



AUSTRALIAN
FOOD AND GROCERY
COUNCIL

SUBMISSION

SUBMISSION TO

Quarantine and Biosecurity Review Panel

IN RESPONSE TO

Quarantine and Biosecurity Review

28 April 2008

PREFACE

The Australian Food and Grocery Council is the peak national organisation representing Australia's packaged food, drink and grocery products industry.

The membership of the AFGC comprises more than 150 companies, subsidiaries and associates which constitutes in the order of 80 per cent of the gross dollar value of the highly processed food, beverage and grocery products sectors. (A list of members is included as Appendix A.) The AFGC represents the nation's largest manufacturing sector. By any measure Australia's food, drink and grocery products industry is a substantial contributor to the economic and social welfare of all Australians. Effectively, the products of AFGC's member companies reach every Australian household.

The industry has annual sales and service income in excess of \$70 billion and employs more than 200 000 people – almost one in five of the nation's manufacturing workforce. Of all Australians working in the industry, half are based in rural and regional Australia, and the processed food sector sources more than 90 per cent of its ingredients from Australian agriculture.

The AFGC's agenda for business growth centres on public and industry policy for a socioeconomic environment conducive to international competitiveness, investment, innovation, employment growth and profitability.

The AFGC's mandate in representing member companies is to ensure a cohesive and credible voice for the industry, to advance policies and manage issues relevant to the industry and to promote the industry and the virtues of its products, enabling member companies to grow their businesses.

The Council advocates business matters, public policy and consumer-related issues on behalf of a dynamic and rapidly changing industry operating in an increasing globalised economy. As global economic and trade developments continue to test the competitiveness of Australian industry, transnational businesses are under increasing pressure to justify Australia as a strategic location for corporate production, irrespective of whether they are Australian or foreign owned. In an increasingly globalised economy, the ability of companies to internationalise their operations is as significant as their ability to trade globally.

Increased trade, rationalisation and consolidation of businesses, increased concentration of ownership among both manufacturers and retailers, intensified competition and dynamic, increasingly complex and demanding consumers are features of the industry across the globe. Moreover, the growing global middle class of consumers is more sophisticated and discerning, driving innovation and differentiation of products and services.

The AFGC is working with governments in taking a proactive, even tactical, approach to public policy to enable businesses to tackle the threats and grasp the dual opportunities of globalisation and changing consumer demands.

1 COMMENTS ON APPLICATION

The Australian Food and Grocery Council (AFGC) welcomes this opportunity to make a submission to the *Quarantine and Biosecurity Review Panel on the Quarantine and Biosecurity Review*. The AFGC has taken into account the limits of the terms of review and that the Panel is to provide recommendations on the appropriateness, effectiveness and efficiency of:

- current arrangements to achieve Australia's ALOP;
- public communication, consultation and research and review processes;
- resourcing levels and systems and their alignment with risk in delivering requisite services; and
- governance and institutional arrangements to deliver biosecurity, quarantine and export certification services.

The AFGC has concerns about the presentation and organisation of this Issues Paper. The layout of questions is poorly designed to elicit effective and meaningful responses as they are not presented in a logical sequence and there are too many questions. The questions, and presumably therefore the intended audience, are poorly targeted with many of the questions being irrelevant to external stakeholders.

The AFGC will attempt to selectively address some of the questions raised, and to provide examples where situations and experience in dealing with Biosecurity Australia and AQIS may be relevant.

1.1 AFGC POLICY POSITION

The AFGC has long held the principle that ensuring food safety is a critical requirement for the food industry and that there is a community expectation that food must be safe and suitable at the point of sale. Risk assessment in determining whether safety concerns are inherent in the ingredients or introduced during harvest, processing, transport or distribution are an absolute necessity, as is the need to consider the concentration and effects of hazards, levels of exposure and population susceptibility. Risk management is embodied in the use of Hazard Analysis Critical Control Point (HACCP) systems which provides the foundation for efficient and effective delivery of safe food.

The Codex Alimentarius is the 'default' international food standards, and has been adopted without amendment by developing countries that do not have the resources to separately develop their own legislation. However, provision is made to permit sovereign Governments to address national interests and pursue national food safety legislation.

The World Trade Organisation's SPS Agreement sets out the rights and obligations of WTO Members in relation to the determination of an appropriate level of sanitary protection that a country may impose and the circumstances under which it is applied to domestic and imported foods.

It is recognized that countries may set more stringent requirements than those imposed by Codex, and equally a country may set less stringent conditions than applied by Codex, or not adopt Codex provisions at all. No matter which option is adopted, the decisions should be based on sound scientific evidence in support of the decision.

