



COMMONWEALTH OF AUSTRALIA

# Official Committee Hansard

## SENATE

RURAL AND REGIONAL AFFAIRS AND TRANSPORT  
REFERENCES COMMITTEE

**Reference: Import restrictions on beef**

FRIDAY, 5 FEBRUARY 2010

CANBERRA

BY AUTHORITY OF THE SENATE



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**SENATE RURAL AND REGIONAL AFFAIRS AND TRANSPORT**

**REFERENCES COMMITTEE**

**Friday, 5 February 2010**

**Members:** Senator Nash (*Chair*), Senator Sterle (*Deputy Chair*), Senators Heffernan, McGauran, Milne and O'Brien

**Substitute members:** (As per most recent Senate Notice Paper)

**Participating members:** Senators Abetz, Adams, Back, Barnett, Bernardi, Bilyk, Birmingham, Mark Bishop, Boswell, Boyce, Brandis, Bob Brown, Carol Brown, Bushby, Cameron, Cash, Colbeck, Jacinta Collins, Coonan, Cormann, Crossin, Eggleston, Farrell, Feeney, Ferguson, Fielding, Fierravanti-Wells, Fifield, Fisher, Forshaw, Furner, Hanson-Young, Humphries, Hurley, Hutchins, Johnston, Joyce, Kroger, Ludlam, Lundy, Ian Macdonald, McEwen, McLucas, Marshall, Mason, Minchin, Moore, Parry, Payne, Polley, Pratt, Ronaldson, Ryan, Scullion, Siewert, Troeth, Trood, Williams, Wortley and Xenophon

**Senators in attendance:** Senators Back, Heffernan, McGauran, Nash, O'Brien, Sterle and Williams

**Terms of reference for the inquiry:**

To inquire into and report on:

The possible impacts and consequences for public health, trade and agriculture of the Government's decision to relax import restrictions on beef, especially relating to the import of beef from countries previously affected by bovine spongiform encephalopathy, otherwise known as mad cow disease.

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**Committee met at 9.01 am**

**CHAIR (Senator Nash)**—I declare open this public hearing of the Rural and Regional Affairs and Transport References Committee. The committee is hearing evidence on the committee's inquiry into the impact and consequences of the government's decision to relax import restrictions on beef. Before the committee starts taking evidence I remind all witnesses that, in giving evidence to the committee, they are protected by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage a witness on account of evidence given to a committee and such action may be treated by the Senate as a contempt. It is also a contempt to give false or misleading evidence to a committee. The committee prefers all evidence to be given in public but, under the Senate's resolutions, witnesses have the right to request to be heard in private session. It is important that witnesses give the committee notice if they intend to ask to give evidence in camera. If a witness objects to answering a question, the witness should state the ground upon which the objection is taken and the committee will determine whether it will insist on an answer, having regard to the ground which is claimed. If the committee determines to insist on an answer, a witness may request that the answer be given in camera. Such a request may, of course, also been made at any other time. On behalf of the committee, I thank all those who have made submissions and sent representatives here today for their cooperation in this inquiry.

[9.03 am]

**BELLINGER, Mr Brad, Chairman, Australian Beef Association**

**CARTER, Mr John Edward, Director, Australian Beef Association**

**CHAIR**—Welcome. Would you like to make an opening statement?

**Mr Bellinger**—Thank you. The ABA stands by its submission, which we made on 14 December last year, that the decision made by the government to allow the importation of beef from BSE affected countries is politically based, not science based. During this hearing we will bring forward compelling new evidence to back up this statement. When I returned to my property after the December hearing I received a note from an American citizen. I will read a small excerpt from the mail he sent me in order to reinforce the dangers of allowing the importation of beef from BSE affected countries. I have done a number of press releases on this topic, and this fellow has obviously picked my details up from the internet. His name is Terry Singeltary and he is from Bacliff, Texas. He states, and rightfully so:

You should be worried. Please let me explain. I've kept up with the mad cow saga for 12 years today, on December 14th 1997, some four months post voluntary and partial mad cow feed ban in the USA, I lost my mother to the Heinemann variant Creutzfeldt-Jakob disease (CJD). I know this is just another phenotype of the infamous sporadic CJDs. Here in the USA, when USA sheep scrapie was transmitted to USA bovine, the agent was not UK BSE—it was a different strain. So why then would human TSE from USA cattle look like UK CJD from UK BSE? It would not.

So this accentuates that the science is inconclusive still on this devastating disease. He goes on to state:

The OIE—

the International Organisation of Epizootics, the arm of the WTO—

is a failed global agent that in my opinion is bought off via bogus regulations for global trade and industry reps. I have done this all these years for nothing but the truth. I am a consumer, I eat meat, but I do not have to sit idly by and see the ignorance and greed of it all while countless numbers of humans and animals are being exposed to the TSE agents. All the USA is interested in is trade, nothing else matters.

Even Dr Stanley Prusiner, who incidentally won the Nobel Health Prize in 1997 for his work on the prion—he invented the word 'prion', or it came from him—states:

The BSC policy was set up for one purpose only, trade—the illegal trading of all strains of TSE globally throughout North America, which is home to CBSC, IBSC and HBSC, many scrapie strains and two strains of CJD to date.

I would also like, while I have the opportunity, to explain the beef-off-the-shelves myth. At the first Senate hearing on 14 December, it was explained that the reason why they allowed BSC beef into Australia was the beef-off-the-shelves policy, whereby if we found a case of BSC in Australia they would have to recall all—



**Senator HEFFERNAN**—Which of course is total BS.

**Mr Bellinger**—Correct. This is written in the FSANZ document—Food Standards Australia New Zealand. Why isn't this same policy in New Zealand? It is not—it is only in Australia. We are the only country in the world to have this idiotic policy. So we again call for the tabling of the WTO obligations paperwork. We do not believe that exists.

**Mr Carter**—We have an additional concern about human health. We are not scientists, but on 18 December, four days after the last hearing here, the BBC reported a new wave of deaths due to variant CJD linked to eating BSE infected beef could be underway. This is based on the work of Professor John Collinge of the National Prion Clinic, who reported that a 2009 death in Scotland was from a different genetic pool to that of the 166 deaths already reported in the UK. Those are all thought to share one gene, but Professor Collinge and his colleagues estimate that up to 350 people in this new group, represented by the person who died in Scotland, could get CJD. He thinks that CJD has moved into a new phase, and the incubation period is a long one. We tender the Australian Red Cross donor policy sheet, which bears out what Senator Back brought up last time, questioning the Chief Medical Officer, and we say that blood from people who were in the UK between 1980 and 1996 is not acceptable. That is the current ruling. We believe this now should be extended to anyone who has visited the UK, and this new evidence should ensure that Australia revisits the science of CJD.

**CHAIR**—Thank you, Mr Carter. Before we kick off, can I just remind colleagues that we are short of time today, so I ask that we do not traverse ground that we have previously covered and make sure that we stick to new information that is required. Mr Bellinger, when you started you referred to your view that this decision to allow the importation was politically based. I know you are going to go into this in the course of the next 20 minutes or so, but could you just give us a quick outline of what your definition of politically based is and why you think the decision was politically based?

**Mr Bellinger**—On the lowering of BSE standards: if you go back to 2006, for example, there were five categories for describing countries that had BSE and Australia was in the category for BSE free. Suddenly, by the time the United States got their third instance of BSE, through the influence of Robert Zoellick—who was the trade minister that signed the BSE corresponding side letter in 2004 and was George Bush's appointment to the WTO—they suddenly changed the five categories to three categories and, instead of being BSE free, Australia became BSE negligible risk. At the time I put out a press release alerting the media to the dangers of this happening, and we are coming to the stage here when suddenly our government is saying, 'Now let's allow the importation of beef from BSE affected countries.' I believe that the WTO has been influenced by large multinational meat processors and retailers to change and allow the trading of BSE beef throughout the world.

**CHAIR**—Thanks, Mr Bellinger.

**Mr Carter**—Of course, the side letter that Minister Vaile signed was at the request of Mr Zoellick, who is now in the position that Mr Bellinger has explained.

**Senator HEFFERNAN**—I just want to put the committee on notice that, if we do not get through what we have got to get through today, I suggest we have another hearing, because this

is the greatest ambush of Australia's farmers of all time by a government. The evidence given at the last meeting was deadset lies. The proposition that this whole change of government policy was led by the industry is a deadset lie. While Simon Crean might want to change his mind because of the WTO and his lack of knowledge, the Australian beef industry, as you know, is under great challenge, not only from the currency but also from the undermining of our markets. This is a disgrace.

I will go to the meat-off-the-shelves proposition. By the way, there is no obligation to take meat off the shelves; it was something dreamt up by someone buried in the bureaucracy, who is probably taking notes down in the department now. There is absolutely no obligation but, if they wanted to stick to it, all they really had to do was do mandatory SRM removal. Now the renderers did not like that idea. It was going to cost money. Can you explain to us where you think the meat-off-the-shelves proposition came from?

**Mr Bellinger**—I think it was an ill-informed, misguided statement delivered from RMAC to the minister. They may have thought, by some weird dream, that by having this beef-off-the-shelves policy it would somehow illustrate to the WTO that we cannot import beef from BSE affected countries—totally erroneous and totally stupid. Of course, if you look at the legislation on food recalls, it is handled by the states. I did an interview on 2NZ, a local radio station, 10 days ago in reply to Tony Burke's statement on this beef-off-the-shelves policy, where he said that if a beast was found to have BSE in the Northern Territory then beef would have to be taken off the shelves in Tasmania—totally erroneous. It does not exist. It is the states who handle this. I am amazed that a minister could make this sort of statement.

**Senator HEFFERNAN**—You were talking about the next wave of possible human infection in the UK. It is a fact, actually—I have done some work on it. There are three genes that have been identified. One is very accepting: if you have that gene and you eat the meat, you get the consequences—mad cow disease. There are two genes that they have not worked out yet. One is more resistant than the other. Are you aware that there is a lot of science around that says, through this new understanding of the gene mutation, there could well be a new wave of mad cow disease in humans?

**Mr Bellinger**—I will hand you over to John Carter. He has done more research on this than me.

**Mr Carter**—It is Professor Collinge and the National Prion Clinic in the UK who have done this work. It is not as though it is some backyard person. I am certainly not a geneticist, but it appears to me, particularly from the work that Bob Steel has done, that these things are crossing barriers. To me, the science is not proven at all.

**Senator HEFFERNAN**—No. There seems to have been a change of government position in assessing the science, to risk analysis from a lesser proposition. Are you aware of when the government changed from the precautionary principle to risk analysis in terms of assessing these sorts of risk?

**Mr Carter**—To me, those are just words. In 1997 the UK government Lord Phillips inquiry stated that up to 136,000 people could lose their lives to CJD, and later the Blair government raised this to 250,000. Then, of course, when America gets BSE suddenly it is really no problem.

**Senator HEFFERNAN**—Look, this is just a trade issue. The government came in here. Senator Sterle, I believe, will make some reflection upon your earlier remarks to say that this—

**Senator STERLE**—Absolutely, if you give me a chance. The clock is ticking.

**Senator HEFFERNAN**—Would you like to do it now?

**Senator STERLE**—Finish your question. No, because you will interrupt. So you have your run and then I will have my say.

**Senator HEFFERNAN**—The proposition was put to us last time that this was driven by the industry. I followed Simon Crean on 5AA the other day. He talked about ‘using the best principles’. He had idea what he was talking about, but they did say that this was driven by the industry—and the department accepted it, and I hope they are all listening down there, because they are a bunch of liars. They accepted the proposition—

**Senator STERLE**—Chair—

**Senator O’BRIEN**—Using this hearing to slander people in that way is completely unseemly.

**Senator HEFFERNAN**—Righto, I withdraw that. They overlooked the facts. We will correct the facts today, but this was driven by the industry, by demands from the industry, when in fact we now know from in an in-confidence answer to this committee there were 37 communications between the Canadian and US governments and the Australian government since November 2007 demanding that we allow their meat in here. Of course, the department of trade here—Simon Crean’s mob—said, ‘We’d better find a way,’ and this is the way they have done it. They have completely misled the Australian beef industry and I think it is a total disgrace. I might add also that, back when we knocked this on my head—

**CHAIR**—Do you have any questions, Senator Heffernan?

**Senator HEFFERNAN**—in 2005, I think it was, the then shadow health minister, Julia Gillard, was keen on maintaining the precautionary principle. We now seem to have gone from the precautionary principle, without any mention—by the way, this is all going to happen without coming to parliament—of risk analysis. I am going to deal with the risk analysis proposition when we get the guy that gave the so-called independent advice along. I will leave it at that.

**Senator STERLE**—I just have to clarify a few things, Mr Bellinger. You said that the OIE is an arm of the WTO. Do you want to clarify that? I am led to believe that they are not.

**Mr Bellinger**—I will explain it further. You have the World Trade Organisation, and then under that you have the World Health Organisation. The OIE, the organisation of international epizootics, then handles phytosanitary and animal health issues under that umbrella.

**Senator STERLE**—So they are not an arm of the WTO? I want to clarify it for the record.

**Mr Bellinger**—They are an arm—

**Senator STERLE**—Sorry to interrupt you. We had better clarify it, because there are people out there that are hanging on every word that is said in here so they can photocopy it and flick it around the country. So we had better get it very, very clear.

**Mr Bellinger**—They are.

**Senator STERLE**—They are?

**Mr Bellinger**—Yes.

**Senator STERLE**—You are saying they are an arm of the WTO?

**Mr Bellinger**—They are under the WTO umbrella.

**Senator STERLE**—Okay, but not an arm of the WTO.

**Senator O'BRIEN**—They are under the WTO umbrella—underneath and therefore controlled by. That is what your implication is.

**Senator HEFFERNAN**—OIE—

**Senator STERLE**—Hang on. Chair—

**CHAIR**—Senator Sterle has the call.

**Senator STERLE**—I just want to clarify: they are not an arm of the WTO?

**Mr Bellinger**—An arm or an umbrella—it is hard to define.

**Senator HEFFERNAN**—The OIE's advice is provided by the WTO.

**Senator STERLE**—Senator Heffernan, you have had your turn.

**CHAIR**—Senator Heffernan, Senator Sterle has the call.

**Senator STERLE**—Thank you, Chair. Also, you have said Robert Zoellick is head of the WTO?

**Mr Bellinger**—The WTO, yes.

**Senator STERLE**—I am led to believe he is head of the World Bank.

**Mr Bellinger**—I stand corrected.

**Senator STERLE**—We will clarify that. You mentioned the interview you did on a local radio station about meat off the shelves. What this committee does know is that that is policy. A hundred and fifty-two countries are signed up to that policy that if there is an outbreak,

regardless of where the outbreak is, all meat has to be taken off the shelves, and that is previous government policy.

**Mr Bellinger**—Excuse me, Senator Sterle. You are saying that 152 countries have this policy as well as Australia?

**Senator STERLE**—There are 152 under the WTO. If there is an outbreak, regardless of where the outbreak is, all the meat must come off the shelves.

**Mr Bellinger**—But there was no meat off the shelves in the United States or Japan when an outbreak occurred. Why wasn't there?

**Senator STERLE**—Let us get back to the law. Quite clearly, 152 WTO members have the policy that if there is an outbreak, regardless of where that outbreak is, all meat must be taken off the shelves. Whether that has happened in America or not, this is the previous government's policy.

