

APPENDIX C:

THE BEEF LANGUAGE AND EXPORT MARKET ACCESS

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CONTENTS

OVERVIEW	03
IMPORTING COUNTRY REQUIREMENTS FOR BEEF DESCRIPTION	04
ROLE OF INTERNATIONAL STANDARDS AND THE WORLD TRADE ORGANISATION (WTO)	06
OTHER PRODUCT QUALITY STANDARDS	08
REFERENCES	10

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OVERVIEW

The achievement and maintenance of export market access for beef is ultimately dependent on meeting the differing requirements of importing country authorities. These official requirements include:

- Meeting animal health conditions (e.g. that the exporting country is free of specified animal diseases able to be transmitted via beef);
- That the beef/beef product meets food safety standards (e.g. that it has passed veterinary ante- and post-mortem inspections);
- That each consignment of beef/beef product is accompanied by official certification in a format accepted by the importing country authorities; and
- That an accurate trade description is applied to the product and is reflected in the official certification accompanying the export consignment.

Failure to comply with any of these official importing country requirements places continued market access at risk and has, increasingly, seen major exporting countries introduce a quality-assured systems approach to assist in demonstrating on-going compliance with these key measures. Under these quality systems approaches, there has been a trend for governments in beef exporting countries to maintain their direct involvement in systems delivering food safety outcomes and to enforce trade description outcomes through verification of industry and third party quality systems. In particular, Australian authorities officially recognise the AUS-MEAT product description language and associated accreditation and verification controls.

The current situation relating to product description controls is in marked contrast to that prevailing before the 1980s in Australia. Under the then regulations for

export meat, provisions existed for the appointment of official graders and quality standards were specified under Schedules to the regulations. These included quality descriptors for beef, such as “first”, “second”, “third” and “manufacturing” types. In general, markets required beef to be graded and labelled as to its quality type. However, since the 1960s, market needs began to rapidly change with the emergence of the US market for boneless manufacturing beef and the lessening importance of the UK market for carcass beef. As the US Meat Import Law required imported meat consignments to be inspected at import to establish not only compliance with health and hygiene requirements, but also with US labelling requirements, much beef was described in clear as “boneless” or “bone-in” with further descriptors in code (as agreed by industry organisations). This approach avoided the need for import inspectors to verify cut or other product descriptors as true to label, but left industry to resolve product claims with or without recourse to independent arbitration.

The beef language currently used in the Australian meat industry thus reflects its long and successful history in serving a large number of export markets and may be said to be characterised by an approach which allows the accurate and verifiable description of product to a level of detail required by a customer, be that detail minimal or exacting.

Clearly, the challenge for a future beef language is one of accommodating evolving consumer-driven demands for accurately described product (including product attributes of an increasingly diverse nature), while facilitating value adding as product moves through the supply chain. A particular challenge for the language will be to retain the ability for it to simultaneously operate in either a more or less regulated environment. These and other drivers will be further discussed in this paper.

IMPORTING COUNTRY REQUIREMENTS FOR BEEF DESCRIPTION

Understanding the range of current requirements of importing countries for describing beef is important in gauging the acceptability to particular importing country authorities of any significant changes to the Australian beef language.

In general, Australia's exports of beef fall into two broad categories, namely: a) packaged ready for consumer sale; and b) beef intended for further processing prior to its sale to consumers. In the first case, the importer is essentially a distributor of finished product and needs to ensure that the product is accurately labelled in accordance with applicable national (and, possibly sub-national) laws. The importer may elect, if required, to directly seek label approvals from national (and/or sub-national authorities) or require the beef exporter to obtain such approvals. Labels need to use the language or languages required for the importing country concerned.

