



Australian Chicken Meat  
Federation (ACMF) Inc

28 April 2008

Mr Roger Beale AO  
Chairman  
Quarantine and Biosecurity Review  
c/o Department of Agriculture, Fisheries and Forestry  
CANBERRA ACT 2601

VIA EMAIL: [quarantinebiosecurityreview@daff.gov.au](mailto:quarantinebiosecurityreview@daff.gov.au)

Dear Mr Beale

**Submission to the review of quarantine and biosecurity arrangements on behalf of the Australian chicken meat industry**

Thank you for the opportunity to submit the Australian Chicken Meat Federation's (ACMF) comments to your review panel. ACMF represents all elements of the Australian chicken meat industry, including chicken growers and processors at the national level. Members of the Federation are the five State Chicken Meat Councils, the Australian Chicken Growers' Council and the Australian Poultry Industries Association, the last representing the fully integrated processors operating at the national level.

The chicken meat industry is Australia's largest meat industry on a domestic per person consumption basis. A highly efficient and vertically integrated industry, it has developed steadily since WWII to an annual turnover now of around \$2.7 billion on an asset base of \$6 billion and employs 40,000 people directly and 120,000 in total throughout Australia. It is Australia's most efficient meat industry on the standard economic test of passing through real price reductions to the consumer, and it is the second most efficient poultry industry in the world on technical production measures. Like other significant Australian rural based industries (beef, wheat, dairy, etc) the chicken meat is free of a range of devastating diseases which plague other countries in the world and it relies on strong and predictable national quarantine protection as the essential foundation for its investment and growth. (Quarantine protection should not be confused with economic protection such as domestic support, tariffs and export subsidies which are rampant in other countries). The ACMF agrees that significant new international threats since the 1996 Nairn Review, such as BSE, FMD, SARS, Avian Influenza and the rise of international terrorism underline the importance and timeliness of this Review (paragraph 41 of Issues Paper).

The supreme importance of quarantine protection to Australia's unique natural environment, the welfare of its rural industries and the nation's human health and safety has been recognised since the earliest days of colonisation, and was one of the first legislative measures taken by the Commonwealth government after Federation of Australia with the enactment of the Quarantine Act of 1908. Stable, predictable and strong quarantine has provided the essential foundation for investment and growth of Australia's agrifood industries.

This is well recognised. A recently published Report of the Australian Farm Institute summarises the issue as follows:

*"...Indeed, were it not for Australia's freedom from diseases such as Foot and Mouth Disease and BSE, and the existence of two-tier markets for disease endemic and disease-free products in beef, lower cost competition from countries like Brazil and Argentina would not only be harming Australia's share of foreign markets but also exposing the industry to serious, if not devastating, threat in the domestic Australian market. The value of Australia's strong, and WTO legal, quarantine regime in underpinning investment and progressive growth of our rural industries cannot be overestimated. Without the essential building block of strict domestic quarantine protection it is futile to discuss policies for future growth and wealth creation in Australia's rural sector."* (Source: Australian Farm Institute Research Report *Enhancing the Customer Focus of Australian Agriculture 2006*, p55).

It is important to understand that foreign criticism of Australia's strict – and WTO compliant – quarantine regime is to be expected. Australia is a high income developed market economy with zero, or very low, tariffs and a well-developed and open retail and distribution system. Overseas exporting countries intent on tapping into the lucrative Australian domestic market but finding themselves unable to satisfy Australia's justifiable and WTO legal quarantine restrictions because of their own disease status will, quite naturally, endeavour to denounce our quarantine system as "protectionist" in an effort to have our quarantine weakened.

Such propaganda and self serving trade friction – which is part and parcel of the business of international trade tactics and pressures – should be firmly rejected by Australia. Our IRA processes are the most highly developed, scientifically based and transparent in the world and are a model of compliance under the WTO SPS Agreement. Few, if any, countries in the world adopt the formal and necessarily time consuming "risk based" methodology and open, transparent IRA processes implemented in Australia.

