

18<sup>th</sup> May 2007

Mr. David Driscoll  
Senior Committee Clerk  
Standing Committee on Legislation  
Legislative Council  
Parliament House  
PERTH WA 6000

Dear David,

**Submission to the Inquiry into the Trans-Tasman Mutual Recognition (Western Australia) Bill 2005**

The Western Australian Fruit Growers' Association (WAFGA) welcomes the opportunity to provide a written submission to the Standing Committee on Legislation on the Trans-Tasman Mutual Recognition (Western Australia) Bill 2005 (the Bill).

WAFGA understands the purpose of the Bill is to implement the Trans-Tasman Mutual Recognition Arrangement, which was signed in 1996 with the aim of removing impediments to trans-Tasman trade. It is not WAFGA's intention to review the Bill 'line by line', but rather to offer comment on issues related directly to the 700 pome, citrus and stone fruit producers we represent.

WAFGA's submission is enclosed.

Could you please ensure that you formally acknowledge receipt of this submission and advise WAFGA on any developments in, or outcomes of, the Inquiry.

Yours Sincerely

**Alan Hill**  
**Executive Manger**  
**Western Australia Fruit Growers' Association**

# **Submission to the Inquiry into the Trans-Tasman Mutual Recognition (Western Australia) Bill 2005**

Prepared by: The Western Australian Fruit Growers' Association

For: Senior Committee Clerk  
Standing Committee on Legislation  
Legislative Council  
Parliament House, PERTH WA

Date: 18<sup>th</sup> May 2007

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#### Use of this Submission

The Western Australian Fruit Growers' Association requests that this submission not be distributed wider than is necessary to be fully considered in the inquiry process.

All correspondence and communication regarding the information in this submission should be addressed to:

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## 1.0 Summary

The Western Australian Fruit Growers' Association (WAFGA) is the peak pome (apple and pear), citrus and stone fruit industry representative body in Western Australia. WAFGA is an agri-political organisation which also funds research, development, communication and promotional activities with the primary objective of ensuring a profitable and sustainable industry for all Western Australian fruit growers.

In this submission WAFGA has not gone into detail on the actual content of the Trans-Tasman Mutual Recognition (Western Australia) Bill 2005, but rather has commented on an issue that is of critical importance to its members, biosecurity and quarantine.

WAFGA supports previous comments in the State parliament that the Trans-Tasman Mutual Recognition (Western Australia) Bill 2005 has quarantine implications. Therefore it is no surprise to WAFGA that Western Australia is the only State not to have passed Trans-Tasman Mutual Recognition legislation.

In 1995, the Commonwealth and States have signed a Memorandum of Understanding Animal and Plant Quarantine Measures (the MOU), outlining a consultation process that should occur when considering Sanitary and Phytosanitary Measures to be implemented.

WAFGA has been unable to locate a copy of the MOU and therefore has concerns that a real commitment to addressing regional differences in pest status and risk and consequent SPS measures as part of import risk analysis exists.

It has been WAFGA's experience that regional differences exist however federal government agencies have been slow to recognise these. It is WAFGA's position that rather than impediments, our quarantine restrictions should be viewed as a fundamentally necessary framework which protects Western Australia's unique operating environment.

Therefore in this submission we call for the Standing Committee on Legislation to:

- acknowledge the critical importance of recognising and protecting Western Australia's regional difference in plant pests and diseases,
- make available to interested parties the current version of the MOU, and
- recommend that the legislation not pass until a clear consultative process with the industries likely to be affected by the Trans-Tasman Mutual Recognition (Western Australia) Bill 2005 has occurred.

## **2.0 The Western Australian Fruit Growers' Association**

The Western Australian Fruit Growers' Association (WAFGA) is the peak pome (apple and pear), citrus and stone fruit industry representative body in Western Australia, with a membership of more than 700 growers across the State. Founded over 80 years ago, WAFGA is an agri-political organisation which also funds research, development, communication and promotional activities with the primary objective of ensuring a profitable and sustainable industry for all Western Australian fruit growers.

In 2004/05 WAFGA members produced 76 950 tonnes of fruit, with a total gross value of production exceeding \$90 million. The Western Australian Department of Agriculture and Food (DAFWA) has estimated that expected production increases over the next five years will see this gross value increase by another 20%. WAFGA members are situated from Kununurra to Albany and therefore are a vital part of the State's current and future rural and regional economy.

