costs of non-GM identity preservation and segregation depend on tolerance levels set, either by government regulation or market requirements. Pork producers traditionally have small margins, with feed amounting for up to 60 per cent of the cost of production in normal seasons. The additional fifteen per cent cost to pay for identity preservation would significantly impact on the cost of production and is likely to be largely borne by producers.

APL believes that Australia should be more cautious and withhold support of the endorsement of GMO crops as animal feeds until the issues of consumer resistance, market concerns, segregation, costs, farmers rights, co-existence have been addressed. At the very least infrastructure issues should be fully resolved.

4.5.1 GMO Initiatives

In anticipation of the emerging consumer requirements for GM information, APL has commissioned a study to schematically map the supply chains of stockfeed used for pork production. The Bureau of Rural Sciences (BRS) will submit a report that:

- o identifies and quantifies current and future potential GM inputs to the stockfeed supply chain for pork

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[29] Review of Genetically Modified Canola – Issues and Potential Market Impacts for the Australian Canola Industry" Leading Dog Consulting and Synecon Pty Ltd. Commissioned by AVCare Ltd 2002.

- o includes an overview of how other pig producing nations approach the GM feed issue and overseas market requirements
- o recommendations on current supply chain management arrangements and quality management systems in respect of GM input into pork stockfeed

The results of this study are expected to be available by February 2005.

4.6 Meat and Bone Meal Regulations

Considering recent international events, there are indications that meat and bone meal (MBM) use may be limited or banned in time. Since MBM is a primary source of protein for pig production, such action would have significant cost implications for the Australian pork industry. In 2001, the National Health and Medical Research Council (NHMRC) established a Special Expert Committee on Transmissable Spongiform Encephalopathies (SECTSE), which began conducting investigations into banning MBM in the diets of farm animals. The rationale for a potential ban on intra-species recycling (i.e. the feeding of pig derived MBM to pigs) is to reduce the risk of Transmissable Spongiform Encephalopathies (TSEs) emerging in Australia.

Significantly, following the outbreak of BSE in Canada in 2003, Japanese customers demanded that Canadian supply pork from pigs that have not been fed meat and bone meal. A major Japanese supplier, Maple Leaf Foods, in 2003 gave notice that their suppliers must comply with a request that all pigs marketed be MBM free from birth. Since this is not a food safety issue, Alberta Pork, Saskatchewan Pork and Manitoba Pork have not supported the decision by Maple Leaf. Ontario Pork decided to accept the decision by Maple Leaf, and as of March 1, 2004, all pigs marketed by Ontario producers have declarations stating that they have been MBM free from birth.

APL commissioned a study in 2002[30] on the economic costs of a ban on MBM use. MBM has traditionally played a major role in pig diets in Australia, with total annual consumption of MBM at 59,500 tonnes, comprising 20,400 tonnes of bloodmeal and 29,700 tonnes of tallow. It has been the primary source of protein, but it also represents a major source of phosphorus and to a lesser extent energy. If the average price of feed ingredients over the last five years and August 1999 pig prices are assumed, a ban on the feeding of all animal products to pigs would

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[30] Banning of meat and bone meal and other animal products - Effects on pig producer's production costs. A report to Australian Pork Limited. Prepared by John Black, Tony Edwards, Greg Martin and Lyndy Scott. February 2002

decrease the average annual profitability of the Australian pig herd by $60/sow or 10 per cent.

If a ban on the feeding of animal products to pigs were extended to include a ban on renderings and the compulsory incineration of all abattoir waste, annual profit for the average Australian piggery would decrease by $176/sow (30 per cent) using five year average ingredient prices and August 1999 pig prices. The corresponding decrease in annual profit using January 2002 prices would be $168/sow (11) per cent. If the high January 2002 feed prices and August 1991 pig prices applied, a ban on the feeding of animal products and the incineration of abattoir waste would more than halve the annual profitability of Australian pig herds. **Such a significant effect of a ban on profitability would challenge the viability of the industry unless there was compensating support from other sources during periods of low returns and high feed costs.** The effects of a total ban on the feeding of animal products to pigs on the cost of production and profitability would not be uniform across Australia with the greatest impact occurring in Western Australia and least in Victoria and Northern NSW.

APL has recently commissioned a scientific risk analysis to analyse the relative scientific risk of a number of MBM feeding options and the potential industry ramifications. An economic risk analysis will also be undertaken in the early 2005, examining the financial implications of the same proposed options, including updating previous economic analysis.

APL needs to consider a move by the SECTSE committee to potentially ban intra-species feeding despite scientific evidence to the contrary concerning pigs[31]. **APL is opposed to any such a ban that is not made on any scientific basis, and given it has significant impact on production costs.**

4.7 Antibiotics

While APL does not promote or endorse the use of antibiotics as growth promotants, it is clear that the phase out of growth promoting antibiotics, as recommended by the JETACAR Report (1999)[32] does have a significant cost

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[31] In November 2001 the EU Agriculture Council adopted the prohibition of recycling fallen stock and condemned animal material in animal feed. It prohibited cannibalism (i.e. intra-species recycling). The EU ban on feeding rendered animal protein to farmed animals was presented as an emergency measure to protect ruminants by avoiding risk of cross-contamination of the ruminant feed system at any level and therefore to reduce the risk of spreading BSE and other TSEs between animals of the same or different species including humans.

[32] Recommendations One and Two; The use of antibiotics in food-producing animals: antibiotic-resistant bacteria in animals and humans; Report of the Joint Expert Advisory Committee on Antibiotic Resistance (JETACAR); 1999

impact on Australian producers competing with pork product both on the domestic and international markets. Even though the use of antibiotics is estimated to be less in Australian herds than in the USA, data from the United States shows that banning growth promoting antibiotics would increase the cost of production in the US herd by $US4.50-5.00 per pig in the first year of the ban.

Intensive pig production often requires therapeutic use and selective prophylactic use of antibiotics to control endemic diseases and maximise profitability. Globally, the threat of antibiotic resistance in the public health sector is driving changes to availability of antibiotics to all agricultural sectors, but particularly the intensive animal industries. As previously stated, while APL does not promote the use of antibiotics as growth promotants, they are widely available for over-the-counter sale to livestock owners, feed millers and feed mixers. The JETACAR established by the Australian Government committee has recommended that all veterinary drugs be classified as S4 to control this situation.

With the implementation of the further restrictions planned and "phasing out" of some antibiotics, the industry will need to investigate alternative strategies (such as vaccination, probiotics, management etc) or risk becoming less efficient. To this end the speeding up of registration of imported vaccines by the Australian Pesticides and Veterinary Medicines Authority (APVMA) is a critical issue.

4.7.1 Antibiotics Initiatives

The Australian pig industry has processes in place to effectively manage the use of antibiotics. APL has funded research into the issues of antibiotic resistance and also surveillance of antibiotic resistance in order to reduce the industry's reliance on antibiotics. In addition, issues related to food safety, in particular salmonellosis, have been researched by APL. As previously mentioned, compliance with the APIQ standards also entails producers being able to demonstrate meeting minimum specified standards in respect of use of antibiotics.

As part of the draft Industry Restructure plan, APL has a strategy aimed at enhancing animal health. By reducing targeted endemic diseases, this strategy aims to reduce antibiotic use which, if successful, can potentially create further market opportunities.

Importantly, only antibiotics approved for use by the APVMA are used in the pork industry. These approval procedures assure customers that medication of livestock with these particular antibiotics in the approved manner will not result in any harmful effects to consumers. Already there are opportunities in Japan for quality pork grown with minimal use of antibiotics and additives, and this trend can be expected elsewhere.

4.8 The growing costs of the NRS program

The National Residue Survey (NRS) undertakes monitoring surveys, surveillance and compliance testing and residue prevention programs. The NRS pig program has an annual budget of approximately $430,000. The program is fully funded by producers through a levy at slaughter of 8.5 cents per carcass.

As a result of the significant increases in the cost of the National Residue Survey program over the last four financial years, there has been a steady erosion of the pig industry's reserves in the National Residue Pig Monitoring Program, resulting in a mounting negative reserve position.

The monitoring surveys are designed to obtain a statistically valid profile of the occurrence of a residue in a commodity using randomised sampling process. The residues of interest are agricultural and veterinary chemicals (such as pesticides, fungicides, growth promotants and antibiotics) and environmental contaminants (including organochlorine chemicals, heavy metals) and similar substances of possible health or trade concern.

These surveillance and compliance programs enable government and industry to implement the necessary preventative quality control and quality assurance measures to minimise risk to consumers and markets. The NRS manages the residue and contaminant testing programs, however it does not undertake the analysis itself, contracting laboratories accredited by NATA through a biennial tender process.

Prior to 2001/02, the pork industry program was run with a sample size of 1200 antimicrobials and 150 other analytes. However, due to significant increases in the cost of the program[33], and a steady erosion of the pig industry's reserves which resulted in a negative reserve position held with the NRS at the end of 2001/02, APL was forced in September 2002 to significantly reduce the testing program for the 02/03 year from an original antimicrobial size of 1,200 to only 300, and from

[33] The increase in costs is due largely to rising analytical testing fees, a change in the laboratory used mid way through the biennial tender contract and DAFF's move to full cost recovery for administration of the program.

150 to 100 samples for each of the other chemicals. (Refer to Appendix E for summary of further historical factors that have caused cost increases for the NRS Pig Monitoring Program). The reduction in the sample size was proposed and undertaken as an interim measure only to enable the industry to review its market access and testing requirements and future funding needs. While APL resolved these issues, the NRS was willing to waive the 20 per cent reserve requirement and satisfied to be directed by APL on the industry's preferred program plan and size for post 30 June 2004.

By May 2003, APL had completed a review of market access requirements and subsequently streamlined the program to reduce costs. However, APL also concluded that to continue the reduced program was a significant risk since it failed to meet international market access requirements and to establish a bank of necessary objective and statistically relevant data. In May 2003, the Board resolved to fund the 2004/05 shortfall in the NRS Pig Monitoring Program amounting to $100,000 from the APL budget rather than seek to increase the residue levy. This was done to protect Australia's export markets and because an increase in the levy takes at least 18 months to undertake and due to the economic climate of the pig industry at the time. The Board agreed that this matter would need to be revisited to determine future funding of the program post 2004/05.

All countries that we trade with have non-negotiable general access requirements. These general access negotiations cover many things, one of which is that Australia must have a residue monitoring program in place that can guarantee that residues have not been found that are of a quantity that is harmful to human health.

To meet market access requirements, a residue program in general must be based on a US and/or EU residue testing plan and provide third party (government) certification. **New components to residue testing are emerging annually to meet different market access requirements and minimise risk. These additional testing requirements are an increasing financial burden on the industry.**

4.9 Animal Welfare

Worldwide there is mounting public opposition to the use of close confinement systems for intensive animal production. This has resulted in restrictions being imposed on the future use of stalls to house pregnant sows in a number of countries.

In March 2004, the Australian Government formally began a process to review the Model Code of Practice for the Welfare of Pigs and APL is actively engaged as a key stakeholder, with representation on the Code Writing Group[34]. This review has identified a number of issues where there is a divergence between current industry practices and views of external stakeholders regarding the animal welfare acceptability and/or benefits of those practices. In many cases that divergence of views can be managed within the context of science, regulation, education, quality management and communications. However, the subject of future use of dry sow stalls (DSS) remains contentious. The science in this area is equivocal. Furthermore, there are strongly held opposing views between individuals on this subject within the industry and a growing amount of public, consumer and political pressure for changes away from confinement housing to loose housing of sows. It is anticipated that the revised Code will be presented to the Primary Industry Ministerial Council in 2005. **The pig industry can anticipate increased costs of infrastructure and staff training to cope with any proposed changes to sow stall use in the Code**.

APL believes that the use of DSS is consistent with sow welfare and that any changes to the Code in this area would need to be supported by sound science as well as practical and affordable for producers to implement. APL has undertaken significant research in this area over many years and more recently conducted extensive consultation process with producers, Delegates, the wider industry and key stakeholders over the past ten months. As a result of the research, consultation process and financial analysis, APL is now suggesting that the future use of DSS in the industry should be based on the following industry position:

> ***That dry sow stalls should be permitted to be used for up to 10 weeks of any one gestation period, after sufficient lead time, as well as for occasional housing of individual animals for animal health reasons and/or restorative feeding, or for confining animals at feeding time.***

Long lead times for adjustment are a priority for industry. Indications at this stage based upon financial analysis suggest a lead time of at least 14 years.

This position recognises that there is diversity of views both within and outside the industry about dry sow housing and that the science in this area is not

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34 The Code Writing Group consists of APL, along with government regulators, scientists, a supply chain representative, representatives from animal rights groups and the Australian Association of Pig Veterinarians (AAPV). Its main purpose is to draft the Code according to the Terms of Reference and submit to the Animal Health Committee of PIMC.

definitive. It also recognises that there is public pressure for a move towards housing of animals that allows them more freedom of movement, but on the other hand this needs to be balanced against the animal welfare advantages of stall housing for sows as well as the affordability and practicality of implementing the changes.

APL, along with PricewaterhouseCoopers, has developed financial and economic models to assess the cost impacts and likely affordability of various scenarios on potential animal welfare changes, such as a reduction in the use of DSS. The key assumptions behind this work are that:

- The costs of any change will not be able to be recovered from the marketplace;
- Moving out of DSS will incur extra operational costs in both labour and feed;
- The capital costs of change will need to be financed by farmers taking on extra debt; and
- The industry will have a pre-existing sustainable level of baseline profitability.

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It is equally important to recognize that the majority of imported product will not comply with Australia's new welfare standards. APL notes that in the USA and Canada there are no national plans to regulate the use of DSS, but rather they intend to continue operating on a voluntary basis. This in effect provides countries such as the USA with a cost advantage as compared to Australian producers; further eroding the industry's ability to compete with imports. **Welfare standards should match Australia's or at the very least some form of labelling requirement to inform consumers what percentage of imported products content was produced at welfare standards below those required by Australian producers.**

A summary of the available consumer research and of consumer attitudes prepared for APL shows that consumers in general have a tendency to believe that restriction of animal space is "unnatural" and perceived to be a poor animal welfare practice[35]. In some circumstances, consumers may also make an association between farming practices that they perceive to cause animal suffering and a consequent implied negative affect on the quality and safety of food derived from those animals.

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[35] APL National Animal Welfare Strategy – Summary of Consumer Research; APL Project Code 1954, Milestone # 2; 31st October 2003.

Consumer research[36] also shows that in regards to these consumer concerns, while they may be prepared to translate their concern into political action, do not necessarily translate into a preparedness to pay more for "animal welfare friendly" branded products at the point of sale. This is despite the fact that they may cost more to produce under different welfare systems. APL commissioned research[37] in 2004 into consumer attitudes, which found that consumers don't transfer a stated welfare position into similar purchasing behaviour, which refutes the frequently put position of animal welfare groups that consumers are willing to pay for more for "welfare friendly' products. Therefore, this potential cost impost would be borne by producers (and not shared through the supply chain). **APL argues that any proposed changes made by public policy to animal welfare standards that are based on opinion and perception rather than science and are clearly not financially sustainable nor recoverable from the market must be a cost borne by governments.**

Therefore, if industry profitability in general does not improve to sustainable levels, and given that Government policies in relation to market regulation are a key component of the problem, there is potentially a case to be made for Government financial assistance. This would assist producers to meet any new animal welfare requirements as part of a total industry restructure package.

4.9.1 Animal welfare initiatives

i. Educational Communications

Retailers in Australia, such as Coles Myer and McDonalds, have expressed concern about animal welfare issues due to pressure from animal rights groups and some consumers. APL has an active process of engagement with retailers in terms of education of production practices, quality assurance, research etc as well as two-way communication, and is putting in place a program of support for all retailers to help them deal positively with such consumer concerns. This is part of the development of APL's overall national animal strategy and will reinforce balance in the debate as well as promoting the message that Australian farmers care about their animals and the public can have confidence that the industry operates to high animal welfare standards.