For our industry, protection from diseases that are not generally found in Australia has always been a major concern. The industry continues to invest substantial resources into maintaining its operation biosecure and being prepared to eradicate any emergency disease, including avian influenza.

But clearly, our first and most important line of defence as a country are the activities carried out by Government pre-border, at the border and post-border. The industry's main involvement and direct experience with the quarantine and biosecurity arrangements over the past few years was focused on the import risk analysis, with the most recent draft IRA of chicken meat currently being reviewed by Biosecurity Australia and the Eminent Scientists Group.

We would like to raise just a few points, addressing in particular the IRA process and related issues since this is the area where our industry had the most direct involvement with the biosecurity and quarantine system in recent times.

Firstly, it is important to acknowledge that Australia's retention of an Appropriate Level of Protection at a very low level of risk is crucial. We should like to emphasise that this conservative approach to biosecurity and quarantine has served Australia well. It is also important to note, as is done in your discussion paper, that this is a qualitative concept which is open to interpretation. We would argue that there is indeed not a clear common understanding of what is meant by a very low level of risk. This is naturally of concern since the whole system is based on this concept. (Para. 24 of issues paper)

Although this Review excludes consideration of the appropriateness of the "very low" level of risk criteria, ACMF feels that it is important to note that "very low" is not the lowest risk level available to Australia. "Extremely low" and "zero" are lower levels available in our ALOP range. Given the significant increase in exotic disease threats worldwide cited in the Issues Paper since the 1996 Nairn Review stemming from BSE, SARS, Avian Influenza, FMD, climate change, and the emergence of international terrorism, a strengthening of Australia's ALOP to "extremely low" now seems justified and would reinforce other elements of Australia's quarantine framework under consideration by this Review.

While the risk analysis is science based, it must be acknowledged that there is a significant element of judgement involved in the process, involving a broad range of parameters from social and environmental to commercial and economic factors. It is for this very reason that ACMF strongly supports the view that the ultimate decision should be vested in the Minister for Agriculture who is best placed to weigh the various elements based on the advice from his department and other experts. (Para. 66 of the issues paper)

ACMF believes the existing roles of States and the Commonwealth are satisfactory and reflect the important responsibilities of both levels of government in Australia's quarantine protection. Equally, there are no grounds for establishing BA as a statutory authority – Ministers should be responsible – with present structures remaining unchanged.

The ACMF would draw to the Review's attention the reasons provided by the Government in its response to the Nairn Report in rejecting the recommendation for a statutory authority, namely:

*"A fundamental consideration is the principle of accountability and responsibility for quarantine at both departmental and government levels and the issue of who should hold executive decision making power in relation to quarantine. The Government has concerns about the proliferation of Commonwealth statutory bodies and the resultant distortions introduced into Commonwealth policy development, policy advice and decision making. While endorsing the reform objectives of the Nairn Committee, the Government's view is that the above objectives, such as community ownership of quarantine, cultural change and more efficient use of resources, can be achieved without creating a statutory authority" (Source Recommendations 9-22, accessible at <http://www.daff.gov.au/agis/about/reports-pubs/nairn/govt-response>).*

Recent comments on this issue by Professor Nairn himself about the developments that have taken place since his original recommendation are also worthy of note:

*“The case for AQIS to be a statutory authority seems diminished given that: BA has been created as an independent agency; the IRA process reformed; the independent centre for risk analysis has been established; and the need to view biosecurity in a broader more multidiscipline light. It is important for strong links to be maintained between AQIS, BA and the product Integrity, Animal and Plant Health Division” (Source: M. Nairn, “A Retrospective of the 1996 Review of Quarantine in Australia”, Farm Policy Journal, Vol. 5 No.1, February Quarter 2008, page 7).*

Administrative structures should however be reviewed to exclude any perception that Australia’s quarantine protection is being managed with an objective of achieving access to foreign markets for Australian exporters. The Review should consider whether the mixed responsibilities of BA, which might raise questions of “trade-off” between domestically quarantine protection and opening foreign markets for our exporters, should be terminated and whether BA should have responsibility only for national quarantine protection. Similarly the Review should consider in this light whether QEAC should be abolished with, if deemed necessary, a domestic focused body established to advise on Australia’s national quarantine policy, and if required a separate market access advisory body established in the department responsible for overseas market development e.g. DFAT or AUSTRADE.