**Senator HEFFERNAN**—No, it is not. That is garbage.

**Mr Carter**—There is no country in the world that has taken its meat off the shelves.

**Senator STERLE**—Let us get it very clear. Regardless of whether they have or they have not, that is the protocol.

**Senator HEFFERNAN**—No, it is not.

**Senator STERLE**—It is. This is what we have been led to believe.

**Mr Carter**—But they are irrelevant protocols because they are not implementable.

**Mr Bellinger**—So you are saying that the United States and Japan have broken protocol?

**Senator STERLE**—No, I am not saying that. You are the ones who are saying they have not done it. I do not know. So do not put words in my mouth. I just want to address this very clearly. Under previous government policy, regardless of where the outbreak was—and fortunately we did not have it here—all meat had to come off the shelves.

**Senator HEFFERNAN**—That is not right.

**Senator STERLE**—I am not asking you, Senator Heffernan; I am asking the witnesses.

**Mr Carter**—I would like to ask you, Senator Sterle.

**Senator STERLE**—No, you get to answer the questions here.

**Mr Carter**—You said it was the policy—

**CHAIR**—No, I am sorry; you just have to answer the questions. I am sorry. If I could ask you to answer the questions—

**Mr Carter**—I would just like an explanation of how it was the policy of the previous government that 152 other countries should take their meat off the shelves.

**Senator STERLE**—We just have to clarify that because, Mr Bellinger, you said that you went on the radio after Minister Burke had made a statement about how, if there were an outbreak in the Northern Territory, meat would have to come off the shelves in Tasmania. Regardless of the argument you had, is that not previous government policy?

**Mr Bellinger**—I said on the radio that no other country has this policy.

**Senator HEFFERNAN**—That is exactly right. Now you are getting to it. This was our policy.

**Senator STERLE**—But, to clarify, you said that it was nonsense—I think it was ‘nonsense’—that if there were an outbreak in the Northern Territory under the previous government policy, which we are still under at the moment, we would not have to take meat off the shelves in Tasmania, and that is not true.

**CHAIR**—Senator Sterle, my recollection is that we actually traversed this quite considerably at the last hearing. I will have to go back and check the *Hansard*, but I think there was some indication that the beef having to come off the shelves was indeed false, even though as a policy it sat there. I would suggest we go back and have a look at the *Hansard*, because we have already traversed this.

**Senator STERLE**—I have no problem, but I just want to clarify this for the record.

**CHAIR**—That is fine. We will have it clarified, we will check the last *Hansard* and we will make sure we come to a position.

**Senator STERLE**—Great.

**CHAIR**—Do you have anything further?

**Senator STERLE**—No, I am mindful of the time, so I just want to pass on to colleagues, because I have no intention of coming back and replaying this all again. It will be the will of the Senate that—

**CHAIR**—Okay. I will indicate to the committee that we are going to extend into our currently scheduled lunch break a bit, so we will go slightly over time.

**Senator STERLE**—That is not in my award!

**Senator BACK**—Thanks. I think I can clarify. The decision for meat to be taken off shelves is that of a state minister. It is not a federal issue at all. The information that has been given is interesting, and it will be tested further with other witnesses today, but my question is this. In the intervening time between the middle of December and now, I have not had a strong

representation from producers or producer organisations to, in a sense, continue the rage on this issue. It seems to me that it is very, very clear (a) that the whole issue is trade related—we know that, and I do not think anyone who thinks about it would dispute that—

**Senator STERLE**—That is your assumption, Senator.

**Senator BACK**—Thank you; it is my assumption, and I make it.

**Senator HEFFERNAN**—You are deadset on the money, Senator Back.

**Senator BACK**—I can understand clearly why meat processors want to see this come in. If carcass meat comes in, however it gets broken down in their processing works or wherever it comes from, that is not going to worry them too much. My question is: why aren't producer groups screaming the place down? Because it will inevitably see the demise of beef production in this country.

**Mr Bellinger**—Because of the structure of the industry, whereby you have the RMAC, the Red Meat Advisory Council, with the peak councils under that—the Cattle Council being one of those—advising the MLA on policy and the state farming organisations then paying for a seat on the RMAC representative committees, it is only the Australian Beef Association that stands alone in trying to persuade the Senate to reverse its decision on the importation of beef from BSE affected countries. We have been putting out the releases. We have had a number of interviews on the issue. I assure you, my phone has been ringing hot. From the mid-North Coast to Sydney and to Melbourne, producers are extremely concerned. I am delivering an address on this issue to producers on 27 February in Armidale.

**Mr Carter**—Could I add to that. In New South Wales the Rural Press has pointed the problem out. In Queensland the *Queensland Country Life* has studiously ignored it. You cannot find mention of it in its columns, even though Queensland is the biggest beef state. AgForce has only made one statement on it, which was an explanation from RMAC that, because of beef off the shelves, this was the only thing that they could do. So it is not getting out to producers. If you talk to a producer in a saleyard he just will not believe you. He will say, 'They are not that stupid.' That is the sort of reaction you get.

**Senator BACK**—You make the comment about the Senate stopping this. It is another issue that we will be attempting to get clarification on today. It seems to me from my reading of it that the right to make a decision of this type, of critical importance to an industry that we have all had a long association with, in fact is not that of the Senate or indeed the parliament. From what I can understand—but this will be tested again further today—it seems as though this decision could be underway today. The fact of it being 1 March is simply a decision by those who want to make it. That is of enormous concern to me, given the importance health-wise, animal and human.

**Senator HEFFERNAN**—Can you explain to me what the reaction was out there, amongst the cattle producers who you know and are in contact with, when the proposition was put by Senator Sterle that this whole policy was driven by the industry.

**Senator STERLE**—I was incorrect. Let us correct the record. There was very wide consultation with industry. In fact, I think the only part of the industry that does not agree is the ABA, but it was very widely consulted on.

**Mr Carter**—You will learn more about that shortly.

**CHAIR**—I would suggest that that is your view, Senator Sterle.

**Senator STERLE**—It certainly is my view.

**Senator HEFFERNAN**—Could I put it on the record that there have been sensitive discussions with some of the people from the peak bodies who are allegedly representing the interests of cattle producers. The cattle industry is facing its greatest challenge in global markets since the last collapse, which was in the seventies. We are in serious, serious trouble and here we are bowing down to lower our standards.

The people who do not want to be on the record are telling me that they were naive in accepting confidential discussions with the government, they were completely misled by the government and this was completely driven out of the department of trade. I do not doubt for a minute, Mr Crean has probably locked the radar on it. It is a decision that has been taken by cabinet: 'We do not have to come back to the parliament to change this position, we can go from precautionary principle to risk analysis. We will get someone to give us some independent advice on the risk analysis. Oh, by the way, he was the person we had in government before, he will give us the answer we want.' But from your point of view, there is no possibility that this came out of the industry is there?

**Mr Bellinger**—I have evidence of press releases issued by the Cattle Council of Australia wanting this beef off the shelves policy changed. I received a phone call, as I said in the last Senate inquiry, three hours prior to Minister Burke putting out a press release saying that this is what is going to happen. The ABA was certainly not consulted. I understand it was a closed door meeting between RMAC representatives and the minister.

**Senator HEFFERNAN**—Having been driven by the department of trade. I have to say it is very disappointing. It is patently obvious that this is all about trade. There is no question about that. When RMAC in its wisdom took the decision not to consult outside RMAC, in other words, not to go to the New South Wales farmers or people like yourself—Justin Toohey, as you know, said to me, 'Bill, we didn't talk to you because we knew you would oppose it'—would you not say that this is a betrayal of the industry?

**Mr Bellinger**—Most definitely. This is the biggest betrayal of the Australian beef industry that has ever occurred in this country. I am extremely worried about the ramifications of this for not only the price of cattle in Australia but, more importantly, the health implications for 22 million Australian citizens. It has happened before. Governments have sold out farmers on trade issues, but this is different. This is the Australian government putting at risk the lives of 22 million citizens.

**Senator HEFFERNAN**—There is a plethora of correspondence—is the way I am instructed to put it—between governments internationally and Australia demanding that we negate our



clean, green and free status, lower our standards so that they, and you can figure out who 'they' is, when they get a reactor, do not get disadvantaged in Korea and Japan. People as high as some of the key people in the MLA have said to me, and I will put it on the record, that they have been told that some of these, for instance, US exporters want to bring meat in here even if it is just one parcel so that they can make out the argument in Japan and Korea if they get another reactor: 'Australia takes our meat and they are BSE free. Mate, what's wrong?'

This is a betrayal of our trade position under some WTO guise. Can I go to the protocols? What was your reaction to the RMAC proposal that they not going to worry about whether a country had national livestock identification? In Brazil there is a huge trade in cattle across the border to Paraguay and Uruguay because they are worth more—it is like the Sydney Harbour Bridge. How would we know, Mr Steel, Dr Back and his veterinary colleagues, where the hell the cattle came from if there was no livestock identification? Our leaders—that is, RMAC condoned by MLA—have said: 'We don't worry about that. We're not going to worry about national status. We are not even going to worry about herd status. We will worry about individual beast status when there is no individual beast test.' Don't you think that is stupid?

**Mr Bellinger**—It is absolutely absurd. I go back to my opening statement—this is the aim of the multinational beef processors and retailers. They want all country borders broken down. They want the cattle status themselves identified, not the country they come from. So break down the borders and let's take beef from the cheapest country you can buy it from and sell it into the market where it is most expensive at retail to increase the profits.

**Senator HEFFERNAN**—Can I give you an example of that that is real and today. What is your reaction to the fact that some of our sausage skins go to China, then go from China to the US and come back here as US sausage skins? You can lose track of where they come from. Are you aware of that?

**Mr Bellinger**—Yes.

**Senator HEFFERNAN**—If you are aware of it could you explain it to the committee?

**Mr Bellinger**—I can understand the situation with sausage casings because we uncovered a similar situation with chilly beef cans. This was three years ago.

**Senator HEFFERNAN**—I have got one in my office.

**Mr Bellinger**—On the label was 'Product of USA'. We got in touch with the manufacturers, who were in Texas. They could not tell us whether the beef came from Australia or Brazil. They did not know. It was canned in the United States and then exported to Australia. All the stars are aligned at the moment. You have shocking labelling laws in Australia. They are abysmal. You have the supermarket duopoly. So you have this trade barrier broken and Australia is open pickings. We are sitting ducks.

**Mr Carter**—Burrangong abattoir closed this week.

**CHAIR**—It is in my home town. It certainly did.

**Mr Carter**—It is the beginning of a lot of domestic abattoirs closing. The reason for this is that the multinationals, in particular JBS Swift, are taking over with Brazilian government money from a development bank. They actually owe \$2 billion at present. They will dominate our beef industry and just use us as a pawn in a round-the-world turnout. They are sending some of our beef to Brazil at present.

**Senator WILLIAMS**—Mr Bellinger, I want to draw a parallel between the beef industry and the pig meat industry. I used to be a pig farmer, as you are probably well aware. We had six large piggeries in the Inverell area. Under the Hawke-Keating government, we allowed the importing of pig meat but the industry was told, ‘Look, there won’t be much imported pig meat coming in anyway.’ I think there were 49,000 tonnes in the 1999 year of imported pig meat and last year there were 219,000 tonnes of imported pig meat. Has your industry been told, ‘Look, don’t worry about it as there will be little by way of imports’? Are you fearful that what happened to the pig industry, which wiped out Australian producers, will be exactly what will happen to your industry?

**Mr Bellinger**—Yes. The parallels between the pig industry and what is happening now with the beef industry are astounding. Again I refer to the interview that I gave on 2NZ concerning the minister’s statement. Amazingly, he said that this will not be like the pig industry because the pig industry relies on overseas pig imports coming to Australia, and they are based on subsidised grain production. This is exactly what is going to happen with beef from either the United States or Japan. It is lot-fed beef graded on subsidised grain. They estimate that this Christmas 67 per cent of all processed pork sales in Australia were from imported pig meat. This decision will devastate the Australian beef industry. I cannot stress how important it is for the government to overturn the decision on this.

**Senator STERLE**—I am struggling with this, Mr Bellinger and Mr Carter. Industry was widely consulted and industry is supportive of this. Are you suggesting that industry is purposely going to throw itself on a stake, go broke and do Australians out of jobs?

**Mr Carter**—Industry is not supportive of this.

**Senator STERLE**—Well, I am sorry, Mr Carter—

**Mr Carter**—When you said to Mr Palmer that we had a thousand members and MLA had 44 thousand—

**Mr Bellinger**—46½ thousand.

**Mr Carter**—he quickly came in and disassociated himself and said that more than 50 per cent of Australian producers would be opposed to this. It is on the *Hansard*.

**Senator STERLE**—Mr Carter, I think it has been clearly established that the majority of the industry are supportive of this.

**Mr Carter**—No, it has not been.

**Senator STERLE**—Certainly the Australian Beef Association is not. I am struggling to grasp the thought that the majority of the industry is somehow going out there to kill off our domestic and export meat industry and throw thousands of workers on the unemployment scrapheap.

**Mr Carter**—You are talking about the Cattle Council. They do not represent 10 per cent of the Australian industry.

**Senator STERLE**—I am talking about RMAC as well.

**Mr Carter**—RMAC does not represent 10 per cent.

**Senator STERLE**—And I am talking about MLA.

**Mr Carter**—They do not represent 10 per cent. Their members are fewer than 20 per cent of the 200,000 producers in this country.

**Senator STERLE**—Would I be wrong in assuming they represent a lot more, that the collective membership represents a lot more members than you do?

**Mr Carter**—They do represent more but not the opinions of more.

**Mr Bellinger**—With respect, Senator Sterle, as for the claim that MLA have 46½ thousand members so they represent more than the Australian Beef Association do with a thousand members, you have to be a member of Meat and Livestock Australia in order to vote at their AGM. Now the ABA has been a major driver of increasing MLA membership in order to vote at the MLA AGM. Every single person is forced to pay a beef levy in this country, but you have to be a member of MLA in order to vote at the AGM if it is not for the levy vote; that is the one exception. RMAC is funded through the levy reserve fund, which is the money frozen when AMLC was turned into MLA by John Anderson in 1997. There was \$40 million of my money, growers' and beef producers' money in that fund to fund RMAC, of which the Cattle Council is a peak council member. In the last two years alone RMAC have lost \$11½ million out of that fund. So we do not agree with the policies of RMAC and the peak councils yet we are forced to fund them. This is called compulsory unionism.

**Senator HEFFERNAN**—Can I ask you to explain to the committee the break-up of the voting power of the processors versus the levy payers versus the members?

**Senator O'BRIEN**—We have not got time for that now.

**CHAIR**—I have extended the time into lunch. I know this is almost Senator Heffernan's last question. I was planning on pulling this up at a quarter to. I am letting Senator Heffernan ask what I assume will be almost his last question.

**Senator HEFFERNAN**—I just want to ask one on currency, on the impact of what is the US being technically insolvent—their currency is going to be greatly devalued to overcome their toxic debt—and on the impact that will have on the cattle industry. But to have an answer on the voting capacity would be instructive to Senator Sterle.

**Mr Carter**—Of the 200,000 producers in Australia who pay the levy, 39 of them have the power to outvote the rest.

**CHAIR**—To clarify this and so we can have the detail on the record, could you take on notice and perhaps provide for the committee those 39 and clearly set out for the committee the facts involved.