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[36] Coleman, GJ; Hay, M and Toukhsati, SR; Final Report to APL for Project 1823, Consumer Attitudes and Behaviour relevant to pork production, 2004.

[37] Coleman, GJ; Hay, M and Toukhsati, SR; Consumer Attitudes and Behaviour Relevant to Pork Production; 2004

APL commissioned the production of an educational video / CD ROM to raise the reputation and image of the Australian pork industry, demonstrating the industry's ongoing commitment and leadership to improve pig welfare and it's professionalism in production methods from farm gate through the supply chain to plate. The primary audience for the video are Australian and state regulators and governments responsible for the animal welfare agenda, retailers, and media outlets, particularly metropolitan. The video is presented in forums to enable questions to be answered on the issues.. The video has been very beneficial in the education of people involved in the debate over sow stalls.

ii. National Animal Welfare Strategy

APL is currently developing a National Animal Welfare Strategy in partnership with APL's Animal Welfare Consultative Group[38] and with assistance from an experienced animal welfare consultant. A National Animal Welfare Strategy will enable the industry to determine its future path on animal welfare issues. Such a strategy will signal to consumers, the public, animal welfare groups and regulators that as a professional and responsible industry, we are committed to the use and development of farming systems that balance the husbandry requirements of producers and the welfare needs of livestock. The national strategy will incorporate retailers, human resources, labour issues, identify further research as well as auditing and benchmarking and quality assurance. We envisage that this strategy will be completed by mid June 2005.

In the interim, APL has developed a general animal welfare policy, which advocates the industry's strong commitment to animal welfare and outlines our position on animal husbandry practices based on sound science, industry and community consultation and education. This policy is available in Appendix H.

iii. Non-intensive production systems

APL has also initiated the development of policy and standards for pork reared in non-intensive production systems. We expect to have an agreed industry policy position and clearly articulated definition of such production systems e.g. free range. Following from this, we will be undertaking the development of associated standards and auditing and accreditation procedures to assist producers and retailers in taking advantage of niche market opportunities as well as helping producers meet a range of consumer specifications.

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[38] (need to state where representatives drawn from)

iv. Pig welfare research

APL and its' predecessor research organisation the Pork Research and Development Corporation (PRDC) has contributed a significant amount of funding to pig welfare research over the past five to seven years. During the first five years of operation of the Animal Welfare Centre in Victoria, APL contributed more than 50 per cent of the external funding received by the AWC amounting to approximately $1.3 million over 5 years. APL has also funded research into the area of consumer welfare attitudes and purchasing behaviour with respect to pork products as referenced in Section 4.9.[39] APL is currently funding a project at Monash University to develop teaching material for primary school children to develop an sound understanding of the pork industry and its production practices. Similar material is being developed for high school students who are studying agricultural subjects.

v. Cost Sharing Deed of Agreement on Emergency Animal Disease Response

APL is a party to the Animal Health Australia Cost Sharing Deed of Agreement on Emergency Animal Disease Response (EADR), which entails addressing potential disease threats that would have both animal health and subsequently welfare implications. Under the Cost Sharing Deed of Agreement, all parties acknowledge the need for a program of risk reduction measures, complimentary to the Deed, to reduce the risk of entry and spread of emergency animal diseases. These include implementation and maintenance of biosecurity measures at national, regional and individual premises levels. As defined by the Deed, "biosecurity" is a set of measures designed to protect the population from transmissible, infectious agents at national, regional and farm levels.

As required by our obligations under the EADR, APL has developed and is implementing a Biosecurity Standard for the industry, under the Australian Pork Industry Quality (APIQ) program. The Standard covers:

- Comliance with regulations prohibiting swill feeding
- People, animal and transport movements are recorded by the end of 2004
- Controlled entrance with hand-washing facilitates in place and farm boots and clothing are provided for visitors by the end of 2005
- Staff trained in emergency disease recognition by the end of 2005.

The standard has been sent to APIQ certified producers and APIQ Facilitators and Auditors, and workshops have been held for producers in the various states.

[39] [39] Coleman, GJ; Hay, M and Toukhsati, SR; Consumer Attitudes and Behaviour Relevant to Pork Production; 2004

Material on pig diseases is being reviewed and developed for appropriate training of producers in emergency disease recognition. Progress will be reviewed at a workshop of APIQ Facilitators and Auditors in March 2005.

Due to the potential for the spread of disease in high intensive farming and the associated animal welfare implications, controlled entry measures[40] are currently in place in many piggeries and are to be implemented by the whole pork industry no later than the end of 2004. These include maintenance of a record of all people, animal and transport movements onto farms, and secure areas for 'disinfecting' workers and visitors. The records are to be kept to assist with trace-backs in the event of an emergency animal disease outbreak.

vi. Illegal raids on piggeries

The Australian pork industry has been targeted by the animal rights movement, for a campaign against dry sow stalls. To date, there have been illegal raids at several piggeries by animal activists throughout all states in Australia. More are anticipated as the review of the Model Code progresses. These raids are clearly unlawful and often involve breaking and entering onto private property by persons who cite concern for the animals as their justification. In the intensive industries, regular trespassing by extreme animal rights and welfare groups poses a serious threat to both animal health and welfare. The same is also true of the extensive industries where recent crime statistics show that 27 per cent of broad acre farms have had some form of farm crime committed against them in the last year, with illegal trespassing the largest single crime.

Apart from the breach of various laws, unlawful entry onto piggeries involves breach of the biosecurity protocol. The potential for unlawful entry to cause a disease outbreak is obvious, and if this occurs the cost sharing arrangements and compensation procedure under the Cost Sharing Deed may well be activated.

APL has explored a number of legal avenues on issues ranging from trespass and producer recourse; biosecurity and the EADR; filming and photographs; TPA etc. To date all legal advice clearly indicates that the legal recourse available to both

[40] A 'controlled entrance' is a controlled area in which people may remove "dirty" farm clothing and boots on one side of a barrier, and change into "clean" clothes and boots and wash their hands on the other side. This controlled entrance applies to visitors as well as staff, with farm boots and clothing for visitors provided. It is intended to prevent the transmission of disease from visitors or staff from outside the premises into the premises. One of the primary agents for the spread of infectious diseases is contamination of clothes and boots and people moving between farms.

producers and APL (as their representative body) is extremely limited and unlikely to be successful. APL has also produced, with legal assistance, a hand out for producers concerning their rights and possible actions that can be taken with regard to trespass, filming and media harassment. It also outlines what producers should have in place and do if they are targeted by animal rights groups.

APL has written to State Government Ministers responsible for animal welfare and the state Chief Veterinary Officers regarding the need for heavier and enforceable penalties for illegal trespassers in order to protect the high health status of our piggeries and to ensure that the procedures under the Biosecurity Code of Practice are followed.

The current system of animal welfare regulation, which is administered by the state governments, complicates the animal welfare issue as this has resulted in inconsistent approaches. APL is seeking a harmonised approach to animal welfare, along the lines of the environmental guidelines.

4.10 Retailer power, contract negotiation & collective bargaining

4.10.1 Retailer Power and Market Failure

In APL's first submission we noted that the trend lines for retail prices have moved upwards on an ongoing basis, whilst the prices received by producers remain comparatively flat, implying chain intermediaries are making increased profits. A considerable challenge for the industry is the fact retail supermarkets are large organizations with considerable market power; the market is essentially dominated by two large retailers.

In negotiations with pig producers, retailers have a significant advantage in market power which may result in anti-competitive behaviour. This advantage in 'market power' allows supply chain buyers to exert a significant and sustained degree of control over price, product specifications, production methods, and supply volume. Market failure occurs because of the information asymmetry between seller and buyer. Suppliers often have little information on the price for which their produce is sold and the market supply and demand conditions. It is, therefore, difficult for them to assert a negotiating position that reflects the true market value of their produce. The dominance of two large supermarket chains creates downward pressure on prices throughout the pork supply chain. As a result, pig farmer's profit margins are eroded over time combined with a breakdown of profit sharing back down the supply chain.

DAFF noted in its Price Determination in the Australian Food Industry 2004 the 'lack of nexus between retail prices of products and the wholesale and farm gate prices for portions and carcasses'. This indicates that changes are required so as to ensure farmers receive prices that reflect market conditions.

This problem is further exacerbated by the strategy used by supermarkets to generate customer traffic that in practice is eroding margins down the supply chain to a level that is unsustainable. Australian supermarkets have traditionally utilised the sale of bacon as a means to attract foot traffic through their stores, since bacon has always been one of the top three to four items purchased by consumers. By attracting consumers into retail outlets to purchase bacon, retailers plan for the same consumers to purchase a range of other products at the same time. As such, bacon has been a product that has been exposed to regular catalogue and corresponding in store promotions to attract consumers into the stores. For this reason, bacon has historically been on promotion in some form each week with at least one of the major retailers. This has had the effect of commoditizing bacon sales, particularly the large volumes that are sold at the deli cabinet in a loose non-branded format.

The retailers use of the low margin bacon sale strategy to generate foot traffic and the subsequent unsustainable impact this has on pricing down the supply chain has been further exacerbated by the imports of raw materials for the manufacture of bacon. Since these have entered the market, the competing suppliers of bacon have reduced the price points they have offered to the retailers, who in turn have passed this on to consumers, placing further downward pressure on prices for the commoditized non-branded product. The product supplied from Australian pigs, therefore, has had to match these lower prices reducing returns for this product i.e. producing full rasher bacon represents approximately 30 per cent of the baconer carcase. A similar situation occurs with ham, although not to the same extent in terms of generating foot traffic and the legs used for ham also tend to come from a smaller animal than the baconer pig. This low margin bacon and ham sale strategy is further is proving unsustainable for Australian pig producers and, in turn, eroding the sustainability of the industry.

APL's draft Industry Restructure Plan entails a number of measures aimed at addressing various supply chain issues to increase cost competitiveness and ensure that increases in profits as a result of innovation and improvements in competitiveness are shared down the supply chain to producers commiserate with risk undertaken. These will be documented in more detail within APL's fourth submission to the Productivity Commission.

4.10.2 Possible Paths to a Fairer Deal for Farmers

The existing means through which pricing arrangements occur is recognised as a fundamental problem in the pig industry. Risk management is about effectively managing price volatility at both the input and output side: this, combined with the need to create new pricing arrangements in the industry, is recognised as a key pathway to the industry's future success and competitiveness.

There are three types of solutions to the problem of market failure in contract negotiations for pork products. These are:

- entering into a dialogue with supermarkets to improve corporate conduct
- government regulation of supermarket behaviour
- improving farmer's information and skills in contract negotiation.[41]

Regulatory solutions target supermarket behaviour. Regulatory solutions could involve changes to the Trade Practices Act strengthening the unconscionable conduct provisions, introduction of a mandatory or voluntary code of conduct, improving price transparency through surveillance or compulsory disclosure, and increasing the availability of collective bargaining.

However, regulatory solutions intended to benefit producers may also have an uncertain effect in practice. For example, collective bargaining – allowing producers to negotiate with retailers as a block – is one possible solution to the asymmetries in negotiating power and the lack of transparency in pricing arrangements. Anecdotal evidence suggests that most producers are exposed to the spot price market as processors and producers are generally reluctant to enter into long-term pricing contracts.

The voluntary Retail Grocery Industry Code of Conduct was introduced in September 2000 to address the issues of transparency, accountability and market returns. It has been disappointing in its ability to address these issues and provide a mechanism by which producers can ensure that they are receiving a fair price for their product. The National Farmers Federation is correct when it states that "...significant reform is [sic] needed to the existing Retail Code to ensure that farmers in eggs, meat and dairy industries can access the provisions of the new Code."[42] The new Code, in this instance, refers to the promise of the Government, if re-elected to introduce a mandatory Horticulture Code of Conduct and introduce legislation to give the ACCC powers to enforce this Code. **APL advocates that a mandatory Retail Grocery Code for the whole of retail grocery industry, and not just horticulture, should be introduced.**

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[41] This classification is borrowed from the NSW Farmers Federation, *Market Power Task Force Discussion Paper*, July 2004
http://www.nswfarmers.org.au/__data/page/3519/Market_Power_TF2_Paper.pdf

[42] National Farmers Federation News Release NR133/04 "A Win for Fruit and Vegetable Farmers" 5 October 2004

In June 2004, the Federal Minister for Agriculture announced new collective bargaining arrangements would be enshrined and predatory pricing clauses strengthened in legislation as part of a major package of amendments to the Trade Practices Act 1974 in order to strengthen Australian farmers hand in dealings with big business including the supermarkets[43]. The Dawson Review[44] recommended that collective bargaining be allowed for transactions less then $3 million, subject only to a simple notification process. The government accepted these recommendations and has introduced them in the *Trade Practices Amendment Bill 2004*.[45] Whilst APL welcomes this regulatory intervention, given information asymmetries will persist it is uncertain as to how this can be applied and used by the industry: what the take-up rate will be among producers, how much more effectively a group can negotiate, and if buyers will react by preferring to negotiate with single farmers. Whilst it is somewhat difficult to determine its value to the pork industry at this stage, APL acknowledges that it is a step in the right direction. APL advocates that these measures need to be strengthened so that they are practicable and workable.

4.10.3 Price Disclosure

As the pork industry continues to rationalise and consider vertical and/or horizontal co-ordination arrangements, there is a pressing need to establish market price discovery mechanisms to provide greater transparency of market pricing. Enhancing price transparency will encourage the development of long-term supply contracts ensuring greater supply chain stability.

APL notes that attempts at establishing a more open pricing arrangement between producers and processors has already been undertaken in the United States following the introduction of mandatory livestock pricing in 2001. The *Livestock Mandatory Price Reporting Act 1999* establishes a scheme to centrally collect pricing and market information on livestock contracts and distribute that information to producers and market participants.[46]

The effect of this Act is to require that:

- Information must be provided to the US Department of Agriculture on pricing, contracting for purchase, supply and demand conditions and production levels.

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[43] 'Coalition beefs up farmer, fisher and forester bargaining power, slashes red tape'; Media Release - Warren Truss MP; 24th June 2004

[44] The *Review of the Competition Provisions of the Trade Practices Act* January 2003, Recommendation 7

[45] inserting a new s93AB into the *Trade Practices Act 1995*

[46] http://www.ams.usda.gov/lsg/mpr/mprbackground.htm

- This information must be presented in a form readily understandable to producers, packers and other market participants.

The objective of this scheme is to:
- improve the price and supply reporting services of the Department of Agriculture; and
- encourage competition in the marketplace for livestock and livestock products.

The American experience in relation to negotiation of pricing arrangements between producers and processors in many respects parallels that of Australia. The most common form of price bargaining in the US involves animals being purchased under marketing arrangements, whereby neither the arrangements nor the final purchase prices are publicly disclosed. While some of these marketing arrangements are using publicly reported prices as a base, many use the base price plus a premium and a premium/discount schedule depending upon the quality of the carcass[47]. As is still the case in Australia, previous market price reports did not capture these pricing mechanisms.

The need for the legislation was justified based on two premises: it would provide more market transparency than the voluntary price reporting system, and that more market transparency was a desirable end result for society. In a more transparent marketplace, buyers and sellers have access to more information and can do a better and/or quicker job of finding or discovering a price that balances supply and demand.

The Act changed the voluntary reporting system for slaughter cattle, hogs, boxed beef and lamb. It requires meat packers meeting minimum average annual slaughter capacities to report detailed price and terms of sale data. The Act includes release of national and regional information on a daily and weekly basis for hogs (Azzam, 2003). Reports include prices and quantities and information on weights and cash and non-cash market purchases of livestock. Included are negotiated transactions (cash sales), forward contract and formula marketing arrangements (and terms of trade)[48].

