



Response to Council of  
Australian Government (COAG)  
Review of Hazardous Materials:

Draft Report on the  
Control of Chemicals of Security Concern

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## **Introduction**

The National Farmers' Federation is the peak farm lobby group in Australia and represents producers of all major agricultural commodities. As such, we represent over 210,000 legitimate chemical users.

As members of the Australian community, farmers are united in their condemnation of terrorist acts. The threat of terrorism on Australian soil threatens Australian values, quality of life and our right to go about our everyday pursuits free from fear and danger. The impact of terrorism on the agricultural and veterinary sector could result in personal, physical, reputational and economic loss to Australian agriculture.

At the same time, Australian farmers use and value chemicals as an extremely valuable input into their businesses and require on-going access of these inputs in order to run profitable and sustainable businesses, not only to the benefit of their small business, but rural communities and more broadly as a contribution to economic wealth and job creation Australia wide.

In this regard, NFF has been an active and constructive participant in this process, in order to assist meet genuine community expectation but with the least cost and regulatory burden on small business as possible.

## **NFF's partnership with COAG**

Since the Bali Bombings in October 2002, the Australian Government has been sharply focused on the potential for terrorist activity on Australian soil. Australian farmers applaud and welcome this concentration by all levels of government on the protection of the Australian people, infrastructure, economy and country. From the first, the NFF has recognised that it has a role to play in working with the Council of Australian Governments (COAG) to help to address this security challenge in such a way that did not constrain farming to the point where the solution means that the threat of terrorism has negatively affected the Australian way of life.

The NFF has engaged deeply with the COAG, government departments and other industries to develop an appropriate and effective means of controlling chemicals of security concern. We commend the consultation process which has evolved since 2002. Over the last two years the NFF has had the opportunity to contribute to the Security Management Framework through both formal and informal consultation mechanisms. It is our view that this level of consultation with industry has resulted in a stronger, more credible COAG document that is more likely to result in better outcomes for the Australian security environment. At the same time, the draft framework is an affordable, practicable means of controlling security sensitive chemicals without impacting on the Australian economy.

## **Overarching Principles**

The NFF strongly supports the overarching principles of the Draft Report. We consider that these principles necessarily underpin any framework that will be workable, acceptable and affordable.

These principles are, that the security outcomes be:

- i. Risk based
- ii. Nationally consistent and coordinated
- iii. Built on appropriate existing arrangements
- iv. Cost effective
- v. Developed in partnership between government and industry, and
- vi. Take account of arrangements in other countries.

## **Potential risks and how the Draft Report addresses them**

In March 2007, the NFF provided a comprehensive submission to the *COAG Discussion Paper on the Control of Chemicals of Security Concern*. We are pleased to note that many of the risks we highlighted in this document have been fully addressed within the Draft Security Management Framework. A brief summary of these potential risks and how they have been addressed under the new framework follows.

### 1. Potential national inconsistency

The COAG framework must guard against the potential for states and territories (and their agencies) to independently introduce differing levels of compliance measures and standards immediately or in the future.

The solution to this risk is that the framework ultimately endorsed by COAG must be accompanied by a legally binding commitment from COAG members and relevant authorities NOT to arbitrarily deviate from the agreed framework without following a prescribed consultation process. Similarly, industry bodies would be willing to sign up to maintain the industry self-regulation measures that will underpin the new framework.

**Addressed:** the framework includes an Inter-Governmental Agreement that will outline the roles and responsibilities of the Commonwealth, State and Territory Governments in developing and implementing appropriate and nationally consistent actions for chemical security. Further to this, the framework requires that all of COAG review existing chemical legislation and ensure that there are no barriers to sharing information and data as required.

## 2. Potential de facto ban on listed chemicals

A risk that needs to be carefully managed within this process is working closely with manufacturers and retailers to ensure the continued access to chemicals listed as of security concern. Recently, access to a chemical (SSAN) subjected to additional security measures was severely reduced due to the additional cost and difficulty of compliance.

In this case, manufacturers and retailers did not produce or stock the product due to a perception that the additional costs of compliance and use (incurred throughout the supply chain and passed on to the end-user) means that the product is unaffordable to most farmers. Although it is currently possible for credentialed customers to order this chemical, this takes time, and means reduced effectiveness and increased costs to farmers. Ultimately, it can be argued that the increased security controls resulted in a de facto ban on the product.

**Addressed:** the nationally inconsistent approach to SSAN currently in place will not be possible due to the response to risk 1 as discussed above. Additionally, the creation of a standing Industry Reference Group will ensure that solutions are created with manufacturers, retailers, farmers and other users as part of the process. This will bring to the fore any risks of loss of chemical access at the planning stage, so that it can be addressed and mitigated prior to implementation.

## 3. Potential Loss of Economic Viability

Should the agreed framework include expensive and time-consuming compliance measures, and should the cost of compliance be borne by industry alone, it is likely that the ongoing economic viability of some industries will be under threat. These measures could include requiring end-users to pay for and undergo a police and ASIO check before they can purchase listed chemicals. The significant cost and excessive time delays usually associated with these measures could result in a flow-on loss of productivity as well as the direct compliance cost.

**Addressed:** As the framework currently stands, due regard is taken for minimising the cost impost of industry. Indeed, the framework currently requires a small additional time commitment from chemical users in the education and awareness-raising component, but does not include an additional financial burden. At this stage police and ASIO checks are not required. However, while we cannot rule out these protective measures in future, we do know that the framework ensures that, if introduced in the future, such checks will only be applied to chemicals under specific and extreme terrorist threat. This approach adequately balances the terrorist risk with the economic imperative.

A final safeguard in this respect is that the Industry reference Group will have the opportunity to suggest alternative measures to achieve the required security outcome before such checks are introduced.

In our previous submission, the NFF noted that the preferred and most efficacious way to achieve security while retaining access and affordability would be to attempt to address terrorist threats to chemicals by altering the chemical concentration, volume and product formulation. The security management framework makes full provision for this approach.

## **Conclusion**

The NFF endorses the Draft COAG Security Management Framework as a way forward that achieves the necessary security objective without compromising economic and business imperatives. It appropriately balances risk mitigation with community and industry outcomes and is an important document in ensuring that the threat of terrorism does not change the Australian way of life.

The Draft Report is a sophisticated response to one of the greatest challenges we face. It demands much of governments and industry – including ongoing consultation – and requires great changes in the ways in which we conceive of chemical regulation. By insisting on national consistency, this model has the opportunity to represent a great step forward in chemical legislation and regulation. That this achievement will be the product of government and industry collaboration is a vital indicator of what can be accomplished through partnering.

The NFF looks forward to participating in the Security Management Framework.

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