



Australian Government

Department of the Prime Minister and Cabinet Office of Best Practice Regulation

Reference: 9160
Telephone: 6271 6270
e-mail: helpdesk@obpr.gov.au

Mr Peter N Varghese AO
Secretary
Department of Foreign Affairs and Trade

Dear Mr Varghese

Final Assessment Regulation Impact Statement – Japan-Australia Economic Partnership Agreement

Thank you for forwarding the Regulation Impact Statement (RIS) for the above proposal for final assessment on Tuesday 6 May 2014. I note that you have formally certified the RIS as required by the best practice regulation requirements.

The Office of Best Practice Regulation's (OBPR) final assessment is that the Department of Foreign Affairs and Trade (DFAT) is compliant with the Government's requirements at the signing stage. This assessment is based on:

- the regulatory costs and cost offsets having been agreed with the OBPR;
- DFAT having twice submitted the certified RIS for the OBPR's assessment prior to a decision being taken; and
- your letter of 6 May 2014 certifying the RIS responds to the OBPR's formal assessment of the RIS on 17 March 2014.

In addition, I note that the RIS, in answering the seven questions:

- does not contain obvious errors;
- refers to the changes in the rates of tariffs and some of the quotas applicable to Australian exports to Japan;
- refers to the reduction or elimination of tariffs on Japanese exports to Australia;
- in the case of the export beef industry, outlines the scale and scope of the likely impacts of the JAEPA on trade volumes, based on industry modelling;
- refers to consultation undertaken with some of the more significant Australian export industry bodies; and
- refers to some products in respect of which JAEPA is expected to provide benefits for Australian consumers.

However, having regard to the significance and widespread nature of the likely impacts of the proposal on the Australian economy, the OBPR does not consider that the RIS is best practice.

In general terms – and consistent with our previous comments – the RIS does not provide the reader with sufficient understanding of the likely scale and scope of the impacts of the JAEPA on affected parts of the Australian economy.

For example:

- the RIS relies heavily on ‘before and after’ comparisons of tariff levels and quotas, with insufficient analysis of the expected impacts of these changes on the Australian economy;
- with the exception of the beef industry, the RIS does not attempt to quantify the likely impacts of JAEPA on trade volumes or prices for key Australian export industries, or on trade volumes in aggregate;
- the RIS contains only a brief reference to the likely impacts of tariff removal on those Australian industries that currently compete with Japanese imports, without quantifying or analysing the likely impacts of these;
- the RIS contains claims about the benefits of the JAEPA for Australian exporters, importers and consumers which are not supported by the level of evidence and quantification presented; and
- the RIS includes relatively brief and high-level analysis of the impacts of trade liberalisation for those Australian industries that compete with Japanese imports.

Post-implementation review

As this regulatory change has been assessed as being highly significant the Government requires a Post-implementation review to be completed within five years of the agreement being implemented.

Non-compliance at entry into negotiations stage

I refer to the correspondence of 22 May 2007 between the OBPR and your Department. In that letter the OBPR noted that it appeared that the decision to enter into negotiations on the Australia-Japan Free Trade Agreement had been made in the previous year, and negotiations had already commenced. The OBPR also noted in that letter that, since no RIS was prepared for this decision, the OBPR would be obliged to report the Department as non-compliant with the RIS process for that stage of the process.

Accordingly, this non-compliance will be noted, together with the publication of the signing RIS and related documents, following the announcement of JAEPA’s signing.

Publication requirements

The Office of Best Practice Regulation (OBPR) maintains a RIS website and the Government requires that RISs be posted within 5 business days of a regulatory decision being publicly announced. We would appreciate you advising us when a decision on this

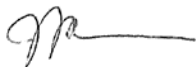
proposal is announced, and forwarding a final copy of the RIS in *Microsoft Word .doc* format in a form meeting the Australian Government's *Web Content Accessibility Guidelines*.

We suggest liaising with your web services team to ensure these guidelines are met. The OBPR should be consulted if the RIS is amended. It is the agency preparing the RIS, not the OBPR, which is responsible for the content of the published RIS.

The website provides a public comment facility on RISs posted on the site. The OBPR moderates this facility for offensive content but does not moderate debate. Please retain this letter as a record of the OBPR's advice.

Our reference number for this issue is 9160. If you have any further queries, please do not hesitate to contact me.

Yours sincerely

A handwritten signature in black ink, appearing to be 'JM', followed by a horizontal line extending to the right.

Jason McNamara
Executive Director
Office of Best Practice Regulation
9 May 2014