**Mr Carter**—It is JBS Swift with many millions of—

**Senator HEFFERNAN**—I understand all that but it would be nice to get it on the record.

**CHAIR**—It would be useful for the committee to have that provided to us.

**Mr Carter**—We can do that.

**CHAIR**—Senator Heffernan, do you have a last question?

**Senator HEFFERNAN**—I do. It is a serious concern for MLA and the people there that we are now under this great siege as to our capacity to trade internationally. Are you aware of the impact on our trading capacity and position not only from lowering our standards, with what is proposed by the government, but from the currency difficulty that we are having? It is why the likes of Burrangong have gone belly up and why even a lot of our lamb exporters are in serious trouble. It is against the background of the US, which is technically insolvent and has been for 18 months. It has got trillions of dollars of toxic debt warehoused and there is the possibility that we could eventually even go to parity with the US dollar, with the impact that will have on our capacity to export.

**Mr Bellinger**—The high value of the Australian dollar is seen as one of the biggest threats that we have had concerning the profitability of our processors in exporting red meat. I am well aware of the problems associated with that. The dollar is back down to US88c to US89c. It was hovering around US94c six weeks ago. If the dollar does go to parity or above, the stress will be incredible. It will be frightening.

**Senator HEFFERNAN**—We will have a '72 collapse in our capacity to export, won't we? It is coming now. I am in the business; I declare an interest. So we are already being stressed in our markets with our capacity to compete against the likes of high cuts from the US.

**Mr Carter**—I am getting half in real terms what I was getting in 1972.

**Senator HEFFERNAN**—That is right, I am aware of that, mate; so am I.

**CHAIR**—I want to briefly return to the issue Senator Williams raised about the comparison with the pork industry. In the Red Meat Advisory Council's submission under 'Future import volumes' they discuss the current volumes of imports. They go on to say:

There is no reason to believe this policy change will dramatically affect these imports levels.

Do assume from what you have said that you would entirely disagree with what RMAC have put in their submission?

**Mr Bellinger**—Most definitely. The claim, from memory, was that there was 36 tonnes of American beef coming into Australia before this ban was put in, so pre-2004-05. The situation has changed because the supermarket margin has increased in Australia during that time. We have had a global economic collapse, so the high-grade feedlot beef out of the United States is harder to sell in the traditional markets of Japan and South Korea, and Taiwan of course have been stop-starting the allowing of beef from countries such as Canada and the USA because of the BSE policy. So there is an oversupply of this high-quality graded beef in the United States and Canada. You look at the figures. Choice-grade sirloin in the United States is currently selling for \$13.86 a kilogram. In Australia it is selling from anywhere between \$30 and \$50 a kilogram at retail. It costs 58c to take a kilogram of beef from the United States to Australia. There is money to be made and someone is going to make it, and it is going to happen.

**CHAIR**—Thank you both very much for appearing today. We do appreciate your giving us your time.

[9.47 am]

**STEEL, Dr Robert, Veterinary Surgeon, Private capacity**

**CHAIR**—Welcome, Dr Steel. Do you have any comments to make on the capacity in which you are appearing today?

**Dr Steel**—I am appearing as a farmer and a retired veterinary surgeon.

**CHAIR**—You have lodged submissions 7, 7A and 7B with the committee. Would you like to make any amendments or alterations to those?

**Dr Steel**—I would like to make a further addition as a result of new information.

**CHAIR**—Thank you; we will have that tabled. Would you like to make a brief opening statement before we move to questions?

**Dr Steel**—I would like to correct some misinformation that I gave you. Raccoons are not naturally infected with CWD—the chronic wasting disease. Voles and other animals in nature in Canada and the United States have experimentally been shown to be infected. Secondly, as another correction, CWD is detected by the immunohistochemical test called the rapid test. I said they were not; so apologies for that too. Thirdly, TSEs have not been found in birds of prey or birds yet. Because of the time limitations, I would like to address the situation that has emerged.

If Australia is so frightened of the WHO legal action—and there has not been any brought forward for the AWB and the wheat industry—at least we should postpone the decision of 1 March of the new policy because of new scientific information. It should be delayed because new technologies have been developed and have been tried out. For example, there is the fantastic SPMCA technology, which is the serial protein misfolded cyclic amplification technology. It is fantastic. It can detect minute amounts in water of rogue proteins, or prions. It can pick up and has picked up rogue proteins—that is, misfolded proteins—in muscles and fat. We also have another very exciting possibility—and Professor Mathews mentions this. It is the Amorfix blood test. That, with look-alike technologies, may introduce so much more to the efficiency of detection.

Unfortunately, the rapid tests—that is, the immunohisto chemical tests—have been shown in 2009 to have many methodologies which are inefficient and not picking up the disease. So here we are with a situation of rapid tests that are not necessarily 100 per cent. It has been proved by the EU. If you are looking for facts, you do not go to the OIE, you go to the EU commission. They are the guys that are up to date. If you look at the OIE register of rapid tests, it is meagre and anachronistic. You go to the EU and you find all the information you want.

I will detail some of the amplifications that have occurred—and they are not mentioned, unfortunately, in Professor Mathews's report. I will just refer back to the importance of interspecies transmission experiments. VCJD was discovered by these transmission tests. That is how we found that BSE was involved, by using these exquisite animal models—that is, the mice

model. It has been fantastically important to follow this through in the science that has developed in the last 20 years. Now we have incredible methodologies through these interspecies transmission experiments.

I will mention some errors that occurred when my colleague the very estimable Dr Andy Carroll was here on 15 December. He said—and I did not hear this, unfortunately—that CWD in deer ‘has been around for an extremely long time’. That is unfortunately not correct. I think he was thinking of scrapie. It was in fact detected in a research facility in Colorado in the late 1960s, and in 1978 it was recognised as a TSE, but it was only in 1981 that it was first detected in the wild. So, in 28 years, it has gone into 14 states of America and two provinces of Canada. I also refer to another statement that my colleague made. He said:

This is not a disease that passes from animal to animal ...

And he said:

... we would be importing from controlled ... countries only muscle meat ...

In a later statement he said:

... implementation of the current policy—

he means the old policy—

would make the negotiation process easier.

I would like an explanation of that—and thanks very much for what has gone before, so I will not deal with that.

The first statement he made, that it does not pass from animal to animal, is wrong. It is scientifically wrong. Why is this? Because it passes through contact with animals and through their urine and saliva. BSE in cattle and goats has been shown to be transferable from animal to animal in milk to suckling offspring—and this is by this sPMCA test that was just announced in October 2009. Unfortunately, it makes Professor Mathews’s report almost anachronistic, because he does not mention this at all; it does not appear in his report. As I was saying, BSE in cattle and goats—that is, natural infections: it is not confined to just cattle; it infects two species of ruminants—has been shown to be transferable from animal to animal in milk to suckling offspring and to others via drinking milk in clinically normal animals, not diseased animals that are losing weight or staggering. This is incredibly important epidemiologically. Humans may be infected by contact via cosmetics and leather goods, but this is under review. I have received an opinion which says that that has not been the case, so I will leave that one.

Because of the time issue, I will have to get to my main area of concern. Obviously, the major factors concerning Australian agriculture involve interspecies transmissions in particular. I will not go through them, but they are all relevant and they all come back. Most of them come back to enhanced amplification when passages are made through sheep. So here is this industry that is incredibly important to our country. New Zealand has just announced it has atypical scrapie, and I have had some information that suggests that there is more in the wind than that. They call it

‘spontaneous’. That means it is sporadic. I have to say, with all reverence for the departments of agriculture, state and federal, that what has saved us from scrapie was their introduction of the scrapie import accreditation program, and they receive and will receive accolades for that, which they deserve. The Brucellosis and Tuberculosis Eradication Campaign is one of the great achievements of DAFF. Of course, brucellosis and TB exist in the wild and out on our farms. We have got wild deer that I am sure have got TB.

**CHAIR**—Dr Steel, we will need to move to questions. Do you have a final comment to make?

**Dr Steel**—Can I get to the main issue, please, Senator? I know that we are pressed for time, but it is really the scientific report that I want to address. As my submission states:

Many facts of science which imply great risks to Australia, particularly in the area of risks to animal health, are not mentioned at all ... by Professor Mathews.

For example, it is beyond belief that this Review wrongly states on, page 27 Table 1 under the heading

**“SUPPORTING INFORMATION & RISK ASSESSMENT”** which does suggest matters of importance.

Table 1 **“IMPORTANT TSEs and THEIR CHARACTERISTICS”**.

Scrapie –usual transmission—”“Spontaneous” possibly by milk”

CWD (deer and elk)--usual transmission “Spontaneous”.

This indicates to a reader that Professor Mathews believes that in Scrapie and CWD, the usual mode of transmission is spontaneous.

**THIS IS INCORRECT.**

Please refer to Page 9, **BACKGROUND AND HISTORY**, section 28, in which he states that “ Scrapie has been transmitted to mice and other experimental animals in the laboratory.”

He does not say that it has been transmitted to cattle. That is an incredibly important transmission, even though it is experimental. I know that CWD and scrapie do not directly affect humans, and that is the position as it is. But there have been transmission experiments and I have referred to how vCJD was discovered by using these interspecies transmissions. Again, Professor Mathews omits Scrapie experimental infection to cattle, a domestic animal which has carried BSE to cause vCJD. To quote my submission again:

All of a group of nine cattle ... succumbed easily to Scrapie ...

This is what happens: in repeated transmissions—even though it is experimental—these become amplified and the survival times get shorter and shorter. Scrapie and CWD are highly infectious. Direct animal-to-animal transmission occurs with scrapie and CWD via body fluids—saliva and urine—in normal animals, even a year before being confirmed by the rapid test. That is incredible. This is all with this new technology. As I say in my submission:



In Table 1 BSE's "Experiment transmission to" heading, are listed "mice, sheep and goats" but Professor Mathews makes no mention in the Review of the following important "back-cross" information from sheep to BSE in cattle.

Why is it important?

This information is about the changes that occur when Atypical cattle isolates of BSE acquire strain features—  
and purists would say, 'What do you mean by strain?' but let us use 'strain'—  
similar to the classical BSE agent when propagated in mice expressing SHEEP prions.

Professor Mathews does not—

**CHAIR**—Dr Steel, I am sorry, but we are going to have to move to questions or we are going to run out of time.

**Dr Steel**—Yes, I have not got through it because—

**CHAIR**—That is okay. It has all been submitted to us, so we can go through and read the submission. But thank you very much for that.

**Senator BACK**—Dr Steel, thanks again for the work you have done. Can I take you to page 69 of our proceedings. It is a response dated 20 January to you from Dr Andy Carroll, and I think this really goes to the sense of the whole thing. You had written to him expressing the concerns you have raised here. His response says:

In regard to chronic wasting disease (CWD) of deer and scrapie of sheep and goats, there is no evidence that these diseases can naturally infect cattle grazing on the same pastures as infected deer, sheep or goats. There is also no evidence that people can be infected by CWD or scrapie by consumption of meat ... DAFF veterinarians working on transmissible spongiform encephalopathy issues are aware of the CWD research conducted by Dr. Elizabeth Williams—

and my colleague at the University of California. Are you satisfied that the integrity of animal health, beef health, in Australia and the integrity of human health is adequately answered and met? Are you happy now as a result of that paragraph?

**Dr Steel**—Definitely not. It is a bit like the radar people at Pearl Harbour thinking, 'Oh, it's the boys coming in,' if you do not anticipate. There are three principles in science: presupposition, evidence and logic, and I do not think this new policy has any of these qualities at all.

**Senator BACK**—We have not as yet seen the protocols that are to be put in place. We only hope that today these might be revealed to us. Dr Carroll says that DAFF veterinarians are aware of the research. What sort of protocols would you believe would have to be in place to satisfy concerns you have and allay fears that I have?

**Dr Steel**—In that letter to me—and I thank him for it—he says that ruminant MBMs are not fed to ruminants. He does not say that MBMs are fed to the human food chain in Australia at this time via pig food. So you feed animals these highly dangerous things, assuming that we get this

policy introduced. At the moment, we have to be of the opinion that we are free, although having spoken to Andrew Bartholomaeus of the risk, frankly, I am not quite sure whether we are. But, if one assumes that we are, then at the moment there is no risk. Once we start importing from countries that have got BSE—as the graph I handed out shows by logical analogy, there is an enormous undeclared amount—we will have BSE coming in. The only requirement for these 22 countries is that, if they have a cohort of BSE cattle, they test them, not all the others. There are three ecological transmission pathways for most TSEs: one is spontaneous, or in other words sporadic; another is heritable, and this has now been shown with BSE; finally, there is infection. Without identification, how can we possibly know what is coming into the country?

**Senator HEFFERNAN**—No idea.

**Dr Steel**—Absolutely. If you look at the American system, there is some interplay. The Canadians and the Mexicans are taking the Americans on in the WHO because of country-of-origin limitations, so they cannot import their beef. The United States Department of Agriculture was against the COOL decisions. Now they have totally changed around. Why have they changed? You do not have to be Einstein to realise it is because of the risk of BSE. Just getting back to the point about huge undeclared amounts: the analogy on that graph is from Professor Mathews. They are not required to state how many cases they have got; they are only required to say that they have got BSE.

**Senator BACK**—On another point that I will ask you to comment on as it seems ironic to me: you and I would recall that in the 1970s it was the US government that demanded that Australia be free of brucellosis, knowing very well that brucellosis never had any involvement with meat. Yet this country spent millions and millions of dollars becoming free of brucellosis, and that was what led initially to the herd identification schemes et cetera. Those were all demanded by the US government, not because of health issues but because of trade issues. They then demanded that we increase the quality of our export abattoirs to a level infinitely higher than existed elsewhere in the world, not because of any health issues but because of trade issues. Does it seem unusual to you, with the boot now being on the other foot because Australia and New Zealand are the only region that is free of this, that the demands are being made by those very same countries in reverse? Does that seem ironic to you?

**Dr Steel**—I do not know about that Senator, but I do know that I am extremely proud of what the departments of agriculture have done and their incredible schemes.

**Senator BACK**—So am I. Some of us built our practices on them.

**Dr Steel**—It may be ironical, but I still think that we have every reason to laud the departments who look after us. Now, unfortunately, I feel that our departments are not looking after us. I feel, particularly because of the OIE science, and I have referred you to that, there are grey areas. There is one individual, who I will not mention, who I feel has not been appropriate for Australian agriculture.

**Senator BACK**—Thank you. I will stop it at that because others may have questions.

**Senator McGAURAN**—Is that the minister you are talking about?

**Senator STERLE**—It might be you, Julian! Dr Steel, just very quickly, you referred to New Zealand in your opening statement, but New Zealand has the policy that the Australian government is trying to put in here. It is the same policy, and they have had it for eight years without any problems.

**Dr Steel**—They made the decision after the scrapie was there, I believe. They are in the soup, so what have they got to lose? They have lost that uniqueness that we both had of being free of any TSEs, officially anyway. What have they got to lose? And it improves their trade. Now, because of the new technological advances in detection of TSEs, BSE and scrapie, and because muscle tissue has been found to contain prions—misfolded prions—our government can no longer say, ‘We’re importing beef and it has got nothing in its muscles to suggest infection.’ If you have got BSE in undeclared or unknown numbers, in unidentified cattle, how could we possibly not have a risk? Does that answer your question?

