



5 October 2005

Dear APL Member

As you are aware, the Australian pork industry has been engaged in litigation with the Director of Animal and Plant quarantine challenging new quarantine protocols for imported pigmeat.

On 27 May 2005, Mr Justice Wilcox of the Federal Court held that the Import Risk Analysis (IRA) for pigmeat, the decision to adopt the IRA and one of the import permits granted in accordance with the IRA were legally improper and invalid.

On 16 September 2005, the Full Court of the Federal Court, by a two to one majority, overturned the decision of Mr Justice Wilcox, although on the basis of disparate reasoning.

APL remains concerned, based on scientific advice and analysis, that the conditions of entry now imposed on imported pork do not provide an appropriate level of protection against Post Weaning Multisystemic Wasting Syndrome (PMWS), a disease not present in Australia and which has devastated pig herds internationally.

APL's concern was vindicated by the Senate Rural Affairs Committee. It recommended, in a report tabled on 12 May 2004, that the new determination on quarantine for pig meat imports should be withdrawn and that Article 5.7, the Precautionary Principle, of the SPS Agreement be invoked in relation to PMWS.

The Australian pig herd has the best health status in the world and the pork industry sees its health status as a key competitive advantage whose importance will increase over time. The APL Board has concluded that it is duty bound to pursue the best interests of our industry. Accordingly, the APL Board has taken legal advice as to the prospects of appealing the Full Court's decision to the High Court and has resolved to file an application for Special Leave to appeal to the High Court. You can be assured that this decision was not taken lightly or with any enthusiasm, but the Board felt on balance that the serious risk posed to the industry demanded it must exhaust all avenues of appeal.

The process of appealing to the High Court is a two step process requiring firstly that an application for Special Leave be made. In the event of the Special Leave application being successful, the matter will then proceed with the appeal being heard by either five, or seven judges of the High Court. Historically, however, members should be aware that successful applications for Special Leave to appeal to the High Court have only rarely been granted.

Should you have any further queries in relation to the litigation, please do not hesitate to contact APL's National Media Manager John Lamont on mobile 0418 697 595.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Enzo Allara", with a horizontal line underneath.

Enzo Allara
Chairman