The AFGC supports the ability of Australia and New Zealand to establish joint legislative requirements for food, based on principles of risk assessment supported by sound scientific evidence in the context of Australian and New Zealand diets.

The AFGC supports the principle that globalisation demands open and competitive markets, and that an internationally competitive and prosperous Australian food manufacturing sector depends on access to competitive markets. The processed food sector's future growth is heavily dependent on export markets, given the maturity of the domestic market and the highly concentrated nature of domestic retail trade. Corporate production processes have been transformed and are now a sophisticated worldwide system. Some of the threats to the viability of both the export and import of product include the imposition of technical barriers to trade, unnecessarily restrictive bureaucratic processes which incur significant penalties on industry through lack of timeliness, and the imposition of non-tariff costs and charges which reduces viability and opportunity in trade.

2 SPECIFIC COMMENTS

The following comments are provided in response to the specific issues raised in the issues paper:

2.1 RISK ACROSS THE QUARANTINE AND BIOSECURITY SPECTRUM

The AFGC considers that Australian's Quarantine and Biosecurity systems appropriate to maintain its ALOP, providing a considered balance of what is a reasonable risk while taking into account the necessary impediments to trade.

The AFGC supports the necessity to impose such systems as are required to fully evaluate the potential risks posed, the processes that industry may use to mitigate such risks and the verification systems required to check and maintain the integrity of such requirements. The AFGC notes that industry is a key stakeholder in such a system and needs to be fully consulted in the development and review of such risk assessments and the implementation of risk management plans.

2.1.1 Informed decision making based on risk analysis and risk management

Recent examples involving waste disposal requirements for imported pork and the affects on the processed manufactured meat industry demonstrate the relative inflexibility of the current system and the inability of the bureaucratic processes to amend flawed decisions. There is a clear reluctance within the public service to acknowledge when an omission of fact leads to a flawed decision, with the result of significant costs incurred by industry.

The issue of concern resulted from an AQIS determination to impose changes to the disposal of imported pig meat solid waste without consultation with the industry. This was

undertaken as AQIS determined that disposal conditions must be consistent with the 2004 Import Risk Analysis (IRA) for the importation of pig meat. As a result, industry was informed that waste which is heat treated to 100 °C for 30 minutes must now be disposed of as general waste to landfill and could no longer go to third parties for use in stockfeed, pet food or fertiliser.

The AFGC was advised that the grounds for making this determination was based on the recommendations on the post-entry control provides and processing requirements, on page 760 of the IRA. While the 2004 IRA considered the suitability of disposal of waste to landfill, and considered potential environmental risks, it did not consider the associated costs and environmental impacts of sending waste to landfill. Furthermore, the IRA did NOT consider the option of disposal of waste via third-part processing, the environmental benefits and the social and economic implications.

As a result of this deficiency in the IRA, AQIS sought advice from Biosecurity Australia as to whether rendering and production of fertiliser from waste is acceptable as an equivalent method of disposal to the standard treatment options. Biosecurity Australia advised that, as no assessment was undertaken in the IRA, they were unable and unwilling to provide such advice. AQIS therefore concluded that it could not sanction the arrangement for disposal via current processes, and came to this decision without consultation with industry.

The bureaucratic processes involved in this decision are clearly cumbersome, inflexible and are more concerned with 'protecting someone's butt' than making the right decision for industry and the community as a whole.

This particular example also demonstrates the difficulty industry has in engaging with, and providing comment on, the risk assessment and risk management issues. The fact that the 2004 IRA on imported pork meat was 780 pages long, and that the recommendation for disposal is buried on page 760, may partly account for the reason that industry did not challenge omission in the recommendations of the report at the time it was prepared.

Does AQIS implement risk management in a manner consistent with advice/recommendations provided by Biosecurity Australia?

AQIS may consider that it has implemented 'to the letter' exactly the recommendations of Biosecurity Australia, no more and no less. However, what the above example from the pork industry demonstrates is that there was a failure of AQIS to consult with industry stakeholders and manufacturers over their implementation strategy, and therefore a failure in process to reach a scientific and economically sound decision.

In this case, Biosecurity Australia failed to "competently and comprehensively assess risk and risk management issues" and, when advised by AQIS of the deficiency, failed to provide an adequate response that would enable AQIS to take appropriate action.

Despite these shortcoming in the processes, the lack of effective engagement with stakeholders during implementation and the inflexible and inarticulate approach of AQIS in dealing with industry, the current framework is adequate to provide analysis and management of risks, if carried out properly.

