



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

SENATE

RURAL AND REGIONAL AFFAIRS AND TRANSPORT
REFERENCES COMMITTEE

**Reference: Biosecurity for Chinese apples and Australia-United States of America
cherry trade**

THURSDAY, 1 JULY 2010

SYDNEY

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**SENATE RURAL AND REGIONAL AFFAIRS AND TRANSPORT
REFERENCES COMMITTEE**

Thursday, 1 July 2010

Members: Senator Nash (*Chair*), Senator Sterle (*Deputy Chair*), Senators Heffernan, McGauran, Milne and O'Brien

Participating members: Senators Abetz, Adams, Back, Barnett, Bernardi, Bilyk, Birmingham, Mark Bishop, Boswell, Boyce, Brandis, Bob Brown, Carol Brown, Bushby, Cameron, Cash, Colbeck, Jacinta Collins, Coonan, Cormann, Crossin, Eggleston, Farrell, Feeney, Ferguson, Fielding, Fierravanti-Wells, Fifield, Fisher, Forshaw, Furner, Hanson-Young, Humphries, Hurley, Hutchins, Johnston, Joyce, Kroger, Ludlam, Lundy, Ian Macdonald, McEwen, McLucas, Marshall, Mason, Minchin, Moore, Parry, Payne, Polley, Pratt, Ronaldson, Ryan, Scullion, Siewert, Troeth, Trood, Williams, Wortley and Xenophon

Senators in attendance: Senators Colbeck, Heffernan, Milne, Nash and Sterle

Terms of reference for the inquiry:

To inquire into and report on:

- a) The import risk analysis process for the proposed importation of Chinese apples into Australia; and
- b) The protocols relating to the Australia/United States of America cherry trade.

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Committee met at 8.29 am

CHAIR (Senator Nash)—I declare open this public hearing of the Senate Rural and Regional Affairs and Transport References Committee. The committee is hearing evidence on the committee's inquiry into biosecurity for Chinese apples and the Australia-US cherry trade. I welcome you all here today. This is a public hearing and a *Hansard* transcript of the proceedings is being made.

Before the committee starts taking evidence, I remind all witnesses that in giving evidence to the committee they are protected by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage a witness on account of evidence given to a committee, and such action may be treated by the Senate as a contempt. It is also a contempt to give false or misleading evidence to a committee.

The committee prefers all evidence to be given in public, but under the Senate's resolutions witnesses have the right to request to be heard in private session. It is important that witnesses give the committee notice if they intend to ask to give evidence in camera. If a witness objects to answering a question, the witness should state the ground upon which the objection is taken and the committee will determine whether it will insist on an answer, having regard to the ground which is claimed. If the committee determines to insist on an answer, a witness may request that the answer be given in camera. Such a request may, of course, also be made at any other time. Finally, on behalf of the committee, I would like to thank all those who have made submissions and sent representatives here today for their cooperation in this inquiry.

[8.31 am]

HUNT-SHARMAN, Mr David Lee, Chairman, Australian Horticultural Exporters Association

MOLLOY, Mr Hugh, Executive Member, Australian Horticultural Exporters Association

CHAIR—Welcome. Would you like to make an opening statement before we move to questions?

Mr Molloy—We would. We would like to make this submission to highlight the impact on the commercial viability of Australian exports of fresh cherries to the USA due to the difference in quarantine, food safety and administrative measures applied by the USA. At present there are a range of significant quarantine and non-quarantine based differences between Australian cherry requirements for entry to the USA compared to those required for the importation of US cherries to Australia. The implications are that mainland cherries' access to the USA currently sits with an unworkable, short time frame treatment protocol; the cost of entry to this market is commercially unworkable due to the non-recognition of AQIS certification of preshipment treatments; on arrival, testing processes and delays pose an unacceptable commercial risk for highly perishable products such as cherries; and the process, hurdles and time frames in negotiation, processing and implementation of agreed import applications, approvals and amendments to existing conditions vary considerably between Australia and the USA. We respectfully request a thorough review of current processes and protocol requirements to ensure fair trade in line with WTO equivalence measures.

CHAIR—Thank you very much, Mr Molloy. I think you said 'the non-recognition of AQIS certification'. I did not quite catch that. Could you just repeat that and perhaps give us a bit more explanation around that?

Mr Molloy—The cost of entry to this market is commercially unworkable due to the non-recognition of AQIS certification of preshipment treatments. In the protocol, we are required to fumigate and cold-sterilise if we want to send by air to the United States. It is a preshipment treatment, and the USDA do not recognise AQIS to initiate, observe and complete that treatment and certify that.

Senator HEFFERNAN—In other words, what is good for the goose is not good for the gander.

Mr Molloy—Exactly.

Senator HEFFERNAN—Also, there is the temperature variation in the treatment. They want us to cook ours, do they, and they want to cool theirs?

Mr Molloy—That is right.

Senator HEFFERNAN—It is a bloody joke.

Mr Molloy—They enjoy significantly better temperature regimes than we do.

Senator HEFFERNAN—So how can they get away with that if we allegedly have a trade agreement? This is a bit like having a \$200-a-head subsidy on feed over there and yet we are supposed to compete equally in the same feed market. Isn't this their quaint way of using science to avoid our cherries?

Mr Molloy—They would argue that they are treating for *Rhagoletis* fruit fly and that we are treating for *Bactrocera* fruit fly, but the research work and the basis for those determinations go way back, nearly 20-odd years.

Senator HEFFERNAN—I do not know what we do about all this. What do you suggest the solution is?

Mr Molloy—I really believe that there has to be some sort of commonality, particularly considering that we are operating under a free trade agreement. It seems that the Australian government has been very fair in their consideration of applications and also access to our market. We enjoy the access of some of their products to this market; however, we believe that by now we should be enjoying access to their market as well.

Senator HEFFERNAN—The situation today is that we do not send any cherries into the United States?

Mr Molloy—No, that is not correct. We do send cherries to the United States, particularly from Tasmania, because they are a fruit-fly-free zone. The trade to the United States is relatively limited, but as the Tasmanian volumes increase I am sure that will increase too. The mainland cherry is not exported to the United States.

Senator HEFFERNAN—So, if the science gives them a situation where what is good for the goose is not good for the gander, why can we not overcome that argument in the IRA?

Mr Molloy—My understanding is that there have been lots of negotiations backwards and forwards. There are also the other issues that I have raised here with regard to the rule-making process. There was agreement back in late 2009 for a change to the treatment protocol, reducing the temperature from 22.1 degrees down to 17. The acceptance of that agreement is still sitting with rule making, and my advice to this point is that it is better to leave it with the rule-making process than to adopt what we refer to as notice based approval, because it may well get through in a quicker time period.

Senator HEFFERNAN—So if that were to become a reality you would be set to go?

Mr Molloy—Not necessarily, because as a commercial exporter I still believe it is an unworkable protocol. The fumigation temperature is still too high.

Mr Hunt-Sharman—The United States is required to fumigate at plus-six degrees. Even if we were going to go from 22 to 17 we would still be endangering the keepability of the fruit.

Senator HEFFERNAN—So you want to go back to six degrees for fumigation?

Mr Molloy—We believe it should be.

Senator HEFFERNAN—Can't we then have a process where we either prove or disprove your point? Can't we have a pilot with the fly and do the whole works and jerks?

Mr Molloy—Yes, we can.

Senator HEFFERNAN—Why don't we?

Mr Molloy—I think the work is being done, but there is argument as to the level of risk associated with it in that there have been no incursions for many years. We are a known shipper. We should be able to look at other avenues such as low-risk prevalence. There are also other arguments out there as to whether cherry is actually a fruit fly host before a certain time period. There are lots of arguments out there; it is just a matter of getting them through the system. Unfortunately, this whole process just takes way too long.

Senator HEFFERNAN—Okay, so we have a fruit fly problem. Do we send cherries into areas that do not have a fruit fly problem domestically?

Mr Molloy—Yes, we do.

Senator HEFFERNAN—What is the protocol there?

Mr Molloy—The protocol is either fumigation or ICA with dipping with dimethoate.

Senator HEFFERNAN—So, given the history of the domestic market, have we ever had a problem with the protocol?

Mr Molloy—Never.

Senator HEFFERNAN—And what does the so-called Import Risk Analysis Appeals Panel say about that? They do not think it will work elsewhere but it works here?

Mr Molloy—It is about getting overseas acceptance of those sorts of protocols.

Senator HEFFERNAN—As you would be aware, I get the heebie-jeebies with some of this. To duck off to the Apple and Pear Australia thing for a minute—this is from the appellant:

After taking into consideration all the available information, the IRAAP was satisfied that the process of completing a 'risk analysis' had been undertaken in accordance with the regulated IRA process, as described under Quarantine Regulation 69B. It was—

get this—

not within the scope of the IRAAP to make an assessment of the scientific merits of the 'risk analysis'.

Doesn't that make a mockery of the whole process?

Mr Hunt-Sharman—Basically, I have been involved in a number of applications. I had a previous role in the table grape industry from the USA—similar things. You will find that it is a summary statement in most IRA reports.

CHAIR—Just to clarify for Hansard, Senator Heffernan was just talking about the response from the Import Risk Analysis Appeals Panel to the IRA for the import of apples from China.

Senator HEFFERNAN—If you are not allowed to query the science, what hope have we got? All human endeavours have failure. All science relies on human endeavour at some point. If it is good for the goose, it ought to be good for the gander—and likewise if it works in the domestic market. What would you like us to do?

Mr Molloy—That is well and good but that is only one aspect of it and the other issues that I have raised are just as important. Commercially, we may end up with a workable protocol—for example, if the in-transit cold sterilisation is approved for sea freight. However, their on arrival residue testing processes again make that a highly risky exercise in that you could be flagged for residue testing, and that would then mean a delay from anywhere between seven to 15 days on arrival.

Senator HEFFERNAN—What is the life of the cherry as a viable resale fruit?

Mr Molloy—Currently, we would happily ship it for 20 to 21 days in modified packaging. The Chileans ship it for 35 days using gas flush bags. But I would not like to see product shipped for any longer than 30 days, because you also have to consider that you want the consumer to have a product that has some shelf life in it. We are not asking for anything that the Americans do not enjoy here.

CHAIR—This issue of the requirements here but the export of those cherries into the States, as we just determined, is not equivalent, or in the reverse, coming back to Australia. How many products that are exported would you say that that is indeed the case—that is, there is not a ‘what is good for the goose is good for the gander; type of arrangement, where there is a mismatch in the requirements on us as exporters compared to the requirements on commensurate imported product?

Mr Molloy—To many countries there is a mismatch, and that is largely due to the fact that we have Queensland fruit fly. There are differences there.

Mr Hunt-Sharman—We also have protocols in place with the USA, for example, where no trade has taken place. For example, in the table grape industry, yet again, we have had access for grapes but because the pretreatment methyl bromide fumigation and the in-transit treatment had to be supervised by a USDA inspector there has been no trade because of the costs involved in bringing the inspector out. The industry wears those costs, and so it becomes untenable to pursue that trade. We have also had trade in the past with apples and pears. That is not happening now. We have a number of submissions for export of tropical fruit but there is still no trade on that.

Senator HEFFERNAN—Do we generously say to the US, ‘We’ll rely on your supervision, we’ll take your word for it and you tick the box,’ or do we go over there and have a look?

Mr Molloy—On a non-precleared shipment we accept the USDA's supervision of the fumigation. Currently, if they wish to ship to us precleared, that is undertaken by AQIS inspectors who travel to the States to do that. All that we are asking is that we be able to initiate and conduct preshipment treatments if required.

