

18th April 2014

Committee Secretary
Senate Rural and Regional Affairs and Transport Legislation Committee
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

Dear Sir/Madam,

**RE: Inquiry into the Agricultural and Veterinary Chemicals Legislation
Amendment (Removing Re-approval and Re-registration) Bill 2014**

This submission is a joint response from the following Australian Horticultural Industry bodies.

- ✚ Chestnuts Australia Inc
- ✚ Hazelnut Growers of Australia Inc
- ✚ Pistachio Growers' Association Inc

The industry groups represent, in total, some 300 small and medium size growers and seek to represent the interests of these growers as chemical users nationally.

The following is a brief introduction to each of the industries:-

Chestnuts Australia Inc

- ✚ About 70-75% of the total national chestnut crop is produced in north-east Victoria. Chestnuts are also grown east of Melbourne, in central Victoria, around Orange, Southern Tablelands, Blue Mountains and Batlow in New South Wales, in the Adelaide Hills in South Australia, in Tasmania and in south-west Western Australia.
- ✚ Many chestnut orchards are small family owned orchards, but there are several large scale commercial plantings and the average size of new chestnut orchards is increasing.
- ✚ **Current production**
 - Area: about 1,000 ha.
 - Production: an estimated 1,200 tonnes a year of fresh chestnuts with the 2013 production valued at \$7.5 million
- ✚ **Industry potential**

Chestnut production is expected to increase to 2,000 tonnes by 2020 as young orchards come into production.

Hazelnut Growers of Australia Inc

✚ Hazelnut orchards are scattered throughout south-eastern Australia due to the requirements of climate. The main production regions are the Central Tablelands of New South Wales near Orange, and north-east Victoria near Myrtleford. Hazelnuts are also grown in central and eastern Victoria and increasingly in Tasmania.

✚ Many hazelnut operations are small orchards of up to 6,000 trees. The average size of new hazelnut orchards is increasing and they are being planted to more productive varieties. Most are family operated enterprises.

✚ Current production

- Area: approximately 130 ha, including young orchards yet to come into production.
- Production: About 70 tonnes; expected to increase as new orchards come into bearing.
- Value: Industry has a current value of approximately \$1 million.

✚ Industry potential

By 2015, the area under hazelnut production is expected to be approaching 200 ha.

Pistachio Growers' Association Inc

✚ The major production areas are along the Murray River Valley between Swan Hill in Victoria and Waikerie in South Australia. Further plantings are in central west Victoria and Pinaroo, South Australia. Small plantings exist in Western Australia.

✚ A central commercial processing facility is at Robinvale in Victoria.

✚ The pistachio industry includes a mix of medium-sized business ventures and smaller family-owned operations. The bulk of the crop is produced on medium-sized orchards.

✚ Current production

- Area: 900 ha (2013 data).
- Production: average of 1,200 tonnes in-shell per year (based on a two year average) (2013 data) with a two year average value of \$12 million.

✚ Industry potential

By 2016, the area under pistachio production is expected to increase to 1,200 ha. It is estimated that by 2020 pistachio production could average 3,000 tonnes/year (\$25 million).

The brief information above highlights that these three nut industries:-

- a) are relatively young industries but industries that are expanding and developing,
- b) have the ability to increase production and productivity over the coming decades,
- c) are relatively small industries in terms of value (between \$1 million and \$15 million) and current production.

The above industry groups seek to represent the interests of their grower members on issues that impact on farm productivity and sustainability. It is from this viewpoint the industries welcome the opportunity to provide a submission to the Senate's Rural and Regional Affairs and Transport Legislation Committee inquiry into the proposed Agricultural and Veterinary Chemicals Legislation Amendments.

Agvet chemicals, irrespective of whether they are synthetic or natural in origin, are needed to effectively manage the many weeds, diseases and pests encountered in commercial crop production. Unfortunately, the Chestnut/Hazelnut/Pistachio industries are finding it increasingly difficult to gain and maintain access to these vital products. It is from this perspective that industries had significant reservations over aspects of the proposed re-approval scheme fearing they would impact negatively on the long-term availability of many agvet chemicals, to the detriment of growers.

The Chestnut/Hazelnut/Pistachio industries recognize that an important element of the regulatory framework is the re-assessment of older chemicals against contemporary standards. Nevertheless, these industries were extremely concerned that the approach taken in the legislation signified a more prescriptive regulatory approach which appeared to be moving away from current risk-based assessments.