A particular concern is that consultative arrangements established under FTAs to address bilateral quarantine claims are completely lacking in transparency and lend themselves to “trading off” of the interests of one industry in favour of another. The Review should inform itself of the substantial provisions on quarantine in FTA Agreements. These FTA provisions impact directly on matters under consideration by the Review and have the potential to cut across, or compromise, existing and future Australian policies. In particular, some FTAs provide executive powers for dispute resolution and compulsory consultation not envisaged in the IRA Handbook, and impose conditions which may compromise the powers of our quarantine administration. Australian industries are not consulted in the quarantine negotiations and discussions undertaken pursuant to FTA Agreements. The Review should appraise itself of these matters. (Para. 66)

We believe that there has to be a clear separation between those who advise on and implement import quarantine requirements and those whose main objective is to maximize access to overseas markets. In many instances, the two considerations will lead to quite different points of view and final judgements.

We acknowledge that changes implemented in late 2004 were a move in the right direction but note that there is still quite a degree of overlap between these potentially contradictory functions. (Para. 66 of the issues paper)

We should also like to note that in our experience the consultative arrangements with industry used during the import risk analyses seem to be appropriate and effective. ( Para. 79)

In our view, a major flaw in the current IRA process, which is also reflected in the expertise that is brought to bear on this work, is the almost exclusive focus on animal (and plant) health issues, largely excluding or deferring human health considerations. The SPS agreement explicitly allows countries to take the risks to human life and health into

consideration when deciding on quarantine requirements for imports. Furthermore, the main expertise applied during the IRA is animal (and plant) health and animal epidemiology which provides a good basis for the assessment of the likelihood of an event but leaves the other important parameter, i.e. the consequences, inadequately covered.

The impression can erroneously be gained that IRAs and decisions on quarantine measures adopted must be based on science alone. Article 5.3 of the SPS Agreement states that:

*“In assessing the risk to animal or plant life or health and determining the measure to be applied for achieving the appropriate level of [SPS] protection from such risk, Members shall take into account as relevant economic factors: the potential damage in terms of loss of production or sales in the event of the entry, establishment or spread of a pest or disease; the costs of control or eradication in the territory of the importing Member; and the relative cost-effectiveness of alternative approaches to limiting risks”.*

It is therefore clear that:

- The need to take into account economic factors applies to both risk assessment and determination of the measure;
- Economic factors have to be taken into account – it is not discretionary; and
- Arguably the terms “in the event of the entry” means economic costs of the imports themselves as well as the costs of the disease.

This is relevant to the consideration of whether, as the Issues Paper asks, the wider implications – for exporters, consumers and the economy – be taken into account when developing quarantine and biosecurity arrangements, and if so, how? (Para 54 Questions).

As indicated above, the assessment of economic implications in conducting risk assessment and measures affecting the industry subject to the disease is already mandated by the SPS Agreement.