CHAIR—Can you expand for us the preclearance process in the States? If AQIS go over and do it, how often do they have to do it, how many of them have to be there and how does that process actually work?

Mr Molloy—Currently, with the US cherry trade, Californian shipments are not allowed to be precleared. So the preshipment treatment is conducted and supervised by the USDA and the fruit is sent over here for an on-arrival inspection, and so it has an accompanying phytosanitary certificate. The fruit is inspected on arrival and released or detained, depending on what the results of that inspection are. When you move into the Washington state area, preclearance is allowed. They can still ship cherries under the same conditions as the Californians—that is, fumigate, certify and send. But now they choose to run a preclearance program. This year it involved three or four inspectors. They travel to the States. The cost is met by the industry over there. Each shipment is inspected and cleared before sending. We can take the goods on arrival here; we can take them straightaway. That is also done with their grape program and with their citrus program.

Senator HEFFERNAN—If the circumstances were altered and you were able to get certification to do what you want to do into the US, what would be the impact on the cherry growing industry here? How much better off would you be?

Mr Molloy—It would be a tremendous lift to the cherry growing industry here. It would allow us to plan some uniform penetration into that market over a period of time; it would be a tremendous lift.

Senator HEFFERNAN—Are we counter-cyclical?

Mr Molloy—We are counter-seasonal, yes. We would still have to compete head-on with the Chilean product, moving from Chile up into the States at the same time. The rule-making process in the states has confirmed that we would not be causing them any financial hardship at all in terms of their producers, and we would have to fight for our place in that market, just like anybody else. But we need to be able to get to the point where we can conduct a preshipment treatment, send the fruit and know that we have some surety that that fruit will get into that market and be able to transit through that market in a timely fashion.

Senator HEFFERNAN—In terms of other industries, the oranges and whatever, and fruit fly, how do they manage their affairs for export?

Mr Molloy—They undergo in-transit cold sterilisation. They are still running the same gauntlet with regard to on-arrival pesticide residue testing. However, they are dealing with a product that is a lot harder than fresh cherries. If you analyse the volumes of fruit going from Tasmania to the States, that confirms the high level of the bar that has to be jumped. At the end of the day, if you have a commercial risk that is that high, you would not undertake export to that market.

Senator HEFFERNAN—Do you try to maintain a fruit fly free zone for the purpose of the cherry?

Mr Molloy—There is a lot of work being done now by the individual growers in different areas that are known to have fruit fly. There is a lot of trapping being done and there is a push for areas to become fruit fly free.

Senator HEFFERNAN—What are the main cherry growing areas?

Mr Molloy—You have Hillston, Young, Orange, northern Victoria and South Australia.

Senator HEFFERNAN—If I went to Hillston or Young and walked into the backyard of someone who had quinces, would I not find a fruit fly?

Mr Molloy—It would depend on whether those people are looking after their trees or not. I can speak for the individual growers in Young. They have been running trapping programs for several years and they have got quite a lot of data.

Senator HEFFERNAN—So is part of the longer term solution cleaning up the backyards as well as the cherry orchards?

Mr Molloy—That is an issue, but I would say that part of the longer term solution is being able to register smaller economic zones or fruit fly free zones and have those zones accepted as fruit fly free zones.

Senator MILNE—I have a couple of questions. And I also just want to make sure that you have not forgotten I am here.

CHAIR—Thank you, Senator Milne, actually we have.

Senator HEFFERNAN—Tasmania looks all right in this argument.

CHAIR—Senator Milne, please go ahead and I do apologise.

Senator MILNE—I want to ask about the differential treatment of cherries in the US side and ours. When this has been explored before, how did AQIS or Biosecurity explain the different treatments on each side and why we pursue that?

Mr Molloy—It is predominantly due to the differences in the fruit flies that they are treating for.

Senator MILNE—Okay. So we accept the US explanation that there is a greater risk?

Mr Molloy—They believe that there is a greater risk.

Senator MILNE—I know that the US does. What I am trying to get to is: what have we done in Australia to push back on this? What would happen if we changed the rules now and said:

'Okay. You require a US inspector to come to Australia. We now require you to pay for Australian inspectors to come to inspect all the shipments et cetera in the same regime'? What would that do?

Mr Molloy—I think that is a negative approach. I would rather see that there be mutual recognition and that we all learn to accept and trust each other so that we can conduct positive trade between the two countries.

Senator MILNE—I understand that but, to achieve that outcome, sometimes you have to push back to force the thing to be looked at in a more independent way. At the moment, that is not happening. Obviously, Australia is accepting what the US is asking and there is no push back from our side. Something has to happen there. Also, you have to see the bigger picture. We frequently have trade issues come before us with biosecurity issues, and it would be fair to say that we are reasonably sceptical about the capacity of other countries or, as Senator Heffernan indicated earlier, the tick the box style. We have concerns about that in all sorts of trade arrangements and we have to be consistent.

Is there any capacity to review the biosecurity arrangements when free-trade agreements are negotiated, or are they generally regarded as separate from that? There is currently negotiation on the Trans-Pacific Free Trade Agreement, which includes Australia, the US and Chile as well. I would be interested to know if biosecurity is ever on the table at those meetings.

Mr Molloy—I cannot comment on that.

Senator STERLE—How would you create a fruit fly free zone?

Mr Hunt-Sharman—In Australia we already have fruit fly exclusion zones that are recognised by Japan. These are the Riverland, Tasmania, parts of Sunraysia on both sides of the border, and also portions of New South Wales.

Senator STERLE—That is just Japan?

Mr Hunt-Sharman—Japan and other trading partners. So we do have internationally recognised fruit fly-free areas. Historically, these areas have been based on council boundaries. That has been addressed by our fruit fly committee in recent times but, as Mr Molloy mentioned earlier, we would like to have more localised and specific zones recognised rather than having geographical areas bounded by administrative implementation.

Senator STERLE—Do the Americans recognise Tasmania as a fruit fly free zone?

Mr Hunt-Sharman—They do. And they recognise Sunraysia and the Riverland in relation to citrus. Again, it comes back to the individual protocol.

Senator STERLE—But not for cherries? Is that because they do?

Mr Molloy—Yes, they do.

Senator STERLE—So they recognise those areas as fruit fly free for cherries?

Mr Hunt-Sharman—Yes.

Senator STERLE—But you would like to see more fruit fly free zones recognised by our trade partners, including America?

Mr Molloy—That is correct.

Senator STERLE—How do you convince them that that is achievable?

Mr Molloy—There are quite well documented processes and mechanisms for trapping programs and other things in relation to setting those zones.

Mr Hunt-Sharman—The highest risk of fruit fly incursion is not necessarily trapping or measures taken to prevent fruit fly; in a lot of instances, it is the movement of people from one growing area to another. They transport fruit in their vehicles or whatever. There were protocols in the past where we had fruit fly roadblocks. South Australia still has them but they have been withdrawn in New South Wales and South Australia. I think that has allowed fruit fly incursions to happen. But all the preventive measures that are in place are effective in the growing areas.

Senator STERLE—They still have them in the west—down on the Great Eastern Highway and also up on both sides of Kununurra.

Mr Hunt-Sharman—Yes, and that appears to be an effective measure.

Senator STERLE—Is our fruit fly far more destructive than the American fruit fly and, to the best of your knowledge, does the science prove that?

Mr Molloy—I would have to refer to the advice on that, but I think there has been a lot of work done in recent years that would suggest it is not as much of a risk as it was perceived to be many years ago. And the fruit fly is now an emerging issue with regard to the *suzukii* fly and other things as well.

Associated with the risk there is also the level of risk or chance that the particular product is a host to fruit fly and that it would be infected with fruit fly at a particular time. For example, the Queensland fruit fly, if I am correct, requires the male to mate above 20 degrees Celsius at night. In the case of Young, it would probably be close to the end of December or mid-December by the time it gets to that. So the perceived level of risk, or the level of risk, could be shown to be fairly low up to a certain point in time.

Senator STERLE—And for cherries, if they are infected with fruit fly can you see from the outside or can fruit fly get into the cherry—

Mr Malloy—It can sting the cherry.

Senator COLBECK—The change in the science over time in relation to the fruit fly is better understood now. Does the US have a regular review process for the IRA?

Mr Malloy—As I understand it, there are regular bilateral discussions. For example, some recent science has shown that there is effective control of fruit fly with cold sterilisation at different temperatures for different periods of time, and that is one of the amendments that are sitting with the US at the moment awaiting the rule-making process. It has been agreed in principle that we should be able ship to the US under a cold sterilisation protocol, however, we are still waiting for that to make it through the rule-making process, and that has been since late October 2009.

Senator COLBECK—Can you explain to me those various processes? You have mentioned dipping with dimethoate, and there is a fumigation process and the cold sterilisation process.

Mr Malloy—There is a range of treatment protocols for air freight shipments from the mainland. They currently require fumigation at 22.1 degrees, plus a cold sterilisation period for a certain number of days at a temperature. So you would fumigate the fruit, firstly, at the temperature. You would then transfer it into a secure cool room, cool the fruit down again and hold it at a particular temperature for a period of time. Once that treatment has been completed, the fruit could then be certified and sent.

Senator COLBECK—What do you fumigate with?

Mr Malloy—Methyl bromide.

Senator COLBECK—So you fumigate at 22.1 degrees according to the current protocol?

Mr Malloy—That is correct, which, I might add, is an unworkable protocol as the product would be next to useless at the end of it.

Senator COLBECK—So the cold sterilisation is holding it at a certain temperature for a period of time?

Mr Malloy—That is a far more gentle treatment. However, if you are going to hold fruit for a period of 14 to 15 days at those temperatures and then incur an additional waiting time pending residue testing results, then again you are stretching the life of the product.

Senator COLBECK—So what chemicals are used in the cold sterilisation process?

Mr Malloy—No chemicals at all. It is just done with strategically placed temperature probes that record and are monitored by the inspection staff.

Senator COLBECK—What do you mean by residue testing?

Mr Malloy—Chemical residue testing on arrival in the US. They had a random system for residue testing on arrival. If you are selected, the product has to go into bond and is held for the period of time until the product is deemed to be acceptable for entry into the US.

Senator COLBECK—So that is a process that happens with any shipment, much the same as would happen with our residue testing through FSANZ?

Mr Molloy—Yes, but the difference being that, if your product is randomly selected for residue testing in the United States, on arrival you have to hold that product in bond whereas on entry to Australia, if yours is selected for residue testing under the IFIP scheme, they sample your product and they check the trade description. The results of the product sampling are released at a later date but in the meantime the product is released for sale.

Senator HEFFERNAN—So wouldn't it make sense to test it here before it leaves?

Mr Molloy—They do not recognise it.

Senator COLBECK—So the residue test is not in any way related to the process; it is just a random process of the importation in the same way that we test one in 20 shipments, for example.

Mr Molloy—Yes. US residue testing is done by the FDA and it is conducted as a general program across all items entering the US.

Mr Hunt-Sharman—I would make the point, Senator, that chemical residue testing is actually related to a health issue; it is not in fact a quarantine issue.

Senator COLBECK—I understand that. I was just trying to define that there was not a link as to the cold sterilisation process, because they have been mentioned together a couple of times. I was not sure if or why there was a link.

Mr Molloy—They are separate issues. The residue testing has a commercial implication.

Senator COLBECK—I understand the process. I was just trying to work it out. There appeared to be a link from your evidence, but I understand now that there is not.

