



Republika ng Pilipinas
KAGAWARAN NG PAGSASAKA
Tanggapan ng Undersecretary
Policy & Planning, Project Development at R & D
3F DA, Elliptical Rd., Diliman 1100, Quezon City
ilanera72@gmail.com ilanera72@yahoo.com ilanera72@walla.com

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Quarantine and Biosecurity Review Secretariat
Department of Agriculture, Fisheries and Forestry
GPO Box 858
CANBERRA ACT 2601

Dear Sir/Madame:

This has reference to the independent Panel appointed by the Australian Government to review and provide recommendations on Australia's current biosecurity and quarantine arrangements.

In this regard, we would like to submit the comments below with regard to the setting of appropriate level of quarantine and biosecurity protection, and the delays being experienced in the conduct of risk assessments and setting of import conditions by Australia.

On the Australian Setting of its Appropriate Level of Protection (ALOP):

- It will be recalled that the SPS Agreement imposes in Article 5.4 that "Members should, when determining the appropriate level of sanitary or phytosanitary protection, take into account the objective of minimizing negative trade effects".
- We note, therefore, the second bulleted question from the Review Panel, on page 13, asking whether the ALOP "is achieved in a way that is not more trade restrictive than required?"
- What does the Panel intend to do to review the appropriateness of Australia's procedures in establishing its ALOP and how it ensures that the measures adopted to maintain the ALOP is in accordance with science?
- We also note that community expectations is one of the pillars in setting the ALOP, an important question for the panel to also examine would be how to ensure that these expectations are also in accordance with science.
- The Panel should also consider examining the possibility of benchmarking Australia's systems including setting the ALOP, with available best practices, especially in developed country situations.

On Delays in the Completion of Risk Assessments and the Setting of Import Conditions:

- We note the sixth bulleted question from the Review Panel, on page 13, asking whether "Australia's risk assessments.... [a]re sufficiently timely?"
- We recall:
 - (a) The Philippines' Bureau of Plant Industry (BPI) first sought access to the Australian market for fresh banana fruit in 1995. As of today, this risk analysis has yet to be finalized. Thus, over 12 years after the import request for fresh banana fruit into Australia was made by the Philippines, no decision has been made by a Director of Quarantine on whether or not to permit such imports.
 - (b) The Philippines' Bureau of Plant Industry (BPI) first sought access to the Australian market for fresh papaya fruit from the Philippines pre-1994. As of today, no decision process on whether or not to permit imports of the products has been commenced by the Australian government.
- Timeliness is therefore a vital issue. And we would urge the Panel, especially in light of the recent *EC-biotech* jurisprudence, to examine whether the delays in finalizing the risk assessments [for bananas, plantain and papaya] are consistent with Australia's obligation in Article 8 and Annex C(1)(a) of the SPS Agreement.
- We also wish to point out that these delays in the approval process have been raised by numerous WTO Members on various occasions, the most recent of which is that of New Zealand over apples.

We appreciate the opportunity provided in submitting comments relative to the review process, and we look forward to your favorable consideration of the above-mentioned concerns.

Very truly yours,


SEGFREDO R. SERRANO
Undersecretary for Policy, Planning
and Project Development