DEPARTMENT OF AGRICULTURE, FISHERIES & FORESTRY

AUSTRALIAN MEAT AND LIVE-STOCK INDUSTRY (SHEEPMEAT AND GOATMEAT EXPORT TO THE EUROPEAN UNION – QUOTA YEAR 2010) ORDER 2009 (THE ORDER)

1. Statutory basis

1.1 Under the Australian Meat and Live-stock (Quotas) Act 1990, as amended, and the Australian Meat and Live-stock Industry Act 1997, the Commonwealth may, where restrictions are imposed on exports of Australian meat, establish a scheme to allocate quotas among the holders of export licences.

1.2 This order is made under section 17 of the Australian Meat and Live-stock Industry Act 1997.

2. Background to order

2.1 The European Union (EU) each year, commencing 1 January, allows Australia to ship a quantity of sheepmeat and goatmeat to the EU under a country-specific quota.

2.2 The Australian Government Department of Agriculture, Fisheries and Forestry (the Department) issues an order each year for the exports of sheepmeat and goatmeat in the coming year, being, for the purpose of this order, from 1 January 2010 to 31 December 2010.

3. Summary of order

3.1 This order explains the method by which quotas to export sheepmeat and goatmeat will be allocated among licensed exporters.

3.2 To be eligible for the grant of quota, licensed exporters must either be an EU-accredited meat processing plant or must source product from those plants.

3.3 Eighty per cent of the quota for 2010 will be allocated on the basis of recorded shipments of quota meat into the EU sheepmeat and goatmeat market during 2009. Twenty per cent of the quota will be allocated on the basis of exporters’ performance credits for exports to all destinations from EU-accredited meat processing establishments.

3.4 Exporters may trade quota entitlement but transfers of quota are to be absolute, a feature designed to ensure that quota is available only to operating exporters to the EU sheepmeat and goatmeat market.
3.5 Exporters may also trade export performance but transfers of performance may be made only within the constraints set out in section 20 of the order.

3.6 The order details the requirements to obtain approvals and certificates of authenticity for quota meat and the management of individual exporters’ quota accounts.

4. Consultation

4.1 The administrative arrangements for meat export quotas generally, including EU sheepmeat and goatmeat arrangements, have been developed in consultation with industry. This order follows the orders made for the 2001-2009 quota years, incorporating minor changes that resulted from a review of meat quota allocation arrangements by Red Meat Advisory Council in 1999 on behalf of the red meat industry.

5. Explanation of sections under the Order

5.1 Part 1 Preliminary

Section 1 – Name of order. This section provides for how the Order is to be cited.

Section 2 – Commencement. This section provides that the Order commences on the day after registration on the Federal Register of Legislative Instruments.

Section 3 – Definitions. This section provides for a number of definitions of terms used in the Order.

5.2 Part 2 Prohibition of certain exports

Section 4 – No export without approval. This section provides that an eligible exporter may export “quota meat” to the EU only if the Department’s Quota Administration Unit has issued an approval and a certificate for export. The prohibition on export is effected by section 5 of the Australian Meat and Live-stock (Quotas) Act 1990. Quota meat is fresh, chilled or frozen lamb, mutton or goatmeat. The definition does not include exports of fresh, chilled or frozen lamb, mutton or goatmeat outside of the EU quota. These are are permitted without approvals or certificates but will attract a higher tariff.

5.3 Part 3 EU quotas

Section 5 – What this Part does. This section explains what Part 3 does, ie., how EU sheepmeat and goatmeat quota is obtained and how to work out an EU sheepmeat and goatmeat quota that will have effect for 2010.

Section 6 – How EU quota is obtained. This section provides that an exporter may obtain an EU sheepmeat and goatmeat quota by applying for it, or by obtaining it from another eligible exporter. Subsection 6(1) contains a
note that the Department intends to give exporters a notice called a notice of limitation that advises the amount of quota meat that may be exported to the EU during 2010.

