The Senate

Rural and Regional Affairs and Transport References Committee

Import risk analysis (IRA) for the importation of Cavendish bananas from the Philippines

June 2009

© Commonwealth of Australia

ISBN 978-1-74229-101-7

This document was prepared by the Senate Standing Committee on Rural and Regional Affairs and Transport, and printed by the Senate Printing Unit, Department of the Senate, Parliament House, Canberra.

Members of the Committee

Members

Senator Fiona Nash	NAT, New South Wales	**Chair** (from 14 May 2009) Appointed to committee on 12 March 2009
Senator Glenn Sterle	ALP, Western Australia	**Chair** (to 14 May 2009) **Deputy Chair** (from 14 May 2009)
Senator Christine Milne	AG, Tasmania	**Deputy Chair** (to 14 May 2009)
Senator the Hon. Bill Heffernan	LP, New South Wales	
Senator Annette Hurley	ALP, South Australia	Discharged from committee on 5 February 2009
Senator Steve Hutchins	ALP, New South Wales	Discharged from committee on 14 May 2009
Senator Don Farrell	ALP, South Australia	Appointed to the committee on 5 February 2009 Discharged from committee on 14 May 2009
Senator Julian McGauran	LP, Victoria	
Senator Kerry O'Brien	ALP, Tasmania	
Senator John Williams	NAT, New South Wales	Discharged from committee on 14 May 2009

Participating members

Senator Chris Back	LP, Western Australia
Senator Ron Boswell	NAT, Queensland
Senator Richard Colbeck	LP, Tasmania
Senator Mary Jo Fisher	LP, South Australia

Senator Barnaby Joyce	NAT, Queensland
Senator Ian Macdonald	LP, Queensland.

Committee Secretariat

Ms Jeanette Radcliffe, Secretary
Ms Trish Carling, Senior Research Officer
Ms Maria Sarelas, Executive Assistant

Parliament House, Canberra
Telephone: (02) 6277 3511
Facsimile (02) 6277 5811
Internet: www.aph.gov.au/senate_rrat
Email: rrat.sen@aph.gov.au

Tables of Contents

Chapter 1

Introduction

Conduct of the inquiry

1.1 On 27 November 2008, the Senate referred the following matter to the committee for inquiry and report by 19 March 2009:

> Issues related to the import risk analysis (IRA) for the importation of Cavendish bananas from the Philippines, including:
>
> a) Biosecurity Australia's administration of the IRA process;
>
> b) The scientific and technical information relied upon by the IRA team;
>
> c) The feasibility of the risk management measures and operational arrangements proposed in the final IRA report; and
>
> d) The capability of the Australian Government and, in particular, the Australian Quarantine Inspection Service to monitor and enforce compliance with the risk management measures and operational arrangements proposed in the final IRA report.

1.2 The committee advertised the inquiry in the Australian and invited submissions from peak bodies and state and Commonwealth governments. The committee received ten submissions (see Appendix 1).

1.3 The Senate extended the reporting date to 14 May 2009 to enable the committee to take further evidence and further extended the reporting date to 22 May 2009 to allow the committee to complete its deliberations.

Decision to hold in-camera hearings

1.4 The committee also notified interested parties and the public, via the newspaper advertisement and the committee website, that the hearings for this inquiry would be held *in-camera*. While it is the Senate's practice to hold hearings in public whenever practicable, the committee agreed that the sensitivities surrounding the IRA process warranted such an unusual step. In the committee's view, by hearing evidence in private the committee would be better positioned to inform itself fully on the issues under examination in a way which may not be possible in a public forum.

Committee's 2005 inquiry

1.5 This is the committee's second inquiry into the IRA process for the importation of bananas from the Philippines. The Committee undertook an inquiry of its own motion under Standing Order 25(2) (b) in March 2004 following the release of the revised draft import risk analysis report released in February 2004.

1.6 The term's of reference for that inquiry were:

The administration of Biosecurity Australia with particular reference to the revised draft import risk analysis report released in February 2004 relating to the Philippines, including:

- the processes and research underpinning the analysis;
- the conclusions and recommendations; and
- related matters.

1.7 The committee tabled its report in March 2005. In reporting on the evidence received during that inquiry, the committee noted that it may review the topic following the release of a revised IRA report.

Scope of this report

1.8 This report reflects the evidence received during the current inquiry. While the report does review matters considered in the 2005 report, the committee's intention is to reflect developments since the tabling of that earlier report rather than traverse old ground.

1.9 The remainder of this introductory chapter will provide a brief overview of the import risk analysis process.

1.10 Chapter 2 of the report considers the committee's first two terms of reference:

- a) Biosecurity Australia's administration of the IRA process; and
- b) the scientific and technical information relied upon by the IRA team.

1.11 Chapter 3 of the report considers the final two terms of reference:

- c) the feasibility of the risk management measures and operational arrangements proposed in the final IRA report; and
- d) the capability of the Australian government and, in particular, the Australian Quarantine Inspection Service to monitor and enforce compliance with the risk management measures and operational arrangements proposed in the final IRA report.

Acknowledgements

1.12 The committee appreciates the time and work of all those who have provided oral and written submissions to the inquiry. Their efforts have assisted the committee considerably.

Background to import risk analysis

Australia's WTO rights and obligations

1.13 The committee's 2005 report discussed in some detail Australia's obligations as a signatory to the World Trade Organisation's (WTO) Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement).

1.14 As a WTO member Australia is obliged to consider all import requests from other countries concerning agricultural products. Decisions to permit or reject an import application can be made only on sound scientific grounds.

1.15 Analysis of import requests is conducted within an administrative process described in the Import Risk Analysis Handbook. During its earlier inquiry, the committee drew attention to concerns with regard to the IRA process applied in the case of the IRA for bananas from the Philippines. The committee notes that changes to the import risk analysis process announced by the Australian Government in 2006 were implemented on 5 September 2007, when regulations made under the Quarantine Act 2008 took effect. The Committee also notes that under transitional arrangements a small number of IRA's, including the IRA for the importation of bananas from the Philippines, are to be completed under the IRA process set out in the *2003 Import Risk Analysis (IRA) Handbook*. The Committee notes that the rationale for this is that these IRA's were either well underway or nearly completed at the time the revised import risk analysis process was introduced.[1]

The IRA process for the importation of bananas from the Philippines

1.16 The IRA process for the importation of mature hard green banana fruit of four Cavendish varieties from specified areas on the island of Mindanao commenced in June 2000, following a formal submission from the Philippine Bureau of Plant Industry (BPI). An issues paper was released in May 2001, outlining the preliminary pest categorisation process, followed by a technical information paper in May 2002 containing the preliminary pest categorisation and reports on the technical working groups.[2]

Draft reports and stakeholder consultation

1.17 A draft IRA report was released in June 2002 and attracted 20 submissions from Australian and Philippines stakeholders. A revised draft IRA report was released in February 2004 in response to stakeholder comments and new technical information. An Addendum to that revised draft IRA report was released in June 2004, which included changes to the report and to the recommended quarantine conditions in response to an error detected in the Excel spreadsheet model used in the estimation of risk.[3]

---

1 Biosecurity Australia Policy Memorandum 2007/20, 12 September 2007.

2 Biosecurity Australia, *Final Import Risk Analysis Report for the Importation of Cavendish Bananas from the Philippines*, Part B, November 2008, p. 7.

3 Biosecurity Australia, *Final Import Risk Analysis Report for the Importation of Cavendish Bananas from the Philippines*, Part B, November 2008, p. 7.

1.18 During 2005 BA undertook an extensive review of the technical information for each quarantine pest identified in the IRA and other technical issues documented in the submissions and reports, including further consultations with stakeholders.[4]

1.19 BA released a revised draft IRA for comment on 1 March 2007. This report included a minority view in Part A of the report provided by a member of the IRA team regarding the risk management measures for Moko as they were expressed in that draft of the report. Subsequent to the release of this draft, the IRA team met separately with an Australian stakeholder and considered new scientific and technical information and the March 2005 report of this Committee. The IRA team further developed the risk management section for Moko in light of the comments of stakeholders and the issues raised in the minority view.[5]

1.20 On 14 August 2008, BA formally referred the draft final IRA report to the Eminent Scientists Group (ESG).[6] As the Banana IRA was being conducted under the process set out in the 2003 Import Risk Analysis Handbook, the assessment undertaken by the ESG was conducted in accordance with its original terms of reference, which are to:

- review the draft final IRA report prepared by the IRA team to ensure that the IRA team has adequately considered all technical submissions received from stakeholders during the formal consultation period on the draft IRA, and
- within 60 days of being presented with the draft final IRA report, prepare a report to the Director of Quarantine on their findings and recommend any action considered necessary to overcome any identified deficiencies. The ESG will provide a copy of the report to the Chief Executive of BA.[7]

---

4 In August 2004 BA advised stakeholders of its intention to issue a further revised draft IRA report to address statistical issues raised by the Australian Banana Growers Council that would significantly alter the pest risk assessments. The Australian Government also undertook that, with the establishment of BA as a Prescribed Agency in late 2004, BA would review and reissue the draft IRA report. Biosecurity Australia, *Final Import Risk Analysis Report for the Importation of Cavendish Bananas from the Philippines*, Part B, November 2008, p. 7.

5 Biosecurity Australia, *Final Import Risk Analysis Report for the Importation of Cavendish Bananas from the Philippines*, Part B, November 2008, p. 8.

6 The Eminent Scientists Group was established in 2004 to increase confidence in the administration of the IRA process.

7 Eminent Scientists Group, *The report of the Eminent Scientists Group on the draft Final Import Risk Analysis report for the Importation of Cavendish Bananas from the Philippines to the Director of Animal and Plant Quarantine*, August 2008, p. 1.