The mechanisms used by the US for implementing the mandatory pricing arrangement appear to require some refinements in order to better achieve its

[47] The Livestock Mandatory Reporting Act of 1999; Cheryl J. Wachenheim; Associate Professor; Agribusiness and Applied Economics; North Dakota State University www.aaec.vt.edu/rilp/Policy%20Papers%20Market%20Intervention/Wachenheim%20Paper.pdf

[48] The Livestock Mandatory Reporting Act of 1999; Cheryl J. Wachenheim; Associate Professor; Agribusiness and Applied Economics; North Dakota State University www.aaec.vt.edu/rilp/Policy%20Papers%20Market%20Intervention/Wachenheim%20Paper.pdf

objectives. Comments have been made that even current mandatory price reporting 'likely contains insufficient information for those involved in such negotiations to adequately discern market conditions'[49].

It would appear that lessons can be learned from the US experience so as to better bring about the potential benefits of introducing such a scheme in Australia, in particular the ensuing benefits to consumers that result from greater market transparency and increased competition. APL recommends that the feasibility of such a scheme be investigated as a matter of priority by Government.

The manner in which a great many producers in both Australia and the USA sell their pigs further underlines the need for transparent pricing arrangements. Currently under 5 per cent of pigs are sold through the live spot auction markets. The majority of production in Australia is sold under moving price "contracts" which reflect the spot market prices. However, in this instance, the term contract is better explained as being a loose commitment to sell/purchase the pigs. Furthermore, there appear to be few barriers to exit from these arrangements. A relatively small percentage of producers are entering into what are commonly referred to as 'window' pricing contracts, whereby high and low price limits are set within the contract and the producer only incurs a percentage of the price increase or decrease when the spot market prices stay outside this band.

APL notes that 47.4 per cent of all pigs sold in the USA are done under of predetermined hog price formula, followed by 21.5 per cent in the spot market and 6.4 per cent in the futures market[50]. The remainder are sold through a various array of alternative pricing formulas, inclusive of different types of window contracts.

APL, through the Industry Restructure Plan strategy aimed at creating new pricing systems, is currently reviewing these different types of contractual arrangements and how they might be applied to the Australian pig meat market.

4.11 Labelling

Existing legislation regarding country of origin labelling has not enabled consumers to adequately identify the country of origin of produce they are purchasing, which in turn has restrained Australian producers from being able to

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[49] ibid

[50] Production and Marketing Characteristics of U.S. Pork Producers, 2003; Agricultural Economics Working Paper 2004-4; Christian Boessen; John D. Lawrence; Glenn Grimes.

properly inform consumers of the imported content of the processed and smallgoods. Consumers have a right to know what they are consuming and need to have sufficient information made available to them on which to base a purchase decision.

It is important that consumers are able to identify imported products and where and to what extent they are used in pork products in Australia. Within the current legislation, they do not have this option. For example, pork imports are used in further processing/manufacturing of hams, bacon and other smallgoods such as salami. These manufactured goods are sold in deli cabinets with no identifying labelling of the product. Businesses, therefore, have an incentive to not clearly label or identify the Country of Origin of the raw materials used in their manufactured product Businesses, therefore, have an incentive to not clearly label or identify the Country of Origin of the raw materials used in their manufactured product (or at the very least identification that the product contains x per cent imported product). In fact the current labeling requirements provide a disincentive for some businesses to provide the information to consumers since it removes their ability to promote the Australian component. This builds on consumer perception that they are consuming either a Product of Australia or a product that is comprised mostly of Australian product such as suggested by the label "Made in Australia". [51]

4.11.1 Consumer Confusion

According to the Australian Consumer Association (ACA), there is considerable confusion in Australia surrounding the TPA terms "Made in" and "Product of". They also cite a perception that Country of Origin Labelling (CoOL) is an indicator of whether a food product is safe. Australian consumers have indicated that CoOL information allows them to purchase Australian products as a means of supporting local products or businesses, or alternatively to avoid products from countries where they believe illegal or exploitative animal or human practices occur.

Increasingly, consumers are interested in country of origin since it influences their choices in relation to the protection of their own, and their families' health. During the BSE scare, for example, consumers were interested in how to avoid meat or meat products that were derived from UK cattle. While initially ridiculed as being an excessive reaction, the decision to take substantial care was a wise one, given the eventual recognition of the complexity of the vector for infection. The regulator subsequently used the country of origin indicators to assist in consumer recalls in early 2001.

Currently the label "Made in Australia" allows for significant amounts of imported raw materials to be sold in processed pork products to consumers under the guise of being of Australian origin. The result of this system is that consumers are unaware that such products are actually made from imported pork products.

Many consumers have difficulty accepting that a product is of Australian origin if it has less than 50 per cent local content. In this regard there is a significant difference between integrity from a consumer's perspective and integrity from a legal perspective.

Consumer confusion over the terms prescribed in the TPA are unlikely to be remedied by applying mandatory labelling to all food products. With the well documented confusion facing consumers in relation to "Product of Australia" and "Made in Australia", and with approximately 60 per cent of Australian pork destined for small goods manufacture, country of origin labelling is of even greater importance.

The confusion that surrounds "Made in Australia" and "Product of Australia" needs to be addressed by appropriate Government legislation; otherwise country of origin labelling must be introduced or at the very least labelling that clearly identifies the percentage of imported product contained within a good.

4.11.2 Industry Labelling Initiatives

i. HomeGrown Campaign

A direct way in which APL has sought to address the ongoing regulatory difficulties in relation to clearly identifying Australian product has been to seek a commercial solution i.e. the "HomeGrown" initiative. The 'Australian HomeGrown' campaign was initiated by APL in early 2004 in response to the growing volume of unlabelled source-of-origin produce, particularly in relation the 'Deli Section' of the large supermarkets. The campaign was also inspired by research undertaken by APL that showed most Australians assumed all produce is Australian grown.

The 'Australian HomeGrown' campaign aims to identify for consumers all food products sold in Australia that are, or made with, 100 per cent Australian home grown produce. The 'Australian HomeGrown' campaign is distinctive from the "Made in Australia" and "Australian Made and Owned" campaigns because it identifies produce or food products consisting solely of 100 per cent Australian grown.

Australian HomeGrown Pty Limited has been established, and the 'Australian HomeGrown' logo has been Trade Marked. Compliance guidelines for the use of the logo are:

1. 100 per cent Australian grown produce, i.e. grains, meat, seafood, dairy, fruit & vegetables that are grown in Australia or fished within Australian waters, or
2. Processed foods that are made with 100 per cent Australian grown produce, which are processed in Australia for human consumption.
3. Ongoing auditing will be conducted to ensure compliance with HomeGrown's Code of Practice.

The Federal Minister for Agriculture announced in early October 2004 that the Australian Government would provide matching dollar-for-dollar funding for the HomeGrown initiative. APL is currently in the process of attempting to gain the participation of all fresh produce industries and manufacturers using 100 per cent Australian home grown produce in the campaign, which will in turn enable them to display the Australian HomeGrown logo on their packaging and advertising. It is intended that the Australian HomeGrown Trade Mark will be established via a national advertising and public relations program.

APL envisages the HomeGrown as playing a key role in the Industry Restructure through the strategy aimed at enhancing consumer loyalty for 100 per cent Australian smallgoods. More specifically, APL hopes this campaign will contribute towards the achievement 85 per cent of smallgoods sold in 'dairy cabinet' and 45 per cent of smallgoods sold in the 'deli cabinet' being 100 per cent Australian.

4.12 Anti-dumping and Countervailing Actions – its not that easy in practice

Whilst an industry may have evidence that imported products are being either dumped or unfairly subsidised, successfully pursuing an anti-dumping and/or countervailing action is a time consuming, extremely complex and costly exercise, which can ultimately deter the initiation of legitimate defensive action by an affected industry.

In order for dumping or countervailing duties to be imposed, it must be established that dumped or subsidised goods are causing or are threatening to cause material injury to an Australian industry producing "like goods" to the goods under consideration. Obtaining evidence establishing that certain goods being exported to Australia are being dumped and that the Australian industry producing these "like goods" is incurring, or being threatened with material injury, and the material injury so incurred was caused soley by the dumped exports **is a significant and costly undertaking for any industry with no assurance that an investigation ultimately will be initiated.** This is reflected in the number of dumping and countervailing duty investigations initiated by the Australian Customs Service. For example, according to the Australian Customs Service's Annual Report, in 2003/2004 50 dumping applications were lodged and, of these, eight were rejected and 37 were withdrawn or terminated , **leaving only five applications out of 50 that were investigated.**

Under Australia's countervailing duties legislation, also contained in Part XVB of the Customs Act 1901, and under the WTO Agreement on Subsidies and Countervailing Measures, a countervailable subsidy, in relation to goods exported to Australia, is in substance, any form of government subsidy that is made in connection with the production, manufacture or export of those goods and which confers a benefit in relation to those goods. As with dumping duties, countervailing duties may only be imposed if it is established that the subsidised imports are causing or threatening to cause material injury to a domestic industry producing like goods.

However, it is important to note that while in principle such actions are available to an industry pursue and frequently advocated as an option by Government to industry , in practice it is very difficult and in some instances impracticable to do so. For example, it is often difficult to establish that indirect subsidies paid on inputs to manufacture to the goods being exported to Australia confer a 'benefit' on the goods being exported to Australia, such as a lower cost to produce and, consequently, a lower, subsidised price. (No doubt the Australian Customs Service can confirm this.) In reality, countervailing action are generally only applicable to direct subsidies.[52]

On the assumption that an organisation has evidence with which to pursue an anti-dumping and/or countervailing action, the substantial costs involved in pursuing such an action can, in effect, act as a deterrent to proceeding with such action. This evidence is built on an industry's ability and resources to collect, monitor and analyse pricing and subsidy arrangements in its competitors' markets; this in itself can prove prohibitive to taking such an action .

CONFIDENTIAL INFORMATION REMOVED

[52] See Section 3 for details on the value of these indirect subsidies to our competitors.

APL believes that there is a role for Government in assisting with tracking this information and collection and analysis of this data with respect to direct and indirect assistance measures, such as though key Australian Government departments developing monitoring mechanisms and ongoing analysis of direct and indirect subsidies and non-tariff barriers apparent amongst key competitor markets. This could be similar to the steel monitoring currently undertaken by the Australian Customs Service and reporting to a Monitoring Committee established in 2002 by the Ministerial Task Force on steel imports.

More specifically, there needs to be ongoing real time monitoring of domestic agricultural support programs (both at a national and sub-national level), including the evaluation of the benefits such support programs have on goods produced in those key competitor markets and exported to Australia. In short, appropriate mechanisms need be put in place at a governmental level to ensure Australian industries are able to take advantage of WTO sanctioned trade measures effectively and efficiently against exports that receive the benefit of overseas domestic support policies, whether in the form of direct or indirect subsidies or both.

Finally, the legislation concerning "like goods" (and its interpretation), needs to be made simpler. The issues raised here are not unique to the Australian pork industry but are a shared concern across many different sectors. The Government has the opportunity to be proactive and to engage industries to address this impediment to enabling industries to undertake actions where injury is being caused.

Specifically, agricultural industries, such as the pork industry, may be impeded from taking anti-dumping and/or countervailing duty against imports simply because what is being exported to Australia is a processed agricultural product that competes with processed agricultural products produced in Australia by upstream producers from raw materials supplied by Australian agricultural producers. Unless the raw agricultural product is devoted substantially or completely to producing the processed agricultural product and the processed agricultural product is derived substantially or completely from the raw agricultural product, then the agricultural producers could not be included in the dumping application under the existing legislative scheme. Rather, only the producers of the processed agricultural product could be included in the application as producers of like goods in such circumstances.

However, the producers of the processed agricultural goods may not be incurring material injury as a result of the import competition because they have simply shifted a fall in price in the domestic market due to the import competition back to the agricultural producers in the form of reduced prices for the raw agricultural goods used as the input to manufacture. While, as a consequence, the agricultural producers are incurring material injury, they cannot be included in a dumping application where the above circumstances prevail and this is what in fact has been occurring in the pork industry.

These trade issues relating to measures that can be undertaken by the Australian Governments are addressed in the draft Industry Restructure Plan proposed trade strategy detailed in Section 6.

4.13 Transport Costs Disadvantage

Anecdotal information from processors in Australia indicates that transport costs here are comparatively high, specifically in relation to the relatively higher freight to market costs in Australia compared to Europe or North America. APL has been informed that the cost differential is driven by higher transport distances, relatively higher fuel costs and smaller load frequencies in domestic distribution. This insight indicates potential merit in attempting to further cluster production nearer to processing plants.

In respect of grain transport costs, APL highlights the comments made in the Joint Industry Submission Group, of which APL's predecessor the Pork Council of Australia was member, to the Independent Review Committee that reviewed the Wheat Marketing Act 1989[53]. This submission stated that Australia has an inefficient and costly grain handling and transport system, and that the single desk marketing systems prevented effective competition and were the main reasons for these inefficiencies.

The submission pointed out that the AWB, as the monopoly export marketer of Australian wheat, orchestrates the entire supply chain and directs bulk handlers and rail companies on all facets of grain storage, handling and transport[54]. It was suggested that this environment discourages competition, innovation and change in grain handling systems. For example, there is little incentive for bulk handling companies to make investments in fast train loading or rail sidings that would reduce train cycle times and hence freight rates. The submission stated that in effect, one monopolist tells another monopolist what to do and they negotiate a price for the services to be undertaken. 'The bulk handlers and rail companies are

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[53] Joint Industry Submission Group to the Independent Review Committee that reviewed the Wheat Marketing Act 1989 under the National Competition Policy; August 2000

[54] Ibid

agents of, and service providers to, the AWB and do not have the flexibility to do other than what they are told to do'[55].

A key concern held by APL and also raised in the Joint Submission is that there is little incentive for rail companies to undertake reforms that reduce the operational costs of bulk handlers. Rail companies have, however, come under somewhat more competition from road freight and other reforms. 'These aspects are reflected in the trends in freight rates and bulk handling charges. Whereas freight rates have declined somewhat, bulk handling charges have generally risen, reflecting the lack of competition but also the greater number of wheat segregations demanded by the AWB. This is further emphasized by considering the general increase in wheat receivals. One would expect bulk handling charges per tonne to decrease as throughput increases'[56].

The transport disadvantages experienced in Australia are even more pronounced when considered against the fact that Australia has no standard rail gauge; i.e. an inability to cost effectively transport grain from the West, and as a result we are reliant on shipping and an antiquated road system to provide this mechanism.

4.14 Labour

The Australian pork industry has experienced ongoing difficulties in attempting to recruit appropriately qualified people at all levels of employment within the industry.

Producer consultations on animal welfare held around the country in March and April 2004 clearly showed the concern amongst many in the industry about the difficulties experienced with the recruitment and retention of suitable staff. These issues were also raised during APL's producer consultations meetings on the draft Industry Restructure Plan also held throughout the country in October and November 2004. Some producers have indicated that the recent financial crisis in the industry means they are not able to pay a competitive wage or attract appropriately skilled labour. Producers have also highlighted the lack of a skilled quality labour pool in many rural areas.

Also of concern to the industry is the increasing difficulty of attracting students to practice in the veterinary field of pigs. Sydney University veterinarian academic,

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[55] Joint Industry Submission Group to the Independent Review Committee that reviewed the Wheat Marketing Act 1989 under the National Competition Policy; August 2000

[56] Ibid

Dr. Trish Holyoake, has noted that students have a preference to practice in metropolitan areas in a small animal practice[57].

4.14.1 Labour Initiatives

APL has sought to assist the process of promoting the pig industry as a career through the production of the ONTrack Video which aims to encourage school leavers to consider working in piggeries as a career option. In addition, APL funds Undergraduate Training Awards (UTA). These awards are intended to encourage undergraduates to investigate areas of relevance to the pork industry that may also stimulate a longer-term interest in a research career. Research UTAs provide opportunity for individuals of high potential to experience research first-hand. By working on a research project for an extended period, students will be able to gauge their interest in undertaking further study. APL also funds postgraduate research scholarships, contributing to the training of general strategies that develop a broad understanding of the pig industry and of associated industries and agencies.