**Section 7 – How EU quota is worked out.** This section is central to how an exporter’s quota allocation is calculated. Subsection 7(1) provides that the Secretary must allocate to an exporter the amount of quota determined using the formula in subsection 7(3) and contains a note that quota is allocated under section 6 of the Quotas Act. Subsection 7(2) provides that where the Secretary makes an allocation of quota he must give the quota holder a notice about its quota. Subsection 7(2) contains a note that the Department will give an exporter a notice called a quota document about its quota in accordance with section 6 of the *Australian Meat and Live-stock (Quotas) Act 1990*. A further note (note 2) advises that the Department maintains a quota account for each eligible exporter. Another note (note 3) advises of the Secretary’s powers under section 28 of the *Australian Meat and Live-stock Industry Act 1997*. Another note (note 4) refers to certain rights of review under section 30 of the *Australian Meat and Live-stock Industry Act 1997*.

The formula used to determine the standard allocation is based on Australia’s country quota specified by the European Commission (EC), that is an access amount of 18,786,000 kilograms shipped weight for the quota year 2010, minus the recalculation amount.

The recalculation amount is an amount that is surrendered by an exporter in 2009 with agreement of the Secretary. If an exporter surrenders a recalculation amount in 2009, that exporter’s EU quota for 2010 is determined by the formula below, plus its recalculation amount. 54,000 kgs used as an example of the total recalculation amount in the formula below.

Eighty per cent of this access amount (18,786,000 kilograms less 54,000 kilograms = 18,732,000 kilograms, 80 per cent = 14,985,600 kilograms) is based on the eligible sheepmeat and goatmeat shipments to the EU from EU-accredited meat processing establishments for 2009.

14,985,600 kilograms is divided by the total of all eligible sheepmeat and goatmeat shipments to the EU from EU-accredited meat processing establishments. The amount of the individual exporter's recorded exports is then multiplied by the factor derived from the first calculation.

Twenty per cent of this amount (18,786,000 kilograms less 54,000 kilograms = 18,732,000 kilograms, 20 per cent = 3,746,400 kilograms) is based on the total recorded performance for sheepmeat and goatmeat exports globally from EU-accredited meat processing establishments for 2009.

3,746,400 kilograms is divided by the total of all eligible sheepmeat and goatmeat exports globally from EU-accredited meat processing establishments. The individual exporter's credited export performance amount is then multiplied by the factor derived from the first calculation.
These two amounts are added to determine the quota allocation for each exporter.

An example of how a quota allocation is worked out is as follows. The quota amount to be allocated (access amount) is 18,786,000 kilograms less the recalculation amount 18,732,000. Company X has exported through a local EU-accredited establishment 343,000 kilograms (carcase equivalent weight) to the EU under EU quota in the 12-month period from 1 January 2009 and has export performance for a further 709,000 kilograms (carcase equivalent weight) to other global destinations in the 12-month period from 1 November 2008. Company X has not surrendered any recalculation amount in 2009.

If the total amount of eligible sheepmeat and goatmeat shipped by Australia to the EU in that period was 18,342,597 kilograms carcase equivalent weight; and if global export performance to destinations other than the EU through EU-accredited establishments for the same period totalled 208,773,334 kilograms; then company X’s quota allocation would be calculated as follows -

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\text{80\%} \quad \frac{14,985,600}{18,342,597} \times 0.81698355 \times 343,000 = 280,225 \text{ kilograms}
\]

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\text{20\%} \quad \frac{3,746,400}{208,773,334} \times 0.01794482 \times (343,000 + 709,000) = 18,878 \text{ kilograms}
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\text{Total} \quad \text{Company X’s quota allocation} = 280,225 + 18,878 \text{ kilograms or 299,103 kilograms carcase equivalent weight for 2010.}
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Subsection 7(4) provides that if the quota allocation entitlement is worked out to be less than 12 tonnes, then that entitlement is disregarded and there is no quota entitlement in that case. This is due to 12 tonnes representing a minimum commercial export container size. Subsection 7(5) provides that the amount of quota taken to remain unallocated because of that calculation is then redistributed among the eligible exporters on a pro rata basis. Subsection 7(6) provides that when an exporter’s quota is worked out and it has paid the prescribed fee, the Secretary must credit that quota to the exporter’s quota account.

