

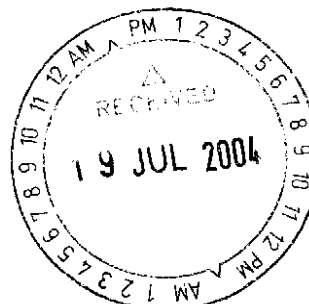
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Senator the Hon Peter Cook
Chair
Senate Select Committee – FTA Australia/USA
The Senate
Parliament House
CANBERRA ACT 2600

Dear Senator Cook



Questions raised at Senate Hearings 24 June 2004

I thank the Committee for the opportunity to present the ACMF Submission at the Hearings on 24 June in Canberra. At the Hearings you asked me to respond in writing to two questions raised (Hansard 24 June, pages FTA 46 and 47). The first question relates to what amendments the ACMF is seeking while the second question relates to MFN treatment.

The ACMF Submission (Submission 108) analyses and discusses in depth Chapter 7 of the FTA text in relation to quarantine. Briefly summarised, Chapter 7 establishes far reaching new quarantine arrangements including two Officials' Committees with powers to re-open and overturn Australia's existing quarantine Protocols and IRAs without consultation and involvement of Australian stakeholders or compliance with Australia's existing quarantine IRA procedures and public processes.

This is a serious concern to the ACMF particularly as the United States has indicated in official statements that the FTA will result in the resolution of Australia's quarantine barriers on a number of products, including poultry meat. The United States, the world's largest producer and exporter of chicken meat, along with other major world exporters, the EU, Thailand, Brazil and China, has been campaigning for many years to break down Australia's quarantine regime and flood our market with its subsidised product. Most of these countries have exotic strains of avian diseases from which Australia, an unsubsidised and efficient chicken meat producer, is free.

Australia's quarantine protection of its chicken meat industry is enshrined in our 1997 quarantine Protocol on cooked chicken meat. That Protocol was put in place after years of extensive science based and WTO legal IRA processes in accordance with Australia's respected and transparent "Nairn based" IRA Handbook. It involved substantial public input, extensive scientific investigation, stakeholder involvement and a Senate Inquiry.

The ACMF believes that this FTA, which only comes into effect on 1 January 2005, should not have retrospective effect. That is, our quarantine Protocol put in place in 1997 should not be subject to review and re-opening by this FTA. Equally, FTA Chapter 7 should not have retrospective application to Australia's IRA on uncooked chicken meat which has been under-way since 2001, and in which the United States and other countries have had full opportunity to participate.

ACMF is also concerned that the new quarantine processes and Officials' Committees established under Chapter 7 of the FTA involve no obligation to consult or inform Australian stakeholders or invite public participation in their activities, and decisions. This, in ACMF's view, is a denial of natural justice and contrary to the operation and transparency of Australia's existing quarantine procedures and IRA Handbook.

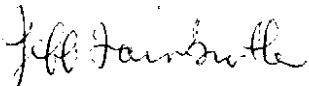
For the foregoing reasons the ACMF requests that the Senate Committee recommend:

- (1) **that Chapter 7 have no retrospective application to existing quarantine Protocols;**
- (2) **that Chapter 7 not apply to Australian IRAs currently under-way;**
- (3) **that provision be made for full natural justice and procedural fairness to Australian industries through complete public disclosure, transparency and consultation in the activities of the Officials' Committees established pursuant to Chapter 7.**

In answer to your second question regarding the desirability of an MFN clause in the FTA, I assume this is aimed at access by Australia to the US market for our exports. That is, if the US in future grants to a third country better access than it has granted to Australia then we should be entitled under an MFN clause to the same privileges. The ACMF has no objection to such an MFN provision if it could be secured as it may be of benefit to other Australian rural industries. However, for the reasons explained in our Submission the question of access to the US market for Australian chicken meat is academic given the corrupt nature of the world poultry markets. The US is the world's largest producer and exporter of chicken meat, it is heavily subsidised and in any event it refuses to allow imports from the other major world exporters on SPS grounds.

Rather, the serious concern of the ACMF regarding MFN relates to the quarantine concessions Australia has granted in Chapter 7 of the FTA. As set out in page 10 of our Submission to the Senate Inquiry because of the unique WTO MFN principles governing SPS matters Chapter 7 will have to be extended to all countries by Australia. Chapter 7 would, when extended multilaterally, profoundly change Australia's present quarantine regime and the justifiable biosecurity protection on which Australian industries have always relied upon for their stability and growth.

Yours sincerely



Dr Jeff Fairbrother
Executive Director

17 July 2004