

## Submission to the Joint Committee of Public Accounts and Audit on the Review of Australia's Quarantine Function

29 July 2002

### Introduction

Compared with many other countries, Australia enjoys a relative freedom from pests and diseases affecting human, animal and plant life. This situation is the result of Australia's geographical isolation and a conservative approach to quarantine. Quarantine function has a high profile in the minds of Australian citizens, with the result that it is constantly under review and, to some extent, exposed to controversy.

Responsibility to exercise quarantine authority is reserved by government in the public interest. It is a responsibility shared between the Commonwealth and State/Territory jurisdictions and supported by their respective legislation. Section 109 of the Australian Constitution provides for Commonwealth law to take precedence over State law where there is an inconsistency.

The development of national quarantine policy is made by the relevant departmental agencies, including the Department of Health and Aged Care, the Department of Environment, Department of Defence, Department of Immigration and Multicultural Affairs, and the Department of Agriculture, Fisheries and Forestry (AFFA). Much of the administration of quarantine policy is handled by the Australian Quarantine and Inspection Service (AQIS) as an agency of AFFA. This service is provided in association with the Australian Customs Service at the national border.

In 1995, a decision by the Agriculture and Resource Management Council of Australia and New Zealand transferred much of DPI's involvement in national border quarantine activity to the Commonwealth under a Memorandum of Understanding. New South Wales, Victoria and South Australia made similar transfers of activity at that time. Other jurisdictions have subsequently transferred some or all of their quarantine functions to the Commonwealth. However, all jurisdictions have retained powers to govern introduction into and control of pests and diseases within their own territory.

Administration of quarantine for plant and animal products is the responsibility of AFFA but there is a duty to consult with Environment Australia and the Department of Health and Aged Care on relevant matters, and to coordinate border activities with agencies such as the Department of Immigration and Multicultural Affairs, Department of Defence and the Australian Customs Service.

The Australian National Audit Office presented a performance audit of AFFA to Parliament in June 2001. The audit found in favour of AFFA generally in the administration of quarantine but concluded that there were weaknesses in management in a number of areas. The Joint Committee of Public Accounts and Audit subsequently commenced a review of Australia's quarantine function with nine terms of reference (TOR).

This submission by DPI interprets reference to "AQIS" in the terms of reference as reference to AFFA generally, because quarantine function in Australia is divided

between policy development under Biosecurity Australia, quarantine operations under AQIS and incursion preparedness and management and under the Product Integrity divisions of AFFA.

### TOR 1, the coordination of AQIS with other border control agencies

Queensland has a broad interest in border control activities, partly because of its proximity to Papua New Guinea and Indonesia, and partly because of the large volumes of human, animal, plant and commodity movement into and out of its major ports. Tourism and trade are extremely important to Queensland's economy but these carry unfortunate quarantine and national security risks. Queensland is also a net exporter of agricultural commodities to other jurisdictions in Australia and is subject to interstate quarantine restrictions arising from a prevalence of pests and diseases that is high relative to other regions.

The Australian Customs Service (ACS) is recognised as the primary border control agency. It deals with intentional breaches of Australia's regulations and is mainly concerned with enforcement. AQIS administers Australia's quarantine policy in close association with ACS, but takes a more facilitatory role with its clients. Although ACS and AQIS serve distinctly different roles, their activities appear to be well coordinated where needed.

Other border control agencies include Environment Australia and the Departments of Immigration and Defence. The involvement of these agencies in quarantine aspects of border control is sporadic and less easily defined. Environment Australia, for example, has become involved recently in the administration of imported biological agents and living modified organisms. DPI welcomes the increasing coordination and cooperation between Environment Australia and AFFA on agricultural commodities, and encourages even greater cooperation in areas of mutual interest including risk assessment methodology and development of consistent policies for imported birds, fish and reptile species.

Similarly, the Immigration Department has been dealing with increased arrivals of illegal immigrants and their associated health risks, while the Defence Department has been engaged in military operations incurring return of equipment and personnel from areas of potential high quarantine risk. The issue of bio-terrorism has gained public attention in recent months following incidents of anthrax contamination of mail. The available evidence suggests that AQIS has performed well in these emergent situations.