APL also supports of the numerous means through which the Australian Association of Pig Veterinarians (AAPV) attempts to attract undergraduate and postgraduate veterinarians to specialize in the area of pigs. Some of the approaches used by the AAPV include free membership for veterinary students; distribution of the AAPV members newsletter; and providing members with the opportunity to continue their education by gaining Australian Veterinary Association (AVA) Continuing Education Credit Points. In addition, the AAPV provides opportunities for members to meet with pig veterinarians from all over Australia at the annual AAPV Conference. APL has also provided funding for costs associated with arranging international speakers at AAPV annual general meetings.

[57] Personal communications

5 Past & ongoing industry initiatives to enhance competitiveness

A number of recent and ongoing initiatives, funded either jointly or individually by Government and/or industry, have been established as part of an effort to enhance the competitiveness of the industry. One of the most prominent initiatives has been the Australian Government funded Pork Industry Restructure Strategy in the late 1990s, a key plank of which was the National Pork Industry Development Program. (APL understands that these have been assessed in full by the Department of Agriculture, Fisheries and Forestry but due to the final reports containing commercial-in-confidence information about the grant recipients this version of the document has not been provided to APL).

APL is currently evaluating the effectiveness of past research and development projects that targeted enhancing industry competitiveness. This analysis will be provided in detail in APL' s third submission.

5.1 $24 million Pork Industry Restructure Strategy

During the late 1990s, the Australian pork industry faced increased pressure from globalisation, food safety, changing eating habits, technology developments and trade reforms. These factors combined meant that the industry faced increased competition from other sources of protein and imported pork. However, even during this difficult period there were new opportunities for the industry, including markets opening in Asia as a consequence of regional economic development and trade liberalisation through the World Trade Organisation[58].

In recognition of these challenges the Commonwealth Government developed, in partnership with industry, a $24 m Pork Industry Restructure Strategy. The aim of the Strategy was to act as a catalyst and assist industry to face these growing challenges, and make the necessary adjustments which would lead to improved competitiveness.

The Strategy consisted of four programs, perhaps the most important of which was the National Pork Industry Development Program (NPIDP). This program, which received $11.6 m of the total Strategy package, focused on improving market development and the international competitiveness of the Australian pork industry.

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[58] The National Pork industry Development Program – Project Outcomes for the Pork Industry; Department of Agriculture, Fisheries and Forestry; July 2001.

5.1.1 National Pork Industry Development Program

The implementation of the National Pork Industry Development Program (NPIDP) prompted a turnaround in the industry at a difficult time. It was particularly successful in securing new export markets and quality assurance. Other projects highlighted the barriers to efficiency and the need for further reform.

Funding approvals under the NPIDP commenced in July 1998, with 32 projects approved in the production, processing and retail sectors. An overview of these projects is provided in Appendix C. The approved projects had different focuses and varying degrees of success.

The successful NPIDP projects focused on boosting the industry's international competitiveness by making improvements in risk management, quality assurance, training, and market developments. Of these, the market development programs produced the largest measurable benefit to the industry. Pork exports to Asia increased markedly, due to the Confederation of Australian Pork Exporters (CAPE) and Singapore Market Alliance (SMA) program funding. These programs culminated in the March 2000 launch of the 'AIRPORK' brand in Singapore, which captured 90 per cent of Singapore supermarket product and 35 per cent of the total Singapore Market.[59]

Another significant area of success was quality assurance. The HACCP system is an internationally recognised, food safety system that assists producers to identify the hazards in their operations and to determine measures to control or eliminate them. The HACCP system has now become part of the voluntary industry-wide quality assurance program, APIQ, administered by APL and also the Australian Pork Export Quality Program (APEQ). Under NPIPD, funding was allocated to allow piggeries to become APIQ accredited and/or develop HACCP plans. Further details regarding APIQ and APEQ are provided later in this section.

Some projects also highlighted structural barriers to efficiencies. Training programs were successful in enhancing employee skills, but highlighted that a lack of skilled staff was impacting animal welfare, OH&S and quality assurance. The feed grains projects aimed to establish a formal coordinated approach to

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[59] p.19; Review of the Effectiveness of the National Pork Industry Development Program (NPIDP); conducted by Ernst and Young for the Australian Department of Agriculture, Forestry, and Fisheries (DAFF); 2000

reduce feed costs. However, producer training sessions were poorly attended and a feed buying group unable to secure lower costs.

5.2 Supply Chain Quality Assurance Programs

Two major initiatives APL has undertaken to address the issue of quality assurance along various stages of the pork supply chain are the Australian Pork Industry Quality Program (APIQ) and the Australian Pork Export Quality Program (APEQ).

5.2.1 Australian Pork Industry Quality Program

APIQ is an on-farm piggery quality assurance (QA) program designed to provide assurance to customers on food safety and the integrity of Australian pork. It covers seven standards: physical, chemical, biological, meat quality, management, biosecurity and welfare. The APIQ program underpins APL's marketing and other programs and is important to the future development and sustainability of the industry.

In respect of QA, APL is currently funding projects in areas of food safety viz: the investigation of on farm factors associated with the risk of Salmonella contamination of pork carcasses and pork products. In the area of antimicrobial resistance, APL has commissioned studies to determine the extent of antibiotic resistance, the methods of transfer of antibiotic resistance and the genetic patterns associated with resistance. APL has for many years funded research into pig welfare (as detailed in Section 4.9). Currently we are funding projects into methods of housing pregnant sows and into methods to assess welfare in pigs.

APL has a number of other ongoing initiatives to improve the performance and management of APIQ and other product integrity systems. It is seeking ISO 9001 certification of management of the APIQ program as a basis for more uniform implementation and audit of the program, and to improve office administration.

A product tracking project is underway to identify current systems for tracking pigs/ pork products from farm to load out at the abattoir, and implement modified tracking systems to support APIQ/ QA systems in the Australian pork industry. Additional phases may include systems for tracking product to wholesale and retail.

A project is also being initiated to provide an integrated platform for APL systems, to more effectively support domestic and export marketing, retailer and brand programs. This proposed project is also expected to greatly enhance the efficiency and effective management of APIQ and other programs through, for example, electronic data entry and a production of a range of management, compliance and performance reports. This platform seeks to integrate food integrity and marketing issues to serve as a strong base for supporting key market chain stakeholders.

Of concern to APL is the fact that the number of producers who are certified under the APIQ program has fallen significantly over the last 12 to 18 months, with approximately 410 producers currently certified out of a total or around 2,323 producers. The drop off in producer certification has occurred largely as a consequence of the difficulty and cost of implementing and maintaining piggery QA systems in an increasingly competitive marketplace. Greater attention and resources need to be given to APIQ issues, and quality systems issues generally, to ensure the program does not fail. Key targets that APL has set for the APIQ program include: 50 per cent of all pig producers, including all of APL's 50 largest members, to gain APIQ certification by 30 June 2005 with a 90 per cent re-certification rate; and major buyers of pigs to give preferred supplier status to APIQ-certified herds by June 2005.

APL is also concerned that a key program contributing to funding for APIQ training programs, the Federal Government's FarmBis scheme, virtually concluded in June 2004 and that the Government to date has not announced any future replacement funding. FarmBis has been a valuable means through which producers have been able to acquire relevant training towards becoming APIQ accreditation, including a number of programs that aimed to improve the business skills of pork producers throughout Australia. Consequently, until a replacement program is put in place by the Australian Government, this in effect can put in jeopardy APL's goal of achieving an ongoing broader uptake of the APIQ program by producers.

As part of an effort to streamline regulatory processes constraining industry expansion in 2003/04, the Australian Pork Industry's Quality Assurance Program's (APIQ) was significantly revised and simplified following consultation with facilitators, auditors, members and industry stakeholders. The animal welfare component was revised in conjunction with the Animal Welfare Centre of the Victorian Institute for Animal Science (VIAS). The new welfare standards were launched with the Victorian Government and Coles Supermarkets in July 2004. The APIQ requirements also include on-farm biosecurity standards that meet APL's obligation to the Australian Government under agreements for exotic disease management (as detailed in Section 4.9.1 (v)).

APIQ was promoted to major retailers in 2003/04 to encourage recognition through the supply chain and generate future market pull-through for product QA at farm level. Further to this, new APIQ manuals, with simplified requirements for producer members, were drafted in 2003/04 after extensive consultation with producers, facilitators, auditors and industry stakeholders, and extended to include more transparent welfare standards and new biosecurity standards. Regional clinics were run to educate APIQ members on these changes.

5.2.2 Australian Pork Export Quality Program

The Australian Pork Export Quality Program (APEQ) has been established to enhance consumer confidence in Australian pork products and secure valuable export markets for the future. It aims to achieve this by encouraging better supply chain performance, thereby consistently getting the product to the consumer in the best possible condition. The adoption of better supply chain performance is also likely to create increased value for supply chain partners. APEQ is a voluntary program that has been developed through a process of consultation with supply chain stakeholders.

The Program adopts a risk-based approach to the classification of supply chain sectors which ensures that requirements are commensurate with the level of risk associated with each sector. A specific manual outlines the membership requirements. The Program is relevant to companies in supply chains delivering Australian 'chilled pork' to end users in Singapore or Australian 'frozen pork' to end users in Japan, Korea and other markets.

The outcomes sought from the program include ensuring a satisfactory shelf life is achieved for 'chilled' pork and also 'frozen' pork; and protecting the reputation of the Australian pork industry in export markets.

6 Future industry initiatives to enhance competitiveness

6.1 Broad Aims

It is clear that there are key areas the industry must focus on in order to achieve a sustainable and internationally competitive and sustainable position for the medium to long-term. These include:

- Stabilising pork prices through supply chain integration and vertical alliances;
- Focusing on the fresh pork market;
- Producing heavier weight pigs and finding ways to add value to them through an expanded range of cutting and marketing options, including both domestic and export markets;
- Access to more competitive and transparent feed pricing, such as a trigger import mechanism, greater price transparency at times of grain shortage and also strengthening risk management options for farmers to assist them in managing the financial impacts of price volatility in key feed inputs, especially feed grains. These options should include consideration of the use of related financial derivatives for hedging of financial risk;
- Optimising labour inputs and increase labour market flexibility;
- Continuing investment in productivity improvements and product innovation;
- Maintaining Australia's current cost and marketing advantages in the areas of freedom from imported disease risks;
- Ensuring that environmental and animal welfare compliance requirements on the one hand are sound in terms of mitigating or averting adverse environmental and animal welfare consequences from pig production enterprises, but do not on the other hand act as an unnecessary barriers to the achievement and maintenance of competitive international positioning;
- Facilitating the orderly exit of unviable producers from the industry.

6.2 Draft Industry Strategic Restructuring Plan

APL has developed a draft seven year Industry Restructure Plan with the key objective of radically restructuring the pork industry and its supply chains to create a globally competitive and sustainable industry over the long-term that is able to take advantage of new market opportunities. This plan is currently being rolled out for national consultation across the supply chain and is expected to be finalized by February 2005. This draft plan is briefly outlined below; APL will provide in its final submission to the PC the details of this plan and its associated industry initiatives as well as areas that require government assistance and the type of assistance needed.

Broadly, the seven key strategies are as follows:

1. Increase fresh pork sales (sales & margins) both in the export & domestic.
2. Increase carcase weight (reduced costs right through supply chain)
3. Reduce feed costs
4. Create new pricing systems
5. Enhance animal health
6. Build consumer loyalty for 100 per cent Australian small goods
7. Trade measures – levelling the playing field

For this Plan to be successful, given that competition and efficiency issues confront the whole of the supply chain, it is imperative that it has all of industry support and commitment from producer to retailer. The aims of the plan include:

- Benchmarking and aligning the Australian pork industry's supply chain (from feed mill to consumer) costs and structures to leading pork producing and exporting nations' best practices.

- Significantly increasing consumption of fresh meat to capitalise on the value of the primal cuts as traded in the global pork market, by identifying and commercialising product specifications to profitably meet market demands.[60]

- Reducing the industry's key input cost, feed, by research and cooperative ventures with the domestic feed grains industry and by increasing the efficiency of feed utilisation as well as reducing price volatility through improved contracting arrangements and risk management.

- Targeting and developing new mainstream and niche export markets including those in Asia, North America, Europe and Australia through increased competition and product innovation.

- Improving the animal health status of the national pig herd with respect to endemic diseases to build on the industry's existing competitive advantages in domestic and export markets

60 Legs are valued at low levels around the world because more value is gained from the other cuts of the carcase. Markets for this type of cut are limited with Australia being a valued leg market for the Canadians and the USA. The industry therefore needs to match the value structures of its global competitors in order to compete with imported leg meat.

- o Work in partnership with Government through multi-lateral and bi-lateral mechanisms to redress the trade barriers to pork, in particular the subsidisation of pork meat consumption around the world, especially as applied by the European Union[61].

Fundamental to the success of achieving global competitiveness for the industry is the physical realignment of the supply chain to achieve greater efficiencies and cost margins. APL envisages that overtime the supply chain, driven primarily by market forces, will see:

- o Further alignment of production to the grain belt and to abattoirs; the need for producers to be located close to their feed source, in an environmentally acceptable region and to reduce transport costs.

- o Improved competitiveness of pork abattoirs through increased throughput; economies of scale; minimizing inbound freight; and further rationalization.

- o Improved boning room efficiencies with boning rooms located at targeted abattoirs to minimize freight costs; share overheads and service costs; enhance rendering returns and move to double shifts to increase asset utilization.

- o Retailers to improve efficiencies by eliminating expensive in supermarket butchering and through the supply of fresh retail ready products; the creation of strong alliances; and long-term contracting arrangements. There is also the onus on the pork supply chain to be a much better service provider.

APL has already initiated work programs in a number of key areas including the recent jointly funded $2m Government Industry Pork Market Improvement Program. The completion of this Program and delivery of its specified outcomes will provide a necessary and vital first step to increasing competitiveness across the Australian pork industry supply chain.

61 The subsidies that are present in the EU reduce the cost of pork meat produced in Europe and Denmark in particular are undermining the industry’s ability to revalue the carcase by gaining extra value from the middle of the pig.

6.3 Global Performance Study – Benchmarking international pork supply chains

A key part of the Pork Market Improvement Project (PMIP) is the Global Performance Study. The focus of this Study is benchmarking the Australian pork industry (production, processing and retail sectors), against world best practice. The analysis will have a particular focus on the supply chains for fresh pork. The study will include analysis of the pork supply chains specifically in the United States of America, Canada and Denmark as compared to Australia. The key outcomes sought from this project are documented below:

i. Global Pig Production Sector Analysis

The first part of the study will seek to identify global differentiation in the following:

- Production specifications and associated costs of production with a comparative analysis against pig prices received.
- A review of the structure of the pig production sector in each country.
- Researching pig husbandry/production techniques that achieve market specifications required by specified markets. This should include benchmarking of alternative on-farm QA programs.
- Quantification the economic impact of environmental, animal welfare and meat and bone meal requirements.
- An evaluation of the different grain access and support systems both direct and indirect, including WTO compliant arrangements.

The global pig production analysis will also identify product requirements in markets supplied by the identified countries, regarding such issues as allowances for GM grain fed pork, antibiotic use, PST and Paylean®.

ii. Global Pig Processing Sector Analysis

This part of the study will seek to identify global differentiation in the following areas:

- Quantifying costs and margins at each stage of supply chain including fixed and variable costs
- Pricing grids and preferred carcase specifications, including:
    - The payment system used in each country;
    - The locations and cutting points used for domestic specifications in each country.
- Other variations in processing practices, including:
    - Concentration and throughput of processing plants;

  - Devices used for grading carcases, how the data is captured and information feedback through the supply chain (up and down);
  - Food safety requirements.

iii. Global Wholesale & Retail Pork Cut Analysis

This part of the study will seek to identify global differentiation in the following areas:

- Consumer pork demand characteristics and market divisions between processed and fresh pork utilisation.
- Pricing practices and relative pricing between different fresh and processed pork products.
- Sales performance of specific pork cuts and the prevalence of new cuts or variations on existing cuts.
- Retail channel share and breakdown of fresh and processed pork and specific pork cuts.

