

Chapter 4

Conclusions

4.1 In this committee's experience, the identification and practical efficacy of the risk management measures to be applied to the import of any given product are often a source of contention and frustration for stakeholders. The frustration experienced by these groups stems in no small way from the fact that the development of risk management measures begins within the consultative environment of the IRA process, but is completed after the IRA process has been finalised, as part of confidential government-to-government negotiations.

4.2 The committee notes that stakeholders to the Import Risk Analysis for the importation of bananas from the Philippines have a clear set of expectations of the IRA process:

- that the analysis that underpins the risk analysis process is thorough, robust and transparent and based on accurate and up to date information;
- that the specific risk management measures to be adopted are known and that the efficacy of these measures has been assessed during the consultative forum of the IRA process based on relevant laboratory and field data from the Philippines; and
- that the supervision of implementation of the import protocols by AQIS will be capable of identifying non-compliance in real time and remedying this in a manner that ensures contaminated fruit does not pass through the export pathway.

4.3 The committee considers that these are reasonable expectations.

4.4 The committee considers that the analysis of possible risk management measures in the final IRA report is, in essence, hypothetical. The analysis of the measures is not based on current laboratory or field trials in the Philippines and the measures have not been tested under commercial conditions. The final IRA report makes certain findings regarding a range of possible measures, but does not preclude any measure or combination of measures if it can be demonstrated that a measure or measures would achieve Australia's acceptable level of protection.

4.5 The actual risk management measures that will be applied will be proposed by the Philippines. The testing of their efficacy will be a matter for the Philippines in the first instance after which AQIS, in consultation with BA, will determine if the measures will meet Australia's ALOP. This process of negotiation will be considered at a government to government level and input from the industry will be limited to the provision of expertise on a consultancy basis, at the discretion of AQIS and BA.

4.6 Stakeholders clearly expect the final IRA report to be more definitive with regard to risk management measures and how they are to be implemented. It is no

doubt frustrating for stakeholders to note that while the final IRA report may conclude that a particular risk management measure is not feasible, the report does not preclude such measures as options the Philippine's government may use.

4.7 The committee considers that the wording of the IRA Handbook and the final IRA report raise the expectation that specific recommendations regarding the efficacy of possible risk management measures will be made in the IRA report. The committee considers that the Australian banana industry should have a role in the assessment of the feasibility and efficacy of the specific risk management measures. The committee does not consider that the hypothetical analysis offered by this IRA meets this expectation.

4.8 It is the committee's view that BA should have assessed the efficacy of the possible risk management measures during the IRA process so that it could have specified what measures should be taken to reduce the risk of pests and diseases to an acceptable level as required by the IRA Handbook.

4.9 The committee notes that development of a detailed operational work plan between Australia and the Philippines which will underpin the compliance regime for the importation bananas will also be developed at a government to government level. This work plan will need to be approved by AQIS before any import permits for importation of bananas from the Philippines to Australia can be approved.

4.10 Stakeholders expect to have a role in testing the practicality of the risk management measures and the operational work plan and expect to be able to do this on the basis of current data. Stakeholders therefore consider that they have been denied the opportunity to have input into critical steps in the process for the importation of bananas from the Philippines.

4.11 The committee notes that the findings reflected in the final IRA report will form the basis of AQIS and BA's analysis of both the risk management measures and the operational work plan proposed by the Philippines. It is vital therefore that the final IRA report should reflect a high degree of rigour at all levels: administrative, scientific and economic.

4.12 The committee has noted that despite apparent gaps in the analysis of the risks associated with the importation of bananas from the Philippines, the IRA report appears to support their importation. The committee has also noted that one member of the IRA team sought to amend the final recommendation of the IRA report to reflect a position that a decision on the importation of bananas from the Philippines should be deferred until the Philippines is able to demonstrate the capacity to achieve Australia's ALOP.

4.13 In these circumstances, the committee finds that the Director of Animal and Plant Quarantine's policy determination in relation to the importation of bananas from the Philippines was based on the consensus view of the IRA team as expressed in the final IRA report. However, the committee is mindful that one member of the IRA

team has expressed concerns that the IRA report does not reflect his understanding of the IRA team's finding.

4.14 The committee also observes that in this particular IRA, the paucity of current data to enable modelling of the impact of different measures and operational arrangements based on the actual conditions in the field in the Philippines has diminished stakeholder confidence that the measures ultimately adopted will be sufficiently robust.

4.15 The committee notes that the final IRA report reflects a significant amount of research, analysis and consultation over a number of years. The committee considers it regrettable, therefore, that stakeholders should continue to doubt that the final IRA report provides an appropriate platform from which to develop the risk management measures and operational arrangements on which Australia's pest and disease free status depends. If stakeholders do not have confidence in the final IRA report it is not surprising that they have serious concerns about the subsequent steps in the process.