2.1.2 Timeliness and responsiveness

The AFGC considers that the risk analysis, import policy determinations and permit conditions are sufficiently updated through monitoring of actual experience, and through engagement and arrangements with trading partners. The rapid response to permit conditions prohibiting the import of product imported from the United Kingdom following an outbreak of Foot and Mouth Disease (FMD) is a clear demonstration of the effectiveness of the current system in protecting Australia.

However, the same cannot be said in regard to restoring permit conditions to allow trade and ensuring that Australian industry is able to get on with business. The AFGC is advised that the Biosecurity Australia review undertaken of the FMD status of the UK took a significant period of time. Furthermore, that once the advice was provided to AQIS it was slow to act on providing advice to industry via the ICON alert and amending permits to enable the importation of foods.

Once again, this is an example of the framework and system being adequate to the task, but the effectiveness and efficiency being hampered either by inadequate and overly bureaucratic processes or the lack of resources and inappropriate priority setting to ensure that outcomes are implemented quickly.

This shows that the staff at AQIS are not in tune with Industry in terms of ensuring industry can go about the day to day jobs of producing food and supporting Australian business.

2.1.3 Legislative framework

The AFGC notes that some States have imposed excessively restrictive prohibitions on the movement of certain foods across State borders, and that these have neither a sunset clause nor have been subject to a full and considered review by Biosecurity Australia.

An example is the Western Australian restriction on the movement of honey and processed products containing honey into the State. The restriction prohibits the importation of such products unless accompanied by a 'Health Certificate for the Interstate Movement of Apiary Products', issued by the Department of Agriculture and Food equivalent in the state of origin. The certificate must certify that the honey has been heat treated at 65 degrees Celsius for 8 hours.

This restriction applies a blanket approach to the control on importation of honey and honey products and assumes that all areas outside Western Australian borders are equally likely to be infected with European foulbrood disease. This approach is at odds with that adopted by Biosecurity Australia and gives no consideration to the possibility that certain areas may be classified as disease-free and permit the importation of honey without heat treatment.

The AFGC supports the assessment that the Commonwealth has not attempted to comprehensively cover Australia's quarantine and biosecurity legislative requirements, allowing loop-holes in the application of state law, and thereby fostering competing interests of State and Territory jurisdictions. In attempting to take a cooperative approach with jurisdictions, and focusing on international borders, the Commonwealth has failed to

develop a uniform and consistent national approach across jurisdictions to manage the international and interstate movement of foods. This politically expedient approach fails to recognise the national nature of food businesses in Australia and the costs to industry by imposing state based requirements.

2.1.4 Jurisdictional and institutional arrangements

The AFGC supports maintaining the independence of Biosecurity Australia as a prescribed agency, but that it should remain within the Department of Agriculture, Fisheries and Forestry to ensure that it remains accountable to, and directed by, the Secretary of the Department. In effect, the Department currently provides a coordinating role between the risk assessment functions of Biosecurity Australia and the risk management and implementation functions of AQIS.

Mechanisms are already available to assess and review claims of conflict of interest and political bias. Moving to an independent statutory authority will not necessarily improve perceptions of bias or political interference, and an independent statutory authority is not directly accountable to the media and the community in the same way that the Minister is held to be accountable.

Transferring the collective functions and responsibilities to a separate agency will not necessarily improve effectiveness, timeliness or accountability. The AFGC supports the position that there are a broad range of factors, including but not limited to, the direct risks associated with disease or pest potential. Some of these elements fall outside the scope of undertaking risk assessment, but need to be taken into account in the decision making process to ensure that community expectations are taken into consideration. It is essential that the Minister, acting on behalf of all stakeholders and the community, is directly involved in this decision making process, and that the legality of the decision is able to be subject to challenge by the Administrative Decisions Judicial Review, and the Administrative Appeals Tribunal.