**Senator STERLE**—Thanks, Dr Steel. I know time is of the essence here so I will hand back to the chair.

**CHAIR**—As there are no further questions, thank you very much for appearing here today Dr Steel. We do appreciate your giving us your time.

**Proceedings suspended from 10.11 am to 10.33 am**

**LAVENDER, Dr Andrew John, Private capacity**

*Evidence was taken via teleconference—*

**ACTING CHAIR**—Welcome. Is there anything you would like to add to the capacity in which you appear today?

**Dr Lavender**—I am appearing in a personal capacity. I am a doctor practising as an anaesthetist with specific interests in neuroanaesthesia and cardiothoracic anaesthesia. I am also a director of the anaesthesia department in the Royal Adelaide Hospital. It has 100 doctors, so it is a very large department. I am also President of the Australian Medical Association of South Australia and a board member of the federal AMA. I am not representing any of those organisations today.

**ACTING CHAIR**—Thank you. Before we go to questions, I invite you to make a brief opening statement.

**Dr Lavender**—My concerns relating to this particular issue originate from the time I was working and living in the United Kingdom and in Ireland, and that was from 1987 through to 1995. During that time I certainly witnessed the origins of the disease as it first manifested in cattle and then eventually started to appear in humans. I vividly remember the then agriculture minister in the UK, in around 1990, sitting down for breakfast with his daughter and force feeding her some sausages or burgers or something like that to prove that it was safe. What eventuated was that, certainly in the public mind, it was decisions of government and bad decisions relating to animal feeds and various other things that allowed this to happen: the feeding of infected sheep or other animals or cows as bone meal to cattle, which are herbivores. It seemed that through decisions of government this was allowed to enter the human food chain, and I have great concerns from a public health point of view that that happened.

At the time I chose not to eat beef products from the United Kingdom or Ireland, particularly those that were of a mixed meat nature, such as sausages, black pudding, white pudding and various processed meats. Consequently, on returning to Australia, I am unable to give blood in Australia. It is a requirement of the Red Cross and most transfusion services in most nations that, because of the risk of transmission of the variant CJD, you are not able to give blood if you lived or worked in the United Kingdom or Ireland for a period of a year during those times. I am also very aware of the risks of CJD through the neurosurgical cases I am involved in.

My concerns relate really to the public health issue and the risk management. Obviously the safest thing is no risk at all—and we certainly seem to be more concerned with the risk of introducing diseases to the animal population than the human population. I am concerned that we still do not know very much about the disease and its process. We do not know what the dose response is—that is, we do not know if eating one gram of infected meat or a kilo of infected meat causes the disease and we do not know that if having one gram means you get the disease in 50 years and eating a kilo of it means you get the disease in 10 years. We do not know the natural history of the disease—cases are still presenting now and may well be appearing in 50 years time. We are still not sure of the natural progression of the disease, but what we do know is

that what does develop is a very severe, debilitating and rapidly progressing mental deterioration.

I am also concerned that testing proposals will be particularly difficult for processed meats, where you may have multiple animals present in sausage meat, black pudding, white pudding and various things like that that may appear in the market here. I am concerned, then, as a consumer, that ultimately, if it is a decision for trade—and I accept that that is a decision for government; the government does have to balance a lot of conflicting issues—that as a consumer I would like to know that the labelling will give me a choice of which products I may consume and allow my family to consume.

**CHAIR**—Thank you.

**Senator BACK**—Thank you, Dr Lavender. During the period 1987 to 1995 did you actually have any contact with patients affected with the conditions?

**Dr Lavender**—No. I think the numbers in the UK up to now are still only 150 or 160. In fact, the disease as a human variant really was not evidenced until later. I am certainly familiar with and have seen patients with the Creutzfeldt-Jakob disease, which is not the new variant with the bovine spongiform origins, and that is a very nasty, progressive, debilitating and ultimately fatal disease and it is something that is of concern with the potential transmission from surgical equipment and transplanted body parts and things like that.

**Senator BACK**—You made some observations about what we do not know: the disease and the process; the amount of meat that may have to be consumed; both the level of effect and the time for it; and its natural history and its progression, although you did say it was severe and debilitating. Can I take you to the testing of meat product. Would you care to expand on what safeguards you feel could be put in place if trade considerations do end up overtaking health considerations? Could you from your experience as a neuroanaesthetist, or as a doctor experienced in this area, tell us what sorts of protocols you think would be put in place and what sort of testing protocols we could have confidence in to actually effectively minimise or negate this risk?

**Dr Lavender**—The two principal issues are that meat products can arrive either as meat on the bone or as steak, which, from my understanding of the nature of the disease or the nature of the transmission, would be relatively low risk, although there are potential risks through blood and I do not think it can be perfectly safe. I understand that the Japanese do test each animal carcass that comes in. While I am not sure of the absolute certainty of that, I believe that that would offer some safeguards as regards whole meat, meat off the bone. As far as other products are concerned—processed meat products such as sausage, black pudding, white pudding and various other things like that—I find it difficult to imagine that there is any testing process other than testing each individual item, which is obviously impractical, which could guarantee safety. I would feel much safer if those products were excluded from the Australian market.

**Senator BACK**—If meat came in as carcass meat to be boned in processing facilities here in Australia, would that add to your level of concern, in the sense that you are still going to have bone and bone marrow, or would you be of the view that simply meat itself, the muscle, would

be the only safe way if we were to consider minimising this risk? Would you have a view on the cut-down product versus carcass meat?

**Dr Lavender**—As I understand it, there is always potential for some contamination. The biggest risk is from neural tissue—the spinal cord and some of the internal organs. Also, because there is potential blood transmission, it is very difficult to say that there would be absolutely no risk. But I do accept, from what we know, that the risk from eating meat that is cut from a carcass and has been trimmed properly seems to be very low. I do believe probably the best risk is no risk, but we do not have an ideal world, so I accept that it would reduce the risk if it were only carcass meat and each carcass was tested. That would reduce the risk significantly.

**CHAIR**—On the issue of hypothetically testing each carcass individually, how would you see that happening? Would you have the confidence in the appropriate authorities to be able to do that to a standard that would reduce the risk to the level that you thought was acceptable?

**Dr Lavender**—I would have to say no. I know that in Japan they do test every carcass. Having been to Japan a few times, I think they probably would do that. I would not have absolute confidence here. In America, as I understand it, testing was at a higher level and has gradually been decreased because in their own meat they do not want to find it because it would impact on their markets in countries such as Japan.

**CHAIR**—That is a very interesting point.

**Senator HEFFERNAN**—Can I just go to that very point. In Japan, they are quite happy to pay \$250 a kilo, so there is a bit of slack in the system. We are getting \$1.60 to \$1.80 in the saleyards here, so we do not have any slack in our system. This present policy will absolutely dynamite the cattle industry. Could I just go to the expert opinion that the government relied on. I note the difficulties in sterilising surgical instruments to ensure the CJD prion is not transmitted through surgical instruments. Would you say that it is a difficult thing to sterilise surgical instruments?

**Dr Lavender**—Absolutely. In fact, the practice now is sterilisation in any case where CJD is known. All the instruments are disposed of and that may include instruments worth many thousands of dollars.

**Senator HEFFERNAN**—This is a stake in the heart, as it were. So if that is the case with human surgical procedures what do you believe that, in an abattoir where there was a positive reactor, you burn down the abattoir? How do you decontaminate an abattoir?

**Dr Lavender**—The only way you can decontaminate something is to totally strip it down and wash it with a caustic product.

**Senator HEFFERNAN**—But if you have to destroy the surgical instruments—did they dismantle the abattoir in Canada and the US when they got a reactor?

**Dr Lavender**—I would doubt it.

**Senator HEFFERNAN**—Does that not make a furphy of the whole proposition that somehow you can test individual bodies and, if you get a reactor, you put that one down the chute?

**Dr Lavender**—Absolutely. From my belief and from a public health point of view the best risk is absolutely no risk. Obviously that means, given that we are an island, we can institute quarantine procedures from any disease process. I am a great supporter of our quarantine system.

**Senator HEFFERNAN**—I will take you further down this path. If I am an adventurous, likeable rogue, and there are plenty of those in the cattle industry around the world, and I can traffick cattle across the border, as they do in Paraguay, Uruguay into Brazil—it is an open road and not a big deal—if I am the departmental person who has been sent from Australia to supervise the abattoir because they have got entry into Australia, how the hell would I know where the beef came from if there is not a dead-set police like livestock identification? Does it not make a joke of the whole thing? How would you know, how would I know that, for instance, cattle that are killed in the northern part of the United States do not come out of Canada?

**Dr Lavender**—I am sure I would not know.

**Senator HEFFERNAN**—This government—and good luck to it—is under pressure from the WTO, and this is driven out of trade negotiations with Simon Crean. We seem to have switched, without notice, from the precautionary principle to a risk analysis. Would you agree with that?

**Dr Lavender**—Yes. We are talking about risk management rather than risk avoidance.

**Senator HEFFERNAN**—So do you disagree with the principle, which I do, of the risk analysis principle versus the precautionary principle, given that it is certainly an advantage to us not to have these diseases?

**Dr Lavender**—From a public health point of view you risk avoid and you only risk manage when you have the disease in place. You avoid any potential if and until the disease is present in the community. From a public health point of view we should avoid any potential to introduce a disease that we do not have in this country.

**Senator HEFFERNAN**—Item 34 of the expert report—and the poor bugger who provided it is sitting down the back of the room—says that a corneal transplant patient had been infected with CJD prior and after receiving a transplant. Another patient was infected either through the use of sterilised surgical instruments—and we have made the point on that—or through a graft of dura brain matter. Why would we want to switch from precaution to risk analysis when we know that human failure is providing infection?

**Dr Lavender**—Certainly, that would be my position.

**Senator HEFFERNAN**—Apparently, in recent months some gene work has been done in, I think, the UK where they have identified three genes, one of which is very receptive to mad cow disease. If you are aware, can you explain that to this committee?

**Dr Lavender**—I am aware of it through some descriptions of the literature. As we discover more about genetics—and genetics is really a very new field—we find that people with particular genetic profiles or cattle with particular genetic profiles are more susceptible to certain conditions. It appears that with BSE there are some individuals who may be more susceptible to the effects of prions than others. I think there are three different categories. One is very receptive to BSE or the variant, CJD. Another group are partly susceptible but not often—there are proven cases—and then there are others who seem unlikely to catch the disease.

**Senator HEFFERNAN**—With that in mind, would it not make very good sense to adhere to what Deputy Prime Minister Gillard thought back when we had as an issue in government maintaining the precautionary principle versus the risk analysis of an issue like this?

**Dr Lavender**—Absolutely. It is such an unusual and rare disease, and there will already be many people, particularly in the United Kingdom, who have this and who will develop the disease but will not know it or may not know it for 20 or more years. But there will be more medical information coming out, and that may guide us better with some of the management. In the meantime, we are at a very early stage of our knowledge of this condition compared to most other medical conditions.

**Senator HEFFERNAN**—So one of the issues that have been raised—it is in the shopped risk analysis, which we will get to shortly—is that the feeding of blood based products to animals is the way to get this around. You would agree with that.

**Dr Lavender**—Yes.

**Senator HEFFERNAN**—I know you are a doctor and I am a worn-out wool classer and welder. Could you explain to me how anyone in Australia would have the capacity, given that we do not have enough vets to supervise our own veterinary requirements and we are going to do away with a 40 per cent subsidy in AQIS, to know that a farmer somewhere in the back of Uruguay or wherever is not feeding ground-up offal et cetera to their livestock? How would we know?

**Dr Lavender**—I am sure we would not be able to know an individual circumstance.

**Senator HEFFERNAN**—So, once again, there is the precautionary principle versus risk analysis and how you analyse that risk analysis.

**Dr Lavender**—Yes.

**Senator HEFFERNAN**—Thank you very much.

**Senator BACK**—With regard to the gene side of things, what would your advice be if genetic profiling at this stage were advanced to a level in the UK where people who believed themselves to be at risk or who could possibly be at risk were tested and found themselves to be in your category 1, or very receptive? From public health policy and medical points of view, is that a way that we should proceed? Second, if somebody in fact found themselves in that category of very receptive, is there any action that could be taken to minimise the impact of a possible spread from an infection to a disease in that person in 20 years time?



**Dr Lavender**—Given what we know about the onset of this disease and its origins, the only safe response is to say, ‘Do not eat beef or beef products where there is potential risk of infection.’ I believe that in these situations, if someone has a genetic susceptibility, it is the right of the individual to know and the responsibility of the doctors to inform them that they have an increased risk. But the principle would be the same with cigarette smoking. We know that some genetic profiles are more likely to result in origination of a cancer than others, so the advice to those people would be, ‘You are at great risk; you should definitely not do this,’ but we would still advise others that smoking is still the principal risk of causing lung cancer and they should not do it, even though they are less susceptible than others to the promotion of this disease. In these circumstances, I would say: ‘You are at greater risk. You have to be particularly careful. It is your choice what to eat, but I would not recommend you eat this if you are at a greater risk.’ However, the recommendation to all people would still be that they make this choice.

**Senator BACK**—That will be an interesting challenge to those charged with responsibility for labelling.

**Senator HEFFERNAN**—I understand that, following on from that gene work, there is a live test coming down the line. Are you aware of that?

**Dr Lavender**—I have heard about it but I am not aware of any particular details about it.

**Senator HEFFERNAN**—So once again, going back to the precautionary principle, if there is a test coming, you would think you would err on the side of caution rather than put the Australian public at risk. Could I ask you finally what probably would be termed a ‘drop-dead question’. The independent advice on which the government relies and on which Minister Crean relied in his interview in 5AA, which I followed, was from Professor John Mathews, who came out of the department. Do you agree with his analysis in his report to the government on this?

**Dr Lavender**—I believe, in terms of risk, that there is no doubt that, from what we know, the risk is low, but from a disease and public health point of view, if we do not have the disease present in this country, the best thing is risk avoidance rather than risk management. You risk manage when you have the disease present; you risk avoid if you can. I understand that, if you are coming from a statistical and risk-based point of view, you are balancing it up with economic risks, which are the other side of the equation. That is beyond my realm of experience. In terms of a pure public health point of view, if you do not have it here then you do not let it in.

**Senator HEFFERNAN**—Stay tuned: we are about to come to it.

**ACTING CHAIR**—Thank you, Dr Lavender.

[10.57 am]

**MATHEWS, Professor John Duncan, Consultant, Department of Health and Ageing**

**ACTING CHAIR**—Welcome. Do you have any comments to make on the capacity in which you appear?

**Prof. Mathews**—I am appearing at this part of the inquiry as an independent consultant who was engaged by the Department of Health and Ageing to update the scientific evidence relating to transmissible spongiform encephalopathies. As Senator Heffernan previously remarked, I was the senior adviser to Health and Ageing on population health from 1999 to 2004 and deputy to the Chief Medical Officer, and while I was with the department I did have a considerable involvement in providing advice to the department about TSE-related issues as well as other population health issues. My principal scientific background is in epidemiology. I have had an acquaintance with TSE-related issues for 48 years.

**CHAIR**—Professor Mathews, would you like to make a brief opening statement before we move to questions?

**Prof. Mathews**—Thank you, Madam Chair. I am really standing by my written report. There are one or two typos in the version you would have seen. There is some recent additional scientific evidence, but nothing to change the major conclusions in my report. I understand you would have a copy, as it was made public by Health and Ageing some months ago. There was also a summary document, which I believe Health and Ageing would have tabled with you for the previous hearing on 14 December.