CHAIR—Thank you, Senator Colbeck.

Senator HEFFERNAN—In 2009 in the US-Australia bilateral talks there was talk about the *suzukii* fruit fly—is that correct?

Mr Molloy—Not to my knowledge.

Senator HEFFERNAN—Well, that is what it says here. It was causing damage 'to a range of thin-skinned fruits that a technical working group determined', control measures had been established and 'Australia advised that assessments would need to be undertaken of host material'. On 22 February 2010 it turns up in Canada. Well, it would have been there for a while. It would not have turned up on that date. It had probably been there for a year or two. On the 25th, which I think is curious, in the US it is in California, Oregon, Washington and Florida—from their website. That all looks a bit phoney to me. Do we know how Canada got it? Do they import cherries from the US?

Mr Hunt-Sharman—We are not sure what the cause is, but that particular fruit fly is hosted by many different fruit varieties, not just cherries but also strawberries, grapes and apples. There is quite a range.

Senator HEFFERNAN—It says that fumigation with methyl bromide does the job. We do not have the *suzukii* fruit fly in Australia?

Mr Hunt-Sharman—Not at this point in time. It has not been identified as being here, and there are steps being taken to recognise that.

CHAIR—Mr Hunt-Sharman, just to be clear: you included apples in the list of things that you believe were a host for *suzukii*. Is that correct?

Mr Hunt-Sharman—I will double-check my information, but I was led to believe that was the case.

Senator HEFFERNAN—We were led to believe the opposite.

Mr Hunt-Sharman—I will take that on notice and advise.

CHAIR—If you could that would be very useful. Unfortunately, Biosecurity were unable to appear today, either here or by teleconference, so I note that for the *Hansard*. As there are no further questions, thank you very much for giving us your time this morning. It has been extremely useful.

[9.04 am]

ANDERSON, Dr Alison Nicole, Senior Policy Officer, Horticulture and Agricultural Chemicals, New South Wales Farmers Association

DARLEY, Mr Peter Roderick, Vice-President; Chair, Horticulture Committee; Chair, Agricultural Chemicals Committee, New South Wales Farmers Association

CHAIR—Welcome. Would you like to make an opening statement before we move to questions?

Mr Darley—Yes, certainly.

CHAIR—Please proceed.

Mr Darley—The association is seeking further investigative work by Biosecurity Australia to confirm the host status of apples and pears to the vinegar fly and the spotted wing drosophila. I will call that by its acronym, SWD, if you do not mind.

CHAIR—Certainly.

Mr Darley—It is a very interesting one. There is much literature on the pest with a large range of hosts listed, warranting further investigation to determine whether importing apples from China represents a risk above an acceptable level to the Australian fruit industry. Although the literature suggests that SWD does not attack undamaged apple and pear fruit, there is a risk of injury to apples and pears when harvesting and in the process of packing, potentially making injured fruit vulnerable to attack by SWD. This needs to be considered when making inspections of fruit prior to export. We are saying there would have to be very thorough inspections within the packing lines and sheds within China. I am an apple grower. It is virtually impossible not to have some type of blemish or mark on an injured apple.

The association would like the likelihood of the mutation of SWD occurring investigated, as has been reported in the USA. We need that confirmed of course here. Since 2008 there has been confirmation coming out of America. Before I go any further into that, I would like to add this. From comments last night we have been made aware that the director of quarantine has made a decision with regard to importations of apples out of China. That is certainly concerning to us at this stage. I think it is very mischievous, particularly as the chairman and CEO of Apple and Pear Australia are in China at present and there is the Senate inquiry. So I think the question must be asked why this was all timed for that decision to be made at that time. Even though we understand that a work plan will be put in place, it is certainly concerning to New South Wales farmers.

Additionally, the association believes that communication to industry by Biosecurity Australia on issues such as SWD needs attention. I believe it has been very lax in getting that information out to industry. It is not about misinformation but it is about no information coming out and informing industry of where the process is going to. Farmers are understandably concerned

about new pests and diseases and the government needs to keep them well informed about the processes underway and the reasons as to outcomes.

I will give you a little bit of background on this. Apple and Pear Australia appealed against the outcome of the provisional final import risk assessment report as to fresh apples from the People's Republic of China. One of the grounds of appeal was that there was a failure to identify the spotted wing drosophila as a pest of concern or to assess unrestricted risk arising from it. The IRA appeal panels have found that this objection was outside the grounds of appeal. I believe that in itself is incompetent. The final IRA report recommends that the importation of fresh apple fruit to Australia from China be permitted subject to specific quarantine conditions.

There are 16 pests identified as requiring quarantine measures, other than the Chinese fly. The SWD is an Asian pest of fruit crops in China, Japan, Korea and Thailand, and has been established in Hawaii since the 1980s. It has been introduced into North America—California, Florida, Oregon, Washington and Canada—in 2008 and in Italy in 2009 respectively. It is affecting commercial crops of soft thin-skinned fruit, particularly cane berries, strawberries, cherries and blueberries. It has also been reported in Spain, in 2008. It was officially reported as a fruit pest in mainland USA on 25 February 2010. SWD was placed on the European and Mediterranean Plant Protection Organisation alert list in January 2010.

On 31 March 2010 Biosecurity Australia announced the commencement of a pest initiated pest risk analysis for *suzukii* for all fresh fruit pathways. There are interim conditions for strawberries, cherries, table grapes and stone fruit. The PRA should be released for stakeholder comment during the third quarter of 2010. Although a number of pest alerts from the USA have mentioned apples and pears as hosts, there have been no reports of undamaged apples and pears being attacked by SWD in the USA, Europe or Asia—because the skin is too thick for SWD to penetrate. But as I said earlier, there is always the possibility of fruit being injured and then infected. Damaged apples and pears have been observed to be hosts of SWD in Japan. That observation by a Japanese scientist goes back to 1937. We now believe, from Biosecurity, that apple that is sliced is in regard to the possibility of infection. I think that is where it counts: a damaged piece of fruit could have the possibility of being infected.

Undamaged cane berries, strawberries, blueberries, grapes, cherries and stone fruit have been attacked by SWD in Japan, and strawberries, cane berries and blueberries have been attacked in Europe. Unlike most members of its family, which only attack overripe or decaying fruit, SWD is able to feed on healthy, ripening fruit while it is still attached to the plant. Damage is caused by the larvae feeding on fruit pulp inside the fruit and berries. Infested fruit collapses around the feeding site and secondary fungal or bacterial infections may contribute to further fruit deterioration. It has a short generation time—as many as 10 to 15 per year. Early infestations are difficult to detect and these fruit are likely to be traded undetected. Adult SWDs are highly mobile and have been observed to spread rapidly in North America over long distances. The trade of infested fruit and plants will ensure pest dissemination. For the moment, it is not known how it was introduced into North America and Europe. High breed production rates and the capacity for natural spread will probably render containment or eradication very difficult. Currently, there is a lack of data about field and post-harvest treatments.

The value of Australian apples is about \$400 million and for pears it is about \$150 million per year. Imported pears from China peaked at 7,000 tonnes and are now less than 2,000 tonnes.

They are not popular in Australia. However, the apple varieties, mainly fujis, are well liked within Australia. There is a potentially greater risk of SWD entering Australia on imported apples from China than on pears, due to the likely greater volumes.

CHAIR—It was indeed curious that there was the announcement yesterday from a director at Biosecurity ticking off on the importation before the conclusion of this Senate inquiry. Why do you think Biosecurity have not waited until they complete the pest risk analysis on the SWD before they ticking off on the apples from China?

Mr Darley—It is certainly a concern. We believe it was just overlooked. It just was not brought to their attention. They were oblivious to this fly and were not going to analyse it.

CHAIR—As you say, the argument from Biosecurity is that the fly will not attack the hard fruit. That is their view. But there is the risk from injured fruit. Processes would need to be put in place to ensure that there was no injured fruit as part of any consignment. How confident are you that processes could be put in place to make sure that injured fruit was not a part of any consignment?

Mr Darley—As a grower and packer it is quite obvious that, in the passing line of fruit, whether it is coming in from the orchard or going into the packing line to be packed, there is always the possibility—it might be one per cent or 0.01 per cent—of a damaged piece of fruit going into that box. If that was infected it would certainly spread and carry into Australia. Even though BA are saying that they would have inspectors at the packing line, observing the entry of the fruit into the packing shed and on the packing line, I think it would be virtually impossible to detect it with human eyes and to guarantee 100 per cent unmarked and undamaged fruit.

CHAIR—So would you say that Biosecurity have not considered thoroughly enough the potential for injured fruit to be part of a consignment and then pose a risk?

Mr Darley—Most certainly. In the meeting with them last Thursday they suggested that, as apples are a hard-skinned fruit, it would be highly unlikely that there would be penetration from the vinegar fly. That is when I made the statement that, if injured fruit is there, there is every possibility of that happening. I think that up until then they were unaware of that.

CHAIR—Could you briefly run through for us the range of other issues around the import risk analysis process that you are not happy with. It is obviously not just the SWD. You put them in your submission. Could you just outline those for the committee?

Mr Darley—I do not have those with me.

CHAIR—If you do not, that is fine. We can ask the next witness.

Dr Anderson—We will be able to get you the full list of pests and diseases. APAL might have that information with them today.

CHAIR—Yes. Thank you very much.

Senator MILNE—What is your response to the fact that Biosecurity Australia say that the literature regarding the *Drosophila suzukii* fly is wrong to cite apples and pears because the research from 1927 is not correct in the way that it was translated? Obviously you have heard them say that that is their reason for taking the view they do. What is your view of that? Do you think that the damaged fruit argument undermines what they say?

Mr Darley—I would have to say that I do not think Biosecurity even considered that until they were made aware by the Americans back in February this year, and that was going back to science that was conducted in 1937 in Japan. I would have to say that Biosecurity were oblivious to that work that was done.

Senator MILNE—On the other issue in relation to all of this and the trade arguments, I am just concerned that you say that you think that Biosecurity could have made the decision because they did not know, in relation to the pest risk analysis. They told us in their briefing the other day that, even if the pest risk analysis comes back saying that *suzukii* fly is a risk, the current conditions that they have placed on the import will cover that—in other words, they will be sufficiently stringent so that it will not be a risk. That is presumably why they felt comfortable about signing off on it now. What involvement will you have in the pest risk analysis? We are expecting that, I think they said, in the next six to eight weeks. Will you get an opportunity to feed into that?

Mr Darley—I would hope so. I think Biosecurity have always had the attitude that, if there is a risk, it is a controllable risk. That is certainly a concern to us. Getting back, I think the research has to be done very finely and completely with respect to that work before we would make any consideration or decision about that.

Senator MILNE—Thank you. Chair, you might just note that we should ask Biosecurity what opportunities the growers or the representative organisations will have to feed into the pest risk analysis that is being undertaken right now.

CHAIR—Thanks, Senator Milne; I will. It is unfortunate that they are not here today. We cannot ask them today, but we will certainly do that.

Dr Anderson—I believe it is going to be made available for comments.

CHAIR—Thanks, Dr Anderson.

Senator HEFFERNAN—I might go down to Woolies or Coles and get hold of some fruit from Young or Hillston or Timbuktu. How much gets chucked out?

Mr Darley—I suppose the quality criteria today are certainly on a very good year of harvest. A minimum of 10 per cent of fruit gets thrown out.

Senator HEFFERNAN—That is all I need to know. So there might be 10 per cent of damaged or waste—

Mr Darley—Yes.