4.16 The committee considers that some of the concerns raised by stakeholders could be alleviated to some extent if the findings in the IRA report were expressed more clearly. The committee notes BA's statement that the final IRA report is very clear in identifying pest thresholds and risk management measures. However, the committee finds the final IRA report a complex document to navigate and this, together with some ambiguities in expression, appear to lie at the heart of some of the frustrations expressed to the committee during this inquiry.

4.17 The committee notes that recommendations are not always clearly expressed or identifiable in the report. The committee also notes that it is not always clear to what extent the Australian and Philippine governments are bound by the findings in the IRA in determining the combination of mitigation measures or even the extent to which they are bound to adopt a systems approach over a single measure.

4.18 The committee considers that BA should give consideration to the role that it can play in managing stakeholder expectations throughout the IRA process. The committee considers that a review of the form in which information is conveyed to stakeholders and reflected in the final IRA report could contribute significantly to a clearer understanding of, and confidence in, the IRA process and the findings that are drawn from it.

4.19 The committee notes that the Independent RA Appeals Panel (IRAAP) appears to have reached a similar conclusion:

The IRAAP noted that any consideration of the merits of such risk management recommendations made by an IRA team or of the risk management conclusions reached by Biosecurity Australia are outside the IRAAP's terms of reference. However, the IRAAP suggested that Biosecurity Australia give consideration to the clarity with which risk

management measures and recommendations are presented in future Final IRA reports.¹

4.20 The committee concurs with the IRAAP suggestion regarding the clarity with which risk management measures and recommendations are presented in future final IRA reports. The committee considers that the IRA Handbook should also specify an appropriate level of detail to be provided in recommending parameters or conditions for import in a final IRA report.

Recommendation 1

4.21 The IRA Handbook should be reviewed to clarify the level of detail to be provided in relation to recommending parameters or conditions for import in a final Import Risk Analysis report.

4.22 The committee accepts that the opportunities to influence this particular IRA process are now limited given that Australia's Director of Animal and Plant Quarantine has determined a quarantine policy for the importation of bananas from the Philippines.² The consultative phase of this IRA has concluded. The committee is concerned that the only avenue for review open to stakeholders from this point appears to be judicial review under the Administrative Decisions (Judicial Review) Act 1977 in relation to an individual import permit decision taken by the Director of Animal and Plant Quarantine. The committee is mindful that some members of the industry are concerned that they may not have timely access to information to enable them to consider whether or not to pursue this avenue.

4.23 Nevertheless, the committee considers that, before any permit for the importation of bananas from the Philippines is granted, the risk management measures and operational work plan must be subject independent scrutiny.

Recommendation 2

4.24 The committee therefore recommends that the Senate order that, prior to the approval of any import permits for bananas from the Philippines into Australia, the Australian Quarantine and Inspection Service (AQIS), in consultation with Biosecurity Australia, shall provide the Senate Rural and Regional Affairs and Transport Committee with a report on:

- **the phytosanitary risk management measures to be implemented by the Philippines together with the analysis undertaken to verify the efficacy of these measures under commercial conditions;**

1 Import Risk Analysis Appeal Panel, Importation of Cavendish Bananas from the Philippines IRA – Appeal, http://www.daff.gov.au/biosecuritycoordination/import_risk_analysis_appeals_panel (accessed on 24 June 2009.)

2 Biosecurity Australia Advice 2009/03, 3 March 2009.

- the administrative requirements upon which these phytosanitary risk management measures rely, including:
 - the operating manual, work plan and certification system;
 - the requirements for registration of plantations or blocks within plantations supplying bananas for export to Australia;
 - the pre-clearance arrangements to be administered by AQIS; and
 - the audit program to be administered by AQIS.
- the plantation requirements for plantations/blocks registered for export to Australia;
- the packing station requirements; and
- the audit and compliance monitoring procedures to be implemented.

Recommendation 3

4.25 The committee recommends that in the event of an import request by the Philippines Government or a Philippines import proponent, a formal and structured process be established by the Director of Animal and Plant Quarantine to provide Australian banana growers with meaningful consultation in relation to the assessment of the efficacy of the possible risk management measures and, consequently, the determination of the risk management measures.

Recommendation 4

4.26 The committee recommends that, in the event of the issue of an import permit, representatives of the Australian banana industry are promptly notified of that fact, excluding information which is commercial-in-confidence.

Recommendation 5

4.27 The committee recommends that the Senate order Biosecurity Australia and AQIS to undertake a review of the import requirements for bananas from the Philippines after the first year of trade and to provide a report of this review to the Senate Rural and Regional Affairs and Transport Committee.

Senator Fiona Nash
Chair