The ESG's role was strengthened in September 2007 to take account of relevant new information brought to its attention, including assessing conflicting scientific views provided to it, to ensure that, in addition to the proper consideration of stakeholder comments, the conclusions of the IRA report are scientifically reasonable, based on the material presented. Refer: http://www.daff.gov.au/biosecuritycoordination/eminent_scientists_group, (accessed 5 May 2009).

1.21 The *Final Import Risk Analysis Report for the Importation of Cavendish Bananas from the Philippines* (the Final IRA report) was released in November 2008.

Consideration by the Import Risk Analysis Appeal Panel

1.22 Following the close of the appeal period for the Final IRA Report on 12 December 2008, the Chair of the Import Risk Analysis Appeal Panel (IRAAP) convened a panel to consider the five appeals received. The IRAAP reported its findings to the Director of Animal and Plant Quarantine and the appellants on 23 January 2009. The IRAAP was unanimous in not allowing any of the appeals received.[8]

Policy Determination by Director of Quarantine

1.23 On 3 March 2009 the Director of Animal and Plant Quarantine determined a quarantine policy for the importation of bananas from the Philippines. Under this policy, the importation of bananas from the Philippines may be permitted subject to the *Quarantine Act 1908* and the application of phytosanitary measures as specified in the Final IRA report. The policy will form the basis for consideration of import applications for bananas from the Philippines.

Implementation of Policy Determination

1.24 A detailed operational work plan between Australia and the Philippines would need to be developed at a government-to-government level when a request for an import permit is forthcoming from the Philippines. This work plan would need to be approved by the Australian Quarantine and Inspection Service before any import permits for bananas from the Philippines will be considered.

8 Import Risk Analysis Appeals Panel, *Importation of Cavendish Bananas from the Philippines IRA – Appeal, Findings*, January 2009. Available at: http://www.daff.gov.au/data_/assets/pdf_file/0020/972110/official-findings-banana-IRAAP.pdf (accessed 5 May 2009).

Chapter 2

Risk analysis

2.1 This chapter reviews matters relating to Biosecurity Australia's (BA) administration of the import risk analysis (IRA) process for the importation of Cavendish Bananas from the Philippines. The chapter also considers the scientific and technical information relied upon by the IRA team throughout this process.

2.2 The committee considered a number of the matters raised in this chapter in the report of its 2005 inquiry into the revised draft import risk analysis for bananas from the Philippines.[1]The committee's intention in re-examining these matters is to note developments since the tabling of its 2005 report.

Biosecurity Australia's administration of the IRA process

Procedures and guidelines

2.3 As noted in Chapter 1, risk analyses are performed in accordance with the procedural guidance set out in BA's *Import Risk Analysis Handbook* (the Handbook). The methodological framework for the assessment of risk is set out in BA's *Guidelines for Import Risk Analysis* (the Guidelines). The committee notes the significance of both of these documents in setting the policy and scope of the IRA process. The Guidelines in particular play a pivotal role in shaping the pest thresholds and risk management measures that will be relied upon in the consideration of import applications for bananas from the Philippines.

2.4 The committee notes that the Handbook is publicly available and therefore accessible by all parties to an IRA process. However, the Guidelines are internal working documents and only drafts, never finalised documents.[2]

2.5 BA has previously advised the committee that it was reviewing the IRA methodology, with the implication that a number of the matters raised during that

---

1 Senate Rural and Regional Affairs and Transport Legislation Committee, Administration of Biosecurity Australia – Revised draft import risk analysis for bananas from the Philippines, March 2005.

2 Independent Review of Australia's Quarantine and Biosecurity Arrangements Report to the Australian Government (The Beale Review), September 2008, p. 97. The committee recognises that many agencies employ internal guidelines to guide various activities undertaken by the agency and that it is common for these to be unpublished working documents. However, in its earlier inquiry the committee noted that the Guidelines establish the methodology that underpins the IRA process and how this methodology will be applied and interpreted.

inquiry would be considered as part of that review.[3] From the committee's reading of the final IRA report, it is not clear whether such a review has taken place or if any changes have been made to the Guidelines as a result.

2.6 The committee also notes that there appear to be several sets of draft Guidelines in existence.[4] The committee notes that the methodology employed in the Final Bananas IRA appears to have been drawn from both the 2001 and 2003 draft Guidelines.[5]

Committee view

2.7 The committee is concerned that the Guidelines are not publicly available and that stakeholders to the IRA process may not have had an opportunity to participate in any review of the IRA methodology. The committee considers that, given the significant role that the methodological framework set out in the Guidelines plays in shaping and explaining the analytical approach adopted in any given IRA, there is merit in making the Guidelines publicly available. The committee believes that all stakeholders in an IRA process are entitled to know the methodological parameters within which the IRA is undertaken.

2.8 The committee also notes that while the Guidelines may be reviewed from time to time, it is not clear whether public/stakeholder input is sought in the context of any such reviews. The committee has some concerns about such reviews being undertaken in isolation. The committee considers that, as a minimum, any subsequent changes to the methodology as a result of a review ought to be publicised.

Consultation

2.9 The committee is mindful of the significant role played by effective consultation in establishing stakeholder confidence in the IRA process. This committee, and other bodies, have made a range of suggestions over a long period of time aimed at improving the way in which stakeholders are engaged in IRA processes. The committee notes that for the most part BA has been responsive to such suggestions.

2.10 Since the committee's earlier inquiry, the Government has established an Eminent Scientists Group (ESG) to provide independent advice to the Director of Animal and Plant Quarantine on whether the IRA has adequately considered all technical submissions received from stakeholders during the formal consultation

---

3 Senate Rural and Regional Affairs and Transport Legislation Committee, Administration of Biosecurity Australia – Revised draft import risk analysis for bananas from the Philippines, March 2005, p. 19.

4 Independent Review of Australia's Quarantine and Biosecurity Arrangements Report to the Australian Government (The Beale Review), September 2008, p. 97.

5 See Biosecurity Australia, *Final Import Risk Analysis Report for the Importation of Cavendish Bananas from the Philippines*, Part B, November 2008, pp. 18, 20, 43.

period of the draft Final IRA. The ESG reviewed the draft final IRA and concluded that BA had responded to the issues raised, where appropriate, by including additional information in the draft final report and by making revisions to the text. The ESG also commented that the responses made to issues raised, especially in relation to Moko disease, are of a high quality and carefully address the concerns of stakeholders.[6]

2.11 However, the committee notes concerns raised during this inquiry with regard to the difficulties stakeholders often experience in responding to detailed and complex IRA material within the stipulated time lines. The committee received in-camera evidence suggesting that there is a perception that the IRA time lines are unrealistic and uncompromising when contrasted with the often drawn out nature of the overall IRA process and the extent of expertise and resources available to BA.

2.12 Mackay Estates and Scientific Advisory Services Pty Ltd (Mackay Estates) advised the committee that it had sought an extension of time in which to lodge an appeal following the release of the final IRA report, but that this had not been granted. Mackay Estates submitted that it had found it difficult to read and digest the 600 page document to determine what changes had been made from the previous draft in the time available.[7] Mackay Estates summed up its frustration by saying:

> It seems that BA has had forever to get this IRA right, yet an extension for stakeholders has been rejected now that they find themselves under pressure to have this IRA finalised. It must be acknowledged that throughout the banana IRA, it has been the inputs of stakeholders that have helped to remove errors and ensure that good science is being practiced. Another 30 days would surely not have been a major imposition on a system that has taken more that 7 years to get to this critical stage.[8]

Committee view

2.13 The committee notes that the broad issues of consultation and time lines in the IRA process have been considered by both the Australian National Audit Office, in its 2005/2006 audit of quarantine effectiveness, and by the Independent Review of Australia's Quarantine and Biosecurity Arrangements (the Beale Review).[9] The committee concurs with the observation of both of these reviews that while a number of improvements have been made to the IRA consultation process, there is scope for further improvement. In particular, the committee notes the ANAO finding that 'BA could further improve its management of the IRA process, and thereby increase stakeholder confidence in its decision-making processes, by addressing, [among other

6 Department of Agriculture Fisheries and Forestry, *Submission 3*, Attachment 1, p. 2.

7 Mackay Estates and Scientific Advisory Services, *Submission 9*, p. 2.

8 Mackay Estates and Scientific Advisory Services, *Submission 9*, p. 2.

9 Refer: Australian National Audit Office, *Managing Quarantine Effectiveness – Follow-up*, 2005/2006, The Independent Review of Australia's Quarantine and Biosecurity Arrangements Report to the Australian Government, *One Biosecurity: A working partnership*, 30 September 2008, pp. 121 – 123.

things], the period of notice to be given to stakeholders prior to the release of Import Risk Analysis documents.[10] The committee notes from the Beale Review that, while this recommendation was accepted by BA, it does not appear to have been fully implemented to date.[11] The committee recommends that this situation should be remedied in future IRA processes.

Scientific and technical information relied upon by the IRA team

2.14 The SPS Agreement defines Risk Assessment as:

> The evaluation of the likelihood of entry, establishment or spread of a pest or disease within the territory of an importing member according to the sanitary or phytosanitary measures which might be applied, and of the associated potential biological and economic consequences.[12]

2.15 The SPS Agreement provides for risk assessment that takes account of:

- available scientific evidence;
- relevant processes and production methods;
- relevant inspection, sampling and testing methods;
- prevalence of specific diseases or pests;
- existence of pest-or-disease free areas;
- relevant ecological and environmental conditions; and
- quarantine or other treatment.

2.16 The final IRA report begins its analysis by considering the sequence of steps from immediately before bananas are harvested until their release from quarantine in Australia and assigns a value for the proportion of clusters of bananas that are infected or infested after passing through each step. The broad steps are:

- the proportion of plantations where the pest is present;
- the pest level within a plantation;
- contamination by the pest before packing;
- pest level surviving packing procedures;
- contamination during packing;
- pest level surviving post-packing processes;
- contamination by the pest during post-packing processes;

---

10 Australian National Audit Office Report No. 19, 2005-06, *Managing for Quarantine Effectiveness-Follow up*, p. 44.

11 The Independent Review of Australia's Quarantine and Biosecurity Arrangements Report to the Australian Government, *One Biosecurity: A working partnership*, 30 September 2008, p. 22.