Senator HEFFERNAN—which means that the practical implications of ‘no bruising’—history proves that you damage fruit when you cart it about.

Mr Darley—Most certainly, whether it is in the picking process, the entry into the packing shed and the grading process—

Senator HEFFERNAN—So that really does say that if the *suzukii* fruit fly can enter a bruised fruit—and I have an orchard of my own with all sorts of stuff in it—obviously we are vulnerable.

Mr Darley—Very vulnerable, yes.

Senator HEFFERNAN—So you will be interested to know, I am sure, that on the visit to China by our people they did not actually go to an orchard. Do you find that a bit extraordinary?

Mr Darley—Absolutely. Yes, I—

Senator HEFFERNAN—They did not. There were too tired or too busy or drank too much coffee. They went to a pack house but they did not go to an orchard.

Mr Darley—To me, that is very concerning because I think that is certainly the first point of entry that should have been investigated and checked before—

Senator HEFFERNAN—And, as we are talking about, we would like to know what chemicals they use as well, and that is an open question. It seems that under the IRA the existence and the spread of the *suzukii* fruit fly is a given. Canada has got it and the United States has got it, but we have not got it—so it is alleged to us.

Mr Darley—Certainly in the reports in the presentation I have given it is not if; it is when it is going to get here. Certainly I believe that in the first importation of fruit we are going to become very, very vulnerable to that.

Senator HEFFERNAN—You and your growers will be very pleased to know that if and when it does get here no-one gets the sack because they mucked up the protocol. The department says no, they will just go and have morning tea as usual and no-one gets a bullet in the head, which they should—metaphorically, not physically.

Mr Darley—I would certainly have to agree with the senator on that one.

Senator HEFFERNAN—The Import Risk Analysis Appeals Panel:

... does not consider matters relating to:

- the scientific merits of the IRA,
- the merits of the recommendations made or the conclusions reached by Biosecurity Australia or the Eminent Scientists Group.

If they do not do it, who does?

Mr Darley—I think that they are responsible for it. They are the ones that should do it.

Senator HEFFERNAN—That is what I would have thought.

Mr Darley—Yes.

Senator HEFFERNAN—So are we not allowed to challenge the aspect of human failure in the science? According to that, we are not, because it says here clearly that the appeals panel ‘does not consider’ matters relating to the science. It may consider:

... one of three findings in relation to an appeal:

- allow a claim—
even though you are not allowed to question the science—

- disallow a claim—
even though you are not allowed to question the science—

or

- find it outside the grounds of appeal—
which would be some bureaucratic claptrap. Do you think it is farcical that we do not have a process where you can challenge the science?

Mr Darley—Absolutely.

Senator HEFFERNAN—In a recent inquiry—I think it was in my time as the chair—we had a person who was on the panel saying that this is a BS process, if you know what BS stands for. So I would have thought that we have a lot of work to do.

Mr Darley—And I would accept that because I believe, as a right as a farmer, that, on the threats of import, it all has to be science based and we must have the right to appeal about whatever that import is. It is not a trade issue; it is a science issue.

Senator HEFFERNAN—Isn’t the present process saying that you are not allowed to challenge the science?

Mr Darley—Exactly.

Senator HEFFERNAN—Isn’t that garbage?

Mr Darley—Absolute garbage.

CHAIR—And we will be considering that in our broader inquiry into biosecurity; I can assure you of that.

Senator STERLE—Mr Darley, in your opening statement you walked us through how this SWD could infect damaged or overripe fruit—I do not think you used ‘override’, but I assume it

is the same risk—and you have said that the SWD can travel long distances. How long? Do you know how far?

Mr Darley—Getting back to a normal fruit fly, they can certainly travel a long distance and I would assume also that this vinegar fly would travel a lot. I would also consider him probably a hitchhiker, so, if he was in a piece of fruit that was infected, that could move between states with no problem whatsoever within the transport. If it was missed in the consignment of the packing of that fruit, it would move between states, so I think the kilometres would be limitless.

Senator STERLE—So, if it came in an infected piece of fruit from China and was unloaded here in Sydney and then distributed to, say, Coles in Young—I only use Young because that is what everyone else is using, and I am the only one up the front here who is not from farming stock, by the way, including the secretariat—so the fruit was unloaded in Coles in Young, the fly could blow out and infect the orchards? Is that it? They do not have to rub fruit to get it infected?

Mr Darley—No. I believe that is how it would move. As I said, he is movable and he is a hitchhiker. Look at the normal fruit fly. How do they spread around? And we have exclusion zones within the state, as was mentioned earlier here this morning. This is one that would spread rapidly, I believe. I think our climate is very conducive to that type of movement of that insect as well.

Senator STERLE—I am just trying to get the link. Let me tell you, I have grave concerns. But we have fruit-fly-free zones here in Australia that are recognised—

Mr Darley—Correct.

Senator STERLE—so our fruit fly is less of a hitchhiker than this little bug from Asia? How does that work?

Mr Darley—I would say that both would be equally mobile.

Senator STERLE—This is what I am trying to clarify, only because I am very familiar with the security measures on the Western Australian border at the top and bottom and fully support them.

Senator HEFFERNAN—I can't even get through!

Senator STERLE—We've got the rabbit-proof fence to keep the Victorians and the New South Welshmen out; that's what it's there for! How can we say to the world that we have fruit-fly-free zones but we have this little devil here that could come in and penetrate any zone—is that right?

Mr Darley—Exactly. Yes, that is right.

Senator STERLE—But our fruit fly cannot penetrate these magical boundaries that are worked around shires?

Mr Darley—Certainly in a lot of monitoring, as you are aware and you alluded to then, we have fruit-fly-free exclusion areas in New South Wales. I am speaking particularly about the MIA and the Mildura area as well. Quite a lot of monitoring goes on, of course. Even in Orange, where I have come from, we have a co-contribution working with DII this year applying for funding to monitor the extent of the fruit fly in those areas. I think that work will commence in spring to assess the movement of fruit fly and the number of fruit flies so that some type of measure can get in particularly to monitor that. Maybe in time we can operate trade with countries and claim, as Tasmania has, that we are a fruit fly exclusion area. But at this stage certainly we see outbreaks of fruit fly in the MIA and in Mildura as well. Quarantine zones are quickly put around there. The guarantee has to be put that those flies are eliminated, and a lot of work and cost goes into doing that.

Senator HEFFERNAN—To assist Senator Sterle, in the meantime they sometimes have to withdraw from the market.

Mr Darley—Most certainly they do, and we see that quite often of course. With an outbreak of fruit fly those markets are completely closed, directly and immediately.

Senator STERLE—To the best of your knowledge, is this little devil, SWD, any more destructive than the varieties of Aussie fruit fly that we have already got?

Mr Darley—It is only on recorded data and the spread of this SWD, but I would have to say yes.

Senator STERLE—It is?

Mr Darley—Yes.

Senator STERLE—I have visions going through my head that as soon as the fly gets to a shire boundary it puts the brakes on and says, ‘Whoops, I’m not allowed in.’

CHAIR—Mr Darley, regarding the issue of the bruised or damaged fruit, I want to take you back to something you said earlier—and obviously you are an apple grower. I think you said earlier that you had concerns that damaged fruit may not necessarily be able to be picked up with the naked eye through the inspection.

Mr Darley—Yes,

CHAIR—So you are saying that even if biosecurity are saying, ‘We will have inspectors there to inspect the fruit’ the damage may be of such a nature that, even with inspectors there, it may slip through.

Mr Darley—Most certainly, yes. Also, regarding importation, if there was damage to the fruit being loaded that was missed when going through the grading system in China, when it comes into Australia in a container only 600 pieces of fruit will be assessed from each individual container. That is the standard regulation they use with quarantine.

CHAIR—That is 600 out of how many?

Mr Darley—There are probably in the vicinity of 1,000 cases. If you multiply that by 100 pieces of fruit per case that is 1,000 times 100, which is 100,000 pieces of fruit in, say, a 40-foot container—minimum—and they will inspect only 600 pieces of fruit in that container.

CHAIR—Is that on arrival?

Mr Darley—On arrival here.

CHAIR—So it is 600 out of 100,000.

Mr Darley—Yes. One damaged piece of fruit, wherever it is in that box in that container, could be missed, and that could start the process of introduction.

CHAIR—Would you say that that is not an acceptable level of risk?

Mr Darley—It is certainly not acceptable.

Senator HEFFERNAN—Could you explain something for the benefit of the committee. As Senator Sterle said, you turn up at Young and open a case up. It happens with bananas a lot, I have to say; they are still good for banana cakes, but they chuck them out. What happens to the fruit when it is declared at Coles and Woollies if it has deteriorated and it is not going down to the people who live on the streets? Where does it go?

Mr Darley—As a grower, that is a very difficult one.

Senator HEFFERNAN—Does it go to the tip?

Mr Darley—I really hope it does not go to the tip.

Senator HEFFERNAN—The meat from Brazil went to the tip.

Mr Darley—It did. That is certainly correct. I believe that this has not been addressed by BA with regard to imports. It goes back to another problem where there was a threat of something coming into Australia as well. There was never a plan put in place for how it would be managed if there was detection of an insect or disease, and even as we speak here today that would still be the case. No plan has been put in place to manage that.

Senator HEFFERNAN—With something I am very familiar with, a fire blight IRA from New Zealand, they accepted in the import risk analysis that we would import fire blight. It says that it will come in but, mysteriously, it is not going to get out into the botanical gardens in Melbourne or into your orchard—and I find that pretty amazing. We accept that China does not have a thing like fire blight. Should that be revisited?

Mr Darley—I would have to say yes, most definitely, because I think certainly—

Senator HEFFERNAN—I cannot remember the original process. The argument for us not looking at it now is that for some years we have been bringing in pears, which are actually more susceptible to fire blight than apples.

Mr Darley—Originally pears were brought in from two provinces in China. They are now brought in from four provinces. I would have to agree. We are not aware of fire blight, of course. But in the progress and development of the apple industry in China I am sure they have looked all over the world for bud wood, and I think it would have to be very questionable as to whether all of that bud wood was clean of any disease introduced into China.

Senator HEFFERNAN—If you were talking about bringing in apples and the import risk analysis did not include fire blight because of some historic decision many years ago—it took six weeks for the cricket team to get to England to play cricket before jet planes came along—in a sense, with modern communications and transport, how come the apple industry did not insist that they go and have another look at fire blight? I appreciate you are not allowed to challenge the science, because scientists never make mistakes; there is no such thing as human failure in a scientific assessment. I am a bit surprised that we did not query, given that no-one has bothered to go out to an apple orchard—whether it was because it was too far out, too cold, too hot or it was more comfortable in the hotel than the packing house.

Mr Darley—I cannot answer that question. I have always wondered about that question because, as I said earlier, they have certainly developed their industry by using bud wood and trees from all over the world for the new varieties. There is every possibility that it could be there somewhere, and it has not been looked at.

Senator HEFFERNAN—We learnt, to our horror, when nearly a million mandarin trees were destroyed in Emerald, that that came in through illegal importation of breeding material.

Mr Darley—Yes, certainly, and that is very recent in everyone's memory. If a disease like fire blight were introduced into Australia we would see a repeat of that in this country very quickly because our climate is more conducive to that type of bacterial disease.

Senator HEFFERNAN—It says in the material we have here that the No. 1 export priority for China is to get apples into Australia. Why do you think that is?

