

AUSTRALIAN
**FOOD &
GROCERY**
COUNCIL

AFGC SUBMISSION

EXPOSURE DRAFT
EXPORT CONTROL BILL 2017

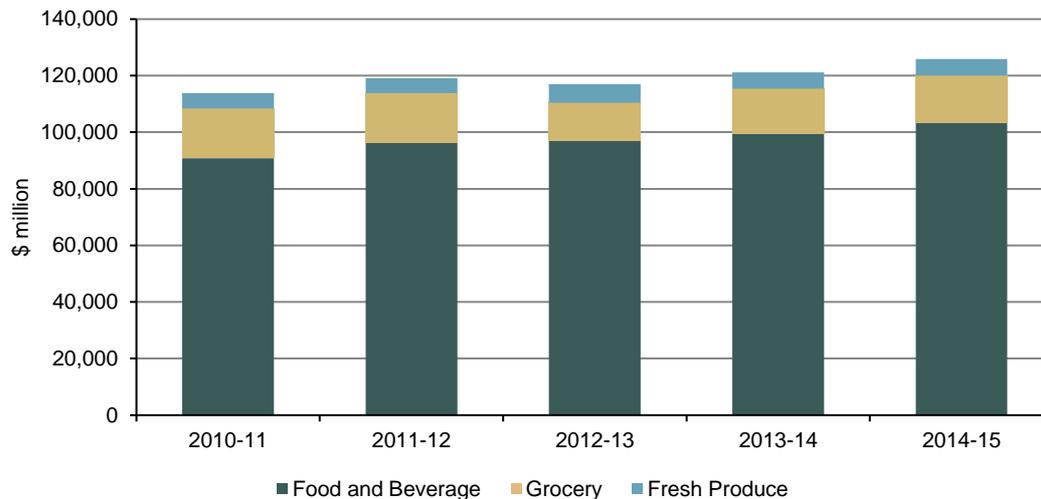
Sustaining Australia

PREFACE

The Australian Food and Grocery Council (AFGC) is the leading national organisation representing Australia's food, drink and grocery manufacturing industry.

The membership of AFGC comprises more than 180 companies, subsidiaries and associates which constitutes in the order of 80 per cent of the gross dollar value of the processed food, beverage and grocery products sectors.

Composition of the industry's turnover (\$2014-15)



With an annual turnover in the 2014-15 financial year of \$125.9 billion, Australia's food and grocery manufacturing industry makes a substantial contribution to the Australian economy and is vital to the nation's future prosperity.

Manufacturing of food, beverages and groceries in the fast moving consumer goods sector is Australia's largest manufacturing industry. Representing 33.3 per cent of total manufacturing turnover, the sector accounts for over one quarter of the total manufacturing industry in Australia.

The diverse and sustainable industry is made up of over 27,745 businesses and accounts for over \$66.6 billion of the nation's international trade in 2015-16. These businesses range from some of the largest globally significant multinational companies to small and medium enterprises. Industry spends \$541.8 million in 2011-12 on research and development.

The food and grocery manufacturing sector employs more than 307,000 Australians, representing about 3 per cent of all employed people in Australia, paying around \$16 billion a year in salaries and wages.

Many food manufacturing plants are located outside the metropolitan regions. The industry makes a large contribution to rural and regional Australia economies, with almost half of the total persons employed being in rural and regional Australia. It is essential for the economic and social development of Australia, and particularly rural and regional Australia, that the magnitude, significance and contribution of this industry is recognised and factored into the Government's economic, industrial and trade policies.

Australians and our political leaders overwhelmingly want a local, value-adding food and grocery manufacturing sector.

SUBMISSION

The Australian Food and Grocery Council (AFGC) provides this submission in response to the Department of Agriculture and Water Resources (DAWR) Exposure Draft of a proposed *Export Control Bill 2017*.

In summary, the AFGC supports the legislative measures proposed. In particular, the AFGC –

- (a) Welcomes the simplification and rationalisation of the existing web of interlocking legislation and legislative instruments with a single Act and subordinate Rules promulgated by the Secretary to DAWR;
- (b) Strongly endorses the proposed broad capacity for governmental certification of goods for export;
- (c) Endorses the options for enhancing product traceability;
- (d) Supports the increased use of third party accreditors to introduce competition and improve timeliness of accreditation;
- (e) Agrees that there is a need for a more modern suite of compliance and enforcement options within Australia's export control regime; and
- (f) Welcomes the promise of regulatory responsiveness and flexibility.

However, the AFGC recognises that the proposed legislation is, of necessity, expressed in general terms of powers, functions and authorisations, meaning that the detail of the regime, and whether its goals of efficiency and responsiveness can be realised, is to a very great extent the domain of the Secretary's Rules, the details of which are yet to be made public. The AFGC's endorsement is thus subject to the DAWR fulfilling its commitment to consult openly and in detail on these proposed Rules.

The AFGC accepts that the cost/benefit analysis undertaken in relation to the *Exposure Draft* appropriately reflects the modest impact of what is, in essence, a framework for an export regime, rather than the regime itself. Again, this highlights the need for appropriate cost/benefit analyses as the Secretary's Rules are developed.

In making this submission, the AFGC is conscious of the issues arising from the delegation of essentially legislative powers to a non-elected officer whose functions are executive and administrative. The AFGC notes that the Rule-making power proposed in this instance is subject to Ministerial direction, and that Rules, being legislative instruments, will be subject to the *Legislation Act 2003* in relation to questions such as tabling subject to disallowance, consultation and sunseting, all of which provide safeguards in relation to the exercise of the proposed Rule-making power.

That noted, the AFGC emphasises that the consultation provisions in the *Legislation Act* are not comprehensive and a failure to consult does not affect the validity of the final instrument. The Exposure Draft does not appear to set any additional consultation requirements in place. Given the somewhat novel proposals for administrative Rule-

making, the AFGC considers that formal consultations with affected stakeholders and a public statement of reasons, costs and benefits should be a requirement prior to any Rule-making by the Secretary, except in the case of emergency situations (in which case consultations and publication can take place subsequent to the Rule-making). These two additional measures should improve the transparency and accountability of the Secretary for any exercise of the Rule-making power.

As a final comment, the AFGC is concerned at the increasing prevalence of non-tariff trade barriers (NTBs) imposed on international trade. The AFGC considers that continued Australian advocacy for less restrictive international trade must remain a Governmental priority. The point is raised here because the flexibility proposed for Australia's export regime, while supported by the AFGC, must not undermine Australia's opposition to illogical and unnecessary NTBs sought to be imposed by Australia's trading partners. The fact that such measures could, under the proposed arrangements, be readily reflected in Australia's export requirements does not mean that they should be so reflected, and the ability of the scheme to be responsiveness must not become a rationale for failing to defend Australia's trading interests.

The AFGC, with these few caveats, welcomes the significant reforms proposed in the Exposure Draft and considers that, with some amendments to improve transparency and accountability, the legislation sets in place a flexible framework for export control that will serve Australia well into the 21st Century.