However it is not clear whether consideration of the impacts on consumers or the economy more widely is supported by the Agreement - see Binder. M, 2002, "The Role of Risk and Cost–Benefit Analysis in Determining Quarantine Measures", Staff Research Paper, Productivity Commission Canberra which states that:

*“Some commentators have argued that incorporating a broad economic perspective would lead to breaches of the SPS Agreement (page 52) ... .*

*A third argument that has been raised is that, in deciding amongst measures to be applied to reduce pest and disease risk, article 5.3 excludes consideration of the competition or trade-related impacts of allowing or restricting imports on consumers, producers or others in a community.*

*Although the language in this article is clearest with respect to the costs of pests or diseases, it simply does not address the competition or trade-related impacts on consumers, producers or others of allowing or restricting imports. There is nothing in the article to suggest that only specified factors must be taken into account in choosing amongst measures to reduce risk (page 53)". (e.g. Para. 54)*

We are not able to offer a well-founded suggestion as to how human health issues should be treated in the relevant legislation. In terms of desirable outcome, however, we believe it is important, at a time when food safety and zoonotic diseases are of growing concern both to the specialists as well as the general public, that the IRA process fully encompasses the human health issues and that these considerations are not limited to a few low-level discussions with the Department of Health and FSANZ. By bringing these considerations explicitly and fully into the ambit of the IRA, they become part of the consultation process and will allow industry to contribute to these considerations. (Section C2 of the issues paper)

An issue which is not identified in the Issues Paper but is relevant to the question of the appropriate mix between the public and private roles in quarantine as discussed in section C4. *Culture, efficiency and resourcing* is the development of compartments as a means of achieving disease freedom in order to comply with import quarantine requirements.

The Draft Chicken Meat IRA states that:

*"In developing final recommendations on risk management measures, consideration is given to the potential impact of the measures on potential trade, and to minimising the negative effects on trade. Where there are alternative and equivalent risk management measures that achieve the required degree of risk reduction, the final recommendations need to take account of Australia's international obligations to ensure that its SPS measures are not more trade restrictive than those required to achieve its acceptable level of protection.*

*Among the alternatives which may be accepted in principle are measures such as compartment freedom or flock freedom accreditation schemes. These would need to be assessed on a case-by-case basis, but BA will consider proposals from exporting countries if appropriate data on the nature of the alternative risk management measure are provided.*

*A rigorous assessment of any application for approval of compartmentalisation or flock accreditation schemes will be undertaken to ensure that effective biosecurity measures are implemented and maintained throughout the complete chain from farm to slaughter to export. A detailed submission will need to be provided by the veterinary authority of the exporting country and Australia will conduct an on-ground assessment of the proposed compartment or flock accreditation scheme. ("Draft Generic Import Risk Analysis Report for Chicken Meat, Part A", June 2006, Page 10)*

The concept of compartmentalisation is one that has been developed in recent years by the OIE. Unlike more conventional disease freedom based on countries or regions which are based on geography the boundaries of compartments are based on biosecurity management systems. Accordingly verification of the disease freedom within compartments is critically dependent on information provided and activities conducted by private farming and processing entities. This entails significant governance and conflict of

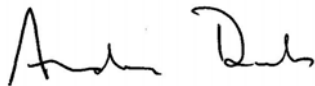
interest risks especially in countries with poorly developed veterinary surveillance, enforcement and certification systems.

The information provided in the Draft IRA on compartmentalisation does not include any indication of how any decisions to approve compartments will be made within the IRA Guidelines, nor how industry will be consulted before any such decision is made. Is it not indicated for instance whether a compartment can be recognised by an administrative decision without reference to any input by the Australian industry, or what arrangements will be made to ensure transparency of the decision-making process.

Australia seems to be well ahead of other countries in accepting this concept going so far as to incorporate it as a risk management method in IRAs whilst there are critical questions unanswered about how the concept will be implemented that could result in serious implications for the disease-freedom of Australian animals. The chicken meat industry believes that no compartments should be approved allowing products for import into Australia until the many issues associated with governance, transparency, administrative arrangements and consultation with Australian industry have been addressed. We believe this Review should inform itself about this important new concept and carefully consider the ramifications for Australia's quarantine system.

We hope that these few observations will be of value in directing the Panel's attention to issues concerning the import risk analysis process in particular. We have kept our comments succinct but would be glad to elaborate on any of these points.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Andreas Dubs', with a stylized, cursive script.

Andreas Dubs  
**Executive Director**