Mr Darley—We always say it has got to be science and not trade, but certainly over the last two years we have seen a huge increase in trade with China—iron ore, the selling of our country to China—and I think—

Senator STERLE—That is good stuff. It is all good for Australia.

Senator HEFFERNAN—Settle down.

Mr Darley—Yes, I might agree that that is good for the economy, but it is certainly not good for farmers. Something is going to be sold out, and it is probably the horticultural producers of this country who are going to be put on the scrap heap.

Dr Anderson—It is important to note that the varieties of apples grown in China are popular in Australia, whereas the pears they grow are not popular with the Australian consumer.

CHAIR—That is interesting. Following on from Senator Heffernan, I think you might have been referring to the FSANZ visits. Biosecurity did indicate to us that they had been out to the

orchards, but there was certainly a level of concern in the committee that those inspections may not have been thorough enough. Do you think there is capacity for greater inspection within the department and that prior to tick-off of these types of arrangements there should actually be more thorough inspection done than is currently the case as part of a process like this?

Mr Darley—Most certainly. Talking to BA last Thursday in Canberra I had to ask the question: what is the process going to be? We certainly had to get it out of him. There was no mention of out in the orchard. The only mention was of in the packing line on the entry of the fruit. But he also did say that once it looked like everything was above board that would probably stop.

CHAIR—If it is indeed the case that things are just going to stop, how do you keep an overall constant watch on what is actually happening in China prior to the fruit coming out here? Again, is that an acceptable level of risk?

Mr Darley—No, it is not. There is no constant watch. It is a matter of believing of what they are saying on the signed paperwork coming in. The only way of detecting any possibility of an infection of fruit would be on inspection of the 600 pieces of fruit per container. That in itself is of a concern. China is saying, 'The fruit's perfect; no problem.' It comes into Australia. We then look at 600 pieces of fruit. If they do not detect anything, it then comes in for sale.

Senator HEFFERNAN—I take it that it will not be discounted by Woolies and Coles, because they have an obligation to their shareholders to maximise their profit, even though there are regions in China where there is child labour and no occupational health and safety. They have an unknown chemical regime.

CHAIR—They are broader issues that we will get to in the other inquiry, Senator Heffernan.

Mr Darley—Just on the chemical issue, BA suggested to us that there would a testing regime for 47 separate chemicals. But when I said, 'If a chemical is not registered in Australia, then it is not tested on import,' they could not answer. I used DDT as an example. If a product was imported and DDT was used in the country from which the product came, because DDT is not registered in Australia it will not be tested for. That is a concern.

CHAIR—It also does not take into account the chemicals that we do not know about that possibly are being used and that obviously cannot be tested for.

Senator HEFFERNAN—It is magical that some of these countries, without naming them, are huge producers of things like dieldrin but allege that they never use them. I do not produce it to do.

Mr Darley—The melamine scare is very fresh in a lot of people's minds in China and particularly in Australia.

Senator COLBECK—I want to go back to the proportion of fruit in the shipment that might have some level of damage. Senator Heffernan talked about it in the context of what proportion that Coles or Woolies might throw out, which we agreed was somewhere around 10 per cent. What sort of proportion of fruit going into a container might be damaged?

Mr Darley—You would certainly hope that with the efficiency of inspectors of China there would be nothing. But human eyes can always miss something in that process. It would be very difficult to put a percentage on it. It could be 10 per cent; it might be one per cent. But it would certainly have to be tested in the initial inspection on importation.

Senator COLBECK—What would you expect as a grower? What proportion would you expect going in to have some sort of damage to it?

Mr Darley—I would certainly hope that coming in from China there would be zero damage in that fruit to eliminate any risk whatsoever to the fruit growers of Australia.

Senator COLBECK—But you said that as a fruit grower you cannot eliminate that. So what proportion would go into your containers going out? That is perhaps the only reasonable measure that we can have at this point in time. What proportion of fruit going into the container would have some sort of damage to it? What we are talking about is the risk vector of a piece of damaged fruit being then penetrated by SWD. So it is matter of calculating the risk vectors. What proportion would you say going in?

Mr Darley—I would say that it would probably vary between five and 10 per cent, because of the human eye missing that.

Senator COLBECK—So even fruit here in Australia being packed would have five to 10 per cent of it damaged before going in to the container. And that is by virtue of the fact of not picking it up with the naked eye.

Mr Darley—Yes. No-one is perfect. But I would have to say that Coles and Woolies accept 21 defects—two per cent—I regard to the products that they purchase. In a 40-foot container of fruit of 100,000 apples, they would accept a two per cent defect. Then there is minor defects, which include bruising. They accept five per cent there.

Senator COLBECK—I just want to clarify the number: 10 or two?

Mr Darley—Two.

Senator HEFFERNAN—Is whoever opens the container told to look for bruised and damaged fruit? This is pretty magic, because as far as I know the human eye cannot see around corners, so when it is coming along on the conveyer belt you cannot see underneath the fruit. Isn't this another case of a BS process?

Mr Darley—Most certainly.

Senator HEFFERNAN—And BS does not stand for biosecurity.

Mr Darley—Exactly, and I agree with you and I understand that. Maybe I am wrong, but in the inspection process, I would imagine, that container is not going to be unloaded at the wharf. The doors are going to be opened, the back fruit is going to be pulled out, and we might pick out fruit from the back one or two rows—and we have just done 600 pieces of fruit. We would put it

back in, close the container and then consign it to wherever it is going. With the labour costs in this country, that container is not going to be unloaded at the regional inspection service.

Senator HEFFERNAN—So the final point is that the import risk analysis accepts that there are some of these bugs in the orchard, and accepts that they may turn up at the packing house, but does not accept that the process they are put through will allow any of that to get into a container.

Mr Darley—Exactly.

Senator HEFFERNAN—That will be a great test of human endeavour, I have got to say.

Mr Darley—Certainly. I have always said that BA has said that it is a risk but it is a controllable risk.

Senator HEFFERNAN—And no-one gets the sack if they bring down—

Mr Darley—They certainly do not. They move on.

CHAIR—Is there anything else you want to add before we—

Mr Darley—I think we have covered that quite well and I would like to thank the committee this morning for the time to present. Thank you very much.

CHAIR—It is a pleasure. Mr Darley and Dr Anderson, thank you very much for your time this morning. We do appreciate it.

[9.41 am]

CORBOY, Mr John, Chairman, Fire Blight Task Force, Apple and Pear Australia Ltd

CHAIR—Good morning, Mr Corboy. Would you like to make an opening statement before we move to questions?

Mr Corboy—Yes, and could I, firstly, make apologies for our chairman and managing director. Ironically, they are both in China today. Thank you for the invitation and the opportunity. It is very unfortunate that we are meeting this morning after yesterday afternoon's event. As an industry, we are very concerned about that. We have made approaches to our minister to see him and have not been able to see him to date. We have a very important inquiry going on but it is not a strange issue, as the Senate would be aware. Biosecurity is an animal of its own and tends to go where it goes.

We would like to address three issues here today. The first is the appeals process, and perhaps I will deal with each one rather than head them and work back from them. The industry appealed to the panel and we said, 'Guys, in our view you missed a very important insect here, and the industry is disadvantaged. The process is not being followed, and the process says you have to.' The response from that—as you have picked up—is, 'That is science and we cannot deal with it.' So there are a couple of issues there. Firstly, it is not science. It is about process and very much about stakeholders' rights.

The second thing is: accept that we are right in saying that it is an important insect that they have missed and take it that it is recognised that it is missed. We have a quarantine system and an appeal process at this point in time that allows that to happen. That is not the intent of Australia's quarantine laws. So we would look to you, the committee, to make very strong recommendations to change the system. If the system is faulty, fix it. It is a totally unacceptable position that Australia could be faced with where our biosecurity system is missing something and then accepting the situation because there was no process to stop it. I cannot see how any parliament could accept that and say, 'That's fine. Let's just roll on.'

Another thing is the *suzukii* fly. It was interesting to hear the questions here today but, in essence, when you go and trawl the science of the *suzukii* fly, there is very little of it. As you know, we work on a science based system here and it is very difficult to make decisions on a science based system when you are working on 1937 science.

We totally disagree with Biosecurity's conclusion that this is a fairly benign pest and does not affect apples. We know, in the first instance, that it has mutated in the US. So the first question we ask Biosecurity is: 'Which one are we talking about, then, guys? How many are there in China? How can you make that overall assumption when you have not even identified the number of mutations and the number of species of this?' We believe that Australia has a conservative quarantine policy and we make no apologies for it. Under our conservative quarantine policy, under article 5.7 of the SPS agreement, if there is insufficient science we may commission that science to make the decision. In other words, we can put the thing on hold. We

are not allowed to mess around. It has to be done as expeditiously as it can. Then you have the science to make the decision.

We have made the offer to Biosecurity and if ever we can get to this minister of ours we will make the same thing. We are saying this is not unreasonable. There is insufficient science out there. There is enough information that is of concern, in particular with the mutated species that has a much more solid sting. We know that plums, for example, have a very hard skin yet they are put down as being a potential host. They are not too dissimilar to apples. I grow both and we know what our pressures have to be. So we are saying that the government should commission that. The industry is so committed to this that we have put an offer on the table to Biosecurity and said, 'If you guys won't pay for it and can't pay for it, we'll pay for it.' It is an exercise that would take no more than two to three months. In other words, all you do is get a heap of these vinegar flies, put them in an enclosed area with just apples, leave them for a certain period of time and you will find out whether they are a host.

We have a system that says, 'We recognise that there is not enough science out there, but we are going to make a decision and you will wear it.' That is totally unacceptable. From the industry's viewpoint, this whole thing is a farce. We are supposed to deal on a scientific basis. When the science is inadequate—and in our view it definitely is, and we have not heard an argument that turns us around on that—why are we not using our rights under the WTO and the SPS agreement and commissioning the science to find the answer? There is a potential risk in this: you might not like the outcome of it. But, from our viewpoint, if the outcome of it is that apples are clearly demonstrated as not being a host then that is fine. We have all got plenty of other things to do. Let us get on with life.

The third issue I would like to raise is the other four pests that are of concern to us. They are the apricot weevil, the Yunnan scale, the citrophilus mealybug and the sooty blotch. You have read the results of our appeal. We did not win there either. We do not have a very good hit rate on appeals. We have been through a few of them lately. We said, 'You've clearly identified that these individual pests are in separate provinces. You have clearly identified that they are a risk. And yet when you put it together you say it is an acceptable level of risk for China.' Our view is that you cannot do that. If you are going to do that, those provinces have to have specific exclusions because the risk will be higher in those. This is probably a bit crass, but an example of that would be if we turned around and said, 'What are your chances of getting eaten by a crocodile in Australia?' Your answer would be: 'Pretty low.' So what are your chances of getting this over all of China? Low, because it is diluted. What are your chances of getting eaten by a crocodile in the Northern Territory, though? Fairly high. In other words, what we are saying in this case is that the chance of us getting that pest out of that area where it is endemic would be high. So there is a flaw in how they do it. It is their risk matrix, which we are all familiar with.

So we have very genuine concerns here. We are getting sick and tired as an industry of being told that these things are about science. We have put up credible issues and get a consistent result of 'We are right, you are wrong'. I would point out that Apple and Pear Australia members make their living out of controlling pest and diseases, and it is no easy way of making a living. We do understand the issues and we do understand the risks. Whereas people might say we are alarmist, what we do know is that if a pest is present it will find a way of establishing itself and multiplying. So this issue out of China is of major concern to us.