The final Report is to be completed and delivered by the consultants to APL by end January 2005. Note that in relation to analysis of Australia's international competitiveness in the pig production sector, APL intends to include key findings from this Study in its third submission to the PC.

7 Conclusion & Recommendations

Whilst the Australian pork industry is currently facing a number of strategic challenges to its viability within its current structural and operating framework, comparison with international benchmarks suggests that the industry does have the fundamental capabilities to become truly internationally competitive. This view is supported by ABARE in its report on the "Economic assessment of the effects of pigmeat imports on the Australian industry" stating that the industry is well positioned to specialize in particular export and domestic market segments, provided the whole of the supply chain is restructured to achieve global competitiveness and efficiency.

Therefore, the key goal of all future policy considerations is how the necessary changes identified can be facilitated, to create further market opportunities and to enhance competitiveness, without restraining growth through unsustainable cost imposts throughout the supply chain. Clearly, there are both Government and private sector roles in assisting this process.

Injury from Imports: Safeguards

This submission has firstly identified and satisfied each of the requirements that must be met in order to justify the imposition of safeguards. There is a strong evidenced based case clearly showing injury to the industry from imports.

Recommendation 1:

> *APL recommends that the Productivity Commission should immediately recommend to the Australian Government that a safeguards investigation be established and that the first step of such an investigation should be the imposition of provisional measures to prevent further injury.*
>
> *APL also recommends that the Productivity Commission seek authority from the Government to alter the terms of reference of this Inquiry to enable it to undertake the Inquiry required by provisions of the WTO to determine if the conditions exist to impose safeguard measures*

APL advocates that failing this the PC recommend to Government that a safeguard inquiry is undertaken.

APL also advocates that the imposition of safeguards and that temporary controls at the border, which can be phased out over a defined period, are the most effective measures the Government can take to facilitate restructuring of the industry.

Recommendation 2:

APL recommends the most effective Government measure to be taken to facilitate adjustment is a four year safeguard import control as proposed in this submission. This will give the industry breathing space to restructure in an orderly way.

Recommendation 3:

APL recommends implementation of a provisional safeguard in the form of tariffs, for the allowable period of 200 days. The level of the tariff should be such as to immediately partially restrict trade, in particular proposing that a tariff rate of 85 per cent be applied on legs and 32 per cent for middles.

If a separate inquiry were to be undertaken into full safeguards measures, APL advocates application of a quota and a tariff, over and above the provisional safeguard proposed quota, which could be progressively reduced over time.

APL's analysis indicates that there is a strong basis for a quota being set at 2,458 tonnes per month for Canadian imports and 1,561 tonnes per month for Danish imports, based on the average of the past three years' imports of legs and middles.

Subsidies and Market Distortions in Key Competitor Countries

Of great concern to APL is the fact that there are numerous forms of subsidies apparent in key pork global trading nations, which whilst being WTO compliant, still have the effect of tangibly distorting the international pork market. Under these circumstances, the ability of the Australian pig meat industry to compete internationally will continue to be constrained, irrespective of the increased efficiency the industry is able to attain through its restructure.

Further, while in principle it is possible for an industry to take anti-dumping and/or countervailing actions for caused injury from imports, in practice it is very difficult, extremely complex and costly, and can ultimately deter the initiation of legitimate defensive action by an affected industry.

Recommendation 4:

APL advocates the Australian Government develop monitoring mechanisms and ongoing analysis of direct and indirect subsidies and non-tariff barriers apparent amongst key competitor markets, similar to the steel monitoring service undertaken by the Australian Customs Service.

APL also advocates that the legislation concerning "like goods" needs to be made simpler, to address a fundamental impediment, which ultimately hinders industries from undertaking anti-dumping and/or countervailing action, where injury is being caused.

Recommendation 5:

APL recommends that the Australian legislation concerning "like goods" needs to be made simpler.

Restraints and Growing Regulatory Requirements

Whilst the draft Industry Restructure Plan seeks to place particular emphasis on a number of key challenges faced by the Australian Pork industry, the industry is still faced with numerous restraints and a growing number of regulatory requirements. Some of the key issues in respect to these restraints and regulatory requirements are: feed grain security of supply and pricing; animal welfare and environmental standards; antibiotics, genetically modified organisms and meat and bone meal regulations; residue testing; pricing arrangements between producers and buyers; transport costs and labour constraints; labelling regulations and unfair trade practices.

- *Feed grain security of supply and pricing -*

  Both the pork and other intensive livestock industry's have expressed considerable concern as to whether there will be adequate supply of cost competitive feed, particularly in the eastern states and also during times of drought. A significant challenge for the pork industry in relation to accessing affordable cost competitive feed relates to concerns about the impact of the Government's policy regarding monopoly powers conferred by the AWB's single desk and the inter-relationship with the domestic grains industry.

  The problems with supply and demand of feed are set to be further compounded by the establishment of the ethanol fuel industry. The domestic supply/ demand balance for feedgrains is a fragile one, and it would be incorrect for government biofuel policies to assume that there is either a comfortable ongoing surplus, or that demand by ethanol producers could be met without serious knock on effects on existing users.

***Recommendation 6*:**

APL recommends that measures be introduced to minimise the impact of the single desk on feed supply during times of shortage, in particular a trigger mechanism for grain importation if the domestic industry is unable to supply grain because of drought severity.

APL is particularly concerned that Australian Government subsidies being provided to the development of an ethanol industry based on grains will substantially distort regional feedstuff markets and makes little sense given that it will come at the expense of the growth of existing livestock feeding industries.

- *Environmental standards* - The lack of uniformity in the application of piggery planning guidelines, environmental policy and regulations between states and within states at regional and local levels is problematic, with subsequent delays in construction of a new operations resulting in significant losses to local economies. APL has undertaken initiatives to address the impact of increasingly stringent environmental requirements including the development of national environmental guidelines for piggeries, programs to assist implementation of Environmental Management Systems (EMS), and also recent completion of the Renewable Energy Industry Development (REID) project.

Recommendation 7:

APL recommends reforms to planning and environmental regulations in the piggery approval process so as to reduce compliance and administration costs, especially for pig producers operating in more than one state.

- *Genetically Modified Organisms requirements* - GMOs are an emerging issue that could greatly affect the Australian pork industry. Current market demands indicate that this impact could be negative, at least in the medium term. Whilst potentially supportive of the introduction of regulations covering fully transparent product use, APL considers it vital that the costs of implementing a system to identify GM feed ingredients should not be borne solely by livestock producers. In anticipation of the emerging consumer requirements for GM information, APL has commissioned a study to schematically map the supply chains of stockfeed used for pork production.

Recommendation 8:

APL recommends the Australian Government should be more cautious and withhold support of the endorsement of GMO crops as animal feeds until the issues of consumer resistance, market concerns, segregation, costs, farmers rights, co-existence have been addressed. At the very least infrastructure issues should be addressed.

- *Meat and Bone Meal requirements* – There are indications that meat and bone meal (MBM) use may be in the near future limited banned. Since MBM is a primary source of protein, such action would have significant cost implications for the Australian pork industry. APL is opposed to any such a ban that is not made on any scientific basis.

  APL has recently commissioned a scientific risk analysis to analyse the relative scientific and economic risk of a number of potential MBM feeding options and the potential industry ramifications. APL's analysis of a potential ban indicates profitability would challenge the viability of the industry unless there was compensating support from other sources during periods of low returns and high feed costs.

Recommendation 9:

APL is opposed to any ban on the use of meat and bone meal that is not made on a scientific basis. The profitability implications of a ban could potentially challenge the viability of the industry unless there is compensating support from other sources during periods of low returns and high feed costs.

- *Antibiotic requirements* - APL does not endorse the use of antibiotics for growth promotion. APL highlights banning growth promoting antibiotics has an adverse cost impact on Australian producers (particularly in relation to the industry's ability to compete against North American pork product both domestically and internationally). Finding alternatives to antibiotics is therefore critical and it is imperative that APVMA speeds up of the registration of imported vaccines. APL is funding further research in order to reduce the industry's reliance on antibiotics, whilst APIQ standards also require producers having to meet minimum standards in respect of antibiotics use.

Recommendation 10:

APL recommends that the APVMA speeds up of the registration of imported vaccines so that the Australian pork industry can effectively investigate alternative antibiotics strategies (such as vaccination, probiotics, management etc).

- *Animal Welfare Standards* - With the review of the Model Code of Practice for the Welfare of Pigs, APL anticipates there will be increased costs of infrastructure and staff training to cope with any proposed changes to sow stall use. APL believes that the use of dry sow stalls is consistent with sow welfare and that any changes to the Code in this area would need to be supported by sound science as well as practical and affordable for producers to implement.

  Furthermore, based upon financial analysis, long lead times for adjustment are a priority for industry, with indications at this stage suggesting a lead time of at least 14 years as necessary.

Recommendation 11:

APL recommends long lead times be allowed for the introduction of new animal welfare dry sow housing standards so as to allow appropriate time for adjustment in the industry. Indications at this stage based upon financial analysis suggest a lead time of at least 14 years.

- Any proposed changes made by public policy to animal welfare standards that are based on opinion and perception and not science and are clearly not financially sustainable or recoverable from the market must be a be a cost borne by Governments. In such circumstances a case would exist for Government financial assistance to assist producers meet these new welfare requirements.

- It is equally important to recognize that the majority of imported product will not comply with Australia's new welfare standards and in effect provides countries with a cost advantage as compared to Australian producers; further eroding the industry's ability to compete with imports.

Recommendation 12:

APL recommends that welfare standards should match Australia's or at the very least there should be some form of labelling requirement to inform consumers what percentage of an imported products content was produced at welfare standards below those required by Australian producers.

- Animal welfare initiatives undertaken by APL include ongoing lines of communication with supply chain stakeholders, establishment of the National Animal Welfare Consultative Group, initiation of specific policies and standards for non-intensive production systems, funding of pig welfare research, APL's animal welfare obligations as a party to the Emergency Animal Disease Response Agreement and developing means of appropriately addressing the welfare problems relating to animal welfare raids.

- As the pork industry continues to rationalise and consider vertical and/or horizontal co-ordination arrangements, there is a pressing need to establish market price discovery mechanisms to provide greater transparency of market pricing. APL notes that attempts at establishing a more open pricing arrangement between producers and processors has already been undertaken in the United States following the introduction of mandatory livestock pricing in 2001.

Recommendation 13:

APL recommends that the Australian Government investigate in further detail the feasibility of Australia introducing a mandatory pricing disclosure scheme, similar to that currently in place in the USA.

Labelling requirements - Current country of origin labelling legislation has not enabled consumers to adequately identify the origin of produce they are purchasing. This has restrained Australian producers from being able to legitimately promote their Australian origin status. APL continues to pursue regulatory changes with respect to country of origin labelling, and at the very least is seeking labelling that identifies imported ingredients. In response to this APL has initiated the Australian HomeGrown campaign which identifies all food products sold in Australia that are, or made with, 100 per cent Australian home grown produce.

Recommendation 13:

APL recommends that country of origin legislation regulations be amended so that consumers can adequately identify the origin of produce they are purchasing. At the very least APL is seeking labelling that identifies imported ingredients.

A number of the restraints and regulatory requirements discussed in this section also fall under the banner of particular strategies within the draft Industry Restructure Plan. Whilst broadly covered in Section 6 of this submission, these issues and related strategies will be elaborated on in more detail in APL's fourth submission to the PC.

APL wishes to advise the PC that this is the second of four submissions our organisation will be providing to the inquiry. APL's highlights that the submission dates and topics covered in the forthcoming third and forth submission have been altered from that originally advised the PC. The third submission will be made in early December and will address in detail the competitiveness of Australia's pork supply chain relative to key international pork trading nations, APL's export strategy, and also an assessment of the effectiveness of past APL R&D programs aimed at improving the competitiveness of the Australian industry.

The final submission will be tabled at the PC public hearing that APL will be attending in January 2005. This will provide updated information on the specific initiatives APL intends to pursue as part of the industry restructure, particularly in respect of the proposed seven key strategies which include: increasing fresh pork sales (sales & margins); increasing carcase weight; reducing feed costs; creating new pricing systems; enhancing animal health; building consumer loyalty for 100 per cent Australian small goods; and trade measures. The final submission will also identify specific government assistance that will be required to enhance the competitiveness of the industry.

Appendix A – Summary of requirements for the application of safeguard measures under WTO rules

a. Type of measure applied

The SG Agreement contemplates the application of a range of trade measures as normal or full safeguard measures. It does not specify the type of measure. Article 1 states that that safeguard measures are understood to be "those measures provided for in Article XIX of the GATT." Article XIX allows for the modification or withdrawal of concessions which have been granted under the GATT by the importing party, or the suspension of obligations incurred by the importing party under the GATT. The SG Agreement expressly mentions tariffs and quantitative restrictions. The only measures prohibited are voluntary export restraints and similar measures. The latter includes export moderation, export-price or import-price monitoring systems, export or import surveillance, compulsory import cartels and discretionary export or import licensing schemes, any of which afford protection. It further states that members should choose measures "most suitable" for remedying injury and facilitating adjustment in the domestic industry (See section b below).

For provisional safeguards, the SG Agreement is more specific. Article 6 states that such measures "should take the form of tariff increases". It is not clear whether this requires members to impose only tariff increases as provisional safeguards, or whether other measures are also permitted. The word "should" as opposed to "shall" suggests that it may be possible to impose other measures. It is likewise not clear whether this would require justification or if so, the form of the justification required. In the spirit of the SG Agreement it would seem that the measure which is most effective in remedying the serious injury should be the one applied. It is possible that where this involved measures other than tariffs such as quotas or tariff rate quotas, then they could be applied as provisional measures.

b. Level and extent of measure applied

Measures must be commensurate with remedying injury and facilitating adjustment

There is generally no prescribed level for safeguard measures applied under the SG Agreement (with the exception of some quantitative restrictions, see below). Article 5.1 states that "a Member shall apply safeguard measures only to the extent necessary to prevent or remedy serious injury and to facilitate adjustment".

It states:

> *"A Member shall apply safeguard measures only to the extent necessary to prevent or remedy serious injury and to facilitate adjustment. If a quantitative restriction is used, such a measure shall not reduce the quantity of imports below the level of a recent period which shall be the average of imports in the last three representative years for which statistics are available, unless clear justification is given that a different level is necessary to prevent or remedy serious injury. Members should choose measures most suitable for the achievement of these objectives".*

Thus, as confirmed by the WTO Appellate Body in *US Line-Pipe* case, "the right to apply a safeguard measure…is not unlimited. Even when a Member has fulfilled the treaty requirements that establish the right to apply a safeguard measure in a particular case, it must do so 'only to the extent necessary."[62]

Recent WTO disputes cases have ruled that this requires Members applying a safeguard measure to ensure that the measure applied is "commensurate with the goals of preventing or remedying serious injury and facilitating adjustment of the domestic industry." This applies irrespective of the particular form of the safeguard measure."[63]

Although there is an obligation on members to ensure measures are applied only to the extent necessary (or remedy injury and facilitate adjustment), WTO cases[64] have ruled that there is no general procedural requirement to demonstrate this, or to provide a reasoned explanation, at the time the measure is applied. The ruling of the Panel in the *US Steel case* did state however that an importing Member may be required to justify the safeguard measures were necessary when challenged by a Member who has made a prima facie case of inconsistency with Article 5.1.[65]

WTO cases have also ruled that there is there is no requirement under the Agreement to consider adjustment plans before a measure is adopted.

