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RESPONSE TO DISCUSSION PAPER ON THE CONTROL OF CHEMICALS OF SECURITY CONCERN

The NSW Farmers' Association (the 'Association') is a member of The National Farmers' Federation ('NFF') which is made up of State Farm Organisations, National Commodity Councils and a range of associate and affiliate members. The NFF is the Federal voice for Australian farmers, one of the largest legitimate user groups of chemicals in Australia, and is the representative of over 210,000 legitimate chemical users and responsible members of the Australian community¹. The Association fully supports the position paper which NFF has submitted in response to the discussion paper on the control of Chemicals of Security Concern ('CSC'). Further, the Association welcomes the opportunity to provide comments regarding the discussion paper on the control of chemicals of security concern.

The Association represents farming enterprises in NSW, which is one of Australia's most productive agricultural States, contributing at least 25% of the value of Australia's agricultural production in average production seasons. Agriculture is the biggest land user in NSW, occupying 61 million hectares (76%) of the total land area and contributed \$10.2 billion to the NSW economy in 2001-02. NSW achieved the highest value of agricultural production of any state, followed by Victoria (\$9.3b), Queensland (\$8.1b), Western Australia (\$5.5b), South Australia (\$5.2b), Tasmania (\$903m), the Northern Territory (\$321m) and the ACT (\$19.6m) and the value of exports of agricultural commodities from NSW was \$2 billion in 2001-02².

The Association is actively engaged in issues related to the stewardship of agricultural chemicals in NSW and had a significant role as a member of the NSW Pesticides Implementation Committee which was established by the NSW State Government to ensure stakeholders were involved in the development of the NSW Pesticides Act (1999).

The Importance of Pesticides to Farmers and Consumers in NSW

Between 1950 and 1990, Australian farm output increased 250% and Australia recorded the highest rate of growth of land productivity (output per unit of land) of any 'Organisation for Economic Cooperation and Development country' over the three decades to 1990 (AATSE 2002). The productivity growth rate for this period in Australian agriculture was higher than that achieved in the rest of the economy and in the agriculture sectors of developed countries as a whole (Chisholm 1992; Knopke et al, 1995). Since the 1940s, pesticides have played a major role in this significant growth in Australian agriculture.

¹ NFF Response to CSC Discussion Paper.

² ABS Census 2001.

The approximate value of annual sales of agricultural chemicals in Australia is around \$1.8 billion³. Real expenditure on agricultural chemicals in the period from 1975-95 rose more rapidly than any other component of farm costs in Australia, mostly driven by moves to reduce environmental degradation through minimum tillage and hence the increased use of herbicides.⁴

A United States estimate of the contribution of agricultural chemicals to productivity in economic terms places the return on every dollar invested in pest control at four dollars in the value of crops saved⁵. Further, the value to conservationists in the battle to control feral weed and animal populations is difficult to estimate but nonetheless extremely significant.

The CSC Review must appreciate that any control framework should be developed with a view to keep any potential cost increases to an absolute minimum given the critical importance of farm chemicals to the environmental and economic sustainability of Australian agriculture and ultimately, the food supply of Australian consumers.

The NSW Security Sensitive Dangerous Substances Regulation Experience

A high level of input was also supplied by the Association to NSW WorkCover and the NSW Premiers Department in the implementation of the Security Sensitive Dangerous Substances ('SSDS') Regulation under the *Explosives Act 2003* and the *Explosives Regulation 2005* recently introduced into NSW.

The Association acknowledges the paramount importance of national security, however the Association is concerned that the regulation of CSCs will result in onerous compliance costs to industry, increased purchase prices throughout the supply chain and ultimately, the unavailability of key agricultural fertiliser and chemical products; this has been the case with ammonium nitrate fertiliser products under SSDS.

The NSW SSDS regulation of ammonium nitrate has shown that whilst the *intent* of the regulation was to limit the opportunity for terrorists to access and utilise a substance of security concern, the *unintended consequence has been the resulting unavailability of the product to farmers*. This must be factored into all potential regulatory or other controls in order to protect farm businesses from serious financial setbacks which come on top of the current intended regulatory costs of production.