**Section 8 – Transfer of EU quotas.** This section allows an eligible exporter to transfer EU sheepmeat and goatmeat quota to another exporter licensed to export sheepmeat and goatmeat to the EU. It also identifies the requirement to inform the Department’s QA Unit of the details of the transfer.

**Section 9 – How much quota meat an exporter has exported.** This section sets out how much quota meat an exporter is taken to have exported and describes a number of contingencies, (such as where a quantity of quota meat actually in an export is less than the quantity stated in the approval for export), and what is to occur in the event of those contingencies.
Section 10 – When unused entitlement lapses. This section provides that eligible exporters must notify the Department about how they intend to deal with unused quota and specifies the condition under eligible exporters’ unused quota entitlement will lapse.

5.4 Part 4 Approvals

Section 11 – How to get approval for exports. This section sets out the procedure that must be followed by an exporter in respect of each consignment that the exporter intends to ship. The procedure is typical of quota management arrangements administered under the Australian Meat and Live-stock (Quotas) Act 1990.

Section 12 – Approval to export from the uncommitted amount. This section allows for the re-allocation of unused quota as referred to in section 10. The section allows for eligible exporters to apply for allocation of the unused quota. This section is to allow for the maximum utilisation of the quota allocated by the EC authorities to Australia.

Section 13 – Approval for exports unlikely to be accepted into EU. This section has the same purpose as expressed in section 12, i.e. maximum possible use of Australia’s quota. Section 13 requires an eligible exporter that is issued with an approval to advise the Department’s QA Unit before 27 November 2010 if it is likely that the consignment in respect of which the approval is given is unlikely to be accepted for entry into the EU before 1 January 2011.

Section 14 – Duration of approvals. This section specifies the period for which an approval is valid. The unused quota lapses after the date specified and, where it becomes uncommitted, a licensed exporter may apply for approval to export against that uncommitted quota as provided for in section 12.

5.5 Part 5 Certificates

Section 15 – How to obtain certificates. This section sets out the procedure that must be followed by an exporter to obtain a certificate of authenticity for entry to the EU of each consignment that the exporter intends to ship.

Section 16 – Grant of EU quota certificates. This section provides that the Secretary must issue a certificate if an eligible exporter has an approval and applies in accordance with section 16. A note confirms that EU quota certificates for 2010 issued on or before 31 December 2009 will not be able to be used until 1 January 2010.

Section 17 – When certificates lapse. This section confirms that certificates issued to an exporter will lapse if they are not accepted for entry into a member country of the EU before 1 January 2011.
5.6 **Part 6 Performance**

**Section 18 – What counts as performance.** This section specifies what consignments will be included as performance and identifies what will not be considered to be performance. A note identifies that the Department keeps an account for each exporter that shows recorded exports by the exporter from EU-accredited establishments to all destinations other that to the EU under an EU quota and that this is called Performance Account I.

**Section 19 – Transfer of performance.** This section identifies that performance may be transferred and the conditions under which this can be done.

**Section 20 - Errors in recording performance.** This section details an exporter’s responsibility to notify the Department’s QA Unit of any errors that it believes may exist in the account statement sent to it by the Department and the conditions when any such errors notified to the Department’s QA Unit are of no effect.

5.7 **Part 7 Miscellaneous**

**Section 21 – Where to send notices and documents.** This section specifies contact details of the Department in respect of relevant notices and documents to do with this order.

**Section 22 – Cessation.** This section specifies that this Order ceases to have effect at the end of 31 December 2010.