### TOR 2, the identification of potential risks to Australia and the application of resources to meet those risks

Risk identification and appropriate resource allocation are part of an effective management system. Activities undertaken by AFFA have been reactive in the case of import risk analyses (see TOR 7) and pro-active in the case of risk identification and preparedness.

DPI has been particularly interested in the Northern Australia Quarantine Strategy (NAQS) program as a result of the perceived incursion pathway through Cape York Peninsula. DPI and AQIS have established a joint information and inspection facility at Coen on Cape York Peninsula to provide a third line of defence for quarantine border and post-border operations in this remote area. Joint surveillance and response programs have been mounted under AQIS's Northern Australia Quarantine Strategy and DPI's Northwatch program, with benefits for both AQIS and DPI. These

activities include the regular monitoring for exotic fruit fly incursions and for Japanese encephalitis, and monitoring for pests and diseases of animals in the Livestock Buffer Zone north of Coen. The involvement of local communities in the Northern Australia Quarantine Strategy and Northwatch programs is an important part of border security. These programs extend also to high-risk urban areas of north Queensland, where AQIS, DPI and other government agencies are engaged in joint monitoring and response activities.

Agricultural industries have also become engaged in risk identification and surveillance systems for early detection. In Queensland, the banana, cotton and grains industries are notable in this regard. Government funds have been provided through research and development corporations to assist these industry activities.

The advent of organisations such as Animal Health Australia Ltd and Plant Health Australia Ltd have enhanced Australia's capacity to identify potential risks and apply resources appropriately. These organisations have encouraged Australia's animal and plant industries to become directly involved in this area of quarantine security.

The major risks of foot and mouth disease (FMD) and bovine spongiform encephalopathy (BSE or "mad cow" disease) are recognised as having great consequences at a national level. Additional Commonwealth and State funding has been provided in recent budgets to increase preparedness for these potential risks. DPI supports the enhancement of preparedness for these particular threats.

There is however a perception that, while AQIS targets and responds to pests and diseases of agricultural significance, pests of primarily urban and environmental significance are often ignored. The response to red imported fire ant is an exception to this perception, as DPI was able to take a lead role in the response to this environmental pest. At the same time, however, several incursions of freshwater and marine organisms and of environmental weeds have received little or no national priority.

### TOR 3, the impact of international agreements on quarantine activities, including any proposed free trade negotiations

Australia is in a difficult position with respect to international trading agreements. Exports of food and energy commodities rely on free trade and sound environmental policies. Australia is a member of the World Trade Organisation (WTO) and has actively contributed to its international committees to ensure that the various standards are appropriate for sustaining Australia's export markets. Many of Australia's major export outlets are also members of the WTO but are not necessarily as eager as Australia to apply free trading principles. This comment applies particularly to the United States and to the European Union.

Countries seeking access to Australia's small but valuable domestic market claim that Australia's conservative approach to quarantine is a de-facto non-tariff barrier. AFFA has been appropriately engaged in challenging this argument, often as much with the Department of Foreign Affairs and Trade (DFAT) as with overseas agencies. The joint participation of DFAT and AFFA in bi-lateral trade discussions overseas has raised the suspicions of Australian industries on the nature of these discussions. DPI believes that AFFA should enhance its processes for providing feedback on the outcomes of these discussions.

While Australia is a supporter of the World Trade Organisation, it has deferred entry into the Biosafety Protocol of the Convention on Biodiversity, otherwise known as the Cartagena Protocol. This latter protocol is aimed at managing the trans-boundary

movement, transit, handling and use of all living modified organisms that may have adverse effects on biodiversity, and takes into account risks to human health. The major concerns are over the way some countries may implement the protocol in a manner that will unduly restrict trade in products of modern biotechnology on the basis of non-scientific, regulatory decisions such as the precautionary principle.

