



Ref: CSD/GAM1635/gam

18 April 2008

Carol Robertson
Australia – India FTA Feasibility Study
Department of Foreign Affairs and Trade
RG Casey Building
John McEwen Crescent
Barton ACT 0221

SUBMISSION IN REGARD TO AN AUSTRALIA - INDIA FTA FEASIBILITY STUDY

Further to ABB Grain Ltd's earlier submission regarding an Australia – India FTA Feasibility Study, ABB would like to make an additional submission relating to the oilseed crop, Canola.

An Australia – India FTA

ABB believes there are significant opportunities and benefits for both Australia and India from the development of an Australia – India Free Trade Agreement, particularly in the area of agriculture. There are however a number of significant impediments to the realization of these benefits, including restrictive import tariffs on grains and equipment, as well as a number of extremely stringent and onerous sanitary and phytosanitary requirements. We believe that the elimination of these impediments will allow Australian companies to export more products and services to India, which will help the Indian economy grow and develop.

Canola

As highlighted in the Australia - India FTA Background Paper, "India's rapid growth in recent years has produced an expanding middle class. This middle class has significant disposable income by Indian standards and is increasingly open to the purchase of discretionary and/or imported products".

Also, as India's population continues to grow it is going to be increasingly difficult for India to source its food requirements from domestic production and as such ABB Grain Ltd believes that there are significant benefits for the Indian Government to consider the removal of the existing restrictions that limit the imports of canola.

ABB believes that due to our regional proximity to India there is the potential for Australia to export significant tonnage of canola to India. At the moment however there are no exports of canola to India primarily due to a combination of high import tariffs as well as stringent quarantine requirements.

Tariffs

An impediment to the import of canola is the current import tariff on canola, which as of 1 March 2008 is listed as 37% (tariff line 12051000 – Low erucic acid rape or colza seeds). These import tariffs clearly add to the costs of exporting canola to India, particularly when compared to the costs of selling canola to other regional destinations.

Oilseeds tariffs

HS Code	Item description	Effective from	Custom Duty	Rate
12051000	Low erucic acid rape or colza seeds	01-Mar-2008	Customs basic Duty:	30
			Basic Duty Pref:	
			Addl Duty (CVD):	0
			Spl Addl Duty (Spl.CVD):	4
			Excise CESS	0
			<u>Customs CESS</u>	<u>3</u>
			Total	37

Quarantine

The Indian Government's Plant Quarantine (Regulation of import into India) Order 2003 lists a number of requirements that restrict or effectively stop imports of canola into India.

Included in these Orders is a requirement that all imports into India must be free of certain quarantine weed seeds. While Australian canola does not normally contain any of the listed quarantine weed seeds, it is possible that a very small number of these seeds may be present in canola from time to time. It is also possible that weed seeds that are visually similar to the listed quarantine weed seeds may be present.

Under existing arrangements, the Australian Quarantine and Inspection Service (AQIS) inspect all prescribed grains, including canola, exported from Australia. In the event a suspected quarantine weed seed was found, that parcel of grain would be rejected until the weed seed is positively identified. This can cause considerable delays and expense to the exporter.

To ensure that any exports are free of these quarantine weed seeds, it may be necessary for each shipment to be screened to remove any quarantine weed seeds using a grain cleaning machine (ie machined dressed). This is extremely expensive and makes it uneconomical to export canola to India.

We note that in 2006 the Indian government issued an exemption under its Quarantine Act that allowed very low levels of the quarantine weed seeds in shipments of wheat (refer attachment B). The exemption has been extended from time to time, however it is our understanding that there is no current exemption in force.

In addition to the general exemption for quarantine weed seeds, the Indian Plant Quarantine Orders also list Special Conditions of Import that apply to specific commodities. In the case of canola there are a number of special conditions that effectively make it uneconomical to import canola into India (refer attachment A).

These include;

- (i) (a) Weed free crop / area certification or
(b) Zero dockage certification in respect of quarantine weed seeds in the Phytosanitary Certificate or

- (c) devitalization of seed by heat treatment at 120°C for 15 minutes or any other equivalent treatment approved by the Plant Protection Advisory to the Government of India.
- (ii) Management of handling, transportation, milling, and processing of import consignment and manner of disposal of refuse as per the guidelines prescribed by the Plant Protection Advisor to the Government of India.

