

**Department of Commerce
Trade Policy division
Government of India
Udyog Bhawan
New Delhi**

Subject: Australian Quarantine and Biosecurity Review : Comments regarding

A. On B1 of PART B “Quarantine and biosecurity”(para 12, at page 4 of Issue paper)

The paper has said that Biosecurity is a relatively new term and its definition is significantly broader than the concern for exotic pests, weeds and infectious agents that is the traditional focus of quarantine. It has then defines “Biosecurity is the protection of the economy, environment and human health from the negative impacts associated with entry, establishment or spread of exotic pests, disease and weeds”.

Comments: The SPS Agreement allows a Member to adopt any SPS measure to protect human animal and plant health appropriately. Such measures shall however, need to be based on science. The SPS Agreement talks only on science and does not talk about the protection of the economy. As the current definition tries to include measures to protect the national economy also, it has the potential to be arbitrary and trade restrictive and hence seems to be in contrary to the WTO-SPS Agreement principles. We therefore, request Australian authority to follow the principles of the WTO-SPS Agreement while reviewing its Quarantine and Biosecurity arrangements.

B. On C7 “Review” (para 94 at page 23 of the Issue paper)

Para 94 of Review says “Non-judicial review include the Import Risk Analysis Panel, to which stakeholders may appeal if they believe there has been a significant deviation from the required import risk analysis process. This appeals mechanism is independent of Bio security Australia. The Import Risk Analysis Appeals Panel considers any appeals and reports its findings to the appellant(s) and the Director of Animal and Plant Quarantine”.

Comments: From the above, it is not clear how the Import Risk Analysis Appeals Panel arrives at the conclusion and how their findings/decisions get implemented. It is also not clear whether any exporter also have the right for an appeal for re-assessment. We therefore, may ask for a clarification from the Australian authority. In case there is no provision for re-assessment then we would request the provisions for the re-assessment may suitably be made so that the affected exporters, if any, have the options of making use of the same as and when required.