## **3.0 Background**

### **3.1 Biosecurity concerns with pests and diseases**

The Western Australian fruit industry is uniquely placed in that it is free of a number of economically important pests and diseases which are a feature of other fruit growing areas, both in Eastern Australia and internationally. As such, the industry through WAFGA has exercised vigorous opposition to several Import Risk Analysis (IRA) that have recommended the importation of pome and stone fruit to Western Australia. Of these, the highest profile and most long running is the application by New Zealand to export apples into Australia. WAFGA has also recently responded to a New Zealand request for access for stone fruit into Western Australia.

Our opposition to these IRA has been based on the very real possibility of the entry of pests and diseases, not currently in Western Australia, with the importation of fruit.

#### **3.1.1 IRA of stone fruit from New Zealand**

The importation of stone fruit into Western Australia was prohibited under the Plant Disease Act (1914) due to the absence of the brown rot diseases of stone fruit (*Monilinia fructicola* and *M. laxa*) as there was no effective disinfection treatment or other phytosanitary measures.

Brown rot was confirmed in Western Australian in 1999, and following the change to quarantine status, subsequent risk assessments have permitted entry into Western Australia for cherry (South Australia 2001, Tasmania 2003, New Zealand 2003) and apricot (South Australia and Tasmania 2004) fruit.

Quarantine policy allowing the importation of stone fruit from New Zealand into Australia has been in place since 1991. The New Zealand Ministry of Agriculture and

Forestry request access into Western Australia for stone fruit (apricot, cherry, nectarine, peach and plum) in 2000.

Their application was considered by Biosecurity Australia as an extension of the existing policy, and in August 2005, the Director of Animal and Plant Quarantine determined a variation to biosecurity policy to permit the entry of stone fruit from New Zealand into Western Australia.

### 3.1.2 IRA of apples from New Zealand

Up until 1921, New Zealand had access to the Australian market for fresh apple fruit however as a result of the introduction and establishment of the disease, fire blight, in Auckland in 1919, Australia banned the importation of apples from New Zealand.

In 1986 and 1989 New Zealand applied to regain access to Australian markets however, both applications were rejected primarily because of unresolved issues relating to the risk of the disease entering Australia through trade in fresh fruit from fire blight affected orchards in New Zealand.

In 1995, New Zealand again applied for access of fresh apples into Australia. The Australian Quarantine and Inspection Service (AQIS) released the draft IRA which determined that apples would not be permitted entry to Australia under the conditions proposed by New Zealand and that this determination complied with Australia's international rights and obligations under the Agreement on the Application of Sanitary and Phytosanitary Measures. New Zealand submitted a new application in January 1999 and AQIS released the draft IRA in October 2000 which recommended the importation of New Zealand apples to all Australian states, subject to certain conditions.

After multiple rounds of discussion, a revised IRA was released in 2004 for stakeholder comment. The formation of Biosecurity Australia (BA) in late 2004 however saw a review of that document, and it was reissued for public comment in 2005. In 2006, BA released its Final IRA which recommended that Australia's Director of Animal and Plant Quarantine make a policy determination that apples from New Zealand should be permitted entry into Australia under specific quarantine conditions. This was the first policy determination to recognise the unique position of Western Australia, and importation of apples into the State was not recommended.

In March 2007 the Director of Animal and Plant Quarantine determined the policy to permit the entry of apples from New Zealand to Australia as specified in the *Final import risk analysis report for apples from New Zealand*, November 2006.

## 3.2 Pest and disease implications for the Western Australian fruit industry

It is important to recognise and consider that apple scab is the most economically important disease of apples worldwide and that Western Australia is probably the only apple-growing region where the disease is not established and endemic. Similarly, codling moth is a major pome fruit pest and is found in all of the world's major pome fruit growing areas except Western Australia and Japan.

Despite quarantine restrictions, the Western Australian fruit industry has some experience in dealing with incursions of both apple scab and codling moth and WAFGA and DAFWA conduct surveillance programs annually, involving moth traps, inspections in commercial and non-commercial orchards and townsites and public space to ensure that the industry is able to conserve its unique production environment.

