

Australian Government response

**Senate Rural and Regional Affairs and Transport References
Committee**

***Report into the Import Risk Analysis (IRA) for the
importation of Cavendish bananas from the Philippines***

Introduction

The Senate Rural and Regional Affairs and Transport References Committee (the Committee) announced its intention to hold an inquiry into the import risk analysis (IRA) for the importation of Cavendish bananas from the Philippines on 27 November 2008.

Australia's Director of Animal and Plant Quarantine made a policy determination in March 2009 in relation to the importation of bananas from the Philippines based on Biosecurity Australia's final IRA report conducted in accordance with the process contained in the 2003 IRA handbook.

The Committee held *In-Camera* hearings in Canberra 11–12 March 2009 with a range of witnesses including officers from the Department of Agriculture, Fisheries and Forestry, and a supplementary hearing, solely with Department officers, on 2 April 2009.

Responses to Recommendations

Recommendation 1 - ACCEPTED IN PRINCIPLE

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.

The Government accepts this recommendation in principle. The Government has agreed in principle to significant reforms of Australia's biosecurity system as detailed in 'The Independent Review of Australia's Quarantine and Biosecurity Arrangements' (the Beale Review). As part of this process, the Government is considering reviewing all the information contained in the IRA Handbook including the level of detail that should be provided in final IRA documents.

The IRA Handbook outlines the process that Biosecurity Australia follows to undertake an IRA. The IRA Handbook sets out an administrative process for the conduct of import risk analyses.

Recommendation 2 - NOT ACCEPTED

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;*
- *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 plantation/blocks registered for export to Australia;*
- *the packing station requirements; and*
- *the audits and compliance monitoring procedures to be implemented.*

AND

Recommendation 3 - NOT ACCEPTED

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.

The Government does not accept Recommendations 2 and 3 as the information contained in any potential operational plan is government-to-government communication and is considered confidential and the release of such information without the consent of the other party may have an adverse impact on Australia's broad bilateral relationship with the Philippines.

The Government also notes that considerable consultation occurred with all stakeholders on all aspects of the IRA, including the Australian banana industry, as part of the formal, broad-ranging stakeholder consultation process undertaken during the independent, science based, IRA process. The independent IRA process also includes an independent review mechanism of how stakeholder comments have been addressed and an independent appeal process. Information provided by industry and by other relevant stakeholders through this process forms part of the material that is available to AQIS in developing the potential operational plan.

Australia's Minister for Agriculture established a policy framework in relation to the release of detailed operational plans in relation to the importation of material into Australia. The policy framework includes that negotiation of operational plans remains confidential, as they are government-to-government communications for the entire negotiation period and until the document is finalised in order to protect the interests of both parties and encourage open communication. Operational import plans are the property of the exporting country. Therefore, the agreement of the exporting country will need to be obtained before any information contained in the operational import plans is disclosed. This process is designed to respect the integrity of government-to-government communications and relationships, and to provide consistent treatment for trading partners. Furthermore, Australia is obliged to protect the confidentiality of information relating to the production and handling of an imported product under Annex C (1) (d) of the WTO SPS Agreement, as well as protect commercial-in-confidence information which may be included in an operational import plan.

In addition, maintaining government-to-government confidentiality during the entire period of the negotiation of operational import plans is important for demonstrating to trading partners that Australia's quarantine process is based on sound science and free from industry or political influence.

Recommendation 4 - ACCEPTED IN PRINCIPLE

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.

The Government accepts this recommendation in principle, taking into consideration the principles of both the privacy and freedom of information legislation.

The Department of Agriculture, Fisheries and Forestry undertakes to advise the Australian banana industry if an import permit were issued for the importation of mature hard green banana fruit from the Philippines taking into account the commercial confidentiality rights of the permit holder.

Recommendation 5 - ACCEPTED IN PRINCIPLE

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.

The Government accepts this recommendation in principle, noting that this IRA report and all other IRA reports include a review mechanism. A review of the import requirements will be undertaken if commercial trade occurs for at least twelve months. The review would form the basis of a report for the Committee.

Following significant trade AQIS and Biosecurity Australia routinely undertake reviews of import requirements to ensure that agreed procedures and protocols are meeting Australia's requirements and achieving Australia's appropriate level of protection.