

Dissenting Report by Senator Xenophon

1.1 Around the world, agricultural sectors have been decimated by outbreaks of European canker, myrtlerust, fireblight, earlyblight, apple leaf curling midge, Tropical Race Four, pear midges, affecting apples, pears, potatoes, bananas, to name a few, and it is crucial that Australia is protected from these diseases.

1.2 Fireblight, for example, is a contagious disease affecting apples and pears. Under optimal conditions, it can destroy an entire orchard in a single growing season.

1.3 Fireblight is endemic in New Zealand, and, until recently, Australian quarantine officials have refused export requests from New Zealand, claiming their apples present too great a disease risk.

1.4 However, despite this, New Zealand apples were approved for import from August 17 2011 by Biosecurity Australia.

1.5 Dr Colin Grant from the Department of Agriculture, Fisheries and Forestry argues that the risk of fire blight entering Australia via New Zealand apple imports is minute and that processes have been introduced to further reduce any risk.

"Only commercially mature fruit will be permitted to be imported to Australia and all export fruit will be required to be washed by high-pressure water spraying and brushed in the packing house to remove surface contamination of pests and trash such as leaf litter."¹

1.6 Despite this, Australian apple and pear growers have extensively campaigned against the imports.

"There is no measurement they can use in a packing shed to see whether there is bacteria on it. If it comes in and produces an infection in Australia it's game over for us."²

"There is a lot of anger out there, we feel we have been betrayed by a Government that has traded away our sovereign right for protection under biosecurity protocols. Subsequently, they have put in place the destruction of another industry and I think the rest of the horticultural and agricultural sector must be feeling very insecure about what has happened here."³

1 Dr Colin Grant, Department of Agriculture, Fisheries and Forestry, quoted in, *The Age*, *Growers warn bad apples could spoil the whole industry*, 18 August 2011.

2 Mr Peter Hall, Goulburn Valley apple and pear grower, quoted in *The Age*, *Growers warn bad apples could spoil the whole industry*, 18 August 2011.

3 Mr Mike Nicol, Uraidla apple grower, quoted in *Adelaide Advertiser*, *Rotten deal for apple growers*, 18 August 2011.

"Frankly, once New Zealand apples start coming to Australia, farmers will be nervous just getting out of bed in the morning because they will be wondering if today is the day they discover fire blight in their orchard."⁴

1.7 The Quarantine Amendment (Disallowing Permits) Bill 2011 was introduced following this controversial decision and is intended to protect Australia's industries from pest and disease.

1.8 Under this Bill, any decision to allow the importation, introduction, bringing in of or removal of a thing – defined under the Quarantine Act 1908 as an animal, plant, substance or thing – will be thoroughly scrutinised. Currently, this decision making power is left solely in the hands of Biosecurity Australia.

1.9 In the case of New Zealand apples, while analysis may have determined the risk of fireblight to be low, it can be argued that the damage caused by fireblight makes any risk too great.

1.10 This Bill is intended to give Australia's agricultural sector the certainty they both need and deserve, and to require that thorough consideration is given to ensure that Australia remains disease free.

The Bill in practice ...

1.11 The current process for import permits is as follows:

- The Governor-General can issue a Proclamation prohibiting the importation, removal, etc of a things/product/item etc.
- Such a Proclamation can provide that importation, removal, etc of a thing is prohibited unless the Director of Quarantine grants a permit to import, remove, etc the thing.

1.12 So, in practical terms, Company XYZ applies for an import permit and, as long as it has not been prohibited by the Governor-General and the appropriate risk analyses has been conducted, it is approved by Biosecurity Australia and they import the item.

1.13 Under the provisions of the Quarantine Amendments (Disallowing Permits) Bill 2011,

- The Governor-General can issue a Proclamation prohibiting the importation, removal, etc of a things/product/item etc.

4 Mr John Lawrenson, Apple and Pear Australia Limited, quoted in *The Age*, *Growers warn bad apples could spoil the whole industry*, 18 August 2011.

- Such a Proclamation can provide that importation, removal, etc of a thing is prohibited unless the Director of Quarantine grants a permit to import, remove, etc the thing.
- Such a permit is disallowable unless it is covered by a Director's Determination.
- A Director's Determination (which is a legislative instrument and therefore is itself disallowable) can specify a thing and set out the conditions to be complied with to limit the level of quarantine risk associated with importing or removing the thing to an acceptably low level.
- When the Determination is laid before Parliament for disallowance, the Minister must also table a risk analysis and cause a motion to be moved to refer it to Committees for report.

1.14 So, in practical terms,

- Company XYZ applies for an import permit, and, as long as it has not been prohibited by the Governor-General and the appropriate risk analyses has been conducted, a Determination is made by Biosecurity Australia that the thing may be imported.
- The Government tables the Determination and relevant risk analysis report in both Houses of Parliament and a motion is moved to refer the matter to Committee for report.
- The relevant Committee has 15 sitting days to inquire and report and, based on the Committee's recommendations, a Member of Parliament may move a motion to disallow the Determination.

Responding to criticisms of the Bill

1.15 It is understood that around 20,000 import permit applications are processed each year. Concerns were raised in submissions to the Committee that this Bill would be impractical, however most of these permits will simply be tabled in Parliament without require further scrutiny being required by the Parliament.

1.16 It is only in circumstances in the interest of Australia's industries where the risk may require further assessment.

1.17 This is not intended to undermine AQIS' decision making process; rather it is simply to provide for further scrutiny.

1.18 It may be reasonable to amend the Bill so that it only applies to fresh or live goods or things, thereby reducing the number of Declarations that must be tabled. For example, that it will not apply to machinery, etc.

1.19 Furthermore, this Bill does not breach World Trade Organisation obligations because it does not prohibit the importation of goods.

1.20 It simply provides that Determinations and import permits be tabled before the Parliament, along with risk analysis, and that inquiries be held to ensure that thorough assessment take place.

1.21 Concerns were also raised in submissions with regards to what impact this Bill may have on business. However, requiring Declarations to be tabled in Parliament will not require any additional work on the part of the applicant.

1.22 It is common for regulations made by Government agencies to be tabled in Parliament

Conclusion

1.23 The controversial introduction of New Zealand apples into Australia is a prime example of where this Bill would have provided an additional layer of scrutiny in the interests of Australian apple and pear growers.

1.24 Australian farms and related sectors generate \$155 billion-a-year in production – making up 12% of Australia's GDP.

1.25 Therefore, it is vital that biosecurity standards are upheld to ensure that Australia remains disease free.

Recommendation

That this Bill be passed, with amendment.

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