The other unintended consequence has been the tendency of some producers to stockpile the product prior to the regulation's implementation and thereby effectively *increase the risk of a security breach rather than minimise such potential hazards*. This is true of only a minority of producers but is one of the typical responses of industry participants across any business sector when onerous regulation is set in train when a more positive outcome could be achieved by industry stewardship used in combination with a minimum of government interference in the market place.

The SSDS Regulation has also led to problems for users who wish to purchase product interstate and transport into NSW for their use on farm. In some cases, conditions of purchase and transport differ due to States using different State legislative instruments to administer and enforce the regulation. These inconsistencies have proven to be yet another deterrent to both growers and suppliers who have ultimately chosen to avoid handling or using the products concerned as a result of the onerous requirements involved. The message to the Council of Australian Governments review team is the need

³ ABS Census 2001.

⁴ 'Pesticide use in Australia', Australian Academy of Technological Sciences and Engineering 2002

⁵ Ibid AATSE 2002.

for a nationally consistent approach which is low on regulatory content and which specifically addresses the threat of unintended consequences such as unavailability of product and the potential for driving 'underground' stockpiling activity due to excessive red tape.

The final lesson learned from the NSW SSDS experience is in the area of proper consultation and communication with stakeholders. WorkCover NSW made commendable efforts to communicate the proposed and then gazetted Regulation to industry by way of electronic and paper media as well as forums held in regional areas. However, the specific characteristics of the rural sector were not adequately addressed in this process. A whole sector of horticulture producers were effectively excluded from this campaign due to the fact that no effort was made to use properly translated and culturally targeted materials to reach the approximately 1,000 Language Other Than English ('LOTE') growers who used ammonium nitrate (this is only now being addressed).

It should also be noted that the vast majority of farmers use the internet infrequently and are most likely to acquire information relevant to their businesses from other farmers, commercial resellers of chemicals, industry development officers and those engaged in face to face delivery of education and training, informally and formally, such as Chemcert accredited trainers. It is therefore critical that in the second round of consultation on the CSC draft paper farmers in NSW are given an opportunity to attend face to face meetings in key regional areas to provide feedback to the review.

The Need for a Streamlined and Nationally Consistent Control Framework for CSCs

The Association supports the proposed approach outlined by NFF which suggests a 60% industry, 20% Federal and 20% State Government division of responsibility in managing the risks associated with CSCs. It is also critical that the framework be federally directed to ensure nationally consistent guidelines which are then delivered at State government level with a minimal amount of variation.

The current control of use legislation in NSW (NSW Pesticides Act 1999) is delivered by the NSW Department of the Environment and Conservation, however Security Sensitive Dangerous Substances are regulated under the *Explosives Act 2003* and the *Explosives Regulation 2005* administered by Work Cover; and the Stock Food Act (1940) and the Stock Residues Act (1975) are administered by the NSW Department of Primary Industries – this only serves to create confusion and unnecessary red tape for NSW farmers.

The Association views this discussion paper as a means to open the dialogue on the issue of CSCs, however there are further critical steps to be undertaken. Further consultation on the concentration, volume and product formulation will be the critical next step in this process. The true impact of potential regulation in the area of security sensitive chemicals cannot be measured or adequately responded to until such time as government has developed and shared the detail on which formulations of chemicals may be subject to regulation with industry.

The Need for an Ongoing and Interactive Consultation Process

As previously referred above, consultation on the draft COAG paper should promote participation by the NSW farming sector. To maximise community participation, the Association advocates that:


- at least two months advance notice be provided of meetings times, dates and locations;
- an adequate number of meetings be held (at least five across NSW);

- the comments and views expressed by the public at these sessions should be recorded by government officials and responded to at the time or within a reasonable timeframe; and
- the consultation process entail a level of robust dialogue, question and answer sessions and presumably lead to some constructive changes to the draft paper.

The Association recognises that consultation is a critical part of democratic process, informing and binding stakeholders to an agreed way forward. As such, the Association seeks to participate fully in the consultative process. This must also be carried forward to the conduct of the regulatory impact statement ('RIS) which must be developed in close consultation with the entire supply chain.

The terms of reference given to the party contracted to carry out the RIS and the input of key data on cost parameters should be set in close consultation with industry as a whole to ensure that the end result is not skewed towards a particular supply chain sector. A RIS which has failed to ground truth desk top data with industry participants at the coal face would be potentially disastrous for both government and industry given that the RIS is the key tool in assessing the workability of any control framework.

Yours sincerely



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