CHAIR—Thank you. On the issue of the provinces, what argument is Biosecurity using or what level of comfort are they trying to give you on the issue of those pests and diseases being able to move from province to province, which obviously they can? How has Biosecurity determined that there will not be a transfer of pest and disease from province to province within China and come from a designated area of export?

Senator HEFFERNAN—Given that there are no closed borders.

Mr Corboy—Obviously they can't. This whole system is worked, and granted in some cases it benefits us as exporters, on the premise of what the country of origin tells you. The country of origin has told Biosecurity that these pests are only in those provinces, and we accept that. Obviously there is concern about that because who is telling you the truth and is that the case? For all we know, they could be in other provinces already. Some of those, especially the mealy bugs and that, would no doubt move through different provinces. We do not know. We have no way of finding out. And when we asked Biosecurity how many of the provinces they have visited, they have not visited all of them yet themselves, so they do not know the answer to the question. It is very much a trust issue.

CHAIR—Wouldn't it stand to reason, then, that there is a much greater necessity for more thorough pre-inspection in instances like this to get across all the provinces to be able to thoroughly inspect it? As you say, they have not been to all the provinces, so isn't there a case for having a much more thorough inspection regime before any sort of decision is made in this type of instance?

Mr Corboy—We have always believed that. If you asked us and if we were the people making the rules, the answer would be yes. Unfortunately we are not.

CHAIR—Back on the issue of the science to date on whether or not the *suzukii* does pose a risk to apples. In your view, is Biosecurity actually using the approach that the science is settled when in actuality it is an absence of science so far that is the case?

Mr Corboy—That is the irony of it and that is the frustration of it. To give you an example, the minute we got a whiff of this insect we went on the web and we found all the references to it. You could go to the University of California and it was listed there with apples being a potential host. You could go through a whole heap of references. To us that was enough in the first instance to have a very good hard look at this. You have this being referenced in so much literature. Biosecurity tells us that they have gone back to all of those points of reference, and we have not at this point of time had a check of their list and ours, and they have asked those people. They said, 'We put it in because of a Japanese paper in 1935.' They were asked, 'Do you have any proof of it?' They said, 'No, we don't.' Therefore Biosecurity is saying, 'Well, there is no proof that it is.'

Senator HEFFERNAN—What you don't know won't hurt you.

Mr Corboy—In essence. That is why we get enormously frustrated in telling Biosecurity what the system will allow us to do and what we can do. We are saying, 'Hang on, under the SPS agreements if the science is in doubt you have every right to put conditions on, and those conditions will be no shipments, until you have resolved that issue.'

CHAIR—Biosecurity have indicated to us that the harvest over there does not start until October, so there is a period of time anyway. Why would Biosecurity not now do exactly what you are talking about and run a two- or three-month trial to remove any doubt that this pest will actually attack a hard apple? Why would they not do that? Wouldn't that just be common sense?

Mr Corboy—Senator, the big problem with common sense is that it is not common. I cannot answer that question. It seems to be a self-fulfilling question, doesn't it? There is logic there—why wouldn't you? You can make a whole heap of assumptions of why they would not, but they are just exactly that.

Senator HEFFERNAN—If the appeals panel cannot challenge the science, who does?

Mr Corboy—That is the point I made in the opening statement. We are expecting parliament to fix this. This is just absolute rubbish because there is nobody who can fix that problem.

Senator HEFFERNAN—Could you explain to me—and I am interrupting Senator Sterle—the appeals panel consisted of Mr Andrew Inglis AM, God bless him. What does he do for a living?

Mr Corboy—I am not sure.

Senator HEFFERNAN—Would he be a scientist or a bureaucrat?

Mr Corboy—My understanding is that he heads up one of the organisations.

Senator HEFFERNAN—He is chair of the Biosecurity Advisory Council, but I wonder what he has under his fingernails? I do not know him from a bar of soap. What about Elizabeth Mattiske? That is a Cootamundra name. She might be Owen Mattiske's daughter for all I know. What do these people do in real life? Ms Fran Freeman, Executive Manager, Department of Agriculture, Fisheries and Forestry, is probably a high-grade bureaucrat.

Mr Corboy—Our view always has been that the IRAP is an in-house review.

Senator HEFFERNAN—It is. It is the cops looking at the cops.

Mr Corboy—Yes. As such its credibility has to be questionable. That is not questioning the individuals or anything else.

Senator HEFFERNAN—No, we are not alleging anything.

Mr Corboy—To put something up like that that has holes.

Senator HEFFERNAN—Even the process says you are not allowed to look around that corner, or look under that stone or you end up with *Underbelly*.

Mr Corboy—I know as a businessman, if I put an in-house review of such an important thing within my business, it would not have any credibility. In other words I could not go to the

trading partner and say, 'I've looked at myself and I've had these people do it,' who they know get their employment off me. The credibility of the outcome would have to be questioned.

Senator HEFFERNAN—It happened to Great Southern and the MIS in cattle, which turned out to be Australia's greatest cattle duffing operation, and it is occurring now. At Mulla Bulla station in the Territory there are even cattle up there as we speak.

Senator STERLE—Mr Corboy, can you tell me how many members Apple and Pear Australia Ltd has?

Mr Corboy—It is unfortunate that the managing director is not here. It is somewhere a thousand commercial fruit growers that we have. Now, obviously, there are families in that. I cannot give you that answer but I can take it on notice.

Senator STERLE—Yes, that is fine to take it on notice. Is that all around Australia or just in certain states?

Mr Corboy—It is in all states.

Senator STERLE—Would I be right in assuming that the states would have state bodies and that you are the national body?

Mr Corboy—That is correct.

Senator STERLE—Okay. You did say that you wanted to meet with the minister. You are quite critical, actually. How many times and over what period has Apple and Pear Australia Ltd written to the minister seeking a meeting?

Mr Corboy—We have written twice to the minister. We have put in numerous phone calls trying to organise a meeting with the minister. I could get those diary notes off our managing director. It has got to a point for our industry to say that it is critical. To be very frank with you, we are totally offended by it. We want to see the Minister for Trade, Simon Crean, over New Zealand apples and the appeals process and we have a problem getting a meeting with him. With any other minister we do not seem to have any problems in getting a meeting. In particular, we pointed out our concerns in our letter, we stipulated them and said that we needed to talk to him about them. Now I am sitting before you here today when the secretary of the department has made the decision and it is all over rover.

Senator STERLE—Over what period of time was your association requesting these meetings, Mr Corboy?

Mr Corboy—In relation to the most recent one, from the day after the IRAP appeals decision.

Senator STERLE—Okay. Help me out. You said IRAP, 13 May?

Mr Corboy—There is not a date on this one.

Senator STERLE—I think it is important because if we are talking about numerous phone calls and having written twice but we are only talking over the last couple of days, you would understand that it would be very difficult—

Mr Corboy—No, I am talking over a period of a month.

CHAIR—If I could clarify, it was 13 May.

Senator STERLE—Have you spoken or met with anyone in the minister's office?

Mr Corboy—Last week our managing director spoke with one of the minister's advisers.

Senator STERLE—Thank you.

CHAIR—Just before I go to Senator Milne, can I ask about the Eminent Scientists Group, who, as they say in their report, were established to increase confidence in the administration of the IRA process. It is interesting to note that the report of the Eminent Scientists Group to the Director of Animal and Plant Quarantine contains two paragraphs for the assessment and one paragraph for the conclusion. It makes comments, which I will briefly paraphrase: 'The ESG considers that the responses made by Biosecurity Australia to the majority of issues raised comprehensively address the concerns of stakeholders. ESG was aware that considerable effort was invested in the provision of comments in response.' It goes on in the conclusion to say that the ESG concludes unanimously that BA has properly considered the submission, and it goes on a bit further in a couple of sentences. Are you comfortable that the Eminent Scientists Group, which is set up to increase confidence, gives a report to the director with an assessment and conclusion that is only three paragraphs long?

Mr Corboy—We are not comfortable with the eminent scientists' capacity to exercise their role. In essence the eminent scientists are not allowed to get involved as to whether Biosecurity has made the right decision or not. It is about process. And what they say there is that Biosecurity has ticked all the boxes. Fine. We do not need to waste money finding that out.

CHAIR—Yes. But it is not an oversight mechanism, is it? It is not an oversight mechanism that would give any confidence to industry that there has been an additional assessment?

Mr Corboy—That is correct. We were hopeful in its formation that that is exactly what it was going to be. I know with the New Zealand issue we had an opportunity to put a very detailed paper to them, but it went through to the keeper—did not want to get involved in the conflicts in the science.

CHAIR—Thank you, Mr Corboy.

Senator MILNE—In relation to the pest risk analysis that is currently being undertaken, Biosecurity Australia told us that, even if the import of apples were ticked off—as indeed it was last night—the pest risk analysis will be such that, no matter what the pest risk analysis finds, the conditions placed on the import of apples will be strong enough to prevent incursion of the *suzukii* fly. I am just interested to know whether you think the conditions that are being placed

on the import are sufficient and, secondly, what input your organisation is having or has had to this pest risk assessment that is currently being undertaken.

Mr Corboy—I will answer the last question first. Industry does not have input into the establishment of the processes. That is very clear and they make it very clear to us that it is between government agency and government agency. In other words, it is between AQIS Australia and its Chinese counterpart. The industries always wanted to participate in this because, even with the Chinese thing at the moment, they are saying, ‘This is what we want done but we will work out the process after.’ So we do not know, as we sit here today, what the processes will be in Chinese apples coming in. It will be worked out over the next couple of months, and industry is not involved in that and we find that unacceptable, obviously. We think we have some good input—we deal with pests and diseases.

As for saying that processes will be strong enough, we disagree with that. Firstly, we have not resolved the *suzukii* fly issue. They are saying, ‘Once we resolve this, don’t worry, the processes will be strong enough.’ That is a ludicrous statement, because they will be shipping fruit. There is only one process that at least looks like getting near the barrier at the moment and that is fumigation, and there is dispute about that with some of the cherries, as I understand it. They are saying that perhaps it is not very effective. So I do not think that Biosecurity can give anybody any assurance on that basis.

Senator MILNE—That is what I had expected. Thank you for that.

Senator COLBECK—Mr Corboy, have you any information on the mutation in the US?

Mr Corboy—It has been found in Hawaii so it is obviously a subspecies of the main one. We do not have a great deal of information on it, to be honest with you. We are still going through that process and we think it is fairly valid. But in simple terms, my understanding is that the *suzukii* fly is part of what we understand as the vinegar fly family. There is something like 59 subspecies of it and they all have different abilities to do damage and are attracted by different things. So there is quite a bit that is unknown about this insect.

Senator COLBECK—The information that BA gave us was that it has mutated once it reached the United States and I think that you were making some comments in talking about its capacity to penetrate plums, for example.

Mr Corboy—Yes.

Senator COLBECK—You talked about the capacity, or potential capacity, to penetrate plums which have a harder skin. So there is not much more information on that specific variant—

Mr Corboy—Other than making the observation as a fruit grower who manages pests, that if it has mutated in the US and China has several subspecies of it, how do we know it has not mutated in China?

Senator COLBECK—I think we talked to BA about that the other day.

Mr Corboy—For my edification, what was their answer? Can they tell us how many species of this insect there are in China, whether it has mutated, and whether there is a mutation out there that has a much stronger ovipositor that can infect the fruit?

Senator COLBECK—I cannot recall whether they took that on notice or not.