12 Import Risk Analysis Handbook, 2007, Annex 2, p. 31.

- pest level remaining after border procedures; and
- number of infected/infested clusters.

2.17 For each pest identified under the IRA process, the IRA evaluated the risk associated with the importation of bananas without any prescribed phytosanitary measures (the 'unrestricted' risk). Where the unrestricted risk was above Australia's acceptable level of risk (ALOP) the IRA considered what risk management options might be available to achieve an ALOP.

Appropriate time horizon for risk assessment

2.18 In the 2004 draft IRA the assessment of the probability of entry, establishment and spread of pests was based on one year, in keeping with the Guidelines.[13] The committee concluded that limiting assessments to a one year time horizon was an unduly short term view and noted that knowing the risk over a 10 or 20 year time frame is obviously a matter of great concern to stakeholders. The committee also noted that there seemed to be no clear justification for limiting risk assessment to a one year horizon in assessing probabilities associated with volume of trade. The committee recommended that the risk assessment methodology should provide for assessment of risk considered over ten years as well as one year.[14]

2.19 Throughout the 2005 Inquiry, BA maintained the position that a 1 year period was justified because it allowed for the estimation of seasonal effects, but did not require long-range predictions regarding trading practices, plant or commodity production factors or pest biology. However, BA advised the committee that it was reviewing the IRA methodology, with the implication that this would be one of the matters considered.[15] However, the committee notes that the time horizon for assessing the probability that the importation of bananas from the Philippines would result in the entry, establishment and spread of a particular pest remains an average year.[16]

How to acknowledge sub-threshold risks on a number of pests

2.20 In its 2005 inquiry the committee heard evidence that the IRA methodology does not adequately acknowledge a situation where there might be just-below-

13 Rural and Regional Affairs and Transport, *Administration of Biosecurity Australia- Revised draft import risk analysis for bananas from the Philippines*, March 2005, p. 11.

14 Rural and Regional Affairs and Transport , *Administration of Biosecurity Australia- Revised draft import risk analysis for bananas from the Philippines*, March 2005, pp. 13-14.

15 Rural and Regional Affairs and Transport , *Administration of Biosecurity Australia- Revised draft import risk analysis for bananas from the Philippines*, March 2005, p. 13.

16 Biosecurity Australia, *Final Import Risk Analysis Report for the Importation of Cavendish Bananas from the Philippines*, Part B, November 2008, p. 25.

threshold risk on a large number of pests. The committee noted that '[i]ntuitively, this creates a greater overall risk than just-below-threshold risk on one pest.'[17]

2.21 The committee heard that the risk assessment methodology employed in the Bananas IRA allows for a one pest assessment.[18] The committee noted that some countries employ risk assessment methodologies that are capable of reflecting the cumulative risk of multiple pests. The committee previously recommended that BA should investigate changing the risk assessment methodology to allow for the fact that the total risk is greater, the more pests there are of concern.[19]

2.22 BA advised the committee that it was reviewing the IRA methodology, with the implication that this would be one of the matters considered.[20] However, the committee received in camera evidence during this inquiry that BA's policy for the assessment of the cumulative risks from a number of pests remains unchanged.

Use of probability distributions in IRAs

2.23 In its earlier report the committee considered how clearly the use of probability distributions was explained in the IRA analysis. The committee noted that according to the Guidelines, 'this distribution should be interpreted by 'fitting' it to the most appropriate semi-quantitative category. The approach to fitting that has been adopted by Biosecurity Australia is to compare the fifth, 50th (or median) and 95th percentiles of the output distribution with the probability intervals.[21] The committee expressed concern that this explanation was not very clear and noted the potential significance for the assessed risk of deciding to report the 50th or 95th percentile.

2.24 The committee recommended that the IRA Guidelines should state a clearer policy on the use of probability distributions and should explain it better to allay the concerns of stakeholders.[22] During the current inquiry the committee received in camera evidence which suggested that this point has not been addressed either in the Guidelines, which the committee notes are not public documents, or in the final IRA report.

---

17 Rural and Regional Affairs and Transport, *Administration of Biosecurity Australia- Revised draft import risk analysis for bananas from the Philippines*, March 2005, p. 14.

18 Rural and Regional Affairs and Transport, *Administration of Biosecurity Australia- Revised draft import risk analysis for bananas from the Philippines*, March 2005, p. 14.

19 Rural and Regional Affairs and Transport, *Administration of Biosecurity Australia- Revised draft import risk analysis for bananas from the Philippines*, March 2005, p. 14.

20 Rural and Regional Affairs and Transport, *Administration of Biosecurity Australia- Revised draft import risk analysis for bananas from the Philippines*, March 2005, p. 14.

21 Rural and Regional Affairs and Transport, *Administration of Biosecurity Australia- Revised draft import risk analysis for bananas from the Philippines*, March 2005, pp. 15-16.

22 Rural and Regional Affairs and Transport, *Administration of Biosecurity Australia- Revised draft import risk analysis for bananas from the Philippines*, March 2005, p. 18.

Assessment of probability of entry, establishment and spread, consequences and unrestricted risks

2.25 The committee previously made note of how the IRA had assessed the probability of entry, establishment and spread (PEES), the consequences and the unrestricted risk for specific diseases and pests across successive drafts of the IRA. The committee sought clarification of the scientific information that had led to changes in the assessment of risk.

2.26 During this inquiry, the committee noted further changes in the risk assessment between the release of the addendum to the June 2004 report and the final IRA report. The committee noted that the PEES for black Sigatoka has been revised from extremely low in the 2004 drafts of the IRA to moderate in the final IRA report. The PEES for freckle has been revised from high in the earlier drafts to low in the final IRA report. The committee again sought clarification of the information or scientific evidence that led to these changes.

2.27 BA told the committee:

> It was based on additional information and additional analysis. The documents you are drawing those values from were drafts for consultation. They were out in the public domain. They were exposed to the full force of people who wanted to comment and provide scientific input.
>
> …
>
> That is what the consultation process is about. It would be surprising if we put documents out for consultation and there were not changes that drew upon the material that was provided to us in the consultation process.[23]

2.28 However, the committee notes that its earlier inquiry had concluded that some of the changes between draft reports appeared to have been made without reference any new information.[24] Some changes had resulted from re-analysis or re-calculations using the existing information.[25] The committee also noted that stakeholders disputed a number of the risk factors in that earlier report.

2.29 The committee therefore sought further clarification from BA as to the evidence behind the changes in relation to black Sigatoka and freckle. BA advised the committee:

---

23 In camera evidence.

24 Rural and Regional Affairs and Transport, *Administration of Biosecurity Australia- Revised draft import risk analysis for bananas from the Philippines*, March 2005, pp. 25-30.

25 For example, the committee noted the assessment of consequences of an incursion of Moko had been revised from moderate to low between the First and Second Reports following further analysis by the IRA team. Rural and Regional Affairs and Transport, *Administration of Biosecurity Australia- Revised draft import risk analysis for bananas from the Philippines*, March 2005, pp. 25-26.

> There is no individual factor that has resulted in the modified overall assessments for black Sigatoka and freckle. Rather, the consideration of all stakeholder comments and new technical information that became available during the IRA process has been taken into account.
>
> In developing the various reports the IRA team considered all relevant technical information including:
>
> . stakeholder comments; and
>
> . new scientific and technical publications.
>
> As the reports progressed there was increased knowledge associated with banana pests world wide and this was reflected in the 2004 and 2008 reports (for example, over 45 new, relevant, publications became available in the public domain between March 2007 and July 2008).[26]

2.30 BA provided the committee with copies of all stakeholder submissions received over the course of the IRA together with each of the draft IRAs to enable the committee to determine for itself the extent to which the modification of these assessments was attributable to specific stakeholder comments and new technical information.[27] The committee found this response disappointing.

2.31 BA also advised the committee that the assessment methodology was modified over the course of the IRA process.

> Additionally, assessment methodology relied on a full qualitative assessment in 2002 and semi-quantitative models for the 2004 and 2008 reports. In developing the model that was the basis for the 2008 report the IRA team redesigned the model used in producing the 2004 reports, with input from the Bureau of Rural Sciences (BRS) to better reflect the biological and production systems for bananas in the Philippines and the distribution of bananas in Australia.[28]

2.32 The committee received evidence that not all members of the IRA team were satisfied with the modelling employed in the IRA process. The committee was advised in camera that the model used to calculate the likelihood of entry, establishment and spread of pests and diseases lacked the capacity to accommodate all pathways within the Australian environment. As a result the modelling was simplified and intuitive values were used where reputable research did not provide conclusive evidence.[29]

Assessment of consequences

2.33 Risk assessment also involves estimating the potential consequences or impact of a pest establishing in Australia. The IRA assessment considers local,

---

26 Biosecurity Australia, Additional Information provided in camera.

27 Biosecurity Australia, Additional Information provided in camera.

28 Biosecurity Australia, Additional Information provided in camera.

29 In camera evidence.

district, regional and national consequences and allows for consideration of direct and indirect pest effects. Direct effects include potential production losses, control costs and quality loss. Indirect effects include eradication costs, effects on domestic and international trade and impacts on the environment and communities.

2.34 The committee is aware that the consideration of consequences in the IRA process is not as broad as some stakeholders would prefer. The committee notes the observation of the Beale Review that the definition of risk assessment:

> … falls short of a conventional national interest assessment. Only biological and economic consequences that are 'associated' with the entry, establishment and spread of the pest or disease are deemed to be relevant. Importantly, Import Risk Analyses do not involve consideration of the broader economic and social issues arising from the impact of competition between imported and domestic productions that may be taken in account in a full national interest test …[30]

2.35 Article 5 of the SPS Agreement does provide for the consideration of the following 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; and
- the costs of control or eradication in the territory of the importing Member; and the relative cost-effectiveness of alternative approaches to limiting risks.