**CHAIR**—Professor Mathews, you just mentioned scientific evidence that you believe does not impact on your report, yet we have had some evidence to the committee that that should be taken into account. Can you explain to the committee why you do not think that that new scientific evidence is appropriate to be considered in the context of opening up the BSE importation?

**Prof. Mathews**—For example, we could take the misfolding cyclic amplification assay—sPMCA—which was previously referred to, and that has now been shown to be able to detect pathogenic prions in milk from scrapie-infected sheep. For many years people have suspected that scrapie could be vertically transmitted from mother to lamb via the milk. It has not provided evidence about how that may in fact happen. In terms of risk analysis—whether we are talking about scrapie, BSE or variant CJD—coming from the epidemiological tradition, it is the magnitude and the quantification of risk that is important. I understand the philosophical principle that, if one can avoid risk entirely, one should. But there is another philosophical question that says: well, is the risk in Australia totally zero at the moment? And I do not think we need to talk about that today. It is the magnitude of the external risk that my report has focused upon.

**Senator HEFFERNAN**—In terms of the risk, in terms of supervising human failure in a scientific system, how would anyone know, if I picked up a ewe that was lambing and it was dead, that I did not chuck it in the pig sty lets the pigs eat it?

**Prof. Mathews**—Of course. And that is one of the reasons why—if you wanted to, we could have a philosophical discussion about whether Australia’s risk at the moment is zero.

**Senator HEFFERNAN**—So we are going to go to that?

**Prof. Mathews**—Yes.

**Senator HEFFERNAN**—Could you table for this committee the terms of reference that you were given by the government to inquire into this matter and provide them with a report?

**Prof. Mathews**—They are in fact already tabled; they are on page four of my report.

**Senator HEFFERNAN**—Were you given any instruction of a change of modus operandi, from precautionary principle to, ‘Professor, could you give us a report based on risk analysis’?

**Prof. Mathews**—No.

**Senator HEFFERNAN**—So what is yours based on—risk analysis or precaution?

**Prof. Mathews**—As an epidemiologist, if you are asked a question about the science that bears upon the risk to the Australian population, you would base it upon what is known in the science, what is known about the current state of affairs overseas and, using logical principles, as was mentioned by the previous witness.

**Senator HEFFERNAN**—So where did the balance come down to?

**CHAIR**—Let him finish.

**Senator HEFFERNAN**—I thought he had. Where did the balance come down: to precaution or risk?

**Prof. Mathews**—The issue for me was: what does the science tell us about the risk for the Australian population? That is the question I addressed.

**Senator HEFFERNAN**—Thank you very much. So, the issue of potential prion based disease being introduced into Australia is a pretty serious thing to consider, isn’t it?

**Prof. Mathews**—Absolutely.

**Senator HEFFERNAN**—And it would have wide implications.

**Prof. Mathews**—Absolutely.

**Senator HEFFERNAN**—In the introduction to your report, you noted that you had not been able to assess all potentially relevant references in the time available. That is on page two, lines seven and eight. That is a fact, isn't it?

**Prof. Mathews**—Absolutely. However, the inquiries that I was able to undertake and the literature that I was able to read in that time was supported by, as I mentioned before, many years of work in epidemiology and a very longstanding interest in the transmissible encephalopathy question. I was involved in work in kuru in—

**Senator HEFFERNAN**—I am going to come to that.

**Prof. Mathews**—New Guinea. It is not as if this report was conjured up out of air, just based on a quick reading of references in the few weeks that I was working on the report—

**CHAIR**—We are certainly not suggesting that.

**Senator HEFFERNAN**—We are not suggesting it was an entirely shocking report. We are not saying that. When you wrote the report, were you aware of the gene work?

**Prof. Mathews**—Yes, I have followed that work. I was at a meeting of the Royal Society in 2008 when some of the most recent work was reported and I have read the papers that have appeared subsequently.

**Senator HEFFERNAN**—Given the serious nature of the issues and potential implications for our national health, don't you think it would have been better if you had been given more time and resources to review all potentially relevant references? Wouldn't it have been a better report with more time and more reference?

**Prof. Mathews**—It would have been marginally better, I am sure. I am not pretending that I have covered every nuance, but I have covered the major issues and I do not believe there are any important matters of principle that have not been addressed.

**Senator HEFFERNAN**—I am going to human failure, eventually.

**Prof. Mathews**—Yes, I understand.

**Senator HEFFERNAN**—Science is one thing; human failure is another.

**Prof. Mathews**—My science is not in human behaviour. Like you, Senator, I am struggling—

**Senator HEFFERNAN**—All human endeavour has human failure. Why didn't you have more time? Were you told, 'Son, get this in by a certain date.'

**Prof. Mathews**—Yes, I was given a deadline.

**Senator HEFFERNAN**—What was the deadline?

**Prof. Mathews**—The initial deadline for the report, I believe, was 15 September. I was asked at that deadline to have a report that could be looked at by the Transmissible Spongiform Encephalopathy Committee of the NHMRC which had not convened in person for some 18 months. My draft report was considered by that committee. They made some helpful suggestions about how it might be improved, but I do not think they went as far as saying that they would have endorsed it entirely, because they did not see the final report until after that—

**Senator HEFFERNAN**—So, as a consequence of that consultation, was the report changed?

**Prof. Mathews**—It was changed in some minor capacity. The major issue was that they asked me to update and make the referencing more detailed. In the first draft of the report I was not able to link all the appropriate references to—

**Senator HEFFERNAN**—Did that mean that the report had government input, even though it was an independent report, because they were advising you—

**Prof. Mathews**—No. The NHMRC committee is an independent group of scientists who provide advice on matters relating to health and ageing.

**Senator HEFFERNAN**—Who pays their expenses?

**Prof. Mathews**—They are funded by the NHMRC, but, as I said—

**Senator HEFFERNAN**—Where do those funds come from?

**Prof. Mathews**—That comes from the health and ageing portfolio.

**Senator HEFFERNAN**—The government. You are as independent as the person who pays you on these issues.

**Senator O'BRIEN**—Public servants.

**Prof. Mathews**—No, they are not public servants.

**Senator HEFFERNAN**—No, they are not. I understand that.

**Prof. Mathews**—They, the independent experts on the committee, are academics. Some government officials sit on the committee as observers to represent the agencies responsible for controlling BSE and vCJD.

**Senator HEFFERNAN**—Whose payroll they are on.

**CHAIR**—Given that there was obviously a draft report—it was not just a final and conclusive piece of work—apart from that body, who else did the draft report have to go to?

**Prof. Mathews**—I provided the draft report to the Department of Health and Ageing.

**CHAIR**—For what reason?

**Prof. Mathews**—They had asked for a draft report by 15 September and we had agreed to ensure that my version of the science was seen as okay by the NHMRC committee and that they be asked to look at it.

**CHAIR**—So as an independent author of the report—which I understand—it seems quite extraordinary for an independent report to have to be passed through a department of the government?

**Prof. Mathews**—It is not a department of the government.

**CHAIR**—You just said it went to the Department of Health and Ageing.

**Prof. Mathews**—I got no scientific feed—

**CHAIR**—Let's just clarify: when I asked who the draft—

**Prof. Mathews**—I did provide a copy to Health and Ageing.

**Senator HEFFERNAN**—Just in case it was off-key.

**CHAIR**—Okay, that is what I am trying to understand. If it is an independent report that is removed from government, why was a copy provided to the Department of Health and Ageing?

**Prof. Mathews**—The issue was to make sure that because of the timeframe we gave the NHMRC expert committee the opportunity to look at the report.

**CHAIR**—So why did you not just give it directly to them?

**Prof. Mathews**—I know virtually all the members of the committee quite well because I served as the CMO's representative on that committee while I was with the department. I could have done that and, in fact, I cannot quite remember whether I did send it directly to NHMRC myself.

**Senator HEFFERNAN**—Could you provide to this committee the correspondence, or a note of the phone call that instructed you to send your independent report for a little shopping session to the department before you released it?

**Prof. Mathews**—It was a commissioned—

**Senator HEFFERNAN**—Was there correspondence? How—

**Prof. Mathews**—They had commissioned the report, so of course—

**Senator HEFFERNAN**—I realise that, but they wanted to look at it before you released it to them?

**Prof. Mathews**—No, I did not release it. It was the department that released it.

**Senator HEFFERNAN**—But before it became an official document, they had a little shop with it, and they either sent it or it was provided to NHMRC. Was there an instruction that was written for you to do that?

**Prof. Mathews**—I would have to refresh my memory about that—

**Senator HEFFERNAN**—Could you see if you can come up with the correspondence for that?

**Prof. Mathews**—but clearly, the public interest, from my point of view, would be best served by the scientific opinions I had being looked at by colleagues, who were well informed about the area which—

**Senator HEFFERNAN**—I understand. It goes to the question of the independence of the report, because you are well paid as an independent consultant—and I realise you are not a 54/11-er—to give a view. But, yet, it has to be shopped around before you actually give the final imprimatur. If you were asked to provide—

**CHAIR**—Just before we move on, Professor Mathews—and I ask you to keep your views of that nature to yourself, Senator Heffernan—you have informed the committee that it has gone to the Department of Health and Ageing. Did Health and Ageing respond to you in any way when you provided that draft to them? Did they acknowledge it, or at any time did they comment on any of the work that was provided in the draft or ask you any questions about it?

**Prof. Mathews**—I had feedback on a couple of typographical errors in the report and I believe that allowed me to correct the typographical errors. I also had minor technical comments from DAFF and TGA, transmitted via Health and Ageing; these did not affect the conclusions of the report.

**CHAIR**—So you sent it to the department and they fixed your typos?

**Prof. Mathews**—I could provide the Senate with—

**CHAIR**—If you could provide the Senate with the correspondence that came back from the department after you provided the draft surrounding that issue you were talking about with the typographical errors that would be useful.

**Prof. Mathews**—Okay.

**Senator BACK**—Just before you return to Senator Heffernan, can I just be reminded: Professor Mathews, the deadline was 15 September; when were you actually asked in the first instance to—

**Senator HEFFERNAN**—That was my next question.

**Senator BACK**—I am sorry. I just cannot recall when you were asked by the department to—

**Prof. Mathews**—I was asked in August. It took several weeks—

**CHAIR**—Sorry—August of which year?

**Prof. Mathews**—Last August.

**Senator HEFFERNAN**—The date?

**Prof. Mathews**—I would have to refresh my mind.

**Senator HEFFERNAN**—Was it a written formal request?

**Prof. Mathews**—I had a telephone call in the first instance.

**Senator HEFFERNAN**—Was it followed with correspondence to confirm your appointment and your amount of money and contractual arrangements?

**Prof. Mathews**—Yes.

**CHAIR**—I am a little confused here. You were asked in August and the deadline was September?

**Prof. Mathews**—15 September.

**CHAIR**—You had a month to write this report?

**Prof. Mathews**—I had about two and a half weeks by the time we had sorted out the—

**Senator HEFFERNAN**—What a joke.

**CHAIR**—Sorry, this is not directed at you at all, Professor Mathews.

**Prof. Mathews**—I understand.

**CHAIR**—To be absolutely clear for the record: you had two and a half weeks to write the report on the scientific evidence for changing these arrangements for the countries that are now going to be allowed to send beef that have had BSE.

**Prof. Mathews**—I would have to verify the precise date.

**CHAIR**—Near enough to two and a half weeks.

**Prof. Mathews**—Let me repeat what I said at the start: I was not starting with a blank slate because I had a major role in providing advice to government while I was with government. I had in my head, if you like, the scientific evidence at a great level of detail up until the time I left government. I did also advise government after I had left on the previous report on BSE. So I only had to update the science from about 2006 to 2009.



**CHAIR**—Can I just ask when you actually left the department?

**Prof. Mathews**—I left the department in July of 2004, but I did some consultancy work for them in I think 2005 or maybe early 2006, which was also related to BSE.

**Senator STERLE**—I am very mindful, Professor Mathews, that whatever words you answer with will probably appear on the front page of the Junee Bugle. Was the time you had to do the report sufficient for you to put out a quality report?

**Prof. Mathews**—As people have commented, if one was starting from scratch, one would certainly have needed more time. But, as I have mentioned, I also had the opportunity to have the draft looked at by the other experts in Australia on the NHMRC Transmissible Spongiform Encephalopathies Advisory Committee, and I also communicated with people overseas who were in a position to know if there were any unpublished findings which might bear upon the substance of the report and the conclusions. So, yes, one can certainly say the report could have been more polished had more time been available, but I do not believe it would have changed the substance of the conclusions.

**Senator STERLE**—From that long and drawn-out answer, can I take it that it was enough time for you to do that?

**Prof. Mathews**—It was enough time for me to update my views about the risks to the Australian population from BSE and variant CJD.

**Senator HEFFERNAN**—But at the same time, as a scientist, you did not have enough time to go to all of the relevant references, as you say in the report.

**Prof. Mathews**—But because I had triangulated with the Australian experts and the overseas experts, I knew I had not missed anything important.

**CHAIR**—Before I let Senator Heffernan continue—and I will let him have a clear run because I know he has more questions—you mentioned having the draft considered by overseas—

**Prof. Mathews**—No, I did not show the draft to anyone overseas, but I did communicate with several people overseas and asked them whether any developments they knew about might be significant for the risk of variant CJD and may not yet have been published in the open literature.

**CHAIR**—Who were those bodies or people?

**Prof. Mathews**—One was an Australian expert who was working at the Edinburgh CJD unit, which is one of the lead units—

**Senator HEFFERNAN**—Can you remember his name?

**Prof. Mathews**—It will come back in a moment.

**CHAIR**—Perhaps, in the interests of time, you could provide on notice those overseas contacts whose expertise you utilised. That would be useful.

**Prof. Mathews**—Yes.

**Senator HEFFERNAN**—You served as Deputy Chief Medical Officer from 1999 to 2004.

**Prof. Mathews**—Yes.

**Senator HEFFERNAN**—And you represented the Chief Medical Officer on the Transmissible Spongiform Encephalopathies Advisory Committee.

**Prof. Mathews**—Yes.

**Senator HEFFERNAN**—From 2004 to 2006?

**Prof. Mathews**—Yes, I believe that is right.

**Senator HEFFERNAN**—So rather than this report being independent and a fresh view of the issue, it would obviously have reflected—which you have confirmed—the views and opinions you formed and the knowledge you gained in your previous positions together with the information supplied to you by the Department of Health, TGA, FSANZ, DAFF et cetera, and you got it vetted, as it were, by the department before you put it out—

**CHAIR**—Those are your views, Senator.

**Senator HEFFERNAN**—That is the evidence. So you do not disagree with that?

**Prof. Mathews**—I would not agree that it was vetted by the department—

**Senator HEFFERNAN**—No, but the information was information that you had in your head. So between what the commissioning departments knew about your views, which would have been well informed, and the information they provided you in order for you to prepare a report, which you may provide to us, in the limited time—the 2½ weeks available to you—they probably thought, reasonably, and had a pretty fair idea what the report would conclude. They were not expecting any surprises, were they? They knew your views. They asked you to do a report in 2½ weeks. They would have had a fair reason to know what the outcome would be, wouldn't they?

**Prof. Mathews**—I do not know about that, Senator. When I was in the department I guess I had a reputation for respecting science and presenting an independently-minded view of evidence rather than following what might have been required by departmental views.