DPI would like to have more ready access to living modified organisms as a means of maintaining technological parity with international competitors. The processes required to import living modified organisms into Australia are currently quite complex with possible involvement of AQIS, the Australia and New Zealand Food Authority, Office of Gene Technology Regulation and AFFA, depending on the intended use of the living modified organism. DPI would encourage the development of a more streamlined process between the relevant agencies while continuing to safeguard our national interests. Current issues concern the forestry and pork industries but all agricultural sectors could be disadvantaged by restricted access to modified germplasm. It is recognised however, that there are many community concerns to be addressed before appropriate systems can be adopted.

#### TOR 4, the operations of AQIS that are beyond Australia's borders

AFFA's involvement beyond Australia's borders are in its participation in international agencies under the World Trade Organisation as discussed above, in pre-shipment clearance of products into Australia's domestic market and in surveillance activities on off-shore islands and neighbouring countries.

AFFA's stated policy is to recognise overseas quarantine authorities as competent in pre-shipment clearance inspections on the basis that these countries may recognise AQIS as the inspection authority for Australian exports. It is acknowledged that some countries do recognise AQIS but others, notably Japan, insist on pre-shipment clearance in Australia by their own inspectors. It would seem incongruous that AQIS would continue to accept pre-shipment clearance by foreign inspectors without reciprocal agreements.

AFFA's activities under the Northern Australia Quarantine Strategy include considerable surveillance and interaction with scientific staff in neighbouring countries. While this activity is at times constrained by international tensions, its continuance is of particular interest and benefit to Queensland.

While foot and mouth disease (FMD) and bovine spongiform encephalopathy (BSE) preparedness are high profile activities against risks generated in regions further a field than the neighbouring countries, there is less obvious involvement of AFFA in off-shore preparedness for proximal threats in the plant health arena. However, preparedness for threats such as Karnal bunt of wheat, smut of sugarcane and fire blight of pome fruits have received attention in the form of contingency planning and scientific exchanges with financial support of the industries threatened. Further consideration of support could be given to preparedness for threats to plant health.

#### TOR 5, AQIS border operations

AQIS border operations include the administration of import permits, of inspections of incoming passengers and commodities, and of pre-export inspections and clearances. These services underpin biosecurity for agricultural and eco-tourism industries and, in that regard, DPI supports the funding enhancements flowing from the Australian National Audit Officer Report No.47 to provide for 100 percent inspection at the border. DPI notes however that many AQIS services incur

inspection fees and charges that have been questioned by traders and the government agencies that support them.

#### TOR 6, monitoring and surveillance within Australia for breaches of the Australian border

The implementation of effective monitoring and surveillance for early detection of incursion events is one of the most problematic areas of organisation and resource allocation. There is no defined limit to the extent of this activity and a heavy reliance on shared responsibilities with State agencies and the community generally. Reporting of incursion events is mostly voluntary and of variable effectiveness.

National programs for pests and diseases are limited, with numerically more in the animal health arena than with plant health. Monitoring for exotic fruit flies and some forest pests such as gypsy moth are organised on a national basis with limited funding from both Commonwealth and State sources, but the vast majority of plant pests and disease monitoring relies on community-assisted surveillance.

An issue arises once an incursion is detected. Under general response arrangements, the State or Territory in which the incursion is detected has a leading role in the response. In Queensland, for example, action is taken under State emergency response arrangements and under State legislation. AFFA coordinates the national response through a consultative committee system established under Ministerial Council. In some cases (as with white spot virus on prawns), AQIS did not accept any responsibility once the pest had been detected and referred the issue to the State government for response. There are times when AQIS has taken initial action under the Commonwealth Quarantine Act, prior to informing DPI, and has expected DPI to continue the response after the event. AQIS has also engaged in media releases independent of the emergency response process in Queensland. These actions have not assisted the incursion management process. Further consideration could be given to a formal agreement between the Commonwealth and the State jurisdictions as part of the contingency planning process.