It appears the intent of these special conditions is to ensure that no viable quarantine weed seeds are present in the cargo, even though the Act already specifies the need for freedom from quarantine weed seeds.

While it unclear what the exact requirements for a “Zero dockage certification” would be, any inspection conducted by AQIS would ensure that there were no quarantine weed seeds present in the consignment, which should satisfy condition (i) (b).

However, as also discussed previously, the costs associated with either positive identification of suspect seeds or screening to remove any quarantine weed seeds is extremely expensive and makes it uneconomical to export canola to India. Again, the option may be for the Indian Government to issue a very low level exemption for these quarantine weed seeds.

The special condition (ii) relating to the management of handling, transportation, milling, and processing of import consignment and manner of disposal of refuse is a condition that does not appear against other commodities. This requirement to ensure refuse is handled in a manner defined by the Plant Protection Advisor to the Government of India could, depending on the nature of the restriction, impose additional costs on canola imports.

While we recognise India’s right to establish appropriate quarantine restrictions, these restrictions do, whether as a result of regulations imposed by the Indian government or as a result of AQIS interpretation, impose significant risks on Australian exporters. Exporters must have confidence that they can ship canola without undue risks if trade with India is to be developed.

ABB believes a reduction, or even elimination, of these restrictions and import duties would contribute towards the development of a strong and reliable trade between Australia and India.

I trust this information is of assistance to you in your discussions into the feasibility of an Australia – India Free Trade Agreement. If you require any further information or would like to discuss any of the issues raised, please contact Mr Geoff Masters (08 8304 5104).

Yours sincerely



Geoff Masters
Quality & Technical Services Manager

Attachment A - Canola

53	<p><i>Brassica</i> spp (Mustard, Rape/canola, Cabbage, Cauliflower, Kohlrabi, Brussels sprouts, Broccoli, Knol Khol, Chinese Cabbage and other Cole crops)</p>	Seeds for sowing	<p>(i) Any country except Denmark, Chile and Italy</p> <p>(ii) Denmark</p> <p>(iii) Chile</p> <p>(iv) Italy</p>	<p>Free from:</p> <p>(a) <i>Leptosphaeria maculans</i> (black leg)</p> <p>(b) <i>Pseudomonas viridiflava</i> (bacterial leaf blight of tomato)</p> <p>(c) <i>Pseudomonas syringae</i> pv. <i>maculicola</i> (bacterial leaf spot)</p> <p>(d) <i>Xanthomonas campestris</i> pv. <i>campestris</i> (black rot)</p> <p>Nil</p>	<p>(i) Free from quarantine weed seeds.</p> <p>(ii) Import except the trial material of the same crop species or variety as specified in Schedule XII of this Order subject to prior approval of Department of Agriculture and cooperation in the Ministry of Agriculture.</p>
54	<i>Bromeliad</i> spp.	Tissue cultured plants	Any Country	<p>Free from:</p> <p>(a) <i>Leptosphaeria maculans</i> (black leg)</p> <p>(b) <i>Pseudomonas viridiflava</i> (bacterial leaf blight of tomato)</p> <p>(c) <i>Xanthomonas campestris</i> pv. <i>campestris</i> (black rot)</p> <p>Nil</p>	<p>(i) (a) Weed free crop/ area certification or</p> <p>(b) Zero dockage certification in respect of quarantine weed seeds in the Phytosanitary Certificate or</p> <p>(c) Devitalization of seed by heat treatment at 120°C for 15 minutes or any other equivalent treatment approved by the Plant Protection Adviser to the Government of India</p> <p>(ii) Management of handling, transportation, milling, and processing of import consignment and manner of disposal of refuse as per the guidelines prescribed by the Plant Protection Adviser to the Government of India</p> <p>Nil</p>
55	<i>Butia</i> spp.	Seeds for sowing	Any Country	<p>Certified that the tissue cultured plants were obtained from mother stock tested and maintained free from virus</p> <p>Nil</p>	Free from quarantine weed seeds.