**Senator HEFFERNAN**—Professor, we are—and I am—eternally grateful that you are here on your own, doing what you are doing, and we are in admiration of your integrity.

**CHAIR**—Indeed!

**Senator HEFFERNAN**—I note that you provided reference in your report to papers led by or contributed to by Dr Albert Farrugia—you know him, don't you?

**Prof. Mathews**—I know Albert, yes.

**Senator HEFFERNAN**—He headed the TGA section which looked after this area and provided advice to DoHA and the Chief Medical Officer while you were there, didn't he?

**Prof. Mathews**—Yes.

**Senator HEFFERNAN**—You respect Dr Farrugia's views on these matters?

**Prof. Mathews**—I do.

**Senator HEFFERNAN**—He has a lot of relevant knowledge?

**Prof. Mathews**—Yes.

**Senator HEFFERNAN**—And you would know his work well?

**Prof. Mathews**—I know his work pretty well.

**Senator HEFFERNAN**—Were these two papers authored by or contributed to by Dr Farrugia the only papers of work from Dr Farrugia you considered in your review?

**Prof. Mathews**—I would have to refresh my mind on that, Senator.

**Senator HEFFERNAN**—Could you take that on notice?

**Prof. Mathews**—Yes.

**Senator HEFFERNAN**—Are you aware of the work Dr Farrugia completed while at the TGA and the advice he gave DoHA in mid-2004 resulting in his recommendations concerning the risk CJD posed to Australian patients receiving blood-derived products?

**Prof. Mathews**—Yes, I am aware of some of those papers, Senator.

**Senator HEFFERNAN**—Are you aware of the recommendations he made rising out of that work?

**Prof. Mathews**—I am aware that at the time, in 2004, there were estimates of risk which suggested that the risk of variant CJD to the Australian public may be higher than the conclusions that I have come to in my report.

**Senator HEFFERNAN**—Very good. So you are aware of his recommendations and they concerned a higher risk?

**Prof. Mathews**—Yes. May I say that the reason my estimates differ from those is that I start with the epidemiology. The kinds of estimates in papers written by Albert Farrugia and others start with estimates of infectivity which are essentially assumed. Depending where you assume you start—in terms of infectivity and prevalence—determines the answers you get out. I guess at the time, I did calculations very similar to those of Dr Farrugia and came to rather similar conclusions. But once the big change in overseas evidence happened, which in my mind was the downturn of the variant CJD epidemic in UK, we then had some data upon which to triangulate the rather hypothetical calculations that had been put into those earlier papers.

**Senator HEFFERNAN**—Given that there is science being provided now that says there may be another peak.

**Prof. Mathews**—As I have argued in my report, it is very hard to argue, given the present data, that there will be another peak.

**Senator HEFFERNAN**—In the time given to you did you give full consideration to Dr Farrugia's data?

**Prof. Mathews**—I had done very similar calculations myself and discussed them with Albert.

**Senator HEFFERNAN**—Did you use his data as part of your reference, given you knew it existed?

**Prof. Mathews**—I have referred to Albert's papers, which refer to the papers you are referring to. So I was aware of them but, because the epidemiological evidence had changed and we had something concrete upon which to build a risk estimate, I preferred to do that rather than start with the hypothetical scenario, which is based on an assumption of how many prions you might have in an infected person's blood.

**Senator HEFFERNAN**—But in your report you do not actually refer to that information. Is that because you did not have time?

**Prof. Mathews**—That is part of the background information I brought to the report. There are already several hundred relevant references there. Had I put in all the secondary references I was aware of—

**Senator HEFFERNAN**—Where in the bibliography are the references, discussions and information provided to you from your colleagues you contacted?

**Prof. Mathews**—Sorry, what was that last bit?

**Senator HEFFERNAN**—Where have you noted in the bibliography the references? You contacted your colleagues, the bloke in England or whatever. Where are they referred to in the bibliography?

**Prof. Mathews**—I asked them if they were aware of anything that I would not be aware of because it had not been published.

**Senator HEFFERNAN**—Have you referred to them in the bibliography of the report?

**Prof. Mathews**—No, I have not referred to them in the bibliography.

**Senator HEFFERNAN**—Why not?

**Prof. Mathews**—Because I was using my contact network to just make sure that I had not missed anything.

**Senator HEFFERNAN**—But you were testing your view against their view. Would it not be appropriate to put that in the report?

**Prof. Mathews**—As I mentioned Senator, with 13,000 references that could have gone into the report, it just would have made it totally unmanageable.

**Senator HEFFERNAN**—But doesn't this say—to someone standing at the back of the room—that to do all of this in 2½ weeks is absolutely bloody stupid?

**Prof. Mathews**—It would be if I was starting with a blank slate but I was starting with something in here, Senator, in my head.

**CHAIR**—I am trying to equate the 13,000 references to the 2½ weeks. Of those 13,000 references, which were pre-existing and which were collated during the 2½ weeks?

**Prof. Mathews**—The ones that I was able to review are listed in the bibliography here. I was also building on my past knowledge. The reason I know there are something like 13,000 references is if you go into the PubMed and type 'BSE' and 'prion', that is the number of entries that comes up.

It is clearly physically impossible, even if you had a commission of 50 people working, to integrate all of that. But, because science builds with incremental bricks, you identify which are the most important bricks in the wall of knowledge. They are the ones that I used and they are the ones that were in my head. I just wanted to indicate that it is a very important area.

You can use this argument about the number of references to actually say that we do know a lot more about this disease than is being suggested by some other commentators. There has been a tremendous amount of research. The report builds upon a very substantial body of knowledge.

**Senator HEFFERNAN**—My understanding is that Dr Farrugia wanted to deregister blood-clotting factor VIII because he was employing the precautionary principle and not risk analysis. Do you agree with that?

**Prof. Mathews**—Yes.

**Senator HEFFERNAN**—It was a \$100 million decision to go to the artificial one. On substantially the same figures as you have relied on in your report, Dr Farrugia had indicated that there were measurable and unacceptable risks to Australian patients reliant on blood derived

factors which warranted a move away from blood derived products to recombinant products. Was that advice then wrong?

**Prof. Mathews**—No. That was very useful advice. The most important part of it would be not to use in Australia factor VIII that had come from countries overseas where we did not know the variant CJD status. CSL has quarantined its plasma products and is now just using Australian plasma for Australian use and of course with factor VIII we have almost entirely moved to recombinant.

**Senator HEFFERNAN**—Now Dr Farrugia based his advice on the precautionary principle established in government policy, so that was government policy. To your knowledge when did government policy change and when was some form of cost-risk analysis substituted for the precautionary principle in our national health policy?

**Prof. Mathews**—As far as I am aware, there has never been an explicit statement about that. I tackled this report as an epidemiologist. When you are an epidemiologist you ask the question: ‘Okay, what is the risk. Let’s try and measure it given all the data.’

**Senator HEFFERNAN**—So you did that in a judgement of your own on risk analysis rather than precaution. So as far as you know the government could still be working on precaution and not risk analysis.

**Prof. Mathews**—Of course they are. The very fact that they introduced recombinant factor VIII is—

**Senator HEFFERNAN**—All right, let us go to the risk. Do you accept that any increase in the risk of contracting CJD is unacceptable?

**Prof. Mathews**—Hypothetically it is unacceptable. But we all accept risks every day. The one substantial piece of feedback I got from the NHMRC committee, when they looked at my draft report, was where I had written in my conclusions that I believed the risk to the Australian population was negligible. They asked me to quantify the risk. Hence I revised the report to put in the fuller details of the quantification comparing the risk of variant CJD in the Australian population with the risk from motorcar accidents. As you see in the report, I conclude that it is many orders of magnitude more likely that anyone in Australia would die in a traffic accident than from vCJD—

**Senator HEFFERNAN**—But what you are saying to me now is that it is acceptable to have an increased risk because once we do this there is an increased risk. You are saying that is acceptable.

**Prof. Mathews**—Of course.

**Senator HEFFERNAN**—That is all I want you to answer. You are happy to accept the risk.

**Prof. Mathews**—But you are not arguing that we ban motorcars, Senator, are you?

**CHAIR**—We have got enough to deal with with beef. I think we will leave cars to another inquiry.

**Senator HEFFERNAN**—Do you support the proposition that importing beef products into Australia from countries with a history of BSE overseas—given there is all sorts of work going on and no live tests et cetera and there are a lot of likeable rogues in the beef industry—poses no, and I mean absolutely no, increased risk to the Australian population?

**Prof. Mathews**—I am not really to comment on the political end of it.

**Senator HEFFERNAN**—No, but as a scientist are you saying—and I will repeat it—that importing beef products into Australia from countries with a history of BSE overseas poses no increased risk to the Australian population?

**Prof. Mathews**—No. I am not saying that. I am saying that any increased risk would be negligible and I tried to quantify how negligible in my report.

**Senator HEFFERNAN**—The answer is yes. Could the decreased recorded events of BSE, given that you are the expert they are relying upon and that Minister Crean referred glowingly to you on radio as the source of the knowledge of the government—

**Senator STERLE**—And wouldn't you?

**Senator HEFFERNAN**—I am not arguing with that.

**CHAIR**—We are not arguing that, Senator Sterle.

**Senator HEFFERNAN**—Could the decreased recorded events of BSE be due to changed herd management practices with the mean average age of cattle declining?

**Prof. Mathews**—Are you referring to the UK—

**Senator HEFFERNAN**—Yes, I am.

**Prof. Mathews**—or other countries? Of course there have been a multitude of policy changes in the UK to bring about the decline in the BSE epidemic. Of course there has been a contribution related to the age at which cattle are slaughtered.

**Senator HEFFERNAN**—So could it be that the passive presence in younger cattle could be there but will not show up for years?

**Prof. Mathews**—As you know, there is both the passive surveillance and the active surveillance. The detection of BSE-affected cattle in the UK, as in most other BSE-affected countries, through passive and active surveillance is showing a continuing decline in almost every country.

**Senator HEFFERNAN**—Given the lower age of cattle and the long period in which this disease takes to turn up as symptoms, could these new herd management practices simply be disguising a higher incidence of detectable BSE?

**Prof. Mathews**—I do not believe so. You would have to invoke some kind of conspiracy if that were the case.

**Senator HEFFERNAN**—So on what do you base that. You say you do not believe so, but what evidence do you have to form that opinion?

**Prof. Mathews**—If you try to model what has happened in the BSE epidemic in the UK, and I am well aware of models from Azra Ghani, Neil Ferguson—I know them well—and Christl Donnelly and they are amongst the people who I did contact in finalising my report, it is very clear that you have to conclude there has been a very real and very dramatic decline in the incidence of BSE in the UK down to very low levels in the last year or so. In fact, one of the figures I quoted in the report is that the amount of BSE-infected material likely to be entering the food chain in the UK is down to less than 100 bovine infective 50 units per year, whereas it was perhaps a million times greater at the height of the epidemic.

**Senator HEFFERNAN**—Yes, and obviously we will come to that, and Senator Back is anxious to get some questions in. But against the background, we know this is all just colour and movement for the trade position and the other countries wanting to undermine our clean, green and free status and get equal standing in the market. There is no question about that. I draw your attention to the development of new testing for BSE and CJD. Wouldn't it be prudent for the Australian government to wait until these testing processes, or more comprehensive ones, were proven and available generally so we can provide certainty before lessening any of the protective controls, which is the ultimate control—that is, you cannot bring it in. Shouldn't we wait?

**Prof. Mathews**—You are asking me to comment on economic and political issues.

**Senator HEFFERNAN**—No, as a scientist considering the risk. You are doing this on risk analysis.

**Prof. Mathews**—Sure.

**Senator HEFFERNAN**—Wouldn't it be less risk once you had the test?

**Prof. Mathews**—But implicit in your question is that you would be able to afford and manage the kinds of testing procedures—

**Senator HEFFERNAN**—So it comes down to if we cannot afford it, we will just dismiss it.

**Prof. Mathews**—No, not at all. The combination of control mechanisms that are in place in the UK and other BSE affected countries have brought the risk of BSE in those populations down. The historical data from the BSE and CJD epidemics suggest very strongly that in order for humans to be infected that you needed quite a big dose.

**Senator HEFFERNAN**—We do not really know the answer though.



**Prof. Mathews**—Well, we do know that hundreds of thousands, if not millions, of people in Britain were exposed to contaminated beef product—

**Senator HEFFERNAN**—But we do not know the answer though.

**Prof. Mathews**—No.

**Senator HEFFERNAN**—We know the phenomena but not how it occurred.

**Prof. Mathews**—Sure.

**Senator HEFFERNAN**—So are you absolutely certain we will not see a third wave of CJD victims with other gene types? Or is that just a little bit of scientific speculation? How can you come to the conclusion that you have?

**Prof. Mathews**—In the end, science is a combination of data and judgment. With the kuru epidemic, which ran for 50 years, even though there was genetic variation in susceptibility in the kuru population, we did not really see a bimodal incubation period. When we look at the variant CJD epidemic now, there is no suggestion of a second peak. The arguments that would suggest that there will be one, at the moment, are not based on good evidence or, I believe, even good circumstantial arguments.

**Senator HEFFERNAN**—In other words, it is speculation. It is a considered view, but it is not based on—

**Prof. Mathews**—Yes, of course, any prediction—

**Senator HEFFERNAN**—It is best guess.

**Prof. Mathews**—of the future is a considered view. Forty years ago we looked at kuru and said, ‘Okay, maybe, if it was due to cannibalism it should disappear,’ and we could not prove that at the time, but that is essentially what happened.

**Senator HEFFERNAN**—Just erring on the side of caution regarding speculation of that assessment, if there were that risk, wouldn’t there be a similar risk in a herd in a country where there had been a case of BSE? Wouldn’t the risk be increased if you are sourcing meat from a BSE infected country?

**Prof. Mathews**—I have tried to quantify the risk. The argument is that we roughly know the average relationship between the number of BSE cases and the number of variant CJD cases. That is not going to change very much—not by more than an order of magnitude—

**Senator HEFFERNAN**—But there is science coming down the line that will possibly provide us with a live test, and, understanding of the genome, wouldn’t you err on the side of caution if you were a cautious scientist? We are saying to Australia, without reference to the parliament, that we are going to do this. That is what the government is saying, even though the industry is under siege now. Wouldn’t a sensible person to say, ‘Let’s just err on the side of caution here for awhile’?

**Prof. Mathews**—One can certainly make that case. My judgment was that the best estimate of future risk was as I laid out in the report. All the signals from overseas are that the spread of BSE has stopped and, in the countries where we have good information, the incidence of BSE is declining.

**Senator HEFFERNAN**—If the government, when you sent it to the department, had come back with a view that said, ‘Whoops, don’t write that,’ what would you have done?

**Prof. Mathews**—I would have written what I felt my judgment supported.

**Senator BACK**—As this hearing has unfolded over a few weeks, I am feeling increasingly sorry for you—

**Senator HEFFERNAN**—We all are.

**Senator BACK**—It seems to me that everybody is running a hundred miles an hour away from it all and it seems that it is all coming back onto your plate. As a person with some background in science, I can understand why. The Department of Health and Ageing in their submission said that it was in mid-2009 that they commissioned you to do that. We now discover it was mid-August. I think you indicated 15 September and the date of the report, as it is presented to us, is 20 September. It would be interesting if you could kindly give us a timeline. They made the observation—and I quote from the Department of Health and Ageing submission, page 3, point 9:

Furthermore the independent review indicates that it is possible to import beef from countries that have reported cases of BSE and maintain a high level of protection for the Australian public—

and it is your conclusions they are quoting from—

provided the appropriate risk mitigation strategies are put in place.