2.36 However, Article 5 of the SPS Agreement cautions members that, when determining the appropriate level of sanitary or phytosanitary protection, they should take into account the objective of minimizing negative trade effects.[31]

2.37 Notwithstanding these limitations, during its 2005 inquiry, the committee noted concerns regarding the rigour of the assessment of consequences. In particular, submitters during that inquiry were concerned at the lack of quantitative data obtained as part of the analysis of consequences, particularly in relation to the economic consequences of an incursion.

2.38 The committee accepted that some consequences (such as change in social amenity) are harder to measure than others (such as change in commercial production). However, the committee noted that even where consequences should be measurable, the 2004 draft IRA had made no particular effort to do so. The committee was disappointed to find that this situation has not altered appreciably in the Final IRA.

---

30 The Independent Review of Australia's Quarantine and Biosecurity Arrangements Report to the Australian Government (The Beale Review), September 2008, p .97.

31 Queensland Department of Agriculture, Fisheries and Forestry, *Submission 7*, p. 4.

Economic consequences

2.39 Analysis of economic consequences in the final IRA report appears variable. For example, the final IRA report notes that Moko is one of the most important economically damaging diseases of bananas and plantains worldwide.[32] The IRA notes that 'regular crop monitoring and surveillance activities associated with the control or eradication of Moko would result in significant costs to the Australian banana industry, considering the small size of Australian operations coupled with higher labour and consultancy costs.'[33] However, current and projected costs are not quantified. The report also notes that an incursion of Moko is likely to result in irreversible effects on the banana industry as eradication of the pathogen is impossible to achieve and goes on to discuss the prospect of higher costs and lower returns.[34] The committee considers that this discussion would have benefited from some quantitative data to indicate the magnitude of these impacts. The committee contrasts this with the discussion of the consequences of an outbreak of black Sigatoka which includes data on control and eradication costs and makes an attempt to illustrate the flow-on effect of a down turn in production to other industries.[35] However, the committee notes that the analysis for black Sigatoka may have benefited from reference to more recent data.

2.40 Similarly, the committee notes that the Final IRA states that an incursion of the Moko bacterium may result in the restriction of the sale and movement of banana fruit.[36] The IRA does not discuss how long such a restriction might apply or how localised such a restriction might be: an individual plantation, a local community or an entire region. The economic impact of such a restriction is not quantified.

2.41 The committee notes that it is not always clear why an economic impact has been measured at a particular level. For example, in its analysis of the consequences for domestic trade following an outbreak of Moko, the IRA concludes that the consequences would be 'significant' at the district level, yet there is nothing in the preceding discussion to indicate why any such consequences have been determined at the district level and not at a regional level.[37]

---

32 Biosecurity Australia, Final Import Risk Analysis Report for the Importation of Cavendish Bananas from the Philippines, Part B, November 2008, p. 102.

33 Biosecurity Australia, Final Import Risk Analysis Report for the Importation of Cavendish Bananas from the Philippines, Part B, November 2008, p. 104.

34 Biosecurity Australia, Final Import Risk Analysis Report for the Importation of Cavendish Bananas from the Philippines, Part B, November 2008, p. 105.

35 Biosecurity Australia, Final Import Risk Analysis Report for the Importation of Cavendish Bananas from the Philippines, Part B, November 2008, pp. 148-149.

36 Biosecurity Australia, Final Import Risk Analysis Report for the Importation of Cavendish Bananas from the Philippines, Part B, November 2008, p. 104.

37 Biosecurity Australia, Final Import Risk Analysis Report for the Importation of Cavendish Bananas from the Philippines, Part B, November 2008, p. 105.

2.42 Similarly, in considering the indirect impact of an incursion of Moko on rural economic viability, the Final IRA notes that banana growing is concentrated in the Tully and Innisfail areas within the Cardwell and Johnstone shires. The IRA notes that 'an incursion of Moko is likely to result in irreversible effects on the banana industry' and that this would have a negative impact on agriculturally related employment. The IRA goes on to note that a down turn in banana production would have a substantial economic and social impact on the Johnstone and Cardwell shires where agricultural production constitutes the dominant industry.

2.43 The IRA uses the Tully Valley, which falls within the Cardwell Shire as an example of a 'district' in its explanation of the Impact descriptions.[38] However, the committee notes that the IRA concludes that the indirect consequences of an incursion of Moko to be 'highly significant' at the local level.[39] The committee concurs that the community impacts do indeed appear to be highly significant from the information provided, but finds it less than clear why these impacts are considered at the local level, rather than at the district level.

Environmental consequences

2.44 Submitters to the inquiry expressed concern that environmental issues appeared to have received limited attention in the report. Queensland Department of Primary Industries (DPI&F) expressed concern at the limited analysis undertaken of the environmental consequences of an incursion. For example, DPI&F notes that:

> Should black Sigatoka become established in Queensland, the increase in fungicidal spray applications could double to 48 sprays/year. This has significant implications with the banana industry being in close proximity to the Great Barrier Reef.[40]

2.45 The committee notes that, in commenting on the environmental consequences of an incursion of black Sigatoka, the final IRA report states:

> An effect of black Sigatoka would be to increase the use of fungicidal chemicals and associated spraying practise. These chemicals and spraying practices have been used in banana growing areas for many years and there are already concerns over any further increase in their use. It is considered that the effect would be 'significant' at the local level. The rating assigned to this criterion is therefore **C**.[41]

38 Biosecurity Australia, Final Import Risk Analysis Report for the Importation of Cavendish Bananas from the Philippines, Part B, November 2008, p. 46.

39 Biosecurity Australia, Final Import Risk Analysis Report for the Importation of Cavendish Bananas from the Philippines, Part B, November 2008, p. 105.

40 Queensland Department of Agriculture, Fisheries and Forestry, *Submission 7*, p. 6.

41 Biosecurity Australia, Final Import Risk Analysis Report for the Importation of Cavendish Bananas from the Philippines, Part B, November 2008, p. 148.

2.46 The committee considers that given the reference to existing concerns about chemical usage, some consideration could have been given to the nature of these concerns and the likely impact of increased usage. The analysis would also have benefited from some discussion of the likely cost of control and eradication to be borne by government and industry.[42]

Assessment of hitchhiker pests

2.47 Both the DPI&F and Mackay Estates, expressed concern that inadequate consideration has been given to the potential environmental impact of hitchhiker pests in the IRA report.[43] DPI&F drew the committee's attention to the economic and environmental costs associated with the accidental importation of hitch-hiker pests:

> … the ongoing eradication of red imported fire ants demonstrates the enormous costs associated with the accidental importation of a hitch-hiker pest not associated with the commodity being imported. The [DPI&F]department believes this to be a very real threat posed by the importation of bananas from the Philippines.[44]

2.48 Mackay Estates told the committee that their 'greatest concern with the banana IRA lies with the apparent lack of attention paid by BA to environmental issues that might be associated directly or indirectly with imported bananas from the Philippines'.

> For some peculiar reason the issue of hitchhiker organisms has been 'brushed off' (Section 8.3) in the final IRA as being an AQIS responsibility yet in the earlier drafts had received some attention. As a stakeholder in the world Pineapple IRA and the Thailand mangosteen IRA, it is apparent that greater attention was given to non-pest/hitchhiker organisms such as ants, snails and weeds in those IRAs than in the banana IRA.[45]

2.49 In their submission, Mackay Estates told the committee that despite evidence regarding rat and frog species hitchhiking on bananas being presented to BA, none of this information has been referred to in the IRA.

2.50 In its exploration of this issue with BA, the committee heard that there is a standard procedure in place for the inspection of containers and products on arrival in Australia. AQIS told the committee:

> At the moment we have 100% external inspection of containers, looking for contaminants and that includes hitchhiker organisms that may be associated with it.

---

42 Biosecurity Australia, Final Import Risk Analysis Report for the Importation of Cavendish Bananas from the Philippines, Part B, November 2008, p. 102.

43 Queensland Department of Agriculture, Fisheries and Forestry, *Submission 7*, p 4.

44 Queensland Department of Agriculture, Fisheries and Forestry, *Submission 7*, covering letter dated 23 February 2009.

45 Mackay Estates and Scientific Advisory Services Pty Ltd, *Submission 9*, p. 3.

…

> The inspectors give a lot of priority to looking for those hitchhiker organisms. They normally do inspections of the port area as well, and occasionally things get found in the port area.[46]

2.51 AQIS went on to explain to the committee that the AQIS inspection regime for containers is risk based. In addition, all of the packing houses involved in the export of bananas to Australia are required to implement appropriate hygiene management and are inspected and audited by AQIS.[47]

Involvement of DEWHA

2.52 The committee notes from the Report of the ESG that, while the technical responses regarding potential impacts on the environment were sufficient, they could have been more comprehensive. The ESG notes:

> While we understand that there have been discussions between BA and the Department of the Environment, Water, Heritage and the Arts (DEWHA), the ESG believes that there is still scope for DEWHA to have greater technical input to the IRA process.[48]

2.53 The committee agrees with Mackay Estates that the ESG feedback would have been more constructive had it identified those specific environmental issues that may have received insufficient attention.[49]

2.54 The committee was advised that DEWHA had been involved as a stakeholder throughout the IRA process and had received drafts of the IRA for comment. The committee was advised that DEWHA had advised BA that it had no comments to make on the final IRA. [50]

Committee view

2.55 The committee was disappointed to observe that the concerns noted in the committee's 2005 inquiry report appear to have gone unheeded. The committee remains concerned at the apparent lack of rigour in the assessment of the consequences of an incursion of each of the pests or diseases identified in the final IRA report. Members of this committee have a first hand understanding of the far reaching economic and environmental consequences of such incursions. In particular, the committee is mindful of the impact of the 2001 incursion of red fire ants, the 2004 citrus canker outbreak, and more recently the 2007 outbreak of equine influenza. Each

---

46 In camera evidence.

47 In camera evidence.

48 Biosecurity Australia, *Submission 3,* Attachment 1, p. 2.

49 Mackay Estates and Scientific Advisory Services Pty Ltd, *Submission 9*, p. 3.

50 In camera evidence.

of these incursions has resulted in costly containment and eradication responses involving restrictions on movement between infected areas and widespread flow on effects.

