

4 April 2008

Primary Production Committee
Parliament Buildings
WELLINGTON

Dear Committee Members

Re: Urgent Amendments to the Biosecurity Act 1993 and Hazardous Substances and New Organisms Act 1996

I am writing to the Committee in regard to the letter and attached Amendment Bill that I received on 22 February concerning urgent amendments to the Biosecurity Act 1993 and the Hazardous Substances and New Organisms Act (HSNO) 1996. Overall, Business New Zealand supports the Amendment Bill, given the significant issues that need to be immediately rectified.

Business New Zealand supports a legislative process that is thorough, considered, and provides an appropriate amount of time in which the general public can add to the discussion. However, there are rare instances where more urgent action is required, and where public consultation needs to be condensed down into a much shorter time frame. We view this issue as one of those instances in which immediate change is required.

Given the successful appeal by the Beekeepers' Association from the decision by the High Court regarding specified bee products being imported from Australia subject to certain risk management requirements, there has clearly been flow-on effects from the Court of Appeal's decision, namely that all new organisms imported into New Zealand must have prior approval under the HSNO Act. This is regardless of whether the new organisms are being imported intentionally or incidentally. As the information paper for the Amendment Bill rightly points out "*The Court of Appeal decision creates an unworkable legal framework for the management of biosecurity risks at the border*".

We are also very concerned about the fact that if no changes are made to rectify this problem, other import health standards may be vulnerable to legal challenges, while the Ministry for Agriculture and Fisheries has suspended issuing new or amending existing import health standards until changes *are* made. This is clearly an untenable

position going forward, especially given the wider economic losses to the country that will occur.

Lastly, the need for amending legislation in this particular instance highlights the importance of ensuring to the extent possible, that legislation introduced reflects the intention of parliament and is free from unintended consequences.

Since the HSNO Act is not suited to assessing new organisms incidentally imported in association with goods, while the Biosecurity Act is, Business New Zealand fully supports the proposed changes to both the HSNO Act and Biosecurity Act, along with the additional amendments to ensure the legislation operates as intended.

Recommendation: That the Biosecurity and Hazardous Substances and New Organisms Legislation Amendment Bill proceeds.

Regards,

A handwritten signature in black ink, appearing to read 'P. O'Reilly', with a long horizontal stroke extending to the right.

Phil O'Reilly
Chief Executive
Business New Zealand