In the second case, the importer and/or exporter need to ensure the packaging of the beef for further processing is labelled so as to comply with the requirements of the importing country. As with the first case, the accuracy of labelling may or may not be directly verified during the import clearance process, but is likely to be checked against product descriptions entered on official health certificates accompanying the consignment. The importer also needs to supply such additional information about the product as may be required by the further processor. This additional information may be in the form of official health or other certification issued by exporting country authorities, certificates issued by third parties ("Halal" or "Organic" certifying bodies), declarations/certificates issued by the packer/exporter of the consignment, or laboratory certificates of analysis relating to the product. Additionally, it is not unusual for a supply contract between an exporter and an importer to contain detailed specifications (cut type, weight range, fat cover, chemical lean) which are verified by the importer and, if out of specification, may result in a commercial claim. The information conveyed by these various means for each

consignment provides a basis for accurately labelling beef products derived from the consignment.

The general experience of Australian beef exporters is that product accurately described using the basic and/or alternative categories under the AUS-MEAT language can access the majority of export markets. The basic categories of bovine meat, utilising dentition (as an indicator of age) and sex (in the case of entire males), are "veal", "beef", and "bull". Dentition and sex (including presence or absence of secondary sexual characteristics) is used by the AUS-MEAT Language to describe some 11 alternative categories of "beef" and some 3 alternative categories of "bull".

For some export markets (e.g. Canada), it has been necessary to enter into formal processes (i.e. letters of agreement, memoranda of understanding) at a government-to-government level to obtain recognition of the equivalence of the AUS-MEAT Language and/or the basic categories of beef, as defined under Australia's export meat legislation, to the legislated provisions of the importing country. In the majority of cases, it is apparent through custom and practice that bovine meat when described in accordance with the basic and alternative categories of the current Australian beef language enjoys recognition as meeting importing country product description requirements. This circumstance prevails despite the existence of different beef carcass categorisation systems (e.g. where ossification and not dentition is used as a determinant of carcass age) in some importing countries and, in the majority of cases, in the absence of formal equivalence agreements on a government-to-government basis.

Despite the AUS-MEAT Language for bovine meat enjoying broad acceptance across export markets, there remain a few markets (e.g. Chile) which require carcass categories to be determined by government-appointed or accredited graders and for carcass categories and derived cuts to strictly accord with their legislated requirements.

In the case of Chile, a government-to-government Memorandum of Understanding has been finalised which recognises the equivalence of the AUS-MEAT Language and the official Australian government accreditation and oversight of AUS-MEAT arrangements for provision of carcase classification services on behalf of government. A number of other countries (or country groupings) recognise that Australia's legally-based recognition of the AUS-MEAT Language and the formal arrangements for the auditing and general oversight of AUS-MEAT Limited as equivalent to the direct provision by the Australian Government of an official carcase classification system.

Such recognition provides Australian beef exporters with considerable flexibility in securing access to markets requiring an official carcase classification system. It follows that to contemplate changing existing AUS-MEAT oversight arrangements would not be without risk to currently enjoyed levels of export market access. Additionally, the existing arrangements would assist in managing the possible future introduction of stricter, consumer-driven oversight requirements by importing country authorities.

A further area of exception to the generally favourable level of acceptance of Australian approaches to beef product description by importing countries, relates to special requirements for imports of specified categories of beef to certain markets. A contemporary example is provided by exports of "high quality" beef to the European Union (EU). In order to supply this category of product under the EU quota, Australian authorities needed to secure formal recognition of a specially designed grain-fed beef specification together with detailed oversight and certification arrangements.

A number of other markets are sensitive to labelled claims for "organic beef", "bio-dynamic beef" or similar descriptors and require that an equivalence determination is reached as prior condition for market access. For some markets, government-to-government certification attesting to official oversight of the preparation of the "organic beef" is required. Likewise, claims about livestock feeding regimes made on labels (e.g. "lot fed", "grass fed", "grain fed") need to meet agreed standards, often under approved arrangements of oversight. In some

cases standards need to be agreed on a government-to-government basis, while in other cases prior label approval must be obtained from the relevant importing country authority. Consignments of these products may need to be accompanied by specified official certification or by declarations made by the exporter/packer.