From an industry perspective the area of primary concern related to the criteria covering the re-registration timeframes under Section 17A and 17B subsection 8. In particular, the fact that the Regulation adopted the EU classifications with respect to aquatic hazard (Acute I or Chronic I)¹ as one criteria in determining the priority and re-assessment period for agvet chemicals, i.e., compounds categorised under the EU Acute I or Chronic I classification would be subjected to shorter re-registration timeframes of 10 years.

The impact of such an approach would have been significant from both an APVMA and user perspective as the number of compounds meeting the EU criteria is substantial. An analysis of the EU Regulation found over 120 agvet chemicals, old and new, currently approved for use in Australia that fell within the EU classification. These included relatively new chemicals, e.g., azoxystrobin, and etoxazole, many older compounds, e.g., maldison and ziram, disinfectants, e.g., quaternary ammonium compounds and sodium hypochlorite, and compounds used in organic crop production such as copper sulphate and pyrethrins.

The Chestnut/Hazelnut/Pistachio Industries struggle to understand the rationale behind the adoption of an essentially EU approach to aquatic hazards and cut-off criteria. Environmental toxicity of chemicals can be affected by several factors, such as the magnitude, duration and frequency of exposure. From that perspective the relevance of an EU hazard classification to risk assessment, under Australian conditions, is unclear.

¹ REGULATION (EC) No 1272/2008

The required earlier re-assessment of such a large number of 'priority' compounds would have had significant resourcing and workload implications for the APVMA and allied agencies. Under Section 81 of Schedule 1 "**End dates and last renewal dates for existing approvals and registrations**"² it is indicated under subregulation 3 that

- a) the end date for the approval of the active constituent mentioned in subregulation (4) is 30 June 2015;
- b) the last renewal date for the registration of the chemical product containing an active constituent mentioned in subregulation (4) is 30 June 2015.

Subregulation 4 (o) (ii) indicates the end date of June 30th 2015 applies to any compound classified as Aquatic Chronic 1 in Table 3.1 of Annex VI of the European Community Regulation Number 1272/2008 as in force on the registration date. This would potentially require the APVMA to schedule over 120 agvet chemicals for re-assessment within 10 years of June 30, 2015, irrespective of whether any evidence existed of environmental or human health concerns, i.e., purely due to their presence on the EU aquatic hazard list. Such an overly-prescriptive approach would likely have led to a disproportionately expensive regime, for the APVMA, the registrants and the users.

Coupled with this would have been the requirement for supporting data to be provided for those compounds to be reviewed. Given the primary driver for registrants is financial return it is likely that many agvet chemicals would not be supported due to a need to for registrants to prioritise their resources on a return on investment basis. Further the costs incurred in re-registering agvet chemicals would add significantly to the costs passed on to users, i.e., the growers, placing them at further competitive disadvantage. The allocation of resources would also have been the scenario facing the Chestnut/Hazelnut/Pistachio industries wishing to support continued access to agvet chemicals under re-assessment, i.e., industry funding to support all nominated compounds could not be provided in the requisite timeframes. The unforeseen outcome of which would have been the loss of access to many needed agvet chemicals, irrespective of any identified concerns.

Finally, the legislation contained a trigger for the APVMA to consider the need for a review when 2 or more of 7 'prescribed' foreign regulatory authorities have prohibited use³. Industry concern over such a provision stems from the fact that countries can seek to prohibit uses based on factors other than science. The outcome of which would be such agvet chemicals would automatically have to be considered for re-assessment by the APVMA, again irrespective of any identified concerns locally.

The industries understand that repealing the legislation will not remove the requirement for re-assessment but will help ensure a more balanced approach to the review process that will help ensure regulatory action is proportionate to risk. Consequently, the undersigned industries support the proposed amendments to repeal re-registration requirements.

The Chestnut/Hazelnut/Pistachio industries commends the above amendments to the Senate Committee as it is believed the efficiency and flexibility of the process of

² Agricultural and Veterinary Chemicals Legislation Amendment (2013 Measures No. 2) Regulation 2013 Select Legislative Instrument No. 179, 2013

³ Regulation 22D

pursuing, assessing and managing chemical registration, minor use and emergency use permit applications will be significantly improved through their adoption.

The Chestnut/Hazelnut/Pistachio industries submission to the APVMA on the 'Agricultural and Veterinary Chemicals Legislation Amendments' is attached as an Appendix to this submission.

If any additional information is required please do not hesitate to contact the industry representative.

Yours faithfully,

Trevor M Ranford B.Sc., Dip MP (AIMSA), Adv Dip Hosp (Wine Marketing), CPMgr

Industry Development Officer, Chestnuts Australia Inc

Communications Project Officer, Hazelnut Growers of Australia Inc

Executive Officer, Pistachio Growers' Association Inc.