2.56 The IRA report notes that Moko, black Sigatoka and freckle are economically damaging diseases that can be costly to contain and eradicate. The committee considers that in these circumstances the banana growing regions of Australia have a right to expect a more detailed and rigorous analysis of the consequences of an incursion.

2.57 The committee is also concerned that the consideration of economic consequences does not appear to have been performed consistently across each of the identified pests or across each of the banana growing regions within Australia. The committee accepts that relevant information for all districts may not be readily available and that the IRA team may not have had access to relevant expertise. However, the committee considers that it is incumbent on BA, through the IRA process, to seek to identify the impact on each region before determining the likely impact overall.

2.58 The committee is concerned to observe a similarly inconsistent and partial approach to the assessment of environmental consequences. The committee considers that the analysis of environmental consequences, particularly in relation to increased spraying regimes and hitchhiker pests should include some attempt to measure the impacts and identify associated costs.

2.59 The committee acknowledges that such rigorous analysis may be beyond the expertise at the disposal of the IRA team. However, the committee notes that the IRA team engaged external expertise to assist with other aspects of the IRA.[51] The committee considers that analysis of the consequences of an incursion is an area where outside expertise would have been beneficial.

2.60 The committee notes the observation of CSIRO in the context of the Beale Review that 'there is merit in DWHA and BA building their joint capacity for analysing the environmental risks of biosecurity threats'.[52] While the committee notes DEWHA was a stakeholder in this IRA process, the committee would like to see DEWHA more directly involved in the IRA process.

Availability of data on prevalence of pests and diseases in the Philippines

2.61 During the inquiry, the committee heard evidence that the IRA team was hampered in its analysis of risk and the efficacy of possible risk management measures by the lack of information concerning disease infection rates in Philippine

51 Queensland Department of Agriculture, Fisheries and Forestry, *Submission 7*, p. 2.

52 Independent Review of Australia's Quarantine and Biosecurity Arrangements Report to the Australian Government (The Beale Review), September 2008, p. 103.

plantations. The committee was told that Biosecurity Australia sought information from the Philippines in this regard, but that the Philippines did not respond.[53]

2.62 BA told the committee that while not all requests for information or inspections had been acceded to by the Philippine Government, the IRA team had received sufficient information to assist it in its analysis. BA stated that the Philippines did provide a lot of information throughout the course of the IRA process. Where the Philippines declined to provide information or could not provide information, the IRA team continued its work using alternative sources of information and on the basis of the worst case scenario.[54]

2.63 In answer to a question on notice, BA outlined for the committee the range of information and assistance provided by the Philippines government:

> The Philippines government provided a significant amount of information during the IRA process as well as hosting a number of technical visits by members of the IRA team. The IRA team indicated that additional information would have helped the IRA, but the information already provided, and available in the public domain, permitted the IRA to be completed. Where there was a gap in the information, and it was not provided by the Philippines, the IRA team exercised very conservative judgements.[55]

2.64 BA referred the committee to page 76 of Part B of the final IRA report which states:

> The report has utilised the data on the prevalence of Moko in plantations provided by the Philippines Department of Agriculture for the period 1998 to 2001. Biosecurity Australia recognises that the data set on disease prevalence is only for a short period and that it does not differentiate between plantations in the proposed export area and other geographic areas. Biosecurity Australia has continued to seek more technical information on this issue. However, several previous requests to Philippine authorities to provide more data have been unsuccessful.
>
> In accordance with the guidelines provided in the ISMP 2, Framework for Pest Risk Analysis (2007), this report documents the uncertainties, for the purposes of transparency and the rating for Imp 2 has taken into account the uncertainties when conducting the risk assessment.
>
> …

53 In camera evidence.

54 In camera evidence.

55 Answers to Questions on Notice provided in camera.

> The prevalence reported by BPI (2002a) has therefore been increased by a factor of two to three to estimate the total number of infected plants per hectare.[56]

2.65 BA also provided the committee with a summary of the involvement of the Philippines government throughout the risk analysis process. The committee notes that the last data received from the Philippines appears to be the provision of pest interception data for 2004 and 2005.[57]

Committee view

2.66 The committee considers that the availability of accurate, current data on the prevalence of pests and diseases in the exporting country is a fundamental requirement in the risk analysis process. The committee accepts that such data is not always available or forthcoming and notes that the IRA report clearly states where information is not available, has not been quantified or is based on the IRA team's own observations. The committee also notes the IRA team's view that as a signatory to the SPS agreement, it was obliged to continue with the IRA process. The committee also notes that while the IRA team would have preferred to have access to additional information and data, it considers that it received sufficient information to assist it in its analysis. However, the committee considers that the perception that the IRA process is based to some degree on partial information, estimates and assumptions, does little to foster confidence in the final IRA report's findings.

56 Biosecurity Australia, *Final Import Risk Analysis Report for the Importation of Cavendish Bananas from the Philippines*, Part B, p. 76.

57 Answers to Questions on Notice provided in camera.

Chapter 3

Risk management

3.1 This chapter discusses the feasibility of the risk management measures and operational arrangements proposed in the final IRA report. The chapter also considers the capability of the Australian Quarantine Inspection Service (AQIS) to monitor and enforce compliance with those measures and operational arrangements.

The feasibility of the risk management measures and operational arrangements proposed in the final IRA report

3.2 A key part of any IRA process is the identification and assessment of risk management measures. Where the IRA process concludes that the risks associated with an import proposal exceed Australia's appropriate level of protection (ALOP), risk management measures are proposed to reduce the risks to a level that achieves Australia's ALOP. Where it is not possible to reduce the risks to below the ALOP trade will not be allowed.

3.3 Risk management measures must be consistent with Australia's obligations under the World Trade Organisation Agreement on the Application of Sanitary and Phytosanitary Measures (The SPS Agreement). In particular, the SPS Agreement requires that:

> … any sanitary or phytosanitary measure is applied only to the extent necessary to protect human, animal or plant life or health, is based on scientific principles and is not maintained without sufficient scientific evidence.[1]

3.4 Article 5 of the SPS Agreement states that:

> … when establishing or maintaining sanitary or phytosanitary measures to achieve the appropriate level of sanitary or phytosanitary protection, Members shall ensure that such measures are not more trade-restrictive than required to achieve their appropriate level of sanitary or phytosanitary protection, taking into account technical and economic feasibility.[2]

3.5 The committee accepts that risk management measures must be supported by scientific evidence. At the same time, the committee has long held the view that Australian producers should have a clear understanding of the pest thresholds which will apply to imports and the risk management measures through which these thresholds will be achieved. The committee also believes that the development of practical and effective risk management measures is pivotal to any proposal to import

---

1 Biosecurity Australia, *Import Risk Analysis Handbook*, 2007, Annex 2, p. 25.

2 Biosecurity Australia, *Import Risk Analysis Handbook*, 2007, Annex 2, pp. 33-34.

plant or animal products. The committee was therefore very interested to clarify and understand the process by which risk management measures are being developed for the importation of bananas and the extent to which Australian growers would be able to have confidence in the practical efficacy of these measures.

Identification of pest thresholds and risk management measures

3.6 The IRA process has applied a quantitative approach to determining the probability of entry, establishment and spread (PEES). The restricted PEES is to be expressed in terms of a pest threshold. The pest threshold is the maximum number of pests and/or the maximum level of disease associated with mature hard green Cavendish bananas imported into Australia from the Philippines that would achieve Australia's ALOP.

3.7 The final IRA report also identifies a range of possible mitigation measures for each pest and considers the potential for each measure, or a combination of measures, to reduce the level of risk to achieve Australia's ALOP. The example effects of mitigation measures on pest levels for Moko, black Sigatoka and freckle are provided in the following tables, together with an assessment of the efficacy of each measure in achieving Australia's ALOP. [3]

Moko

Table 9.20 Example effects of mitigation measures on pest levels

(The table shows example efficacies of measures considered feasible at reducing the proportion of infected clusters determined in the analysis of unrestricted risk. In this example the combination of ALPP and visual inspection (followed by corrective action) reduces the pest level to 1.2 infected clusters per million bunches which achieves Australia's ALOP.)

Measure	Example efficacy	Pest level (number of infected clusters per million)	Effect
No Measure		505	-
Pest free areas, pest free places of production and pest free production sites		-	Not considered feasible
Post-harvest chlorine treatment			Minimal effect
Areas of Low Pest Prevalence (ALPP)	0.03 plants infected per ha per year	6.1	Exceeds ALOP
Visual inspection for discolouration of the pseudostem and peduncle followed by corrective action (visual inspection)	80%	101	Exceeds ALOP
ALPP and visual inspection	As above	1.2	Achieves ALOP

3 Biosecurity Australia, *Final Import Risk Analysis Report for the Importation of Cavendish Bananas from the Philippines*, November 2008, Part B, pp. 111, 157 and 187.

Black Sigatoka

Table 10.21 Example effects of mitigation measures on pest levels

The table shows example efficacies of measures considered feasible at reducing the level of infected trash (Scenario A) and fertile spores (Scenario B) from the pest levels determined in the analysis of unrestricted risk.