As beef marketing becomes more competitive and responsive to consumer demands, it is likely that many more types of labelling claims (also described as "product raising" claims by the marketing sector) about the attributes of beef will enter into use. Such claims can be expected to extend to methods of cattle husbandry (including their perceived animal welfare benefits and, in some instances, their perceived human nutritional/health benefits) and to meeting environmental standards during cattle raising and/or processing into beef. Other examples of raising claims for beef in current useage include geographic indicators of origin (e.g. "King Island Beef") and breed of origin (e.g. "Angus Beef"). As with certain other labelling claims governments, driven by a need to meet consumer expectations, can be expected to require that labelled information not be misleading and for claims to be verifiable. These circumstances will, in turn, lead to the need for the development of underpinning standards and the possible referencing of such standards by statute.

It follows that the beef language of the future will be facilitating of not only the communication of traditional categories of bovine meat through the supply chain to the consumer, but also of more novel product claims such as those relating to cattle husbandry, human nutrition, and environmental care. While there are clear drivers for the Australian beef language to evolve in response to changing consumer expectations and in order to help assure Australia's continued export beef competitiveness, it is also evident that significant change in describing the basic categories of bovine meat cannot occur without some risk of loss of access to sensitive export markets. Any significant change to either the basic categories and the associated AUS-MEAT Language (and associated legislative and oversight arrangements) would necessitate a transparent consultative process, both domestically and overseas. In particular, change would require that a well-argued and scientifically supported case be successfully made out with sensitive export markets.

ROLE OF INTERNATIONAL STANDARDS AND THE WORLD TRADE ORGANISATION (WTO)

A number of international standard organisations elaborate standards and guidelines which have relevance to trade in meat and meat products. The Australian Government and meat industry have a long history of actively contributing to the work of these organisations, and have done so with a view to ensuring international standards and guidelines to accommodate Australian conditions, industry practices and regulatory approaches.

The work of the joint World Health Organisation (WHO) and Food and Agriculture Organisation (FAO) Codex Alimentarius Commission (often referred to as the “Codex”) has considerable relevance to Australia’s export meat industry (and food industries more generally). The following Codex Committees elaborate standards and guidelines of direct relevance to the meat industry:-

- Codex Committee on Food Hygiene
- Codex Committee on Food Labelling
- Codex Committee on Food Import and Export Inspection and Certification
- Codex Committee on Meat Hygiene (presently adjourned)
- Codex Committee on Fats and Oils.

Additionally, the Codex Alimentarius Commission (CAC) from time to time convenes Task Forces to address topical issues. A relevant example is provided by the Task Force on Animal Feeding, which was convened in response to animal feed risks to food safety.

The International Standards finalised by the Codex are scientifically based and enjoy WTO recognition. The work of the Codex Committee on Food Labelling provides principles and guidance for the labelling of food being traded and thereby assists in the interpretation of Codex commodity standards, including those relating to fresh and

processed meat. Codex labelling standards have a direct bearing on the way beef may be described when moving in international trade and therefore on the acceptance and use of the Australian beef language, including product claims it might convey.

The international standards work of the World Organisation for Animal Health (the OIE) is also scientifically based, with OIE standards enjoying formal WTO recognition. The OIE work on animal production food safety has a strong focus on zoonotic diseases and is conducted in close collaboration with the WHO, FAO and the CAC in order to help afford a harmonised approach to standards development. Current OIE standards, apart from veterinary certification requirements, have only limited application to beef description and labelling areas.

The work of a number of other international standards bodies is of direct relevance to meat moving in international trade, and is also closely monitored by Australian government and industry. However, unlike standards elaborated by the CAC and OIE, the products of these bodies do not enjoy formal WTO recognition. Some relevant bodies include:-

- The International Standards Organisation (ISO)
- The United Nations Economic Commission for Europe (UNECE)
- Global Standards One (GS1) International.

Some of the work of the above groups relates to food safety, quality assurance and environmental standards and/or has application to supply chain management. In particular, the UNECE Standard for Bovine Meat Carcasses and Cuts defines quality descriptors for bovine meat. The Standard defines a product code allowing all relevant product information to be combined in 20 digits.