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[62] WTO, United States – *Definitive safeguard measures on imports of circular welded carbon quality line pipe from Korea*, Report of the Appellate Body, WT/DS202/AB/R, 15 February 2002.
[63] WTO, *Korea – Definitive safeguard measure on imports of certain dairy products*, Report of the Appellate Body WT/DS98/AB/R, 14 December 1999.
[64] WTO, *Korea – Definitive safeguard measure on imports of certain dairy products*, Report of the Appellate Body WT/DS98/AB/R, 14 December 1999. WTO, *United States – Definitive safeguard measures on imports of circular welded carbon quality line pipe from Korea*, Report of the Appellate Body, WT/DS202/AB/R, 15 February 2002.
[65] WTO, *United States – Definitive safeguard measures on imports of certain steel products*, Final Reports of the Panel, WT/DS248/R, WT/DS249/R, WT/DS251/R, WT/DS252/R, WT/DS253/R, WT/DS254/R, WT/DS258/R, WT/DS259/R, 11 July 2003.

Nonetheless, they have stated that "examination of an adjustment plan in the context of the application for the safeguard measure would be strong evidence that the authorities considered whether the measure was commensurate with the objective of preventing or remedying serious injury and facilitating adjustment."[66]

Quantitative restrictions – further requirements

Quantitative restrictions may be imposed, but where they reduce imports below a certain level, they must be justified as necessary for the industry. Article 5.1 of the SG Agreement expressly states that when applying quantitative restriction as safeguard measures, the restriction should not reduce imports below the "level of a recent period", unless a "clear justification is given that a different level is necessary to prevent or remedy serious injury". The "recent level of imports" is defined as the "average of imports in the last three representative years for which statistics are available."

WTO disputes cases have interpreted these provisions such that if a member does impose a safeguard measures in the form of a quantitative restriction which reduces the quantity of imports below this level, it must provide a "clear justification" for the measure. The "clear justification" requires members to explain how and why the measure to be applied was necessary to remedy serious injury and facilitate adjustment of the domestic industry.[67] It must be provided at the time of the decision of the member, in its recommendation or determination on the application of the safeguard measure.[68]

WTO cases have affirmed that there is no need to provide such a justification of necessity for quantitative restrictions which do not reduce the level of imports below the noted level, except in accordance with point 3. b.i above.[69]

c. Scope of application

Article 2.2 of the SG Agreement states that 'safeguard measures are to be applied to a product being imported irrespective of its sources". WTO disputes cases have interpreted this to require that that measures be applied to the imports in question

[66] WTO, *Korea – Definitive safeguard measure on imports of certain dairy products*, Report of the Panel, WT/DS98/R, 21 June 1999.
[67] WTO, *Korea – Definitive safeguard measure on imports of certain dairy products*, Report of the Appellate Body WT/DS98/AB/R, 14 December 1999.
[68] *Ibid.*
[69] WTO, *Korea – Definitive safeguard measure on imports of certain dairy products*, Report of the Appellate Body WT/DS98/AB/R, 14 December 1999.

from all sources[70]. For example, a member could not apply safeguard measures to certain pigmeat imports from one country, but not another.

d. Duration of the measure

Article specifies that safeguard measures are to be applied 'only for only for such period of time as may be necessary to prevent or remedy serious injury and to facilitate adjustment." This must not exceed a four year period. It includes the duration of the application of any provisional safeguards.

The SG Agreement allows for measures to be extended beyond this, however mandates that the total period of application of the measure, including the application of provisional safeguards must not exceed 8 years. Extension may be provided under Article 7.2 only where the competent authorities determine that the measure continues to be necessary to remedy or prevent serious injury and that there is evidence the industry is adjusting.

Article 6 specifies that the application of provisional safeguards is not to exceed 200 days.

Article 7 also specifies that where measures are to apply for over one year, it must be progressively liberalized at regular intervals whilst applied.

e. Application to products previously subject to safeguard measures

There are some restrictions on the application of safeguard measures to products which have been subject to safeguard measures in the past. These are set out in Article 7. Measures cannot be applied to such products for a period of time equal to that for which the measure was previously applied. The period of non-application must be at least two years.

There is provision to reapply measures of 180 days duration to products previously subject to action, notwithstanding the above. This can be applied to such products if one year has passed since the last measure was introduced and, the safeguard measure has not been applied more than twice in the 5 years preceding the introduction of the measure.

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[70] See WTO, *Argentina – Safeguard measures on imports of footwear*, Report of the Appellate Body, WT/DS121/AB/R, 14 December 1999

f. Other obligations - maintenance of concessions

Article 8.1 imposes an obligation on members to ‘endeavour to maintain” equivalent concessions with exporting members affected by safeguard measures. It states that to

“achieve this objective, the Members concerned may agree on any adequate means of trade compensation for the adverse effects of the measure on their trade.”

WTO disputes cases have ruled that this provision imposes an obligation on Members to "endeavour to maintain" equivalent concessions with affected exporting Members. The efforts made by a Member to this end must be in accordance with the provisions of Article 12.3 of the SG Agreement, which provides fro consultations. In the *US Wheat Gluten* case, the WTO Appellate Body stated that in order to “endeavour to or maintain” an adequate balance of concessions, a member must as a first step, provide an adequate opportunity for prior consultations with affected members on the proposed measures.[71]

[71] WTO, *United States – Definitive safeguard measures on imports of wheat gluten from the European Communities*, Report of the Appellate Body, WT/DS166/AB/R, 22 December 2000.

Appendix B - Features of broader economic impacts of alternative assistance measures

a. Border measures

Both tariffs and quotas cause misallocation of resources, in that they do not allow free market forces to signal where resources should be used in the economy. A tariff or quota encourages resources towards use in industries protected by the measure at levels higher than would otherwise be the case. However, the two measures differ in economic and policy characteristics.

i. Tariffs

- Raise revenue for the Government;

- Are more efficient than quotas in that misallocation of resources is less marked – under tariffs, an increase in domestic demand for the import can be met by a change in the volume imported, with little or no change in domestic production. The domestic price will not rise by more that the import duty;

- Are less certain in the trade-restricting effects than quotas, reflecting the fact that trade may still occur with a tariff;

- Can either be by specific duties (i.e. a dollar value per unit imported) or an *ad valorem* duty (a per cent of the imported value). Specific duties are often preferred by Governments because *ad valorem* duties may be very high and prompt adverse reaction from consumers;

- Promote greater price stability than quotas, because the foreign supply of the commodity is more flexible, but;

- Their effect in restraining imports is not as certain as a quota.

ii. Quotas

- Raise prices for consumers - unlike under tariffs, an increase in domestic demand for the imported good simply raises the domestic price relative to the world price without limit. Foreign supply of the commodity is constrained by the level of the quota;

- Revenues go to whoever secures the rights to sell foreign goods in the domestic market. The allocation of licences to import goods within quota can be determined by a number of methods, and this will determine who receives the unearned income (or "rent") arising from the quota. An auction of quota rights by Government means the rents are competed away and rents go to the Government. If quotas are allocated to importers they receive the rents – if allocated to exporters, they receive the rents;

- Are a more certain mechanism for restricting imports because of their inflexibility.

b. Payments/incentives measures

- Do not raise prices in the same way as quotas and tariffs do;

- Spend Government revenue instead of raising it;

- Are transparent in their cost and are subject to authorisation in public expenditure budgets (although some forms of subsidy such a tax expenditures through for instance, depreciation measure are not as transparent as others);

- Are more uncertain for investors than tariffs and quotas precisely because they tend to have to be authorized on an annual basis and subject to public scrutiny;

- Provide less certainly to those interested in long-term investment in particular, which may have long lead times yet subsidies may be short term for the above reasons.

Appendix C – 1999 Pork Industry Restructure Strategy Projects & Other Pig industry Improvement Programs

i. National Pork Industry Development Program

- *Production / Processing Methods*

Performance of Pigs in Ecoshelters
The objective of the project was to examine the performance of pigs in deep litter group housing (ecoshelters). It aimed to overcome production problems some producers have experienced using ecoshelters. More research was required to provide definitive answers to the critical issues of feed efficiency, fat deposition and carcass damage.

Once Bred Gilt System
To define and develop a new production and mating system utilising once bred gilts which significantly lowers overall cost of production and adds value to meat derived from cull breeding stock. Further work was required on refining a production system utilising once bred gilts. Depending on gilt replacement costs, the age of mating of the gilt, and its subsequent reproductive performance, herd feed efficiency can be reduced by 0.25 units.

Common Carcase Classification
The objective of the project was to conduct an independent review of assessment alternatives and evaluation of equipment types, carry out an industry workshop to agree on a common approach and common standards for carcass evaluation and disseminate information to industry and promote the merits of a value based trading approach to the payment of producers.

Feedgrains (Reducing feed costs)
The objective was to establish a formal coordinated approach at industry level to reduce the cost of pig production via reduced feed costs. The project included four components: benchmarking of feed costs; the formation of a feed buying group; producer training in negotiation and risk management; and facilitators to drive the program.

- *Market Development*

Promotion / Marketing in Japan

The objective was to support the promotion and merchandising of Australian pork in designated Japanese markets over a 12-month period. The significant lesson from the project was the necessity to combine the different elements of marketing strategy to maximise the sales outcome. The combination of consumer promotion, trade promotion, in-store demonstration and sampling working together, ensured the success of the project.

Australian Bacon Market Development Program
The objective was to increase bacon sales through a market development program using a television advertising campaign in the major markets of Sydney, Melbourne and Brisbane in the period July – October 1998.

Australian Pork Promotion Program
The objective was to facilitate national television promotion of fresh pork as part of the Australian Pork Corporation’s fresh pork market development program. The consumer awareness and purchase of pork during the period of the promotion was greatly enhanced by the cooperation of the retail trade who significantly increased the number of advertised promotions through their stores.

Pork Market Development
The objective was to develop and promote pork products in retail outlets and provide industry with the opportunity to sell value-added, differentiated, Australian pork products. Prior to Christmas 1998 the NPIDP co-funded with Lenard’s the introduction of a range of Christmas pork products, and later, a range of “everyday” pork products into 90 Lenards stores. In 1999, a range of Lenard’s Christmas pork products were listed and pork has now become a small but continuing part of the Lenard’s range.

Pork Enhancement Program
The objective was to increase pork and smallgoods sales by developing and implementing a range of strategies for both the domestic and export markets.

Confederation of Australian Pork Exporters
$2.7m provided to fund the Confederation of Australian Pork Exporters (CAPE) to facilitate the marketing and promotion of Australian chilled pork overseas.

CAPE’s major objective was to build Australia's reputation in export markets as a reliable and competitive supplier of high quality pork, by significantly expanding exports to Singapore and Japan between December 2001 and June 2005. CAPE developed and launched the brand AIRPORK in March 2000. The AIRPORK media campaign and supporting marketing programs continue to be successful with exports to Singapore now in excess of $100 m per year (as at 2002/2003).

Singapore Pork Market Alliance Proposal
The objective build and market local networking initiatives and ensure product integrity and quality assurance through the supply chain. The project is closely linked to the National Network Alliance Program and the Confederation of Australian Pork Exporters. It aims to secure long-term market access for Australian pork products into the lucrative Singapore market.

- *Training*

Enhancement of Technical Skills in Product Preparation and Presentation for the Export Market at Bunge Meat Industries, NSW
To enhance the skills of current and new employees to meet the increase in pig meat exports and product requirements that arise from Bunge Meat Industries'(BMI) planned increase in exports.

Western Australian Pig Skills Training Centre
To establish a pig unit at the Muresk Institute of Agriculture for training, technology transfer and demonstration purposes. Training began in early September 2000.

Skills Audit at Burrangong Meat Processors, NSW
To conduct a training needs analysis to determine the skill levels of employees on the pig floor and its associated areas. The results of the needs analysis will be used to up-skill employees in preparation for the transition from a domestic pig-processing floor to an export-processing floor. The results of this project indicated that a number of training needs existed at Burrangong. This formed the basis of a subsequent Skills Enhancement Project.

Skills Enhancement at Burrangong Meat Processors, NSW
To enhance the skills of employees in preparation for the introduction of an export pork floor. Through delivery of Certificates II and III, employees now have a firmer grasp of Quality Assurance, Occupational Health and Safety and Hygiene and Sanitation. These elements are critical in a marginal industry such as processing where a wholesome product is vital.

Negotiation Skills Seminars for National Networks Alliance Program Members
Objective of Project was to improve the negotiation skills of National Networks Alliance Program members, via the "Negotiating to increase your Bottom Line" seminar presented by Mr Max Coulthard. This training will provide Alliance members with the skills required to effectively negotiate Alliance contracts. Negotiation skills seminars held for Alliance members.

- *Quality Assurance*

Watsons Foods Quality Assurance for Contract Growers
The objective was to assist contract producers fast track the implementation of Quality Assurance. All Watsonia contract bacon producers were audited to Level 2 of the Australian Pork Industry Quality Program.

CHM Alliance QA Program
The objective was to establish HACCP (QA level 2) at 23 piggeries in the CHM Alliance during 1999 as a stepping stone to ISO accreditation. HACCP Plans were developed, audited and certified in every member company of the Alliance for 20 out of the 23 sites.

Tasmanian Quality Pork
The objective was to enable a group of 11 producers in Tasmania, who have combined under the banner of Tasmanian Quality Pork (TQP), to address quality and food safety issues in line with APIQ Stage 2. All people participating in the project completed their formal training.

Auspork Supplier Level 2 Quality Assurance Program
The Auspork QA project was designed to accelerate the implementation of the industry QA standards on supplier farms to support the export drive by Auspork. Originally it was intended that 13 farms would be involved in the project but ultimately 20 farms were accredited to Level 2 of the Industry QA program.

- *Alliances*

Victorian Pork Alliance
To develop a strategic alliance to facilitate the adoption of best practice production, processing and retail procedures over an 18 month period.

National Networks Alliance Program
To facilitate the evolution of the Australian pork industry into a more profitable, vertically and horizontally coordinated, consumer responsive industry. The objectives of the Alliances ranged widely; from electronic trading between alliance members, to brand creation, to movement into export markets. In each and every case the endeavour that has gone into achieving those objectives has been both considerable and enthusiastic.

Supply Chain Contracts

To review the range of existing producer supply chain contracts and to develop a National Standards Guidebook for pork supply contracts. This will enable producers to produce customised contracts that are consistent with National Standards.

Development and Extension of an Operational Model for Producer Networking in the Australian Pig Industry
To contribute to the development of a template model for producer networking in the Australian pig industry and outline the benefits of production networks and implementation methods to Australian producers.

Assessment of the Infrastructure Requirements for Implementation of Producer Networks
To undertake a feasibility study of three network production systems which will be compared and costed to identify the most cost effective option for producer networking using existing pig production facilities. The project was instigated to assess costs associated with establishing separate site breeding and finishing pig facilities; to be used in conjunction with Networked or Alliance type business structures. Building costs were assessed and compared for a Greenfield site (new facility), and conversion of existing farrow to finish operations to single purpose function. The clear outcome of these investigations is that the conversion of existing facilities is the most economical option for the establishment of single function sites. The conversion option is approximately 50 per cent of the cost of the Greenfield.

- *Strategic Studies*

Risk Management for the Australian Pork Industry
To develop risk management strategies and practices to help producers to better manage production levels and returns. An industry discussion paper, 'Managing Variability and Uncertainty: risk management in the Australian pork industry' was produced, a National Industry Summit on risk management was held in Sydney in March 1999 and a handbook for producers, 'Managing Business Risks in the pig industry" was produced.

Benchmarking Study (Pork value chain compared to Western Canada
To carry out the next phase of a benchmarking study, comparing the value chain for pork in Australia with Western Canada.

Pre-feasibility Study on the Establishment of a WA Pig Processing Precinct
The study was undertaken to determine the practicality and viability of establishing new pig processing facilities in Western Australia. Special consideration was given to the concept of establishing a pig processing precinct in

the State to take advantage of economies of scale in processing, should the industry grow to a planned turnoff of one million pigs per year.