Could you advise us what you would regard as ‘safe’ risk mitigation strategies that could be put in place to satisfy you.

**Prof. Mathews**—The strategies that the UK adopted to bring their epidemic under control have provided a model for the rest of the world. In Australia, the responsible authority for the implementation of food safety will be, obviously, FSANZ, and I understand they are appearing this afternoon, Senator Back. They can talk about the detail. I do understand, as Senator Heffernan has indicated, that the adequacy of those measures, which include things like abattoir inspection, herd certification and so forth, depends on compliance in overseas situations. I agree with the implied argument that one has to be sure that what happens overseas is according to the guidelines we would like to see in place, but I am not the person who would be advising about either the detail of that or the implementation difficulties. I am sure FSANZ will be able to address some of those questions this afternoon.

**Senator BACK**—If you were not satisfied with the risk mitigation strategies that we trust FSANZ will share with us this afternoon, would you feel compelled to go back to the

government and voice your concern and perhaps reverse or at least amend the outcomes of your review?

**Prof. Mathews**—No. I have used the experience of what happened in the UK and the other countries in Europe that have progressively brought their BSE epidemics under control as the major guide, and it seems to me that overseas countries have two vested interests—and here I am getting onto economic and political areas, which are not my areas of expertise. They have got a vested interest in protecting their own population as well as their economic interests in selling beef, if they can, around the world. The difficulty for them is that, if they have already had some BSE and it has been controlled or is coming under control, then their prime responsibility is of course to protect their own population as well, and any regulations that Australian inspections put on top of those required by OIE and national authorities are going to, in a sense, link in with the measures that such countries have to protect their own citizens. You can always invent a scenario where an overseas country got all its contaminated beef and shipped it off to a country it did not like, but I do not believe one deals with the world on that basis.

**Senator BACK**—I was not so much thinking that it would be a deliberate act as much as an inadvertent one. I agree with you with regard to the UK. My recollection of the measures in the UK is that, firstly, there was restriction of the movement of animals and therefore individual animal and herd movement, quarantining of animals on farms, and quarantining and dealing with people moving on and off farms. It was, secondly, identification of individual animals in the UK circumstances; and, thirdly, as you quite rightly affirm, it was abattoir controls. Again I ask you about your report, because in the event that all this took place and we got a breakdown, it is highly likely that it is your report and your review that everyone would rush back to and try and hide behind over time. It surprises me that you would, in a sense, so willingly outsource to anybody else the fears that you have on risk mitigation. It surprises me that you would not have some form of rider which says, ‘I’m not satisfied with those strategies, and in place they would actually cause me to review my conclusions and advice.’

**Prof. Mathews**—I guess an unsaid assumption in my report is that not only would Australian agencies responsible act with integrity but that would also be the case with overseas countries who have the need to satisfy international requirements as well as their national requirements.

**Senator HEFFERNAN**—OIE stuff.

**Prof. Mathews**—Yes. This obviously is not my area of expertise. If we make scenarios where there is not a commitment in an overseas country that would both protect their own population and protect any beef product they were exporting, then of course you would say that we cannot predict the future. There is always difficulty predicting the future, but, in the honest attempt that I have in my report, I have assumed that just as the UK worked out how to bring things under control and hence informed the control measures for the rest of the world, the rest of the world will listen and implement them.

**Senator HEFFERNAN**—Do you think they need full traceability?

**Prof. Mathews**—Full traceability would be required in certain situations, and it may well be the case that, in risk situations where the information is inadequate, FSANZ would not authorise importation from such countries.

**Senator BACK**—So the UK enjoys the same status as Australia in this context—that is, we are both islands and therefore have a better capacity to be able to control movements in and out. Senator Heffernan asked the question I was going to ask next, and that was about traceback. But what if the scenario was put to you that there was the capacity for the movement of animals, or carcass meat or whatever, from uncontrolled to controlled countries and therefore the possibility of then coming into Australia, which at the moment is negligible—if that could be demonstrated to you to be likely or possible, even remotely possible, would that cause you to perhaps review the risk mitigation strategies and conclude that it would be difficult if not impossible to actually enforce that sort of risk mitigation?

**Prof. Mathews**—I am not privy to the detailed plans of FSANZ, but my understanding is that their vetting processes would be based on positive information. In the absence of information about those very important requirements, I believe it would be unlikely that beef product would be registered for import.

**Senator BACK**—Even if beef came in that was not registered for import but came in anyhow? That could be not because of any failure necessarily on FSANZ's side, but just simply commercial reality in countries with uncontrolled BSE status, so therefore there is a financial and commercial incentive for them to move meat or beef through the chain to a country which is not eligible now to bring beef into Australia but would be eligible to bring beef into Australia.

You were speaking of the future. I think we would all agree, from an epidemiological point of view at least, that the best predictor of future performance is likely to be past performance. We do have a track record, regrettably, of there having been breakdowns in the past. Whether that is just bad luck or whatever is to be debated, but it seems to me that you are being hung out to dry and that there is the capacity to interfere in the process and increase the risk about which you speak.

**Prof. Mathews**—You spoke about the problems of implementation in the past but most of the past mistakes were in place because the processes of transmission in the early days of the epidemic were poorly understood. Now they are well understood. I certainly agree in a situation where there were beef substitutions from unauthorised sources and, if FSANZ were not aware of that, of course one could argue that there might be a risk slightly greater than I have indicated in my report. However, we know that, if that were to be the case, there would have to be a lot of BSE in countries that manage to do that. The world is now so aware of what is happening that I believe that would be a pretty unusual circumstance and the veterinary authorities and FSANZ would be aware of it.

**Senator BACK**—What would it take and could we reverse it if, regrettably, a case of CJD appeared in humans in Australia?

**Prof. Mathews**—That is quite possible.

**Senator BACK**—As the government's most trusted independent expert, what would be your advice to government at that stage, in the event that we have already moved in this direction? I will ask you the same question also should we end up with a case of BSE.

**Prof. Mathews**—Sure. If you look carefully at the report, you will see that there is a risk that we will have a case of variant CJD in the country. We may have one, we may have two, we may have three, we may have none. If we do have one, almost certainly they would have been exposed when they were in the UK some years ago—15 or 20 years ago. There is a very careful analysis of that risk in the report. If we did get a case of variant CJD, it almost certainly would be in a person who spent time in the UK. In other words, they are already incubating the disease because they were exposed when they lived in the UK, temporarily or—

**Senator BACK**—Or had human growth hormone from the days before—

**Prof. Mathews**—No, that is a different disease. The human growth hormone is not variant CJD; it is iatrogenic CJD. We do not conflate those two because they are different domains. The big concern here is the risk from beef and the risk from beef is nothing to do with growth hormone or—

**Senator HEFFERNAN**—How come there is no risk from someone coming here and discovering it, that they had not got it in Canada or America.

**Prof. Mathews**—I do not understand the question, Senator.

**Senator HEFFERNAN**—You say if someone turns up here with it that they got it in Great Britain, but how do you know they did not get it somewhere else?

**Prof. Mathews**—We know there have now been 167 cases of variant CJD and we have three cases of variant CJD in the USA. All of the latter were infected when they were young in other countries—one in Saudi Arabia and, I think, two in Europe. With the small number of BSE cases in the USA one would not have expected any transmission to humans. In Canada, similarly, there was a much greater magnitude of exposure in the UK, where hundreds of thousands of infected cattle went into the food chain before the risk was controlled. The result of that is that so far there have been 167 cases of variant CJD. That is the equation. The handful of BSE cases scenario means that the human risk from those cases must be negligible. I have tried to quantify how negligible with the calculations.

**Senator BACK**—I guess it simply goes back to the question: what would cause your recommendation or the conclusion of the review to change? What would it take here in Australia to cause you to actually go back and review the recommendations you have made and upon which this move appears to be going to be made?

**Prof. Mathews**—My assumptions are based on the BSE epidemic that we know of, the variant CJD epidemic we know of and the assumption that the control measures in place currently will continue. Because of the concern from people such as yourselves the control measures will continue and one would hope may even improve. As new testing measures come in, they will give us more information. A testing measure can never be applied on a food lot by food lot basis; it is just not going to be possible. We have to be guided by the epidemiology.

**Senator BACK**—In a sense, in that awful and regrettable event, we actually cannot reverse the scenario then, can we, because even with the move to this circumstance in March, if it happens, we actually lose that OIE negligible status. We lose that contingent on the first

consignment of meat coming in from a country that is now regarded as controlled. It is a race to the bottom, isn't it, in terms of our status?

**Prof. Mathews**—I do not agree with that. The status of a country is based on what happens in the country. What scenario would you invent that would make us lose our negligible risk status?

**Senator BACK**—Simply because at the moment we are in the negligible category, we are entertaining the concept of meat being allowed in from a lesser than negligible status country, in other words a country that has had BSE now regarded as controlled. Therefore, if we take meat, beef, from a controlled status into what is now a negligible status, is it not the case in the eyes of the consuming world that we then join that particular country in its status?

**Prof. Mathews**—I do not think so. It would only be the case if in some way that led Australia to actually fall into the controlled risk category by having a case of BSE.

**Senator HEFFERNAN**—For trade purposes it is the same, a Senator Back points out.

**Senator BACK**—I will not pursue the issue with you because I understand it is not your field—I will pursue it with others. Thank you for your responses.

**CHAIR**—Referring back to the overseas bodies that you asked for assistance, did they provide anything to you that you were not already aware of?

**Prof. Mathews**—No.

**CHAIR**—When you submitted the draft report to the NHMRC, what was their response?

**Prof. Mathews**—As I said, there were a couple of typos –

**CHAIR**—When I asked you before, that was about the department. When you gave that answer before were you referring to the NHMRC?

**Prof. Mathews**—I am referring to what the NHMRC told me.

**CHAIR**—So the department has not responded to you in any way?

**Prof. Mathews**—No. The department did provide me with some feedback that identified some typos as well.

**CHAIR**—To be absolutely clear, because I think we are at cross-purposes a bit here: the department corrected some of your typos and sent you back the paper. What was the NHMRC's response to you?

**Prof. Mathews**—The major response was that they were in general agreement. They wanted the references to be individually cited, which I did. I understand that the chair of the NHMRC committee provided some feedback to the department, which I did not see.

**CHAIR**—Why would the NHMRC give advice to the department about your independent report that they would not provide to you? And how do you know it existed?

**Prof. Mathews**—We were in the situation where the government was trying to get the best possible advice. It asked me and, because the NHMRC committee had been advising the government agencies ever since the problem blew up again in 1999, there was a wealth of expertise on the committee. The government wanted to make sure that it was getting the best possible advice. It seems a perfectly rational strategy to me that they would test my advice against that of people who had similar and complementary expertise.

**CHAIR**—I am sure, as I said before, that it in no way reflects on you, Professor Mathews. I am just trying to understand the process of all of this. I am a little perplexed about and am at a bit of a loss about why the NHMRC—which is independent but at the same time funded by the government and which might come back to you with some of its suggestions—would then go to the department with commentary about your independent report and not provide that to you, as someone who was engaged to undertake an independent review.

**Prof. Mathews**—It seems perfectly rational to me. That is the way science works. No-one owns information, although of course people try to patent things these days. The way science works is by people commenting, criticising and discussing evidence.

**CHAIR**—I understand all of that.

**Prof. Mathews**—I approached some of the members of the NHMRC committee as an individual. The department, I think, wanted some comfort in what I was saying that it was not seen as irresponsible by the NHMRC committee.

**CHAIR**—I understand all of that. It is just that, given the import of this issue and the import of the substantiated independent advice regarding this issue, it is important that we understand all of this very, very clearly. So why would the NHMRC, having given whatever it is to the department in their response to your report, not give a copy of what they had advised to the department to you, given that you were the independent consultant and they were there to advise you?

**Prof. Mathews**—The NHMRC only saw the draft report before giving feedback to me, but they would have had access to the final report before writing directly to Health and Ageing.

**CHAIR**—I will rephrase that. Why would they not have given to you a copy of the advice they gave to the department?

**Prof. Mathews**—I did get some informal comments—

**CHAIR**—No, that is not my question. Why did they not give you the response that they had given the department about your independent report?

**Prof. Mathews**—I do not know the details. It just seemed reasonable to me that if the NHMRC would want to make any negative comments about my report then they should. Again, this is the way science works.

**CHAIR**—Do you know they were negative comments?

**Prof. Mathews**—I do not know. I do not think they were. This is the way science works.

**CHAIR**—Forget about the science. We just want to know how the process works, not the science.

**Senator HEFFERNAN**—If they had comments, why would they not comment to you?

**Prof. Mathews**—They gave me written comments on the draft report, which I was able to respond to. Most of them were fairly minor matters, and I responded to those in the final report.

**CHAIR**—If we look at the NHMRC as peers of yours, when things are peer reviewed in the scientific world, doesn't that information come back to author? Why would they not have given it to you?

**Prof. Mathews**—It varies, actually. For instance, sometimes when you submit papers for publication the expert reviewer's comments are confidential to the editors, as well as having extra comments that come back to the author. Sometimes all the comments from the peer reviewers are made public. It does vary a bit.

**CHAIR**—What the NHMRC tell you about their communication of their advice regarding your report to the department? You said that you got some informal advice that they had given their view to the department. What was it that you got back from them?

**Prof. Mathews**—I would need to refresh my memory of that. There were comments on my draft report that came back from the secretary of the committee, drafted from the committee discussion and which did not fully reflect the views of the chairman of the committee. They were mostly in terms of his misunderstanding of the discussion at the committee level, which I was not party to.

**Senator BACK**—When you say 'his', do you mean the chairman or the other member?

**Prof. Mathews**—The substantive comments from the committee on the draft report were that they were in agreement with the substantial conclusions, but because I was responsible for the final report I did not want to put them in the situation of endorsing what my final version was, and they did not want to be in that situation because they were doing this on the basis of reading the draft report and a teleconference at which they discussed it. What they were looking for were substantial problems. The problems that were communicated to me by the secretary of the committee were mostly related to the communication issues, and I understand that the chair of the committee did close the loop with the department afterwards. But I do not believe that I saw that communication.

**Senator HEFFERNAN**—Is that information about the comments coming back written down? Did they write to you?

**Prof. Mathews**—I have an email from the secretary of the committee attaching the comments on my draft report.



**Senator HEFFERNAN**—Could we be provided with that email?

**CHAIR**—Could we be provided with that?

**Prof. Mathews**—Yes, but, as I said, most of the issues identified in that were not of substance—I will provide a written explanation about that.

**CHAIR**—Just to clarify, in terms of the process, the NHMRC came back to you with those issues of the typo and that they were broadly in agreement. They came back to you and there was that formal process. They also then gave advice to the Department of Health and Ageing about your report that you were notified of, but you were not given the advice that NHMRC provided to the department. Is that correct?

**Prof. Mathews**—I know there would have been an opportunity for the NHMRC to provide advice. I do not know the nature of that advice, but if it had been negative I would have heard.

**Senator HEFFERNAN**—In the written communication between the NHMRC and yourself that you are going to provide to us, was the difference of opinion that the chair had included?