The code is compatible with the GS1 International supply chain system of unique identification codes and electronic communication (e.g. bar codes). Similar code articulation has been achieved for the AUS-MEAT Language codes through collaboration with GS1 Australia.

It is notable that the UNECE Standard for Bovine Meat Carcasses and Cuts closely harmonises with the current AUS-MEAT Language. Such an outcome was not accidental and clearly demonstrates the benefits deriving from AUS-MEAT investment of time and expertise, and that of the Australian meat industry more broadly, in the development of this international standard.

International standards and guidelines, including those relating to the description and labelling of beef and beef products, are intended to facilitate the conduct of international trade. Likewise, the work of the WTO is intended to promote trade in goods and services by providing a rules-based approach aimed at avoiding arbitrary or unjustified barriers to trade. Australia is a WTO Member as are many, but not all, of the countries to which it exports beef. WTO membership confers rights and obligations and provides a mechanism for arbitration and settlement of trade disputes.

While the WTO clearly recognises the legitimate need for Members to restrict imports in order to protect human, animal and plant health and the environment and in order to ensure the quality and safety of goods, it has two binding agreements in place to help ensure measures of these types do not constitute unnecessary barriers to trade. The relevant WTO Agreements are the Technical Barriers to Trade (TBT) Agreement and the Sanitary Phytosanitary (SPS) Agreement.

The SPS Agreement recognises the right of Members to an appropriate level of health protection, while seeking to ensure that SPS measures do not represent unnecessary, arbitrary, scientifically unjustified, or disguised restrictions on international trade. Key provisions of the SPS Agreement include the need to conduct a scientific risk assessment if a SPS measure is not based on an International Standard

and to recognise the equivalence of alternative sanitary measures where the exporting party can demonstrate the same level of health protection is achieved.

The TBT Agreement specifically excludes measures covered by the SPS Agreement and seeks to avoid unnecessary obstacles to trade, while protecting Members' legitimate interests. Its key principles include encouraging harmonisation of TBT measures through adoption of international standards, non-discrimination in the adoption and application of measures, requiring measures to be least trade restrictive and promotion of transparency through notification of measures.

In terms of food, labelling requirements dealing with nutrition claims, quality and packaging regulations are not considered to be SPS measures and hence are normally subject to the TBT Agreement. However, labelling requirements dealing with food safety are considered to be SPS measures.

SPS measures must be based on scientific principles, while TBT measures may address a range of legitimate objectives. As a result of this difference, the principle of equivalence only applies to SPS measures as these must be based on a scientifically justified appropriate level of protection, so allowing objective comparison of alternative measures. However, TBT measures must pass a least trade restrictive test, meaning that approaches that are capable of meeting the legitimate objective for the TBT measure should not be unreasonably excluded. This latter interpretation has not been tested under WTO arbitration, unlike a number of SPS Agreement principles.

The WTO framework of agreements, including associated dispute settlement procedures, may be viewed as facilitating orderly, rules-based trade between Member countries. The principles set down in the SPS and TBT Agreements are often used bilaterally by trading partners in resolving concerns about conditions for market access, so avoiding the need for recourse to formal WTO dispute resolution processes.

OTHER PRODUCT QUALITY STANDARDS

As noted above, a number of international standards of relevance to quality standards for beef and beef products, and in relation to their labelling, currently exist. These are supplemented by a range of country-specific legislated requirements for describing and labelling meat, with some provisions of a sub-national nature. Additionally, a range of accreditation schemes, either oversighted by government or third parties, are used to allow the description of special attributes of beef and beef products.

The existing Australian beef language allows a purchaser to reliably specify the type of beef required by reference to such product attributes as age, sex, fat depth, meat colour, fat colour, cut type and trim. The purchaser can therefore be said to have specified meat of a certain quality range and which, therefore, is more likely to be fit for its intended use and provides greater confidence in the price able to be paid for the purchase (i.e. valuing the purchase has been facilitated).