Developing Pork Industry Capability for Input to Regulatory Reviews
To carry out a review of the impact of regulations on the pig meat chain from producers through processors to retailers and exporters.
To progress two key issues from an earlier successful NPIDP project which examined the regulatory environment for the Australian pork industry. These issues are accessing feed grain at world parity prices and examining the potential for a pig meat processing regime separate from red meat.

i. 1995 QLD National Pig Improvement Program (NPIP)

The National Pig Improvement Program (NPIP) was established by the Queensland Department of Primary Industries in 1995 a means of evaluating and promoting genetic improvement in economically important traits.

In 1998, over 24,000 new performance records of pigs were collated and analysed using their own performance records and those from their parents to produce estimated breeding values (EBVs).

The National Pig Improvement Program (NPIP) is open to all herds in Australia. Like national programs in other countries genetic evaluation is restricted to purebred herds, although there is no requirement to register animals for herd book registration.

The improved performance by herds in the National Pig Improvement Program (NPIP) has increased producer profitability by $238 per sow per year for Large White herds in the years from 1993 to 1999. This represents an annual improvement in returns of $238,000 for a 1000 sow piggery.

Large White performance in 1999 for growth rate from birth to 92 kg was 640 grams per day with 11 mm backfat and 11.1 pigs born alive per litter. Improved growth rate, reduced backfat and an increase in number born alive has also been achieved in Landrace and Duroc breeds of NPIP herds

ii. PIGBLUP – A PC based genetic evaluation system

PIGBLUP is a PC based genetic evaluation system for pigs. Since 2001, PIGBLUP has been the engine behind the National Pig Improvement Program (NPIP) which provides across-herd EBVs for participating herds. PIGBLUP uses pedigree and performance data available from herd recording systems to derive Estimated Breeding Values (EBVs) for a number of performance and reproductive traits. The program displays genetic and environmental trends to monitor genetic progress and management decisions. It allows optimisation of selection for different markets and products through the $Index which combines EBVs into a single index using economic, production and marketing data.

Further PIGBLUP tools are the MATE SELECTION module to maximise genetic progress and minimise inbreeding and the GENETIC AUDIT which enables breeders to monitor the progress of their breeding program.

Appendix D - Government Assistance Programs to other Industries

i. New Industries Development Program (NIDP)

New Industries Development Program (NIDP) helps people in the agricultural, processed food, fisheries and forestry industries turn innovative business ideas into competitive, profitable and sustainable commercial ventures. NIDP encourages and supports Australian agribusinesses as they commercialise new market-driven products, services and technologies.

NIDP is one element of the Australian Government's national innovation strategy - Backing Australia's Ability.

ii. Export Market Development Grants (EMDG)

The Export Market Development Grants (EMDG) scheme is the Australian Government's principal financial assistance program for aspiring and current exporters. Administered by Austrade, the purpose of the scheme is to encourage small and medium sized Australian businesses to develop export markets. EMDG reimburses up to 50 percent of expenses incurred on eligible export promotional activities, less the first $15,000.

To access the scheme for the first time, businesses need to have spent $15,000 over two years on eligible export marketing expenses. The scheme supports a wide range of industry sectors and products, including inbound tourism and the export of intellectual property and know-how outside Australia.

In the 2003-04 financial year, $143.8 m and 3699 grants were paid to businesses under the EMDG scheme. For grants relating to the 2002-03 grant year (paid in 2003-04), the average grant was $38,591. Over two-thirds of businesses receiving EMDG reported annual income of $5 m or less.
In 2003, the Government introduced a number of refinements to the EMDG scheme, to better focus on small business and emerging exporters.

iii. Australian Beef Promotion Campaign

Provision of $5 m towards the Meat and Livestock Australia "Australian Beef Promotion Campaign" in Japan for market recovery following the detection of BSE in Japan.

Provision of $2.2 m in funding for the staging of Beef Expo in April 2003, and a further $3.5 m for the design and construction of a livestock exhibition and auction facility at the Gracemere Saleyards Complex near Rockhampton.

To build demand for Australian red meat, Meat and Livestock Australia (MLA) designs and delivers marketing programs tailored to market specifications. Programs target trade, retail, foodservice, government and consumers, with the overall objectives of increasing market access, market share and sales of Australian beef, sheepmeat and goatmeat.

iv. Lamb Industry Development Program

In 1999, the Government funded a two year, $6M Lamb Industry Development Program (LIDP). The allocation of funds to the LIDP was committed by the Federal Government following the US decision to impose tariff/quota restrictions on Australian lamb. The Program's key objective is to help ensure that by 2002, when US tariffs are lifted, the Australian lamb industry is in a stronger position, in terms of producer returns and lamb export value, than it was before the US imposed its restrictions.

v. Austrade Initiatives for New Wine Exporters - TradeStart

TradeStart is a national network of export assistance offices in partnership between Austrade and a range of local private and public sector organisations throughout Australia. Austrade and TradeStart offer a package of free services designed to assist small and medium sized Australian companies develop their business overseas and make their first export sale.

The program gives Australian businesses the best possible start to exporting, by providing a wide range of free services to new exporters including advice and information about getting into exporting, export coaching and assistance on the ground in foreign markets. The Australian Wine Export Council (AWEC) is a national provider of TradeStart services to the wine industry.

vi. Food Innovation Grants

Through the National Food Industry Strategy the Australian Government is providing $34.7 m under the Food Innovation Grants (FIG) Program to help industry develop innovative solutions to drive market expansion. FIG provides matching funding to food businesses undertaking R&D projects leading to commercialisation in the food business.

Food Innovation Grants will range in value from $25,000 through to $1.5 m. The focus is on addressing science and technical issues that will lead to a commercial benefit to your business and to Australia.

Appendix E - National Residue Survey Cost Increases

In the 01/02 financial year, expenses increased dramatically and a negative operating result of approximately $270,000 resulted in the reserve being depleted to negative -$31,215 at the end of the 2001/02 financial year. The main area of cost increase was in analytical testing fees (which increased by $142,000), following the change in laboratory being used for testing. As a result of the negative reserve position at the end of 01-02, combined with additional increases in operating costs (including DAFF's cost recovery), APL was forced in September 2002 to significantly reduce the testing program for the 2002/03 year from an original antimicrobial size of 1,200 to only 300, and from 150 to 100 samples for each of the other chemicals.

The reduction in the sample size was proposed and undertaken as an interim measure only (i.e. one year due to potential market access issues) to enable the industry to review its market access requirements (and therefore testing requirements) and future funding needs. The program for 03-04 followed the same numbers of 300 and 100. The NRS program sample size was increased to 300/300 to ensure market access requirements for the 2004/05 financial year, which required an additional contribution of $100,000 from APL corporate reserves. This has been proven to be financially unsustainable, even in the short term, and options for the 2005/06 financial year are currently being investigated. It is likely that the sample size will be once again decreased to 300/100 for financial reasons. It is important to note that while trading partners accept Australia's residue testing program, there is approximately an 18 month delay in reporting the final results of the testing program. However the ability of this reduced program to meet international market access requirements and to establish a bank of objective and statistically relevant data is now at risk.

Appendix F - Current GM status by country

Country	GM Regulation/ legislation	GM in animal feed
EU	Labelling of GE food in force since Sept 1998. in 2000 legislation passed to broaden the labelling requirements by including GE food additives for labelling. Currently a moratorium on new GE product approvals while EU is tightening its regulations.	No regulations yet for labelling GMOs in animal feed or meat, milk or eggs derived from animals fed on GMOs. EU drafted a '*Novel Feed regulation*" that will require labelling of GE feed by 2004
Japan	Mandatory review since April 2001. Mandatory labelling of 28 products where GE constitute 5 per cent or more by weight of the final product or among the three most important ingredients by weight. Star Link corn banned	Vendor declarations (commercial only) from producers that pig diets have been free of all GM ingredients
Hong Kong	Push for mandatory labelling rejected in Jan 2000. Retailers issued with voluntary guidelines in Aug 2000, with 5 per cent threshold.	
Korea	Mandatory labelling of food since March2001. Labelling of the top 5 ingredients or 3 per cent	Vendor declarations (commercial) from producers that pig diets have been free of all GM ingredients
Taiwan	Labelling regulation proposed Nov 2000 for mandatory labelling of all GM products. Initially for maize and soybeans with a 5 per cent threshold – then other agri-products.	
Singapore	Their GM Advisory Committee is looking into labelling	
Canada	Draft proposal released in 2001 to allow voluntary labelling prohibiting absolute labels or symbols. Threshold of 5 per cent for positive/negatives claims. Has mandatory labelling for Novel Foods that - differ in nutrition, chemical or toxicological characteristics from conventional - involves the transfer of genes from know allergens	
US	Voluntary draft guidelines released 2001 to label for characteristics, (nutrition or allergen) not process or GM origin. FDA is developing guidelines. States/local councils are passing legislation requiring labelling or regulation of GM production.	
Australia and New Zealand (FSANZ)	December 2001 release labelling rules for GM foods. – All GM foods – either as whole or as an ingredient must have GM status identified if modified material or protein is present in the final food. 1 per cent threshold for accidental contamination	GM feed ingredients not recognised. Labelling of meat produced from GM fed animals not yet required.

Appendix G: Subsidisation and Market Distortions in Key Competitor Markets

G1. Canada

At a federal level, the Canadian pig industry is supported by income support insurance and subsidized loans, which insulate producers from risk. The level of subsidization in Canada varies by province. In some provinces, such as Quebec which comprises 30.6 per cent of Canadian sows, subsidies are particularly high.

G1.1 Income Support Insurance

Canadian hog farmers receive substantial subsidies under programs that 'insure' against drops in income. These subsidies are not commodity-specific and aim to make farming more attractive by providing a guaranteed income. However, the effect of government funding is to subsidize the final product. Hog farmers received more than $100 m from 2000-2003. This equates to $4-$6 per pig[72].

The current Canadian income stabilization program is the Canadian Agriculture Income Stabilization Program (CAIS)[73]. This allows farmers in all industries to purchase insurance as a whole of farm guarantee, to protect themselves against lowered yield or price fluctuations that reduce overall farm income.

However, producers do not pay the true cost of insurance as they would if they sought private insurance. Farmers can choose an income protection level of 70 per cent -100 per cent of the government calculated income guarantee level. The government then shares the cost of insuring to that level with the producer. The government pays 80 per cent of the cost of insurance for the 70 per cent level, 70 per cent of the cost up to 85 per cent cover, and 50 per cent of the cost between 85 per cent and 100 per cent . This is a form of subsidized insurance in which farmers can guarantee against risk, but not have to pay the true value of that insurance that would be required privately.

As the CAIS program is new the dollar amount of the subsidy is as yet unclear. However, research recently undertaken by Dr Dermont Hayes of Iowa State

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72 Dermont Hayes, 'Subsidies Available Under the Canadian Income Stabilization Programs', National Pork and Producers Council, http://www.nppc.org/public_policy/Attachment2.pdf (accessed 6/9/2004);

73 A description of the program is available at Http://www.agr.ca/caisprogram/docs/html/2004/cais04hb.html#1.2

University[74][75] has modeled the price advantage of the CAIS subsidy. On a conservative model, he estimates the subsidy is in the range of $4 to $6 per head.

The predecessor of this scheme, the Canadian Farm Income Program distributed $136,593,079 *to pig farmers* in 2000-03.[76]

As a federation, national schemes may be supplemented by the provinces. The Quebec Agricultural Revenue Stabilization Program is another relevant subsidy.[77] The program seeks to guarantee producer incomes. When market-level prices fall below the amount needed to guarantee wages, the program distributes generous pig payments. The value of this program is estimated at a phenomenal $15 per pig.[78] In Quebec, pig producers have access to subsidized interest, have very low risk, and are insulated from market forces.

G1.2 Loans

The Export Development Corporation provides loans, provides insurance, and issue guarantee's on export transactions.[79] Loans and insurance are provided both to Canadian farmers and foreigners requiring finance to buy Canadian products.

The export development corporation is a government business and is not competitively neutral. It has a reduced tax liability, doesn't pay dividends, can receive government capital, and has advantages over commercial insurers and lenders. It therefore operates as a subsidy that distorts the market.

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74 Dermont Hayes, 'Subsidies Available Under the Canadian Income Stabilization Programs', National Pork and Producers Council, http://www.nppc.org/public_policy/Attachment2.pdf

76 National Pork Producers Council, Canadian Farm Income Subsidies, http://www.nppc.org/public_policy/Attachment1.pdf

77 Program website is www.raaq.gouv.qc.ca/index2.html (FRENCH)

78 Dermont Hayes, 'Subsidies Available Under the Canadian Income Stabilization Programs', National Pork and Producers Council, http://www.nppc.org/public_policy/Attachment2.pdf (accessed 6/9/2004);

79 http://www.edc.ca/index_e.htm

G2 United States

The agriculture food sector is the largest recipient of direct US government funding to the private sector. The US justifies support as necessary given the sector's inherent volatility and the protection used by its main trading partners. The main forms of domestic support include direct income support-payments, loans, and subsidized insurance.

US domestic subsidies were comprehensively provided under the Federal Agriculture Improvement and Reform Act 1996 (FAIR ACT). From 2002 this was replaced with a new Farm Bill 2002.80

As well as the regular program support under the Fair Act, supplemental assistance has at times been granted by Congress. Grains have been further subsidized and this may have a flow-on benefit for intensive farming by maintaining a strong local industry. National schemes are further supplemented by state schemes.

G2.1 Income Support

Section 32 of the FAIR Act (and now the Farm Bill) authorizes direct income support to be paid to farmers. However, there is no ongoing income support to pig farmers. Rather, income support has been limited to emergency payments during natural disasters or drought. Emergency measures have been inacted under the Livestock Indemnity Program and the Livestock Assistance Program. Under these programs USDA may purchase meats for domestic feeding programs to help strengthen prices.

Direct payments were made under the Farm Act in 1998-9 to small operators under the Small Hog Operation Payment Program. This provided $US 10 per marketed pig to producers who sold less then 2500 pigs per half year. These payments intended to help producers re-establish purchasing power.

Some states can also provide income support.

G2.2 Insurance

The Livestock Indemnity Program81 provides reimbursement to pig farmers who suffer livestock losses due to a natural disaster. The reimbursement is the market

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80 http://www.fsa.usda.gov/pas/farmbill/fbfaqhome.asp
81 http://www.fsa.usda.gov/pas/publications/facts/html/lip04.htm

value of the livestock loss, minus normal mortality. Some $500 m is available for this scheme.

G2.3 Loans and Credit Guarantees

Farm bill authorizes the Farm Service Agency (FSA) to provide direct loans and to guarantee private loans.

The FSA Farm Loan program guarantees up to 90 per cent of private loans to farmers to cover the cost of land purchase, infrastructure, equipment, and operating costs. Emergency loans are directly provided to allow credit to obtain a larger loan privately. Loans are provided to encourage new farmers to enter the industry.

The Farm Credit System establishes co-operatively owned financial institutions to provide a range of agricultural loans and insurance. This include finance for import and export of farm supplies, farm equipment and storage.

Export credit guarantee programs aim to facilitate sales of US agricultural products. For those seeking to import from the US there is an 'export credit guarantee program' guaranteeing private loans for 3 years and an 'intermediate export credit guarantee loan' covering private credit for 7 years. This program guarantees 5.5 billion annually.

G2.4 Export Promotion

Three export promotion programs – the Foreign Market Development Program, the Market Access Program, and the Emerging Markets Program – are funded by the US government. The Market Access Program is also partially funded by producers and exporters. For pork, the value of these programs is 3-4 million US annually.

The Foreign Market Development Cooperater program attempts to promote exports through market research, trade servicing (advertising) and technical assistance (food processing or storage requirements).

G2.5 Export Enhancement Program (EEP)

The EEP was announced by USDA on May 15, 1985, and is operated under authority of the Agricultural Trade Act of 1978 as amended, the Uruguay Round Agreements Act, and the Federal Agriculture Improvement and Reform Act of 1996. Consistent with its export subsidy commitments under the Uruguay Round Agreement on Agriculture, the United States has established annual ceilings by commodity with respect to export quantities and budget outlays. The commitment to respect the quantity ceilings became effective July 1, 1995; the commitment to respect budgetary outlay ceilings became effective October 1, 1995.