WAFGA believes that it is of primary importance to acknowledge the opportunity that IRA's present to individual states, particularly Western Australia, to make representation on biosecurity issues. An example of the importance of this can be found by comparing the enormous difference that existed in the assessment between the 2005, and previous IRA's for apple imports from New Zealand.

The 2005 IRA acknowledged the unique position of the Western Australian apple industry when it noted that 'no satisfactory risk management procedures could be identified for the disease apple scab. Therefore, it is proposed that imports of New Zealand apples into Western Australia should not be permitted'.

This was in stark contrast to previous IRA released only two years earlier, which did not recognise this position, but rather stated that the 'unrestricted annual risk estimation of *V. inaequalis* was 'Low' and listed only minimal levels of management protocols.

WAFGA believes that the drastic reversal of policy in BA's assessment highlights the concerns which WAFGA has with the Bill. It is WAFGA's position that the economic and social impact consequences of an incursion of apple scab or codling moth have been drastically understated in previous IRAs. The Western Australia State Government and the fruit industry does not have a legally binding cost-sharing agreement for pest and disease incursion, and therefore an incursion of a pest or disease will result in the Western Australian growers having to meet the full costs associated with eradication. This is in contrast to the national position, where a cost sharing agreement is in place that will result in the federal and state governments, along with growers funding eradication at a pre-arranged funding arrangement.

### 3.2 Progress of the Bill

WAFGA notes in a review of Hansard that Hon Kim Chance, in his speech of June 21<sup>st</sup> 2005 stated (in part) that "I can confirm that the Trans-Tasman Mutual Recognition (Western Australia) Bill 2005 is effectively identical to the 2002 bill. The only change of any significance is the replacement of the year 2002 with the year 2005, nor has there been any substantive change since 2002 to the body of the commonwealth Trans-Tasman Mutual Recognition Act 1997, which the Trans-Tasman Mutual Recognition (Western Australia) Bill 2005 provides for the adoption of".

The Hon. Norman Moore, then Leader of the Opposition, in his speech of 28<sup>th</sup> November 2002 stated (in part) that "The Bill clearly has quarantine implications. An integral part of the World Trade organisation agreements of 1994 is the Agreement on the Application of Sanitary and Phytosanitary Measures. SPS measures include, amongst other things quarantine measures. The agreement applies to all SPS

measures that may affect international trade and provides that members have the right to take SPS measures to the extent necessary for the protection of human, animal or plant life or health. The Commonwealth and States have a memorandum of understanding which provides that the States shall consult with the Commonwealth before implementing SPS measures that may inhibit trade or fail to comply with the agreement.

#### **4.0 Submission**

WAFGA notes that the Bill, has been introduced in 1999, 2002 and after being not proceeded with on these occasions, was introduced again in 2005, in an almost identical form to the previous version. WAFGA has been supportive of the rejection of previous version and will oppose this latest attempt to progress the Bill.

WAFGA's concern stems from the unexplained relationship which exists between Federal and State governments through the MoU on Animal and Plant Quarantine Measures (the MOU).

In the supporting documents supplied by the Standing Committee on 9<sup>th</sup> May 2007, WAFGA became aware of correspondence (24<sup>th</sup> October 2002) from Hon Warren Truss to Hon Kim Chance supporting a change to the MoU to reflect a commitment to addressing regional differences in pest status and risk and consequent SPS measures as part of import risk analysis.

WAFGA does not believe that the commitment outlined in the Truss letter is sufficiently clear, nor is it worded to provide sufficient surety that the unique position which Western Australia has, in being free of certain pests and diseases will be supported through this process. Further WAFGA has been unable, given the very short time available to verify that these changes have been actually made, as our inquiries have been unable to obtain a version of the MoU other than the original 1995 version.

WAFGA does not believe that the Federal Government's approach to Western Australia's position has been satisfactory, and it has been only through a lengthy and constant process has the fruit industry been able to win any recognition from AQIS and then BA of the unique operating environment.

In the explanatory memorandum provided with the Bill, it states that the purpose of the Bill is to implement the Trans-Tasman Mutual Recognition Arrangement, the principle aim of the is to remove impediments to trans-Tasman trade caused by regulatory differences among Australian jurisdictions and New Zealand. It is WAFGA's position that rather than impediments, our quarantine restrictions should be viewed as a fundamentally necessary framework which protects Western Australia's unique operating environment.