The Australian National Audit Office review of AFFA in 2001 drew attention to the increasing incidence of reported incursion events over the past decade. This is not necessarily a failure of the quarantine system but a reflection of the increasing efficacies of detection and reporting. Further enhancement of AQIS inspection systems in the 2002 Federal budget is expected to enhance border interceptions and stabilise the incidence of annual incursions. This will be judged by performance over the next few years and in an environment of expanding volume of human and commodity movements.

### TOR 7, the development of import risk analyses

AFFA has made major advances with the import risk analysis processes in recent years and may be regarded as a world leader in this field. The process has been designed to demonstrate transparency, rigor and robustness within a World Trade Organisation environment and still under development. The current process is resource intensive but practical for those involved. It is difficult to explain to inexperienced stakeholders but it is relatively straightforward when compared with systems in the United States, Japan and other countries.

Decisions on import requests are made relative to Australia's "Acceptable Level of Protection", commonly known as ALOP. This is defined as "very conservative but not zero risk" and is best understood by reference to other quarantine decisions in the same way as judicial decisions are understood by reference to case law. The definition of ALOP has recently been considered and endorsed by Primary Industries Ministerial Council but is often questioned by stakeholders in Australia and overseas. The Tasmanian and Western Australia governments have promoted regional definitions of ALOP that are more stringent than the national definition. While there is some justification for the recognition of regional differences, DPI does not advocate a more prescriptive definition of ALOP as it would require a much more detailed import risk analysis process than the data currently available would allow.

The import risk analysis process is outlined in AFFA's *IRA Process Handbook*. This has been under revision for a number of years. It uses a science-based approach so that the final decision will stand up to international scrutiny. There is provision to appeal the decision on the basis of process, or of scientific evidence not considered, but not on the basis of risk analysis. Opportunities are provided throughout the process for stakeholder input and comment, so the final decision should be robust. In this context, a recent proposal to appoint a Science Advisory Panel to oversee final import decisions would appear to undermine the integrity of the whole process. Further consideration could be given to the role of the proposed Science Advisory Panel and as to whether or not such review should occur during the import risk analysis process leading to the final decision.

### TOR 8, opportunities to increase public awareness of, and involvement in quarantine issues

AFFA invests heavily in public awareness through a range of media outlets. It also endeavours to consult widely with stakeholders as part of its transparency and inclusiveness policies. However, there is a perception that AFFA's consultation process is more about explaining the system than about listening to stakeholders. DPI believes that state departments could assist AFFA in the consultation process by facilitating meetings with stakeholders.

### TOR 9, any other issues raised by *Audit Report 47, 2000-01, Managing for Quarantine Effectiveness*

1. The report of the Quarantine Review Committee (QRC), known as the Nairn Review 1996, promoted the concept of quarantine being a shared responsibility between the Commonwealth and State governments, and the community generally. AFFA was granted an additional \$76 million over four years to implement recommendations of the QRC report. The Australian National Audit Office reported favourably on the expenditure of these funds but the realisation of a fully shared responsibility requires constant attention. The Primary Industries

Ministerial Council has been considering ways in which the Commonwealth and State governments can cooperate more closely to make more effective use of available resources. DPI supports a continuation and enhancement of Commonwealth-State interaction on quarantine matters.

2. The Australian National Audit Office review encouraged AFFA to ensure that risk treatments appropriately address quarantine risks across different modes of entry. It is recognised that, with something as complex as quarantine, policies and practices have been developed over many years and are not reviewed exhaustively on any set timetable. Since Australia's acceptable level of protection (ALOP) relies on a case history approach in its interpretation, it could be jeopardised if policies and practices were allowed to become too inconsistent. DPI supports a review of AFFA quarantine policies and practices, provided this can be kept within reasonable limits.
3. Perhaps the most significant development since the Australian National Audit Office report was tabled is the \$563 million supplementation of AFFA's budget to permit 100 percent inspection of incoming goods and mail. This addresses some of the community concerns with bio-terrorism at the border but should not be seen as an absolute solution to the quarantine risks. While the enhancement of border quarantine is necessary and supported by DPI, further consideration could be given to supporting immediate post-border programs in surveillance, monitoring and response.