

Implementation of the U.S. Bioterrorism Act

The soon to be implemented Bioterrorism Act in the US is in effect a mega Identity Preservation (IP) program. It is aimed at making all of the food imports into the US traceable back to point of origin. This will effect imports worth in excess of US\$40 billion¹ per annum.

The Act, component regulations of which are due to be in place by December 12th 2003, will effect Australian food exports to the US currently worth in the region of AUD\$3.5 billion² PA, by placing a new set of documentation requirements on food exporters.

The idea behind creating an information system that will enable trace back of contaminated or adulterated food is laudable and is in the interests of public health.

Some may argue that food exporters / importers should have all of this information at their fingertips anyway, so complying with the new requirements should not be onerous.

However, any additional administrative requirements increase transaction costs. We can only hope that the new regulations will be accompanied by a reporting system that is efficient, where the cost of complying with the new regulations is minimised.

More hypocrisy?

However it is hard not to be cynical about the actions of the US Administration, particularly in light of rhetoric from other sections of the same administration who have condemned the recent European Union decision to require labelling for GM content in foods.

The new regulations will require exporters to the EU to state on labels that food does or may contain GM ingredients or if it is derived from animals who were, or may have been, fed material containing GM ingredients. The requirements will be a default; if it cannot be proven that there are no GM or GM derived ingredients in foods, they will be applied.

Introduction of the Public Health Security and Bioterrorism Preparedness Act and its regulations effectively strips any credibility from the anti EU GM labelling argument mustered by the US. There is no real difference between the two sets of requirements – the US want trace back and country of origin documentation for imported food and the EU want trace back / IP disclosure for imported food, albeit focusing on one particular ingredient.

One hopes that the new bioterrorism regulations don't become new set of de-facto non-tariff trade barriers that could be used against countries 'out of favour' with the US and considered a 'food bioterrorism threat'. If this turns out to be the case, scepticism about the free trade credentials of the US and its pro free trade rhetoric will only deepen.

The recent (July 11 2003) decision by the US to appeal the WTO ruling against its tariffs on steel, imposed in March 2002 under Section 201 duties, must bring into question the commitment of the US to free and fair trade. The decision to appeal the umpires ruling when a decision goes against it, leads to the obvious conclusion that the US administration is only happy with the WTO when it finds in their favour.

This not only undermines the whole of the WTO global trade reform process, but also sets an extremely bad example for other nations and makes US free trade rhetoric seem false and self-serving.

Questions for Australia.

One question we have to ask the Australian federal government is how the U.S. Bioterrorism Act impacts on the Australia – US Free Trade Agreement.

Will this FTA provide for 'favoured nation' status for Australian food exporters?

Or will we be considered as 'insecure' as the rest of the world?

The other concern we must have in Australia is the preparedness of the industry for the implementation of the regulations. There appears to have been very little coverage of the effects of the regulations, particularly if Australian food exporters don't register, or indeed know that they have to register. Access to the US, our second largest food export destination, could be effected.

Perhaps there is a constructive role here for the National Food Industry Strategy, helping the Australian food industry sector to comply with the changing regulatory environment in export destinations.

Some may opine that this would be a much more productive use of the tens of millions this program is due to spend over the next few years, rather than the inevitable and some would say predictable mountain of consultants reports and the like that will, if recent experience with similar programs is an accurate indicator, disappear once the strategy has run its allotted course.

¹ Source – Outlook for US Agricultural Trade, AES 37, Feb. 20, 2003.

² Source – AFFA Food News Bulletin, September 2002.

The Public Health Security and Bioterrorism Preparedness Act

The following is an extract from correspondence received from the Office of the Agricultural Counselor, U.S. Embassy, Canberra.

The Public Health Security and Bioterrorism Preparedness Act of 2002 was signed into law in the United States on June 12, 2002. The Act includes provisions to help ensure the safety of the US food supply from bioterrorism. The US FDA as the food regulatory arm of the US Department of Health and Human Services, is responsible for developing and implementing these safety measures, including four major regulations which will have an impact on more than 400,000 domestic and foreign companies that manufacture, process, pack or hold food for human or animal consumption in the United States.

FDA is currently developing the regulations necessary to comply with the Act. The four regulations proposed by the FDA are:

Registration of Food Facilities – Domestic or foreign facilities that manufacture, process, pack, distribute, receive or hold food for consumption by humans or animals in the United States must register with the FDA no later than December 12, 2003.

Registration will consist of providing information, including the firm name, address, etc, to FDA. Facilities that are regulated exclusively USDA are exempt from this requirement. There is no fee associated with registration.

Prior Notice of Imported Food – Beginning on December 12, 2003, FDA must receive advance notice of each shipment of food into the United States. The notice must include a description of all articles, each articles manufacturer and shipper, grower (if known), originating country, country from which the article is shipped and anticipated US port of entry. Importers will need to provide notice to FDA no less than eight hours and no more than five days prior to shipment.

Note: In a recent development, FDA and the Bureau of Customs and Border Protection (CBP) announced that they will streamline the implementation of the prior Notice requirements by allowing food importers to provide required information on food imports to both agencies using an integrated process.

Establishment and Maintenance of Records – persons that manufacture, process, pack, transport, distribute, receive, hold or import food will be required to create and maintain records that FDA determines are necessary to identify the immediate previous sources and the immediate subsequent receipts of food (i.e., where it comes from and who receives it). This would allow FDA to follow up on credible threats of serious adverse health consequences or death to humans or animals by tracing the food back to its source.

Administrative Detention – Authorises FDA to administratively detain food if the agency has credible evidence or information that the food presents a threat of serious adverse health consequences or death to humans or animals.

For more information go to <http://www.fda.gov/oc/bioterrorism/bioact.html>

Agriculture left out of new Japan-Australia trade plan

Japan and Australia are to unveil a new trade and investment agreement next week when Australia's Prime Minister, John Howard, visits Tokyo. The agreement comes amid warnings from Japan that Australia's proposed free trade treaty with the United States could threaten Japanese car production based in Australia.

Japan has refused to include agriculture in the agreement, although it is looking at farm products in bilateral negotiations with Mexico and Thailand.

The official says Tokyo's bureaucracy has refused to deal with Canberra on agriculture because of Australia's leadership of the Cairns Group - a loose association of countries pushing for agricultural free trade.

Graeme Dobell (from ABC radio) reports:

"The new framework agreement will help investment and sectors such as information technology and education, but at Japan's insistence it excludes agriculture. While praising the deal a senior Japanese official has warned Australia of the dangers in its proposed free trade agreement with the United States. The top diplomat says that a zero tariff deal could see Toyota close its factory in Melbourne and import cars duty-free from the US. The Prime Minister, John Howard, rejects the warning: 'I have heard no suggestion to that effect. And I have every confidence that our trading relationship with Japan will remain strong.'"

http://www.abc.net.au/ra/newstories/RANewsStories_898656.htm