Measure	Example efficacy		Pest levels		Effect
	Scenario A	Scenario B	Scenario A	Scenario B	
No Measure			50	100	
Pest free areas, pest free places of production and pest free production sites	-	-	-	-	Not considered feasible
Post harvest inspection followed by corrective action	-	-	-	-	Not considered feasible
Areas of Low Pest Prevalence (ALPP)	95.00%	90.00%	2.50	10.00	Exceeds ALOP
Trash minimisation	75.00%	85.00%	12.50	15.00	Exceeds ALOP
Post-harvest fungicide treatment	0.00%	90.00%	50.00	10.00	Exceeds ALOP
Trash minimisation and post-harvest fungicide treatment	75.00%	98.50%	12.50	1.50	Exceeds ALOP
ALPP and trash minimisation	98.75%	98.50%	0.62	1.50	Achieves ALOP
ALPP and post-harvest fungicide treatment	95.00%	99.00%	2.50	1.00	Achieves ALOP
ALPP, trash minimisation and post-harvest fungicide treatment	98.75%	99.85%	0.62	0.15	Achieves ALOP

Freckle

Table 11.12 Example effects of mitigation measures on pest levels

(The table shows example efficacies of measures considered feasible at reducing the proportion of clusters infected with pycnidia from the pest levels determined in the analysis of unrestricted risk. In this example the combination of ALPP and fungicide bunch sprays reduces the number of infected clusters to a level that achieves Australia's ALOP.)

Measure	Example Efficacy	Pest levels (infected clusters per 1,000)	Effect
No Measure		93.1	
Pest free areas, pest free places of production and pest free production sites			Not considered feasible
Post harvest inspection followed by corrective action			Not considered effective
Trash minimisation			Not considered effective
Post-harvest fungicide treatment	90%		Only effective on a small proportion of infection
Areas of Low Pest Prevalence (ALPP)	90%	9.3	Exceeds ALOP
Fungicide bunch sprays	70%	27.9	Exceeds ALOP
ALPP (90%) and fungicide bunch sprays (70%)	97%	2.8	Achieves ALOP

A systems approach

3.8 The final IRA report concludes that no single measure is likely to reduce the level of risk for these pests to a level that meets Australia's ALOP. However, the final IRA report concludes that a combination of mitigation measures, a 'systems approach', is most likely to achieve Australia's ALOP.

3.9 BA advised the committee that the final IRA report requires that a number of risk management measures are employed, in a systems approach, to ensure that any potential risks are managed to a level that achieves Australia's ALOP.[4] However, the committee considers that, while this expectation may be implicit in the discussion of risk management measures, it has been unable to identify where it is stated as an explicit recommendation

3.10 The committee heard concerns regarding the proposal that a systems approach be used to address phytosanitary risks that can not be managed to below Australia's ALOP through a single risk management measure. It was suggested to the committee that, in the absence of a change in the evidence supporting the introduction of bananas, the introduction of the concept of a systems approach had the effect of lowering the risk of a particular disease or pest to below the ALOP.[5]

Industry Expectations of the IRA process

3.11 There appears to be confusion and concern within the industry as to whether the Final IRA fulfils the expectations set out in the Import Risk Analysis Handbook. Strong concerns were expressed during the inquiry with regard to what is seen as the failure of the IRA report to specify the actual risk management measures that will be applied in the Philippines and Australia.

3.12 In its submission the Australian Banana Growers' Council Inc (ABGC) referred to the statement in the Import Risk Analysis Handbook 2003 (the Handbook) that an import risk analysis 'identifies the pests and diseases relevant to an import proposal, assesses the risks posed by them and, if those risks are unacceptable, specifies what measures should be taken to reduce those risks to an acceptable level.' [6]

3.13 ABGC also drew the committee's attention to Chapter 3 of Part B of the final IRA report which describes the method for import risk analysis.[7] Section 3.1 states that the technical component of an IRA for plants or plant productions is termed a 'pest risk analysis' or PRA. A PRA is carried out in three discrete stages:

- Stage 1: Initiation of the PRA

4 Answers to questions on notice provided in camera.

5 In camera evidence

6 Department of Agriculture, Fisheries and Forestry, Import Risk Analysis Handbook, 2003, p. 8.

7 Australian Banana Growers Council Inc, *Submission 5*, p. 2.

- Stage 2: Pest risk assessment
- Stage 3: Pest risk management.'[8]

3.14 ABGC notes that Section 3.1.3 describes pest risk management as 'the process of identifying and implementing measures to mitigate risks to achieve Australia's ALOP while ensuring that any negative effects on trade are minimised.'[9]

3.15 ABGC submitted that:

> The IRA team did not complete that critical third stage (pest risk management) of the IRA for Moko, black Sigatoka and freckle and, as a consequence, did not (and could not) recommend any risk management measures for those pests.
>
> The IRA team did:
>
> - calculate a 'pest threshold' for each of Moko, black Sigatoka and freckle; and
> - identify a range of potential risk management measures for those pests.
>
> However, the IRA team failed to undertake the critical element of analysis involved in the third stage of the IRA which is to:
>
> - assess the efficacy of each of the identified potential risk management measures for those pests; and
> - consequently, assess whether those potential risk management measures, either alone or in combination, could reduce the risk of the entry, establishment and spread of those pests sufficiently to achieve Australia's ALOP (or, expressed another way, reduce the level of infection of those pest (sic) sufficiently to achieve the 'pest threshold' for those pests).[10]

3.16 ABGC is highly critical of the IRA team's assessment of the risk management measures identified in the final IRA report. ABGC submitted that:

> While the IRA team identified a token range of potential risk management measures for the pests and considered whether those potential risk management measures were technically feasible, it did not undertake the next step in the third stage (pest risk management) of the IRA, which was to assess the efficacy of each of the identified potential risk management measures.
>
> Instead, the IRA team undertook a scientifically irrelevant hypothetical analysis based on unverified "*example efficacies*" for the identified potential risk management measures.[11]

---

8 Biosecurity Australia, Final Import Risk Analysis Report for the Importation of Cavendish Bananas from the Philippines, Part B, November 2008, p. 15

9 Australian Banana Growers Council Inc, *Submission 5*, p. 2.

10 Australian Banana Growers Council Inc, *Submission 5*, pp. 2-3.

11 Australian Banana Growers Council Inc, *Submission 5*, p. 3.

3.17 ABGC notes that the final IRA report does not recommend any particular risk management measures, though ABGC notes that, based on 'that hypothetical analysis' the report does identify a number of possible systems approaches which could achieve Australia's ALOP. In ABGC's opinion:

> It was necessary for the IRA team to say that those combinations of risk management measures 'could' (rather that(sic) "would") achieve Australia's ALOP because they did not assess the efficacy of the potential risk management measures and, therefore, were not in a position to know whether or not they would actually achieve Australia's ALOP.[12]

3.18 ABGC expressed concern that determination of the risk management measures which will apply to the importation of bananas from the Philippines will now occur outside of the IRA process.

3.19 The Queensland Department of Primary Industries and Fisheries (DPI&F) expressed concern that the risk mitigation measures proposed in the final IRA report are reliant on implementation procedures that are not practical.[13] For example, DPI&F believes it will be extremely difficult to achieve the required levels of visual inspection and corrective action for Moko in the plantation due to the size of plantations in the Philippines and the number of inspectors required to achieve the level of inspection required.[14] DPI&F also notes that the risk mitigation measures proposed in the IRA for black Sigatoka are considerably lower than those implemented under Australia's domestic quarantine arrangements during the Tully incursion in 2001.[15]

3.20 BA advised the committee that:

> In accordance with the 2003 IRA handbook the report includes in many places recommended risk management measures and permits the importation of bananas from the Philippines subject to the Philippines being able to demonstrate, to Australia's satisfaction, that they can meet the risk management measures. The final IRA report is very clear in identifying pest thresholds, which in effect are the standards that must be met to achieve ALOP. The final IRA report also includes a systems approach to risk management, that the IRA team considered feasible, that would reduce phytosanitary risks to a level acceptable to Australia. The recommended risk management measures are indicative of how the pest thresholds will be met.[16]

---

12 Australian Banana Growers Council Inc, *Submission 5,* p. 3.

13 Queensland Department of Primary Industries and Fisheries, *Submission 7,* p. 9.

14 *Submission 7,* p. 7.

15 *Submission 7,* p. 5.

16 Answers to Questions on Notice provided in camera.

3.21 BA emphasised in evidence to the committee that the basis of the IRA is to set up a series of measures with standards which have to be met. BA told the committee that the processes that are put in place to achieve those standards will be undertaken at the time that an application is made to import bananas from the Philippines.

> Before that can happen, a considerable amount of research is going to be required … to establish the detail that is necessary before anything can happen.[17]

3.22 The committee notes that this expectation is repeatedly stated throughout the report. For example the committee notes the following statement in relation to the discussion of risk management measures for Moko:

> The Philippines Government will be required to demonstrate to Australia's satisfaction that the strength of the proposed phytosanitary risk management measures, or a combination of phytosanitary risk management measures (a systems approach) will reduce the number of Moko bacteria infection banana fruit waste.
>
> The efficacy of any treatment(s) to reduce the number of bacteria would need to be demonstrated by laboratory and/or field trials and also under commercial conditions.[18]

3.23 BA also drew the committee's attention to the Independent IRA Appeals Panel (IRAAP) report which considered a number of appeals from stakeholders on this issue against the framework set out in the 2003 IRA Handbook. BA told the committee that:

> The IRAAP found that (sic) IRA team recommended in the Final Bananas IRA Report a risk management and operational framework associated with the importation of bananas from the Philippines (Part B, page 293). Section 12.3 of Part B notes that risk management measures specific to each disease (including moko, black Sigatoka and freckle) are also discussed under their respective chapters of the Final Bananas IRA Report. The IRAAP noted that the Handbook does not specify a particular level of detail in recommending parameters or conditions for import in a final IRA report. It also found that, in accordance with section 2.2 (page 6) of the 2003 IRA handbook, it is not the role of Biosecurity Australia to implement measures, but rather to recommend conditions for importation.[19]

3.24 Despite this, the evidence presented during this inquiry, indicates a clear expectation endures among submitters that the Australian banana industry should have a role in the assessment of the feasibility and efficacy of the intended risk management measures for the importation of bananas proposed by the Philippines.

