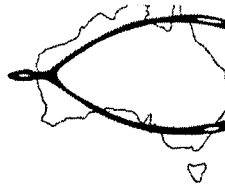


TT May & June 2004  
Submission No: .....15.....



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The Secretary  
Joint Parliamentary Committee on Treaties  
Parliament House  
CANBERRA ACT 2600

RECEIVED  
30 JUL 2004

BY: .....

Dear Ms. Gould,

### Thailand–Australia Free Trade Agreement (TAFTA)

In reply to your letter of 15 July 2004 requesting participation by this organisation in the Parliamentary review process for the above treaty, the Australian Chicken Meat Federation (ACMF) makes this Submission to the Joint Parliamentary Committee on Treaties regarding the TAFTA.

The concerns of the ACMF with the TAFTA relate to Chapter 6 on SPS and quarantine.

#### Background

Thailand, one of the world's largest subsidised exporters of chicken meat, has been campaigning unsuccessfully for many years to break down Australia's strict and WTO legal quarantine regime. Thailand has numerous exotic strains of avian diseases – most notably at the present time highly pathogenic Avian Influenza (Asian Bird Flu) – from which Australia is free. More recently there has been an outbreak of virulent Newcastle disease in Thailand.

Relaxation of Australia's strict, quarantine protection would result in a flood of low cost subsidised chicken meat imports from the world's major exporters, including Thailand, which could not only devastate the Australian industry and its environment with exotic diseases, but also result in huge economic costs.

These costs, set out in the ACMF Submission in April 2004 to the Joint Committee on Treaties on the US-Australia FTA (Submission No 26), have been estimated at \$3.5 billion in lost GDP, \$900 million in household income and 35,000 in lost jobs. This economic impact could be widespread throughout outer metropolitan and rural areas of Australia.

Likely job losses by State are set out below:

#### *Employment Losses by State: Quarantine Relaxation – Chicken Meat*

|            |        |
|------------|--------|
| NSW        | 13,056 |
| Victoria   | 9,174  |
| Queensland | 6,421  |
| S A        | 2,908  |
| W A        | 3,611  |
| Total      | 35,170 |

Source: NIEIR (ACMF 2000)

As set out in our Submission above (Submission 26) maintenance of strict biosecurity and WTO legal quarantine protection by successive Australian governments over many years has been fundamental to the stability, growth and prosperity of Australia's rural industries, and the protection of our unique natural environment.

### **MFN extension of TAFTA SPS principles**

ACMF is concerned that, because of the unique WTO "MFN" principles governing SPS and quarantine, Chapter 6 of the TAFTA will have to be extended to all countries (see page 10 Submission No 26 referred to below).

Chapter 6 when extended multilaterally will significantly change Australia's quarantine regime and the justifiable biosecurity protection on which Australian industries have relied. This, ACMF believes, warrants serious attention in the deliberations of the Joint Committee on Treaties.

### **"Back-door" weakening of Australia's quarantine**

ACMF is concerned that Chapter 6 of the TAFTA establishes new mechanisms and consultation arrangements on quarantine, including the establishment of an Expert Group on SPS supplementing a Joint Working Group on Agriculture, which will allow Thailand – through the back door – to continue its campaign to break down Australia's quarantine regime on chicken meat, and by-pass Australia's existing IRA processes.

The ACMF is very concerned that chicken meat is explicitly listed as a priority market access item for Thailand at Annex 6.1 of the TAFTA and is subject to Article 609 and Clause 609.9(d). ACMF is strongly of the view that quarantine issues should be strictly separated from trade access. It is inappropriate to list "market access priorities" in an FTA Chapter dealing with SPS and quarantine. This signals to other countries that Australia's quarantine can be "traded-off" for market access of other commodities. ACMF believes this to be clearly inconsistent with the Media Release of 15 July 2004 by the Minister for Agriculture, Fisheries and Forestry announcing new measures overhauling *Biosecurity Australia* and to "... remove any perception that trade considerations rather than scientific analysis influence IRA recommendations."

It is also a concern that the Expert Group referred to in Chapter 6 apparently reports to the Joint Working Group on Agriculture which consists of trade policy officials.

### **ACMF recommends to the Joint Treaties Committee:**

- **That Annex 6.1, and any other arrangements for "market access trade-offs" on quarantine, be deleted from the TAFTA;**
- **That, consistent with the Minister's Media Release of 15 July 2004, Chapter 6, and in particular Article 609, be re-drafted to exclude any perception that market access trade considerations influence Australia's science based quarantine and IRA processes.**

### **Relaxation of quarantine control**

In Article 607 Australia provides in the TAFTA a significant new relaxation in its control over quarantine by agreeing not to ban trade on the breach of SPS and food standards by another

country but only to investigate and remedy the particular shipment in question while trade continues.

This appears to be a fundamental change to Australia's existing strict quarantine control, and so far as ACMF is aware, it is a measure which has not been conceded to Thailand by any other country. The ACMF urges the Joint Committee to examine this matter carefully and,

#### **ACMF recommends that the Joint Treaties Committee**

- **Reject the "one shipment" quarantine concession provided in Article 607.5 of the TAFTA.**

#### **Non-transparency of Chapter 6**

Chapter 6 imposes no obligation for consultation with Australian industries or other stakeholders on the work program of the Expert Group. It appears that SPS and quarantine matters can be discussed by officials, and disputes resolved (Article 609.9(i)), without any obligation for public transparency or consultation with Australian stakeholders.

This would be inconsistent with IRA processes and Australia's IRA Handbook which provide for significant public disclosure, consultation and scientific input from affected industries and the public. It is also a denial of natural justice to the Australian industries concerned – particularly those already targeted in Annex 6.1 of the TAFTA

#### **Accordingly, ACMF recommends to the Joint Treaties Committee that:**

- **Chapter 6 be revised to require full prior consultation with affected Australian industry stakeholders with regular public reporting on the work program of the Export Group and Joint Working Group, and that full natural justice be accorded to Australian industries.**

#### **Retrospectivity should not be allowed**

Chapter 6 as it presently stands does not exclude retrospective application to Australia's existing quarantine Protocols, and IRAs already underway. That is, the non-transparent new quarantine and SPS procedures and mechanisms of Chapter 6 can cut across, claw-back and compromise existing IRAs underway and Australia's WTO legal quarantine Protocols which have been put in place years ago.

Australia's quarantine protection of its chicken meat industry is enshrined in our 1997 quarantine Protocol on cooked chicken meat. That Protocol was put in place after years of extensive science based and WTO legal IRA processes in accordance with Australia's respected and transparent "Nairn based" IRA Handbook. It involved substantial public input, extensive scientific investigation and stakeholder involvement and a Senate Inquiry.

The ACMF strongly believes that TAFTA, which only comes into effect on 1 January 2005, should not have retrospective effect. That is, our cooked chicken meat quarantine Protocol put in place in 1997 should not be subject to review and re-opening by this FTA.

Equally, TAFTA Chapter 6 should not have retrospective application to Australia's IRA on uncooked chicken meat which has been under-way since 2001, and in which Thailand and other countries have had full opportunity to participate.

**The ACMF recommends:**

- **that Chapter 6 have no retrospective application to existing quarantine Protocols;**
- **that Chapter 6 have no retrospective application to Australia's IRAs presently underway.**

I would be glad to appear and elaborate on this Submission if required by the Joint Committee.

Yours sincerely

Dr Jeff Fairbrother  
Executive Director

30 July 2004