F.No.18-7/2006-PP.II
Government of India
Ministry of Agriculture
Department of Agriculture & Cooperation
(Plant Protection Division)

Krishi Bhavan, New Delhi
3rd July 2006

ORDER

I The Central Government, in exercise of the powers under Clause 14(1) of the Plant Quarantine (Regulation of Import into India) Order 2003, as amended, hereby relaxes, in the public interest, the conditions of the Order pertaining to the import of *Triticum* spp (Wheat) – grains for consumption or processing.

Wheat grains for consumption and processing shall be allowed to be imported into India up to 31.12.2006 in accordance with the following conditions:-

- (i) The wheat consignment would be required to be certified to be free from Granary weevil (*Sitophilus granaries*).
- (ii) The wheat consignment would be required to be certified to contain less than 0.01% Ergot (*Claviceps purpurea*) w/w.
- (iii) The wheat consignment would be required to be certified to contain less than 0.005% Dwarf bunt (*Tilletia contraversa*)
- (iv) The wheat consignment would be required to be certified to contain less than average of 100 quarantine weed seeds, as per Schedule VIII of this Order, per 200 kg of samples drawn as per the prescribed procedure.
- (v) The wheat consignment would be required to be fumigated with Methyl Bromide @32 g/cu m at 21°C and above for 24 hours under Normal Atmospheric Pressure and the treatment endorsed on the Phytosanitary Certificate OR the wheat consignment would be required to be fumigated with Aluminium Phosphide @ 40g/1000 cu ft for a period of at least 21 days prior to arrival into India provided the ship hold has provision for post re-circulation of phosphine gas during the period of transit.

The wheat consignment would be required to be accompanied by a valid Phytosanitary Certificate (PSC) in conformity with the accepted International Convention, issued by the concerned NPPO for each shipment. Such certificate may also be issued by the NPPO on the basis of inspection done by an agency accredited to the said NPPO.

II Inspection of the wheat grain shall be carried out prior to loading on to the vessel by an authorized officer or accredited agency of the National Plant Protection Organization (NPPO) of the exporting country. Such inspection shall be carried out as

per the guidelines prescribed under ISPM-12 (Guidelines for Phytosanitary Certificates-IPPC) to ensure that the wheat grain shipped to India has less than the permissible limit of quarantine pests / weeds. The following scale of statistically valid sampling programme should be applied to the entire shipment during loading. A sample of one kilogram of wheat should be drawn for every 20 Metric Tonnes of wheat grain loaded on to the vessel from the export lot of wheat grain and the entire quantity would be subjected to inspection to ensure that it is within the specified limit of quarantine pests and weeds. The sampling should be carried out either through a slotted grain sampler or nobby sampler if it is bagged cargo or through an automatic sampling system attached to a grain elevator, which samples the grain at periodical intervals. The frequency of sampling and the size of sample will be set to facilitate drawal of the required sample as indicated above. Alternatively the samples may be drawn using deep bin probes (thermo sampler) from the ship holds/grain bins. Alternatively, the exporting country may adopt an appropriate statistical sampling intensity so as to give 95% confidence for detecting the prescribed tolerance levels for the quarantine pests and weed seeds specified in the tender. The samples shall be inspected by an authorized officer or accredited agency of the NPPO of the exporting country for grain contaminants such as bunt balls, ergots, weevil grain and weed seeds. For this purpose, the samples have to be inspected visually to detect bunt balls, ergots, weevil grain and weed seeds. If presence of any quarantine pests or weeds is detected above the limit specified in this tender, the officer of the NPPO / Agency should stop loading the wheat grain. In case any bunted grains are noticed shall be subjected to microscopic examination to characterize the species. The phytosanitary certificate for ergot, dwarf bunt, granary weevil and quarantine weeds may be issued on such sampling and inspection system.

This order comes into force with immediate effect in respect of all wheat shipments made on or before 31.12.2006 and is being issued in the public interest.

(Ashish Bahuguna)
Joint Secretary to the government of India

Copy to:

- i. Secretary, Department of Food & Public Distribution, with reference to D.O.No.3-10/2006-Impex dated 3.7.2006
- ii. Shri Gautam Ray, Joint Secretary (TRU), Department of Revenue, Ministry of Finance.
- iii. Dr. P S Chandurkar, Plant Protection Adviser, Dte. of PPQ&S with a request to apprise all Plant Quarantine Stations of the contents of the above order and to also publish it on the website of the Directorate.

(Amand Shah)
Director (PP)