---

17 In camera evidence

18 Biosecurity Australia, *Final Import Risk Analysis Report for the Importation of Cavendish Bananas from the Philippines*, Part B, November 2008, p. 107.

19 Answers to Questions on Notice provided in camera.

3.25 BA explained to the committee that in assessing the proposed study methodologies and/or the results of any studies, industry expertise might be sought via individual experts engaged by the Australian Authorities.[20] However, BA stressed that these experts would be engaged as specialist disciplinary consultants and not as industry representatives. BA went on to explain that:

> As the negotiations and discussions are at a Government to Government level there is no intention to provide all scientific methodology to all stakeholders for a formal consultation process.[21]

Development of import requirements

3.26 The committee sought clarification the next steps in the development of risk management measures and operational protocols in relation to the importation of bananas. BA told the committee that before approval for a banana to enter Australia will be given, the Philippines will have to demonstrate under AQIS' supervision and subject to AQIS' approval how the pest thresholds specified in the final IRA report will be met. This would become the operating arrangement for the importation of bananas from the Philippines.

3.27 In particular, the committee sought clarification of the trigger for laboratory and field trials of proposed risk mitigation measures.

> **Senator MILNE –** … Assuming the Philippines made an application tomorrow to import bananas, given what Senator Boswell has just said about there being no specifics, which goes to the other things about the prescriptions on the diseases, at what point do you decided, and who decides, on the actual prescriptive standard? At what point does somebody say, 'This chlorine bath will be used, to this standard and this specification?' At what point does that very specific test get developed? If it is not specified as Senator Boswell said when is it specified so that people can see whether it is robust or not or make a judgement about that?
>
> **Biosecurity Australia**– When and if we were to receive a request for export from the Philippines to Australia, we would then seek from the Philippines authorities specifications about precisely which plantations the product would be coming from. We would need to have them demonstrate that those plantations are free from these diseases or meet these standards that we have- …. identified in these tables in the IRA.

3.28 The committee also sought clarification of the process through which the import requirements would be developed and tested and the extent to which this would be a negotiated process. BA confirmed that the import requirements would be negotiated between the Australian and Philippine authorities.

---

20 In camera evidence.

21 Answers to Questions on Notice provided in camera.

> **Biosecurity Australia** – … it would all be done under a negotiation arrangement, the specificity of which would be required by us. Unless that specificity was achieved it would not go any further.[22]

3.29 The committee also sought clarification of the time frame within which the relevant field trials and laboratory testing would take place. BA confirmed that the process would take in the order of two years.[23]

> **Senator MILNE** – … I understand from what you are saying that in the event that an application is made to import bananas to Australia you would then embark on a series of lab and field trials on the ground in the Philippines in the areas from which the bananas would be exported. Those practical steps that Senator Boswell was asking about would determine the procedures that AQIS and Biosecurity Australia are appropriate to prevent disease coming into Australia. I am trying to work out the steps from here. Assuming that an application was made tomorrow, would you envisiage the field trials and the lab test taking one year, two years, six months or two seasons? What are you thinking.
>
> **Biosecurity Australia** – More than likely, it would take of the order of two years.
>
> **Senator MILNE** – Okay. Then you would embark on two years of lab and field trials. From that, you would determine the steps that you think would protect us. At the end of that, you would write up your manual or whatever of the operational guidelines to which the Philippines would have to adhere under AQIS supervision on the ground in the Philippines.
>
> **Biosecurity Australia** – Correct.[24]

3.30 BA confirmed that at the end of this process the Director of Quarantine would approve the operational guidelines under the Quarantine Act.

3.31 The committee also clarified the extent to which third parties might have input prior to the finalisation of the operational guidelines.

> **Senator MILNE –** In the event that [there] was an application … made tomorrow**,** this process would take place and the operational guidelines would be developed and signed off. As it currently stands under the legislation, the parliament would not have another opportunity from here on in to consider the adequacy of the operational guidelines.
>
> **Biosecurity Australia** – The Director of Quarantine would have to be satisfied and comfortable enough with the procedures that had been put in place and the efficacy testing of all of that and the on ground inspection measures that had been identified. That would be based on the work done and the assurances provided by qualified people.

---

22 In camera evidence.

23 In camera evidence.

24 In camera evidence.

> **Senator MILNE** – So the Director of Quarantine, in making that decision to sign off on the operational guidelines, would consult presumably but with whoever they thought had the appropriate level of expertise.
>
> **Biosecurity Australia** – Yes.[25]

3.32 Biosecurity Australia drew the committee's attention to a radio interview given by the Minister for Agriculture Fisheries and Forestry on 7 March 2009 in which he 'said that it was his intention to ensure that those procedures are satisfactorily developed and that he would require that as part of his comfort level.'[26] Biosecurity Australia went on to say that the Minister could:

> … make it very clear to the director [of quarantine] that he wants to be certain that the director is comfortable. Under statute, the director has to be satisfied.[27]

3.33 Biosecurity Australia also told the committee that if the Philippines 'do not now at this point, develop the measures that we wish in concert with us, then we will not provide them with an import permit.'[28]

Committee view

3.34 The committee considers that some of the confusion surrounding whether or not the IRA must recommend the specific risk mitigation measures that must be used could be resolved by the use of clearer language in the report. The committee notes that, the discussion of the application of potential risk management measures for Moko, black Sigatoka and freckle is introduced with the following sentence:

> The IRA process requires the consideration, and recommendation, of whether there are risk mitigation measures, used either alone or in combination that would reduce any risk that exceeds Australia's ALOP, identified through pest risk analysis, to a level that achieves ALOP.[29]

3.35 The committee considers that statements such as these raise the expectation that specific recommendations will be made regarding risk management measures. However, the committee notes that the wording of the risk management conclusions for Moko, black Sigatoko and freckle clearly afford the Philippines the latitude to propose risk management measures which it believes will achieve Australia's ALOP, so long as these can be demonstrated to satisfy the threshold specified in the final IRA report by laboratory experiments and/or field trials and under commercial conditions.[30]

---

25 In camera evidence.

26 In camera evidence.

27 In camera evidence.

28 In camera evidence.

29 Biosecurity Australia, Final IRA Report, 2008, Part B, p. 111. See also pp. 156 and 186.

30 Biosecurity Australia, Final IRA Report, 2008, Part B, pp. 113, 159 and 189.

3.36 The committee notes that even where the final IRA report concludes that a potential risk management measure was not considered effective by the IRA team, the final IRA report does not preclude the measure as an option the Philippines may use.[31]

3.37 In the same context, the committee notes BA's assurance that it expects that multiple risk management measures will be employed, in a systems approach, to ensure that any potential risks are managed to a level that achieves Australia's ALOP. The committee considers that if this is the IRA team's intention, it should be explicitly stated in the report.

3.38 The committee understands that it is now up to the Philippines to initiate the development of the risk management and operational measures that would underpin a permit to import bananas into Australia. The committee also understands that the development of these measures must be developed in consultation with the Australian authorities and the Director of Quarantine must be satisfied, on the basis of laboratory and field trials, that the measures will achieve the pest thresholds prescribed in the IRA under commercial conditions before signing off on them. The committee notes the Minister's statement that:

> We have now got to make sure that the biosecurity rules are as strict as possible and everything that's put in place is followed to the letter.[32]

3.39 The committee could not agree more with this statement from the Minister. As noted in paragraph 2.55, this committee has a first hand understanding of the devastating and far reaching effects of breaches of biosecurity and concurs that there is no room for complacency or poor practice in this area.

Monitoring and enforcement of compliance by AQIS

3.40 The committee notes that the capacity of the Australian Government (and in particular AQIS) to monitor and enforce compliance with risk management measures and operational requirements was a focus of significant concern throughout the IRA process.

3.41 Chapter 20 of the IRA sets out the following general administrative requirements for entry of Philippine bananas to Australia:

- *Recognition of the competent authority and agency arrangements*. The Bureau of Plant Industry (BPI) would be required to ensure that all service and certification standards and work plan procedures are met by all Philippine organisations and individuals registered to participate in the program.

---

31 See for example, Biosecurity Australia, *Final Import Risk Analysis Report for the Importation of Cavendish Bananas from the Philippines*, Part B, November 2008, pp. 112, 157, 158, and 185.

32 Minister Tony Burke interviewed by Col Campbell, 4BC Brisbane, 7 March 2009, DAFF09/96T.

- *Preparation of a documented standard operating procedure or manual* that describes the phytosanitary procedures for each of the pests of quarantine concern.
- *Registration of all plantations, block and packing stations* involved in the supply of bananas for export to Australia for the purpose of providing trace back and monitoring field controls.
- *AQIS audit* of the Philippine operating manual and work plan and will undertake field audits to measure compliance with plantation registration, block identification, disease management/monitoring, records management and the administration of areas of low pest prevalence and accreditation requirements.

Philippine compliance with import requirements

3.42 The committee notes that Australian banana growers appear to lack confidence in the ability of AQIS to ensure compliance by the Philippines with the import requirements. A number of submitters commented on the lack of a compliance culture within the Philippines.[33] The Eminent Scientists Group Report also refers to the significant number of submissions to the IRA process that raised the issue of confidence in the process to be used by AQIS to ensure compliance by the Philippine Government and Philippine banana growers with import requirements.[34]

3.43 In its earlier inquiry, the committee heard grave concerns in relation to the use of quarantine measures that rely upon monitoring and inspection by Philippine authorities.[35]

3.44 In its submission to the current inquiry, the ABGC observed that 'proper implementation of the risk management regime … requires competence, diligence and honesty from a large number of Philippine banana growers, plantation and packing station workers and BPI officials.' The ABGC went on to state that there will be strong economic and political forces continuously at work to provide powerful incentives to BPI and its political masters to obfuscate its dealings with AQIS'.[36]

---

33 For example: Australian Banana Growers' Council Inc, *Submission* 5, Mr Thomas Pashley, Submission 4, Growcom, *Submission 6*, Mackay Estates, *Submission 9*, p. 5, and Mr Peter Abetz, *Submission 10*, pp. 2-3.