Senator MILNE—They said that mutation in the US was seen to be a much more destructive and vigorous pest than the *suzukii*, the original species, in China. They have not noted any mutations in China, to which Senator Heffernan, as I recall, asked: what is the prospect of the new breed of *suzukii* in the US ending up back in China as a result of that trade arrangement? I think they took that question on notice.

Mr Corboy—I find it astounding that they can answer you with any certainty about what species China has and whether any of them had mutated there. I would have a great deal of difficulty having a straight face and giving you that answer.

Senator COLBECK—Going on to the risk matrix that you talked about, is there anything in the IRA particularly in respect of—and I know we are talking about SWD here—those other species that deals with the higher risk in certain regions or certain species? Does that get brought forward or is everything just broadened out to this general whole-of-country status?

Mr Corboy—It is whole of country and there is a mixture of protocols put in place—banning area inspection in some cases. In others, there are declarations of area freedom, and it will be interesting to see how that one comes out. And there is post-packing inspection as well. So there are processes put in place. Our belief is that they are not strong enough to get it down to Australia's appropriate level of protection. But there are processes there.

Senator COLBECK—You mentioned a moment ago fumigation and some question marks about how well fumigation might work in, say, cherries. Can you give us a bit more information on that? It is something that cropped up earlier in the day. I assume you mean fumigation with methyl bromide in that circumstance. Can you give us a sense of what circumstances it might not be effective in and what might need to be done to deal with it?

Mr Corboy—As I understand it, and it is something that would be most appropriate to direct to the cherry industry, they have a concern that fumigation does not necessarily kill all of the larvae here. They are referring to a test that was done with it where two larvae survived. Again, it is third-hand knowledge from my viewpoint and I do not know whether there is any exaggeration. I know there is concern within the industry about the efficacy of methyl bromide.

Senator COLBECK—Obviously it is something we need to chase down further, then. Thank you.

Senator HEFFERNAN—From my observation of the process that we are talking about here today, it seems to me that the minister's hands are tied by a flawed process. We urgently need to fix the process. Is that a reasonable assumption?

Mr Corboy—We look at it slightly differently—

Senator HEFFERNAN—What can we do?

Mr Corboy—Quarantine is a legislated process, it is supported by legislation. As such, somebody has to be responsible for that. Very clearly in this case the minister is responsible for it. If just cause is shown that something is faulty, it is the minister's responsibility to fix it.

Senator HEFFERNAN—Given the set of rules, we are where we are, but you are saying that, given that the process is BS, which does not stand for Biosecurity, the minister should call for an urgent review of the process to take into account the industry's concerns.

Mr Corboy—Definitely. This is not just apples and pears, this applies to all agricultural products. Put it on beef or somewhere else, the same thing applies. If something critical is being missed in a country and beef imports are allowed and you cannot go back and fix it, there is something fundamentally wrong.

Senator HEFFERNAN—Who does challenge the science? If you cannot challenge it in the due process through the appeals committee, who the bloody hell?

Mr Corboy—In relation to science BA is God; they are right. There is no argument about that. This issue on the appeal, and this is where there is a furphy on it, is that it is not about science; you have missed a critical pest. If that is allowed to go through to the keeper, Lord help the next industry coming down the line, because it really says, as you are saying, that BA can do anything. The point is they cannot do anything. For risk analysis you have to identify the pests, you have to assess the pests, you have got to go through a process—and that was not completed.

CHAIR—This is the crux of the whole thing really, isn't it? In your view they have missed a pest that has not been included. They are saying they have not missed it because there is no impact from that pest yet what they are doing is using an absence of science, not the fact that the science is settled. So they are saying, 'It doesn't matter that we missed this pest because it is not going to have an impact,' but there is an absence of science that they have based that on, not settled science.

Mr Corboy—You are right, but I would ask you to take into account the timeframe. At a given point in the timeframe when we were appealing, BA had not gone and done the due diligence on this pest. At that point in time, and that is when we got the ruling, they were still going through the process of finding out and ringing up, et cetera. So it is not clear-cut but it is worse than what you are saying.

CHAIR—It is worse. I take the point. So at the beginning of the process they had not included it because they had simply missed it, whereas at the point in time during the process where they realised they had missed it then they went and had a look, then they said the science is okay, but in your view it is the absence of science and not settled science.

Mr Corboy—That is correct.

CHAIR—Thank you very much, Mr Corboy. We do appreciate you giving us your time today. It has been extremely useful.

[10.15 am]

CATHELDS, Mr Ian, New South Wales State Spokesperson, Apple Import Taskforce

CATHELDS, Mr Rob, Member, Apple Import Taskforce

FERGUSON, Miss Cassia, Member, Apple Import Taskforce

CHAIR—Good morning. Would you like to make an opening statement before we move to questions?

Mr R Cathels—Yes. If you do not mind, I will just run through the opening statement that we have tabled. As you are aware, we represent the Apple Import Taskforce. We are a group of apple industry participants: growers, packers and wholesalers in the supply chain of apples. We are supporting APAL in all that they have done and we are trying to raise issues that perhaps they are constrained from raising due to the technical boundaries of the IRA process.

The WTO recognises that Australia is an isolated island nation and has a right and indeed an obligation to a high level of protection from introduced pests and diseases. We are concerned that the latest decision by BA with regard to Chinese apple IRAs are examples of BA in fact applying lower standards of border protections than nations that we are competing with. The current IRA for Chinese apples expects Australia to consider the vast Chinese nation as one province for the purposes of pest and disease status, yet China will only accept Australian apples from Tasmania.

All exporting commodity groups are well aware that the USA includes the economic consequences of trade in each IRA that it considers. We are constantly told that we are bound by WTO rules to only consider the scientific consequences of trade. The minister, Mr Burke, has as late as Tuesday this week made the claim that there are no scientific or health reasons why Chinese apples should be denied access. The IRA process does not consider the relative public health merits of potential imports. This job is left to the tenuous links between BA, AQIS and FSANZ, with the end result being that there is no clear-cut testing regime in place.

Our own staff undertaking food safety training have been warned against forwarding food safety accreditation certificates to China due to the level of forgery of the same taking place there. We are unable to ascertain any register of approved chemicals for use in apple production for China and to this day BA can make no guarantees about the use or not of any available chemicals in China. At the same time, we Australian producers have a rapidly diminishing list of available chemicals. We strongly oppose the current IRA and indeed hope that our actions in relation to this IRA may lead to changes that ensure that in the future BA provides Australian industry with the appropriate level of protection.

CHAIR—Do you want to add something, Mr Cathels?

Mr I Cathels—Yes. I will refer to the industry briefing notes put out by Biosecurity in June 2010 in which they refer to two departments in America, the Oregon Department of Agriculture

and Oregon State University, which put out pest alerts in September 2009. This Biosecurity document lists particular hosts for spotted wing drosophila as cranberries, strawberries, cherries and blueberries. But when I researched these two particular documents, I found that the Oregon Department of Agriculture clearly state:

Fruits attacked include apple, blueberry, cane berries, cherry, grape, peach, persimmon, plum and strawberry.

The Oregon State University list of host range and potential impacts state that they attack a variety of fruits. They list blackberries, strawberries, raspberries, cherries, apples, peaches, plums, persimmons and grapes. I also might add that that was done in September. Then in May the Oregon department of agriculture has revised that pest alert and now, as fruits attacked, they do not actually include apples but then further down they go on to say that the spotted wing drosophila:

... has rarely been reared from apples and pears, and these fruits may only be attacked when previously damaged or when adjacent to heavily infested fields of preferred hosts.

I have further documents here. One particular one is from the University of California where Mark Bolda did an economic study on the effects of the spotted wing drosophila affecting farms and said that spotted wing drosophila:

... has been found on a variety of commercial and backyard host crops in these areas, including apples, blackberries, blueberries, cherries, grapes, nectarines, peaches, pears, plums, raspberries, and strawberries.

I just find it amazing that all the way along Biosecurity, particularly in this June briefing to the apple industry, left out apples.

CHAIR—Miss Ferguson, do you want to add anything?

Miss Ferguson—We have found it bizarre that Biosecurity have always denied that spotted wing drosophila is worth considering as a potential pest. In the release yesterday from Biosecurity Australia, they are now admitting that spotted wing drosophila is worthy of a 60-day analysis. Why do they press on with the IRA in allowing apples in? We just think that is an admission of failure.

Senator HEFFERNAN—Who do you think you can appeal the science to? Is BA God?

Mr R Cathels—The appeals process has been finalised and we have been unsuccessful. Our only source of appeal is your good selves at the moment.

Senator HEFFERNAN—Do you think the appeals process—shall I say gently—is flawed if you cannot actually challenge through the appeals panel any of the science?

Mr R Cathels—Absolutely.

Senator HEFFERNAN—I am on a short leash here and I have used some pretty colourful language.

Mr I Cathels—When we were looking at this process we put a petition out to people of interest who would like to object to this IRA. The feedback that Cassia received is from a member of the BA expert panel, [identifier removed]. If I may read this:

Dear Cass

This is tricky as I am a BA expert panel reviewing the applications to import apples from China and the Pacific north-west of USA. We are doing everything to make sure that if imports go ahead—

then in brackets [identifier removed] has written—

we were told they will as trade is bigger than biosecurity—

end of brackets—

The risk they recognise and the appropriate steps taken to reduce these risks to appropriate level. We can only argue on published scientific grounds though. One thing that worries me for example is there are no published data on the potential impacts and pathogens on our native flora. So any risks that can't be assessed or used as a case to prevent imports. However as BA tells me they can only operate within the rules of a WTO.

Senator HEFFERNAN—Why am I not surprised? Do you think it is odd that FSANZ have been to China but would not go and have a look at an apple orchard? I would like to know what is in the shed in the apple orchard. That is an indicator we learnt to our horror because they were not prepared to kick the door down in Emerald because the guy there at the orchard said he did not have the key, but inside the locked cellar were all of these illegal imports. Do you think it is peculiar that if we are in China that we have not gone out to an orchard to have a look, to say, 'Well I'm here looking after the Australian consumers' health'—as FSANZ does—'I want to see what the chemical regime is'? The proof in the pudding is the looking. Do you think it is odd?

Mr I Cathels—Very odd. At a meeting we had in Tony Burke's office, one of his advisers, which BA were on a phone link to, indicated to us they had free access to orchards and everything there.

Senator HEFFERNAN—I am talking about FSANZ.

Mr I Cathels—I do not understand why FSANZ would not be looking into it at all.

Miss Ferguson—FSANZ has deflected any questions we have had specifically to five per cent analysis of imported product, so they have pushed me back on to AQIS.

Senator HEFFERNAN—They are very good at doing that.

Miss Ferguson—It is quite unclear as to who will test the product.

CHAIR—We were discussing earlier the potential risk with damaged fruit coming through. New South Wales farmers were discussing earlier their concerns around the inspection regime. If the premise of Biosecurity is that the inspection regime will ensure that the appropriate level of risk is in place, do you agree that, as Mr Darley indicated before, inspecting 600 apples out of a

potential 100,000 is enough to give confidence that an appropriate level of risk has indeed been promised?

Mr R Cathels—No, it is far from an appropriate level of risk. Being involved in the apple market—we are packers and I am a wholesaler—we are constantly presented with packs of apples that are premium packs and gain top prices in the market. None of those packs can guarantee that there is not a cut skin or a bruised apple or some damaged piece of fruit in it. It is an extraordinary claim to make that the IRA says that only healthy apples will be allowed and, therefore, there will be no damaged fruit in the pack. It is ridiculous. You could get the head of Woolworths' accreditation system in here and ask them how many packs they get on to their shelves that do not have damaged fruit in there and their answer would be zero because they have tolerance in their system. They are supposedly buying at the premium end of the market, and they have a tolerance in their system to allow for damaged fruit, otherwise they would have nothing to put on the shelves.