A range of other beef quality descriptor systems are directed at influencing the purchasing decisions of consumers and, by conveying information about the quality attributes concerned, may further assist the product supply chain to value livestock at points of sale and purchase. These schemes often assign fanciful names to product categories (e.g. "natural beef") which are promoted to consumers as possessing certain quality attributes and appear on labels at point of retail sale. Increasingly, raising claims of this type are required under consumer law to be underpinned by verifiable standards. Interestingly, some official grading systems also employ subjective nomenclature to different grades of product (e.g. "Prime", "Choice") and promote consumer awareness of these terms.

The legislation of importing countries with official meat grading systems is often framed in a way which requires graders to be officially appointed (often after completing prescribed training courses) and for carcasses, sides or quarters to be presented for grading within a defined timeframe following slaughter. Additionally, there may

be cattle breed and/or feeding requirements in order for carcasses to be assigned to particular grades. The combination of these importing country requirements often results in imported beef being channelled into the lesser value market segments for ungraded product or being assigned a default grade. These market arrangements are long standing and, as a result of custom and practice and despite not being tested under WTO dispute resolution procedures, may be regarded as legitimate measures under the TBT Agreement.

One newer approach to describing beef quality attributes is that of specifying eating quality outcomes for the consumer, especially in terms of tenderness. This approach may operate without the need to employ many of the descriptors used in current beef languages while still allowing value to be assigned at various points in the beef supply chain when ownership changes. Standards for describing eating quality outcomes may enjoy direct legislative cover (e.g. as under the US Meat Tenderness Marketing Claim Standards, Anon n.d.) or be trade mark protected (whereby users of the trademark are licensed and must agree to meet defined standards and are subject to audit).

There are currently no eating quality outcome international standards for beef, with only a few countries with defined schema/standards in place. In Australia, the trade mark protected Meat Standards Australia (MSA) beef grading system is used to predict eating quality outcomes by grade, cooking method and ageing requirement in order to guarantee the tenderness of beef for consumers. The MSA system is quality assured to international standards (i.e. it is ISO 9000 Series compliant) and is recognised under US Department of Agriculture (USDA) statutes as a Process Verified Program (USDA n.d.). This recognition allows MSA graded beef to be marketed in the US with packaging displaying the USDA "process verified" logo. Such importing country recognition of a quality assured grading system in Australia might represent an important precedent, especially under the circumstance where there

are no internationally-agreed approaches/standards for tenderness description of beef.

Industry-guaranteed quality standards have an increasingly important role in underpinning export market access. It is possible for an industry sector (e.g. the “grass fed” sector) to formulate a quality standard and a system for its verification. Such an approach allows consumer confidence to be developed for product marketed as meeting the industry standard and, in some circumstances, for importing country authorities to approve imports of the class of product concerned. In some cases it may be necessary for the industry scheme to use independent third party auditors and for its satisfactory operation to be verified from time to time by the importing country authority concerned. It will be important for the beef language of the future to be able to accommodate a whole range of product descriptions arising from industry quality standards.

The area of purchaser quality standards is of increasing importance to the meat industry. Essentially, purchasers may and do develop “private standards” and require suppliers to demonstrate their compliance with the standard through maintaining auditable quality systems. These private standards may cover diverse areas, including animal husbandry practices, animal welfare,

traceability, environmental stewardship, food safety and occupational health and safety. Alternatively, the “private standard” could specify compliance with a standard managed by another party (e.g. an animal welfare organisation or environmental group). With the continued growth in the use of private standards, and the attendant increase in record keeping and audit costs, there is likely to be demand for more holistic industry standards which address the more common elements of the range of these private standards.

Thus, for example, the cattle producer sector could develop a single industry standard addressing on-farm animal welfare, animal husbandry, food safety and environmental care aspects. Such developments would likely be accompanied by a need for the beef language of the future to be able to describe, through the food chain, product which complied with recognised industry sector quality standards. It is of interest to note that AUS-QUAL (the auditing arm of AUS-MEAT Limited) has been able to promote some harmonisation of private standards, especially in the area of allowing a single audit to address the verification requirements of several private standards. Indeed, greater investment in replacing and/or harmonising existing private standards is likely to be justified.

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