34 Eminent Scientists Group Report, August 2008, p. 2.

35 Senate Rural Regional Affairs and Transport Legislation Committee, Administration of Biosecurity Australia- Revised draft import risk analysis for bananas from the Philippines, March 2005, pp. 33-34.

36 Australian Banana Growers Council Inc, *Submission No. 5*, p. 8.

3.45 The ABGC also lacks confidence in the audit regime to be implemented by AQIS. In its submission, the ABGC stated:

> While it is not completely clear from the final IRA report, it appears that AQIS's role will be limited to performing field audits and compliance audits on a limited and ad hoc basis and that much of AQIS's audit activity will involve paper audits of records and procedures.[37]

3.46 The ABGC calls for a significantly more intensive compliance monitoring and enforcement regime to be implemented by AQIS inspectors on an on-going basis. ABGC is concerned that paper based audits provide no verification of pest prevalence in the field.[38] The ABGC expresses concern that such a regime must address the inevitable time delay between the occurrence of non-compliance and a paper based audit being undertaken.[39] ABGC states that AQIS's role must be directed at detecting instances of non-compliance at the time of the non-compliance and removing any compromised fruit from the export pathway.

> AQIS on-the-ground inspectors must be directly involved in verifying compliance with the possible risk management measures through real-time inspections of the implementation of the possible risk management measures in both plantations and packing stations.[40]

3.47 The committee also notes the more practical concerns raised by DPI&F in relation to proposed risk management measures and operational arrangements: the ability of the Philippines to establish and maintain areas of low pest prevalence, ensure mobile packing stations provide high pressure washing facilities using water from an uncontaminated source and provide a sufficient number of appropriately skilled inspectors to satisfy the required inspection levels.[41]

3.48 The committee shares DPI&F's concern that BA should verify the operational arrangements developed by AQIS for risk management to ensure that the risks identified in the IRA are adequately mitigated by the proposed operational framework that has been developed.[42]The committee considers that the results of such verification should be made public once the negotiations for the import requirements are complete.

---

37 Australian Banana Growers Council Inc, *Submission 5*, p. 11.

38 Australian Banana Growers Council Inc. *Submission 5*, p. 12.

39 Australian Banana Growers Council Inc, *Submission 5*, p. 12.

40 Australian Banana Growers Council Inc, *Submission 5*, p. 11.

41 Queensland Department of Primary Industries and Fisheries, *Submission 7*, pp. 7- 9.

42 Queensland Department of Primary Industries and Fisheries, *Submission 7*, p. 9.

Mandatory pre-clearance requirements

3.49 BA explained to the committee that the final IRA report establishes performance targets or standards for each of the identified pests and diseases. BA told the committee that the final IRA report states:

> … precisely what has got to be achieved by a standard. The process by which that standard will be achieved is to be determined by work undertaken under supervision in the Philippines.[43]

3.50 BA went on to assure the committee that:

> The processes that are then adopted, having put the procedures in place, the actual actions, will be under supervision on the ground in the Philippines by AQIS inspectors. It will not be contracted out; it will be done by AQIS inspectors.[44]

3.51 BA emphasised that this supervision by AQIS in the Philippines would continue 'for as long as is needed to be satisfied that the processes are being fulfilled.'[45]

3.52 The committee had some difficulty accepting BA's assurance that pre-clearance procedures would remain in place for as long as necessary. The committee was concerned to understand when and in what circumstances these mandatory pre-clearance procedures would be removed and who would be responsible for deciding that pre-clearance inspections are no longer required.

3.53 BA clarified for the committee that the removal of pre-clearance procedures was a decision taken by AQIS in consultation with BA. BA went on to tell the committee that there are a number of products for which import protocols have been in place for some years and where mandatory pre-clearance requirements have not yet been repealed. For example, the committee notes that pre-clearance requirements have been in place for the importation of table grapes from the United States since 2002 and have not yet been repealed.[46]

3.54 AQIS told the committee that it could not:

> … recall any commodity where pre-clearance has been a condition of export to Australia and where the pre-clearance arrangements have in fact ceased. Generally, we either clear on arrival or we clear at the point of export. The clearing at the point of export works better for us, in terms of greater efficiency and confidence of the pathway. Indeed, it give exporter far greater confidence that the system is working, because it means that the

43 In camera evidence.

44 In camera evidence.

45 In camera evidence.

46 In camera evidence.

> product that gets through the preclearance will not be rejected on arrival in Australia, having already incurred the expense of exporting to Australia. There is a significant benefit on both sides of the equation to ensure that the system is in place and works well.[47]

3.55 The committee notes the assurances of BA and AQIS that pre-clearance requirements are not repealed lightly. The committee also notes that where mandatory pre-clearance is not required, a set of provisions, similar to the pre-clearance arrangements would apply. In these circumstances AQIS will undertake a documentation compliance examination prior to the release of bananas from quarantine and that conditions would apply.[48]

Committee view

3.56 The committee notes that despite apparent gaps in the analysis of the risks associated with the importation of bananas from the Philippines the IRA team has signed off on a report that permits the importation of bananas from the Philippines subject to the Philippines being able to demonstrate, to Australia's satisfaction, that they can meet the risk management measures. Some members of the committee were strongly of the view that these deficiencies in the IRA process should have been enough to result in the abandonment of the IRA.

3.57 The committee notes that its concerns are shared by one member of the IRA team who sought to have an amendment made to 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.[49]

3.58 The committee was told that the Import Risk Analysis Team had:

> … agreed that the unrestricted risk is too high and it was up to the Philippines authorities to come up with verifiable research and field trials to demonstrate under commercial conditions that they can achieve Australia's LOP. Surely the recommendation from the IRAT therefore is that imports are not permitted at this stage. When the Philippines have demonstrated their capacity to achieve ALOP then the decision to import can be made.[50]

3.59 The committee is concerned that, as currently worded, the emphasis in the final IRA is on allowing the importation of bananas from the Philippines, rather than on the prohibition of importation of bananas until such time as the Philippines are able to demonstrate their capacity to achieve Australia's ALOP.

---

47 In camera evidence.

48 In camera evidence.

49 In camera evidence.

50 In camera evidence.

3.60 BA told the committee that it has received legal advice to the effect that there is no material legal difference between the following two positions:

(i) allowing the importation of a good on the basis that certain conditions attaching to the importation are met; and

(ii) not allowing the importation of a good until certain conditions attaching to the importation are met.[51]

3.61 The committee notes BA's assurance that in practice no bananas will be imported into Australia until the Philippines demonstrates to Australia's satisfaction that the risk management measures and operational arrangements applied in the Philippines will achieve Australia's ALOP under commercial conditions.

3.62 However, the committee also notes that having identified shortcomings in the risk analysis process, stakeholders are justifiably less than confident that the risk management measures and operational arrangements that are ultimately adopted will be adequate to achieve Australia's ALOP or that AQIS will be able to ensure compliance with them.

51 Answers to questions on notice provided in camera.

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

Additional Comments by Government Senators

1.1 Government Senators note the recommendations and make the following comments.

1.2 With regard to the veracity of risk management measures, the Import Risk Analysis (IRA) has already been subject to considerable and detailed scrutiny – through a process initiated by the former Coalition Government in 2000, and within guidelines and processes for IRAs set down by the former Coalition Government.

1.3 It is worth noting that on 3 July 2000, the then Minister, the Hon. Warren Truss, MP, stated that the IRA would allow for "careful scientific assessment of quarantine risks as well as opportunities for widespread consultation with all stakeholders." On 28 March 2002, Minister Truss further stated that the IRA would be a "rigorous one based solely on sound science" and that "neither threats of trade retaliation by the Philippines or publicity campaigns by the Australian industry will be taken into account in the decision".

1.4 Australia's Director of Animal and Plant Quarantine, in making the policy determination, has established a rigorous quarantine framework for the importation of bananas from the Philippines, consistent with Australia's conservative approach to quarantine. Biosecurity Australia has stated that bananas from the Philippines will only be approved for importation to Australia if the Philippines can demonstrate that they can implement Australia's required quarantine measures. These measures are designed to limit the risk of pest and disease entry to a very low level, consistent with Australia's appropriate level of protection. Biosecurity Australia has advised that the Philippines will be required to demonstrate to Australia's satisfaction that the risk management measures set out in the policy determination can be achieved under commercial conditions on an ongoing basis before any trade can commence.

1.5 With regard to notification of import permit applications, if an application for a permit was made to import from a foreign country, Biosecurity Australia has made it clear that it intends to inform industry of such an application being made, provided there are no commercial-in-confidence sensitivities.

1.6 With regard to ongoing reviews of the IRA once trade has commenced, Biosecurity Australia is always monitoring the pest and disease status of an exporting country and will adjust import conditions as appropriate, as it has done in the past.

1.7 It is also worth noting the government of the Philippines has reportedly described Australia's quarantine policy as "very stringent, expensive and trade restrictive", claiming it will delay any exports.

1.8 As of writing, there has been no indication that a permit application to commence trade is forthcoming.

Senator G. Sterle
Senator for Western Australia

Senator K. O'Brien
Senator for Tasmania

Appendix 1

List of Submissions

1. Mr Robert Steadman

2. Louise McManus

3. Biosecurity Australia

4. Thomas Pashley

5. Australian Banana Growers' Council Inc.

6. Growcom

7. Queensland Government Department of Primary Industries and Fisheries

8. Hon. Bob Katter

9. Mackay Estates

10. Peter Abetz

11. Confidential