The other point I would like to make about that arrangement in relation to damaged fruit is that currently all pears that come from China are allowed under a pre-clearance arrangement so that a shed will get a mass phytosanitary certificate for the shipment of pears. So they might be sending 10 or 20 or 100 containers of pears to Australia, and they will get one phytosanitary certificate for all of those pears on a pre-cleared basis. So there is no sampling of 600 pieces of fruit at this end, and that further increases the risk of damaged fruit coming through the process.

CHAIR—What is the pre-clearance process for pears in China?

Mr R Cathels—I am not aware exactly of that.

CHAIR—That is all right; we will be able to get that from another avenue. It would be very useful to know exactly that.

Senator HEFFERNAN—Obviously in the past year there are new diseases, there are new nuances in fruit fly et cetera. Do you think fire blight is a problem for apple and pear growers?

Mr R Cathels—Absolutely.

Mr I Cathels—It is a huge problem.

Senator HEFFERNAN—Do you really think so?

Mr I Cathels—Yes!

Mr R Cathels—Yes!

Senator HEFFERNAN—The New Zealanders gave us evidence—and you may recall this, although you may not have been around—that, if they were given the choice between an apple orchard that had fire blight and one that did not, they were willing to say that it does not really matter. We think that it does, and I am pleased that you think that it does. Given that we all think that it is a serious problem and a bigger problem for pears, how do we know that China does not have fire blight if we have not had a look?

Mr R Cathels—It is a great point that you raise.

Senator HEFFERNAN—We have not had a look. We have not asked the question.

Mr R Cathels—We have raised it in questions to BA. It has been brought to their attention that they are getting nursery trees by the container load directly from European countries, countries that have fire blight. There is no quarantine procedure in place for that. BA's response was that it is their responsibility, not ours.

Senator HEFFERNAN—But we have not asked the question; we have had a look; we have not done the science to satisfy ourselves on this. Unlike the bulk of the rest of the world, we do not have fire blight. We do not want to get fire blight and, as far as I am concerned, you can tell the New Zealanders where to shove theirs, because the import risk analysis says that we will import under the protocols that we have agreed to. They have challenged it in the WTO. We will actually import fire blight under the protocol. Where does that leave us with China? Have you blokes asked the question?

Mr I Cathels—Only to the extent that I have previously stated. The response was that it is not our responsibility; it is China's problem. We referred it to them, but that was then put on our table because they would not take that responsibility.

Senator HEFFERNAN—But we have not had a look. You would not know what is going on out the back of Timbuktu in China. As you said, they have imports, as we discovered with the Emerald citrus canker experience. That was the same sort of thing. It was after the event. Because it was after the event, we wiped out the entire mandarin population in that part of Queensland. Shouldn't you be asking the question? Shouldn't you say, 'Prove to us that this is fine.' This is important, given modern communications and transport and new varieties crossing borders and the citrus canker thing—which was dodgy and illegally imported. There could be a smart person somewhere out the back of India or God knows where saying: 'I'll get you this variety. It'll double your yield. We'll slip it across the border in the back of a suitcase.' How come we haven't questioned fire blight?

Mr R Cathels—It has been raised as an issue.

Senator HEFFERNAN—I raised it as an issue and the answer was, 'Because we are letting pears in, we've decided that we do not have to consider that.' The game changes every—

Mr I Cathels—These issues have been raised, but Biosecurity's response to us has been that they are not issues. It is very hard to keep raising the question when you get no response.

Miss Ferguson—The 600-piece inspection that Peter Darley was talking about is part of the emergency measures put in place for the spotted-wing drosophila by BA. It is only for cherries at the moment, but there are potentially other things coming in with spotted-wing drosophila. That 600-piece inspection is the emergency measure. It is not on pears from China.

CHAIR—What is the standard inspection rate? If that is the emergency rate—

Miss Ferguson—It would be pre-clearance from China, so there would not be an inspection at all.

CHAIR—There is none. Thanks Miss Ferguson.

Senator MILNE—I do not have a lot to add, I am afraid. I am interested in the response to the question about the pest risk analysis. As you would be aware, Biosecurity Australia has said that the conditions that they will put in place will be such that, regardless of what the pest risk analysis comes up with, they will be adequate to deal with any level of risk that *suzukii* might have for Australian growers. I would like your response to that. Secondly, I would like your response to Biosecurity Australia dismissing the earlier evidence as being a poor translation of the Japanese.

Mr I Cathels—In response to the first question, as Mr Corboy said before, we do not know what precautionary steps they are going to take and, given that there is so little science on this fly, it is very difficult to understand, even if we did know what the steps were, whether they would be effective or not. What we have been maintaining, right from day 1, is that there is insufficient science on this pest, so we need to do the science—or someone needs to do the science—to ensure that we do not have the same problem that America has ended up with.

Mr R Cathels—Regarding the second question, the question of the translation, we have not seen their document. All I can say is that what we have got off the internet clearly states, from the translation of the 1939 document, apples as a host of the *suzukii* fly.

Senator MILNE—That is the point that they argue—that that was a wrong translation, that it has been recognised as a wrong translation and that there is no evidence anywhere in the world to show that *D. suzukii* attacks hard fruits. They say that pears have been coming into Australia for a long time and there is no evidence of that fruit as a carrier for this pest.

Mr I Cathels—In the New Zealand IRA of Chinese table grapes being imported into New Zealand, the department of agriculture over there, MAF, recognises the apples as a host of *suzukii* fly, and the references they use are the 1939 and 1936 documents.

Senator MILNE—You might have to go back to them on that, Chair.

CHAIR—Yes. We asked them at the briefing, and they did undertake to come back to us with an explanation of how they received the translation and what it was. So we shall wait on their response. We might be waiting for a while. Senator Milne, have you concluded?

Senator MILNE—Yes.

Senator COLBECK—You mentioned a letter from a member of the review panel. Is it possible to table that letter?

Miss Ferguson—It was a private letter. We can take out the names.

Senator HEFFERNAN—It would be better to table it with the names out than table it in camera, I take it, because we cannot use it if it comes in camera.

CHAIR—If you would undertake to remove any of the information that you feel is not appropriate, but table the body of the letter, that would be very useful.

Senator HEFFERNAN—It might be the last one you get from that person, I might add.

CHAIR—That is extremely informative. Senators, are there any further questions?

Senator STERLE—I have just a quick one, Chair. I am mindful of the time. I notice that you are a group that has been put together to support APAL. Is that correct?

Miss Ferguson—Yes.

Senator STERLE—Not that I think they need any support. I do not think Mr Corby is a shrinking violet. Who do you actually represent? I know you said you were a wholesaler.

Mr R Cathels—We represent apple industry participants—in other words, people with investment in the ground in the apple industry, such as in packing sheds. The chairman of the Apple Import Taskforce, Mr Cam Stafford, is chairman of Lenswood co-op in South Australia. They have recently invested \$5 million in a new apple packing shed and system in South Australia. We are growers, packers and wholesalers of apples in New South Wales.

Senator STERLE—So you represent all the packers?

Miss Ferguson—Growers, mainly—and packers.

Senator STERLE—All the packers and growers?

Miss Ferguson—Yes, associated industries.

Senator STERLE—So you are a bigger mob. You have wider representation than APAL in the industry. Is that right?

Mr R Cathels—No, we are all members of APAL.

Senator STERLE—So you are a subdivision?

Mr R Cathels—Correct.

Senator STERLE—How long have you been around as a group?

Miss Ferguson—Since April 2010.

Senator STERLE—Just recently?

Miss Ferguson—Yes, as a response to the Chinese IRA.

Senator STERLE—When the apples come in from China, what effect will that have on your businesses?

Mr R Cathels—We are very concerned because we see it having a serious, detrimental effect.

Senator STERLE—How?

Mr R Cathels—Apples are currently well supplied in this country and have been for a century or more. The Australian apple industry has grown up servicing the domestic economy for at least the last 100 years. The margins in apple production are very slim at the moment anyway. If we were to add a further source of supply, especially one as significant as China could be, we face a seriously diminishing return.

Senator STERLE—I do understand your concerns around what chemicals could be used—I get all that, no dramas. Really it is an issue of, if the market is flooded with cheaper or more apples, the knock-on effect to your businesses would be that you would be competing for low returns—correct?

Mr R Cathels—Yes.

Senator HEFFERNAN—That is if Coles and Woolies decide not to maximise the profit for their shareholders.

Senator STERLE—I am just getting a picture of who you are and where you are coming from.

CHAIR—I think it is pretty clear though, Senator Sterle, that they have been very clearly doing this on the side. The actual impact of the apples coming in really has not been raised at all.

Senator STERLE—I just wanted to know exactly who you represent and what your concern is.

Miss Ferguson—But the impact of pests and diseases would be staggering as well.

Senator STERLE—You have made that very clear. Let me put this on the record: there is nothing wrong with people making a dollar, I am all for it. I made that very clear in opposition as well. That is fine. Thank you very much.

Senator HEFFERNAN—I want to ask about a couple of other issues which I am sure would be of interest to everyone on the committee, especially Senator Milne. This is looking out 40 or 50 years against the global food task and the strategic decision making of places like China which by 2070, science says, will only have the capacity to feed a third of their population from their own agricultural resources. They are on the march now—as are India and some Arab states—looking for long-term investment in agricultural production to feed themselves against the background of what science says the future holds. The New South Wales government signed a memorandum of understanding last week to assist them to buy farms, which I think should all be under the umbrella of the Foreign Investment Review Board. In terms of this growing phenomenon of a global market with the cost of environmental protection, occupational health

and safety, no child labour, a minimum wage—do you want to make any comments about how you compete against a country that does not have any of that?

CHAIR—Bearing in mind that we are going to do this in detail, so we assume we will see you again when we do the broader inquiry but, please, have a crack at answering.

Mr I Cathels—We cannot compete. The labour costs in an apple orchard would be 40 to 50 per cent of our expenditure. Comparing the wage rates between Australia, New Zealand, America and China—we are clearly the highest.

Senator HEFFERNAN—China did have a 26 to one labour advantage over the United States. I presume it is somewhere between that and 30 here.

Mr R Cathels—It would be at least double. The United States labour rates are roughly half ours.

Senator HEFFERNAN—So we would have in excess of a 30 to one labour disadvantage. I guess it is a little out of context here but it begs the question against a 50-year snapshot of another committee that I chair, which Senator Milne and others are trying to get rid of. We are very much needing Australia to turn the switch on to say: ‘Where are we going to be in 50 years time? Wouldn’t we be better to be selling our fruit around the world rather than buying it from foreigners who own our farms?’ Finally, could I, completely out of context, put McGrathNicol, the receivers of the cattle MIS for Great Southern, on notice that they, as liquidators of Great Southern, are absolutely oversighting, along with people employed by them, the biggest cattle thieving operation in Australia.

CHAIR—On that note—

Senator HEFFERNAN—I will deal with that in due course and I will put the Australian Federal Police on notice—and ASIC.

CHAIR—Thank you, Senator Heffernan. As there are no further questions, Mr Cathels, Mr Cathels and Miss Ferguson, thank you very much for appearing today. We appreciate it very much. It has been very useful. That concludes today’s hearing.

Committee adjourned at 10.45 am