USDA operates the EEP to help U.S. Exporters offer commodity prices that are competitive with those offered by other subsidized suppliers. Since its inception, EEP has played a major role in the export of many agricultural commodities, including frozen pork products. Under this program the USDA pays cash to exporters as bonuses, allowing them to sell products in targeted countries at prices below the exporter's cost of acquiring them.

This program is intended to counter the domestic subsidization of programs in the European Union and elsewhere. However, it adds to the distortions in an already distorted world market.

G2.6 Feed Grain Subsidization

The Farm Bill includes a commodity-specific scheme in relation to feed grains for intensive livestock industries. The effect of this scheme is to encourage the supply and provision of feed grain. This is an indirect subsidy on the US pork industry, as the cost of grain is the major cost in pork production.

Producers of wheat, rice, and feed grains (corn, barley, oats, and grain sorghum) benefit from direct payments, counter-cyclical payments, the commodity loan program, disaster assistance, and subsidized crop and revenue insurance. With full planting flexibility introduced in the 1996 Farm Act and retained in the 2002 Farm Act, many grain producers, who previously had to maintain their grain acreage to preserve commodity program benefits, could shift to other crops. Wheat is eligible for export subsidies under the Export Enhancement Program (EEP) program, but has not received EEP bonuses since 1995. Barley exports received a onetime EEP bonus in 1997. Average tariffs on grains and grain products are low.

Export subsidies for grain amount $50 per ton

G3. European Union

Denmark, a member of the European Union, is responsible for half of the total imports supplied into Australia and is a key competitor in export markets. However, European Union pig production is a highly distorted market. The main forms of market distortion are subsidies to European farmers, and tariffs on imports. The main types of subsidy are export refunds and private storage aid, provided under the Common Agriculture policy. These subsidies encourage over-supply of local product for export and insulate the industry from risk and competition.

After the Doha Development Agreement in August 2004 announcements of reforms of CAP have been announced. These will reduce the value of domestic support. Additionally, Australia has been successful in getting export refunds discontinued. However, the subsidization of the European pig industry is still comparatively high

G3.1 Mechanisms for Support

Prior to the Agenda 2000 reforms undertaken by the EU, the basic price for pig meat was fixed annually and there was significantly more intervention in the market as a result. Now the basic market or benchmark price for the possible introduction of intervention for a pig carcase has been fixed indefinitely at €1509.00 per tonne (approximately A$2,64782). This reduces the flexibility of the European Union to activiate subsidization in the form of export refunds and private storage (see below) at will.

However, when and significant and sustained drop in price below the 1509.00 per tonne occurs, then subsidization mechanisms can be authorized.

In relation to pig meat, the major forms of support are storage and export refunds.

G3.2 Export Pork Refunds

EU traders exporting to countries where the price of pork is lower than the EU price are subsidized through the 'export refund' system. Refunds aim to help European producers 'compete on world markets,' but more often than not are set below any world price to enable EU product to be priced lower than competing product.

The EU has indicated a willingness to negotiate a reduction in export refunds.83 Given this, it is notable though that the European Union gave heavy export refunds on pig's this year.

G3.3 Crisis Pork Subsidies 2004

On 27 January 2004 the EU introduced pork subsidies that it felt were necessary to avert a crisis caused by a low euro, high feed prices, and low consumer demand. Such subsidies protect the industry from risk, encouraging inefficiency, and distorting markets.

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[82] 20/10/04: Euro 0.57 = A $1

83 WTO Report, WT/TPR/S/136 p72 para 109

These export subsidies are set at 40 euro per 100 kg for pork carcasses and cuts, whether fresh, chilled or frozen, and 25 euro per 100 kg for pork bellies, whether fresh, chilled or frozen.

The subsidy is intended to encourage exports from the European Union and thereby reduce the over supply in that market. This enables Danish exporters to lower their prices to Australia by AUD$0.40 per kilogram, allowing them to reduce their Australian landed price by around 8 per cent , giving them a greater unfair price advantage. In addition, having the means to lower prices through the availability of subsidies will lead to a further increase in low priced, subsidised Danish exports to Australia causing irreparably injury to the Australian pork industry.

The refunds were withdrawn in March 2004 when the European Commission announced that the pricing crisis had been averted and that producers could look to improved market conditions, due particularly to the BSE crisis in Japan-US relations. However, export refunds may be used in the future and this recent usage indicates that the EU is still willing to use this market-distorting mechanism.

Prior to these subsidies, some 76000 MT received a subsidy in 2002.

G3.4 Storage Scheme:

There are two types of storage schemes in the European Union. If market prices fall below a set price, the EU may authorise the public buying-in and storage of pig meat. This measure has not been used for over a decade. Alternatively, private grants may be made to allow private storage of pig-meat. These mechanisms are commonly used in the EU.

Private Storage is the main internal market support operating in the pork sector. When the market is weak and prices are low, private storage aids may be introduced to temporarily remove surplus supplies from the market. The effect of private storage aid is to hold domestic prices up, thus insulating pork producers and maintaining production. It also provides a storage subsidy to packers and product remains available for export at the end of the storage period.

The pig meat management committee decides on the rates of storage aid payable, the eligible cuts and the length of storage period to be offered. The EU support for this scheme covers both the storage costs and interest losses.

Private Storage Aid was re-introduced in December 2003, with some 85 000t having been taken off the market under this scheme. This arrangement continued until late January 2004. Depending on the length of the storage period and on the type of product concerned, the cost of the measure is estimated at around €30 m ($A 49m[84]).

Private Storage Aid is an obstacle to the entry of Australian product because it insulates the local industry from risk, and gives the local industry a degree of local price control through controlling supply.

The effects of private storage aid are felt not just in the local market but also gives the EU a competitive advantage over Australia in export markets. The ability to control supply gives a particular advantage in Japan, a net importer of pork. Japan uses a gate price system. Pork imports priced above a set gate price pay only a 4.3 per cent tariff. However, pork imports priced below the gate price also pay a duty to the government covering the difference between the import price and the gate price. Japan has used safeguard measures to temporarily increase the gate-price and the 4.3 per cent tariff.

The European Union is able to withhold product during this time. Due to private storage aid, they can provide product only when the gate price is lowered.

Private storage aid distorts the global market for pig products as well as the local market conditions.

G3.5 Arable Grain Support

Grain compromises the majority of cost in pork production. An indirect subsidy of the EU pork industry are the lower grain prices that result from the high degree of subsidization to the grain industry.

Grains are covered under the regime for arable crops. All grain produced within and imported into EU countries (wheat, barley, corn, rye, oats, sorghum, other minor grains, and some grain products) is covered (rice is covered under a separate regime).

Subsidies to arable crops have recently been reformed by EC regulation 1251/1999. This decouples support payments from the amount of grain produced.

However, a support system is still in place which involves the granting of area-based farmers aid and a set-aside requirement. Farmer support payments are made based on the area planted with arable crops, or set-aside for arable crops.

84 Based on A$1 = Euro $0.61

The size of payment per area is calculated with reference to the average per tonne yield for the area.

Although this decouples support from production, it is still an extensive subsidy on the production of grain. This has flow on effects to the pork industry, reducing the EU cost of production.

G3.6 Promotion of EU products

The European Commission has an established fund providing grants for the marketing of EU agricultural products in export markets. Currently, there is only one grant for pork. Denmark was awarded 2 million Euros over three years to market pork in Japan. Danske Slagterier (the Danish pork producers association) has provided matching funds.

By publicly funding the promotion of pork in export markets, Denmark, the world's largest exporter of pork, gains an indirect subsidy and is advantaged over other competitors.

Grants are made under the scheme each year and, conceivably, more funds may be allocated to pork in the future.

G3.7 Tarriff Rate Quota's

The following Common Customs Tariff amounts apply to pig meat products:

Pig meat Product	Rate of Duty as Euro per 100 kg net)	$A equivalent85
Fresh, Chilled, or Frozen Carcass or Half-Carcasss	53.6	94.03509
Hams with bone in	77.8	136.4912
Shoulders with bone in	60.1	105.4386
Fore-ends and cuts	60.1	105.4386
Loins with bone in	86.9	152.4561
Bellies	46.7	81.92982
Boneless meat	86.9	152.4561

To give a context to these rates of duty, in 2003 the Average Community price for pig carcasses was 127.3 Euro per 100kg. The duties therefore impose a price burden on imports, and make it difficult for external producers to create a product at a price that will be competitive.

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[85] Based on A$1 = Euro $0.61

It should be noted that the European Union maintains a tariff-rate quota for pork of 87,000 tonnes. For pork, products that are imported under license within the quota pay only half the rate of duty. The quota is based on cut of meat. However, the pork tariff quota has not been filled for some time. The reasons for this are likely to be varied. However, it may reflect that the real barrier to entry is not just the tariffs, but the subsidization and support of the local industry. Even when the tariff is halved, it is difficult for external products to be competitive due to the range of market barriers.

G3.8 Other Forms of Assistance

European union measures also include export credits and guarantees, and indirect assistance as market development and export promotion.

There is also national, regional, and local aid. This aid is expected to cover insurance, risk-management, and disaster support. State aid by the Member states is estimated by commission at ECU 95 billion annually (95-7) or 1.2 per cent of community GDP

Value of Subsidization

European Agricultural Guidance and Guarantee Fund, expenditure on livestock and meat

	1994	1995	1996	1997	1998	1999	2000	2001
PIG MEAT	416	143	125	479	239	327	354	379
Export refunds	259	118	101	72	75	275	262	268
Private storage	22	18	18	n.a.	n.a.	46	92	111
Exceptional market support	135	7	6	407	164	6	0	0

Source: European Commission

G4. Japan[86]

Pork is the most popular meat in Japan and Japan is a net importer of pork, however free competition is prevented by the maintenance of the otherwise uncompetitive local sector and strict border controls.

The Japanese pork industry faces difficulty with international competition because of higher production costs. Japan does not produce grain so feed grains must be imported. Japan's labour costs are high due to high minimum wages. Large-scale operations are limited due to the limited land available.

This industry is supported by market price support, income support and insurance to protect from risk. Competitors are regulated through a gate price system and tariffs.

G4.1 Market Price Support

Japan sets a standard stabilization price for pork annually. When market prices fall below this price, the government can act to raise this price by reducing supply. Actions include government pork purchase, subsidies for the disposal of breeding cows, and subsidised freezing of pork.

In 1999/2000 a new pork storage program was introduced to co-ordinate the stabilization of supply and so bolster wholesale prices.

86 Kakuyu Obara, John Dyck and Jim Stout, Pork Policies in Japan, Electronic Outlook Report from the Economic Research Service, Washington, 2003 available online at http://www.ers.usda.gov/publications/ldp/mar03/ldpm10501/ldpm10501.pdf
ABARE. 2001. Agricultural Trade Policies in Japan; The Need for Reform. Research Report 01.5

G4.2 Income Support

However, the usual response to drops below the annual standard stabilization price is direct income support. The Regional Pork Production Stabilization fund is run by pork associations in prefectures, and the scheme varies. The fund is largely funded by local government contribution. However, to be covered local farmers must sign up their herd by paying a per-hog levy.

Each prefecture sets a support price each fiscal year, which is lower then the market average price. When monthly wholesale prices fall below the amount compensation is paid. The support price and the amount of compensation paid to cover the deficiency varies by prefecture.

The prefecture funds are supplemented by the national Regional Pig production stabilization fund project run by the Ministry of Agriculture Forestry and Fisheries (MAFF), if there are inadequate resources to cover the deficiency payments and certain criteria are met. This allows income support to continue over a very long period, distorting the risk to which Japanese pig producers are exposed and the responsiveness of the industry.

G4.3 Insurance

The Japanese government will provide insurance for pig farmers, with coverage of 20-40 per cent to 80 per cent of on-farm loss. Farmers only pay 60 per cent the cost of this insurance, with government providing a subsidy of 40 per cent of the value of the insurance. The government payment is split between the national, prefecture, and local governments and the scheme varies by local government. The national government guarantees the scheme, promising to pay more in the case of a crisis causing a industry-wide downturn.

G4.4 Border Measures

Most pork products are subject to tariffs: pig meat is 4.3 per cent , offal 8.5 per cent , and processed pork ranges up to 21.3 per cent . Japan's tariffs on other meat products are considerably higher. These tariffs are allowed under the special safeguard provision.

However, the gate price system is the major barrier to free competition. The national government sets a gate price. Pig imports priced above the gate price require the Japanese importer to only pay the tariff of 4.3 per cent . However, imports priced below the gate price require the Japanese importer to pay a duty to the government covering the extent of the difference. In this way, there is no advantage to Japanese importers in seeking competively-priced products below a certain price. However, this system is exploited by packaging higher priced cuts with cheap cuts to create shipments below the gate price. This is still a distortion of the free market that skews the types of cuts imported and limits the amount of lower-cost cuts that can be imported.

G4.5 Safeguards

Safeguard measures under the WTO have been used by Japan in the case of pork in 1995 to 1997 and from 2001 on. These measures took the form of temporary tariff increases and raises in the gate price.

The temporary halt in the use of safeguard measures from 1998 to 2001 was a result of Taiwan's, the largest exporter to Japan, outbreak of foot and mouth disease halting exports. This reduced the flow of imports and so the availability of safeguard measures under WTO.

Appendix H - APL Animal Welfare Policy

1. Australian Pork Limited (APL) takes animal welfare as seriously as the community at large. It has a strong commitment to animal welfare and is constantly working towards improvements in this area.

2. APL is working on behalf of the country's consumers, as well as pig farmers, to ensure that pigs are raised in a humane and healthy environment that is in line with The Code.

3. The Code was developed following extensive consultation with industry, animal welfare groups and state and federal governments and is reviewed regularly. APL fully supports the review process. APL will be a party to the review scheduled for 2003.

4. The industry is continuously improving the health and welfare of pigs. APL has committed substantial research funds, amounting to $1.126 m over five years, to on-going scientific research in this area, including the provision of training for industry personnel in aspects of husbandry and welfare, an area well recognized as critical to good animal welfare.

5. We are a professional and responsible industry committed to the use and development of farming systems that are world class in the husbandry and welfare of livestock and based on sound science. As a food producing industry, Australian pig farmers must pay attention to the welfare needs of their stock to meet food quality and safety requirements, a key determinant in the sustainability of their farm business.

6. APL actively encourages pig farmers to seek accreditation under APL's independently audited on-farm quality assurance program (APIQ), which includes animal welfare practices based on The Code. Approximately 57 per cent of all Australian pig farmers are currently registered with the APIQ program.

7. Individual housing of sows in stalls, as endorsed by The Code, is just one example of the different housing systems used by the Australian pig industry. Stalls enable appropriate management and care of sows to meet their individual feeding and monitoring requirements and address the most important aspects of animal welfare.

8. The industry is cognisant of community views and industry trends and is open to changes in husbandry practices that consider science-based research, industry and community consultation and education.

9. Animal liberationists who invade farms in search of evidence of cruelty, can actually breach biosecurity controls and threaten animal welfare as well as public health. The industry has made significant steps in implementing a biosecurity code of practice – a program of risk reduction measures to reduce the risk of entry and spread of animal diseases - as required under the Cost sharing Deed of Agreement in response to Emergency Animal Disease response.

10. APL does not condone cruelty to livestock in any form. Further, APL recognises that the RSPCA is the appropriate authority in Australia to investigate, in conjunction with experienced veterinary practitioners, any concerns or allegations about the welfare and care of livestock.

11. Australian consumers can have every confidence in the animal welfare standards applied by APL members.

By endorsing this policy and maintaining APIQ accreditation, APL members demonstrate their commitment to pig farming methods that meet both animal welfare needs and accepted community standards as identified in The Code.