APPENDIX A: AFGC MEMBERS AS AT 3 APRIL 2008

AAB Holdings Pty Ltd	Kellogg (Australia) Pty Ltd	Unilever Australasia
Arnott's Biscuits Ltd	Day Dawn Pty Ltd	Waters Trading Pty Ltd
Snack Foods Ltd	Kikkoman	Wyeth Australia Pty Ltd
The Kettle Chip Company Pty Ltd	Kimberly-Clark Australia Pty Ltd	Yakult Australia Pty Ltd
Asia-Pacific Blending Corporation Pty Ltd	Kerry Ingredients Australia Pty Ltd	
Barilla Australia Pty Ltd	Kraft Foods Asia Pacific	
Beak & Johnston Pty Ltd	Lion Nathan Limited	
BOC Gases Australia Ltd	Madura Tea Estates	
Bronte Industries Pty Ltd	Manildra Harwood Sugars	
Bulla Dairy Foods	Mars Australia	
Bundaberg Brewed Drinks Pty Ltd	Mars Food	
Bundaberg Sugar Ltd	Mars Petcare	
Cadbury Schweppes Asia Pacific	Mars Snackfood	Associate members
Campbell's Soup Australia	McCain Foods (Aust) Pty Ltd	Accenture
Cantarella Bros Pty Ltd	McCormick Foods Aust. Pty Ltd	Australia Pork Limited
Cerebos (Australia) Ltd	Merino Pty Ltd	ACI Operations Pty Ltd
Christie Tea Pty Ltd	Merisant Manuf. Aust. Pty Ltd	Amcor Fibre Packaging
Clorox Australia Pty Ltd	National Foods Ltd	CHEP Asia-Pacific
Coca-Cola Amatil (Aust) Ltd	Nerada Tea Pty Ltd	Concurrent Activities
SPC Ardmona Operations Ltd	Nestlé Australia Ltd	Dairy Australia
Colgate-Palmolive Pty Ltd	Nestlé Foods & Beverages	Exel (Aust) Logistics P/L
Coopers Brewery Ltd	Nestlé Confectionery	Focus Information Logistics Pty Ltd
Dairy Farmers Group	Nestlé Ice Cream	Food Liaison Pty Ltd
Danisco Australia Pty Ltd	Nestlé Chilled Dairy	Food Science Australia
Devro Pty Ltd	Nestlé Nutrition	Foodbank Australia Limited
Dole Australia	Foodservice & Industrial Division	IBM Business Cons Svcs
DSM Food Specialties Australia Pty Ltd	Novartis Consumer Health Australasia Pty Ltd	innovations & solutions
DSM Nutritional Products	Nutricia Australia Pty Ltd	KPMG
Earlee Products	Ocean Spray International, Inc	Lawson Software
Ferrero Australia	Parmalat Australia Ltd	Legal Finesse
Fibrisol Services Australia Pty Ltd	Patties Foods Pty Ltd	Linfox Australia Pty Ltd
Fonterra Brands (Australia) Pty Ltd	Peanut Company of Aust Ltd	Meat and Livestock Australia Ltd
Foster's Group Limited	Procter & Gamble Australia Pty Ltd	Monsanto Australia Ltd
Frucor Beverages (Australia)	Gillette Australia	PricewaterhouseCoopers
General Mills Australia Pty Ltd	PZ Cussons Australia Pty Ltd	Promax Applications Group Pty Ltd
George Weston Foods Ltd	Quality Ingredients Ltd	Sue Akeroyd & Associates
AB Food and Beverages Australia	Prima Herbs and Spices	Swire Cold Storage
AB Mauri	Reckitt Benckiser (Aust) Pty Ltd	Swisslog Australia Pty Limited
Cereform/Serrol	Ridley Corporation Ltd	Touchstone Cons. Aust Pty Ltd
Don	Cheetham Salt Limited	Visy Pak
GWF Baking Division	Sanitarium Health Food Company	Wiley & Co Pty Ltd
George Weston Technologies	Sara Lee Australia	
Jasol	Sara Lee Foodservice	
Weston Cereal Industries	Sara Lee Food and Beverage	
GlaxoSmithKline Consumer Healthcare	SCA Hygiene Australasia	
Golden Circle Ltd	Schwarzkopf and Henkel	
Goodman Fielder Limited	Sensient Technologies	
Meadow Lea Australia	Simplot Australia Pty Ltd	
Quality Bakers Aust P/L	Specialty Cereals Pty Ltd	
H J Heinz Company Australia Ltd	Spicemasters of Australia Pty Ltd	
Hans Continental Smallgoods Pty Ltd	Stuart Alexander & Co Pty Limited	
Harvest FreshCuts Pty Ltd	Sugar Australia Pty Ltd	
Heimann Foodmaker Group	SunRice	
Hoyt Food Manufacturing Industries Pty Ltd	Swift Australia Pty Ltd	
J Boag and Son Brewing Ltd	Symrise Pty Ltd	
Johnson & Johnson Pacific Pty Ltd	Tate & Lyle ANZ	
Pfizer Consumer Health	The Smith's Snackfood Co.	

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