**Prof. Mathews**—The written comments that came back were the minutes taken by the secretary of the committee at that teleconference. As I think I mentioned, some of the misunderstandings related to him as an individual, rather than to the committee. But in order to expedite the process—

**Senator HEFFERNAN**—Was this in the 2½ weeks or after the 2½ weeks that it expired?

**Prof. Mathews**—My first draft, I think, would have been between 15 and 20 September.

**CHAIR**—You might understand our concern here around the independent nature of the advice—

**Prof. Mathews**—Yes, sure.

**CHAIR**—which is why we are just trying to be very clear—and, again, it in no way reflects on you—about the process. So if you could provide all of that to us that would be very useful. You said earlier that your job is about looking at the science and determining any risk for the Australian population. I understand that completely. That is your job. But that identifies the scientific basis of whether or not we should be going ahead. After that there is an enormous chain of events; at which stage you can have any amount of human failure. So, regardless of how good the science is, if the human failure exists the whole thing goes to custard.

While I know that is not your role, obviously you would be concerned if you determined that the science is okay for this to go ahead and yet the process falls down. So who, in your opinion, should be responsible for ensuring that that human failure component does not arise, and is it possible to say, 100 per cent, that human failure will not eventuate and then negate the science that you say is okay?

**Senator HEFFERNAN**—Against the background of citrus canker and Brazilian beef and the OIE certification.

**CHAIR**—Yes. So who is going to do it and why do they have your confidence that they will be able to do it, 100 per cent?

**Prof. Mathews**—That is basically the issue. If we had 100 per cent compliance with everything, we would not have any road accidents and so on and so forth.

**CHAIR**—We are not too worried about everything today, just BSE.

**Senator HEFFERNAN**—We are an island. We do not have mad cow disease. That is a quantifiable. Everything from there on is a risk. You quantify it.

**Prof. Mathews**—Sure, and I have done my best to quantify it as a risk.

**Senator HEFFERNAN**—Against human failure?

**Prof. Mathews**—Of course, human failure could make those risk estimates rubbery. However, for that to happen you would have to have outbreaks of BSE in countries which we were prepared to accept beef from.

**CHAIR**—Taking into account Senator Heffernan's very good point before about beef and stock crossing borders and not being traceable, the argument you are putting forward does not really stand up, does it?

**Prof. Mathews**—Our veterinary authorities and our FSANZ people are used to dealing with these issues. If you have BSE in a next-door country, you would be highly motivated to make sure that you did not have that cross-border traffic of beef—

**Senator HEFFERNAN**—We had the highest certification possible, OIE, foot-and-mouth-free zones in Brazil. Our mob down here ticked it off. Heinz got the surprise of their life when it was ploughed in. They said, 'Shit, we didn't think we'd get it in.'

**CHAIR**—Gosh.

**Senator HEFFERNAN**—We go over there and it is a farce! It is a dead-set farce. Our government at the time—there has been a change of government since—said, 'We are going to go over there and check all of this out.' We have not heard back yet, boys down there in the department, what you discovered. It was a farce, and yet it had the highest certification possible to say 'do it'. Isn't it the same? India has 275 to 280 million cattle.

**Senator BACK**—288 million.

**Senator HEFFERNAN**—They pat and milk them but they trade them across the border so that people across the border can eat them.

**CHAIR**—Professor Mathews, I would like to ask a couple of quick questions to finish this off before we go to lunch. Who approached you to take up the consultancy for the independent review?

**Prof. Mathews**—It was Mary McDonald from the department of health. She will be attending this afternoon.

**CHAIR**—Where does your remuneration come from?

**Prof. Mathews**—The Department of Health and Ageing.

**CHAIR**—I am pretty sure you took this on notice earlier. I want to be sure about the timeline over the 2½ weeks for the process—starting and finishing. I just want to clarify that you agreed to take that on notice.

**Prof. Mathews**—By the time we had a signed contract, it was 2½ weeks.

**CHAIR**—If you could just give us the timeline from the beginning to the end of the appropriate milestones along the way.

**Senator HEFFERNAN**—You would not care to provide us with the contract, would you?

**Prof. Mathews**—I am not sure.

**Senator HEFFERNAN**—You can knock out the dollars they paid you. We do not want to know whether they paid you \$100,000 or \$100. I think you have already told me.

**Prof. Mathews**—The only bit that is relevant is the terms of reference, which are in my report.

**Senator HEFFERNAN**—That would be interesting.

**Prof. Mathews**—The terms of reference are here. They are in the document you have.

**Senator HEFFERNAN**—Professor, once again, congratulations and thank you very much for being here. In item 34 of your report, you noted that a corneal transplant patient had been infected by CJD after receiving a transplant. Another patient was infected either through the use of sterilised instruments or a graft. In item 56 of your report you noted four blood-borne transmissions of CJD and one infection of a haemophilia patient, presumably through the transfusion derived clotting factor. These are real risks. Patients with haemophilia and Von Willebrand disease really have a bad deal, I would have thought, with HIV, hepatitis C and other infections over the years. You would agree with that?

**Prof. Mathews**—Yes.

**Senator HEFFERNAN**—You would not want to expose them to any new risk, no matter how remote, would you?

**Prof. Mathews**—Of course not. That is why I tried to quantify what the risk might be.

**Senator HEFFERNAN**—But there is a risk. Just by coming in, there is an increased risk.

**Prof. Mathews**—As said, I tried to quantify it.

**Senator HEFFERNAN**—Quantifiable or not, there is an increased risk—right?

**Prof. Mathews**—But it is negligible.

**Senator HEFFERNAN**—There is certainly a lot of uncertainty around the figures you have based your evidence on. In item 64 you talk about competing views and numbers for humans. There is some speculation on the numbers.

**Prof. Mathews**—Sure.

**Senator HEFFERNAN**—A similar situation of uncertainty remains about the rates of prion occurrence in cattle—correct?

**Prof. Mathews**—Yes.

**Senator HEFFERNAN**—No-one can give you an absolute certainty on these figures—there are no guarantees—and they vary substantially, and they are all open to different interpretations, and obviously there was some discussion with some people you dealt with, going back to Dr Farrugia's time.

**Prof. Mathews**—But the quantitative data we have related the size of the BSE risk to the size of the variant CJD risk.

**Senator HEFFERNAN**—There is also uncertainty about the incubation period in both cattle and humans, depending on the genome type—right?

**Prof. Mathews**—Yes.

**Senator HEFFERNAN**—And how they were exposed to the prion—correct?

**Prof. Mathews**—Yes, but we got some very good information about the mode of exposure. We know that those transfusion-related cases of variant CJD have an average incubation period which is shorter than that following exposure to BSE-contaminated food. It is about half. That is, in a sense, reassuring because it says that we are not going to get a huge epidemic of secondary transmission of variant CJD in the UK.

**Senator HEFFERNAN**—But we cannot say with certainty that we are coming to the end of it.

**Prof. Mathews**—We cannot say with certainty, but it is the best judgment. I have made the extreme assumption, in my calculations, that the final size of the variant CJD epidemic in the

UK may be as large as twice the size of the current one, even though the current epidemic is tailing away. So that is a quite extreme assumption, given the data.

**Senator HEFFERNAN**—At item 70 you state: ‘BSE has not been completely excluded from UK and European herds’—you know that. I also note that the test for BSE in slaughtered animals is not highly reliable, particularly with prion testing in younger animals—correct?

**Prof. Mathews**—Sure.

**Senator HEFFERNAN**—So there is a vagary even in testing the dead.

**Prof. Mathews**—Sure. And yet we know that the risk to humans in the UK is now greatly reduced, if not close to zero.

**Senator HEFFERNAN**—We do not even know whether there is another wave coming because of the genome thing and the incubation variation.

**Prof. Mathews**—But the risk estimates for the Australian population have allowed for that by saying that the epidemic in the UK might be twice as big as we currently see, even though, when you look at the curve, that is quite an extreme assumption to make. So I have taken that into account in the risk estimates—

**Senator HEFFERNAN**—The current, not highly reliable test means there is still a risk, and this risk cannot at this stage be reliably measured, can it?

**Prof. Mathews**—That is true at the level of the individual animal, depending on the age—the older the animal is when you test it, the more likely it is to test positive. But we have got the empirical evidence that the epidemic in the UK has come under control, and the human epidemic is also apparently—

**Senator HEFFERNAN**—And the test does not identify the newly identified variant L and H strains, does it?

**Prof. Mathews**—No, but you will not get any spread of those late-onset strains in the absence of a transmission pathway such as the feeding of meat and bone meal, and that is now not allowed. So a late-onset case, which could occur in Australia as equally as it could occur in any other country of the world, is almost irrelevant to this problem.

**Senator HEFFERNAN**—Bear in mind that this is all about the US and Canada trying to get us down to their standards so they can get equal opportunity in the trade against the dollar’s equivalence with the US dollar.

**Prof. Mathews**—I do understand the implications. It is not my area of expertise.

**Senator HEFFERNAN**—It is a serious problem. I note that in item 96 of your report you mention low levels of meat imports as being a contributing factor to protecting Australians from the risk of CJD. After the pig experience, there are going to be bugger-all pigs coming here for a while. And obviously I have been talking to some of the major importers—there are very few: 60

per cent of the market is three operators in the States; those blokes know what they are doing. Following that argument, wouldn't increasing meat imports from countries with a record of BSE increase the risk for Australian consumers and patients? Doesn't that follow?

**Prof. Mathews**—I have made it an allowance that we would import 10 per cent of our beef products from overseas, and the risk to the Australian population is negligible. If we go up to 100 per cent imports, it is still four million times more likely that you will die in a road accident than get variant CJD.

**CHAIR**—Which is not a good analogy, I'm sorry.

**Senator HEFFERNAN**—No. We know, because obviously we talk around the corridors, that this is driven out of Trade and poor old Minister Crean does not know anything about the under-the-fingernail side of this but is relying on advice. I think we should come back after lunch, Chair.

**CHAIR**—Okay. Thank you, Professor Mathews. With your indulgence, we might come back after lunch and perhaps have another 15 minutes with you and then move to the department at 1.15 pm. If everyone could accommodate that, that would be appreciated. We will suspend for a brief lunch.

#### **Proceedings suspended from 12.28 pm to 1.02 pm**

**CHAIR**—Welcome. Thank you, Professor Mathews, for accommodating us and giving us a bit more of your time.

**Senator HEFFERNAN**—Once again, can I just reiterate on behalf of the committee our thanks to you for appearing today. We are very grateful. Professor, I note with some concern your comments re prion infections passed on through milk. Should Australia be reviewing importation of milk and milk-derived products from countries which have experienced BSE or scrapie?

**Prof. Mathews**—I do not believe there is any evidence of the transmission of disease to humans through milk. In terms of variant CJD my view of the overall evidence is that the most important factor determining whether humans were exposed was a large dose of contaminated material. It is very likely that a number of the BSE-affected animals which were born after the ban on MBM was introduced in the UK were not explained in terms of the current understanding of transmission, that is by MBM, so it is quite possible that the milk route of transmission also works for BSE in cattle in certain circumstances. But I know of no evidence linking transmission of disease via milk to humans.

**Senator HEFFERNAN**—We keep referring today to the UK, and there has been a lot of discussion between us about the UK. Canada and the US have different management models to the UK, are you familiar with that?

**Prof. Mathews**—I am not familiar at the level of microscopic detail, but clearly—because of the magnitude of the threat to their industry and their public health—in the latter days of the response in the UK, it has been highly organised and well coordinated. In a sense that makes the

point that the world response is in a sense based on risk management. Countries have taken prudent measures to protect their own populations.

**Senator HEFFERNAN**—If you do not have an understanding of their procedures, wouldn't it be the most basic requirement to be able to make a risk analysis, to understand what the risk would be. First, you would have to know what the management processes of that country were.

**Prof. Mathews**—Of course. And the adequacy of those is very important. But the maximum magnitude of the risk depends upon the magnitude of the BSE threat in those countries.

**Senator HEFFERNAN**—But if you do not understand how they are going to manage the thing, how can you get a grip—I mean, if there is cross-border trafficking of cattle and no national livestock identification. Japan wanted to cut identification. There is none of that. We are the only blokes on the planet who do not have foot and mouth or BSE. What we do have is NLIS. If you are familiar with Britain but do not know their procedures, isn't that a flaw in your report? We are dealing here with the correspondence that put the pressure on. And I am going to come to the fact that the Minister for Trade said it was all driven out of the beef industry, when in fact it was not; it was driven out of a couple of countries that want to import beef into Korea and Japan and want to be able to come here to offset the BSE outbreak. I will move on. As an epidemiologist, you understand better how disease outbreaks have an uncomfortable record of being off the model. For instance, the swine flu prediction was completely wrong.

**Prof. Mathews**—I could comment on that in detail, but I will not.

**Senator HEFFERNAN**—Given that we seem to be on the verge of having highly reliable tests—well, we hope they are going to be—for BSE and CJD in the near future, don't you think we should give Australians real certainty about the safety of the meat on the table and the blood and blood products in the hospitals? If we just waited a little longer to get testing regimes and protocols in place to eliminate them being exposed to CJD in any form—why take the risk when we know that just down the road—

**Prof. Mathews**—Those testing procedures are not going to change the information available to us very much, because we know we know what that relationship is between BSE and variant CJD—and the magnitude of that relationship—and we have already got procedures in place to protect our plasma products and blood donors. Again, new tests could make that more stringent but all those precautions are largely independent of any decisions that government might make about beef import policy.

**Senator HEFFERNAN**—Before lunch, you mentioned you would take it into account in doing your report. When doing your numbers for beef imports you thought it would be contributing about 10 per cent of the national consumption if the government's measures were implemented, and this risk would increase if that contribution was increased. So it would double at 20 per cent and quadruple at 40?

**Prof. Mathews**—Sure, and we still come out with a very negligible risk, as I mentioned before.

**Senator HEFFERNAN**—Yes, but we are increasing the risk. Do you know the proportion of consumed pork in Australia that is now imported since restrictions have been removed?

**Prof. Mathews**—I have heard comments that it has increased, but I cannot comment on the details.

**Senator HEFFERNAN**—Is there any reason in your mind that the same thing could not happen to beef, given the dollar parity and the long-term problem the US has with toxic debt that has been warehoused and the need to deflate the value of it with inflation, which means the currencies will be at parity if they are going to solve that problem, and interest rates will be a lot higher too, I might say? Why did you choose 10 per cent? Was that just a reasonable figure?

**Prof. Mathews**—It is something to hang an estimate on. If you make it 100 per cent—

**Senator HEFFERNAN**—But isn't that a guess?

**Prof. Mathews**—Of course it is a guess, but it has got to be between nought and 100 per cent. If you make it 100 per cent then the risk of variant CJD death is still four million times less than the risk of death from a road accident, even if all our beef came from overseas.

**Senator HEFFERNAN**—I understand that scientific papers are peer reviewed and that is very appropriate. However, your report is not a scientific paper—would you agree with that?

**Prof. Mathews**—That is correct, but it was looked at by the experts of NHMRC—

**Senator HEFFERNAN**—You are not going to submit this to a journal for publication to inform your scientific colleagues, are you?

**Prof. Mathews**—I am not going to submit it for publication in that way. I think the copyright in the report rests with the government as they have commissioned it.

**Senator HEFFERNAN**—That is fair enough. So you are reporting to the government. The government knows your past history, thoughts and views—it is all written down. We know the contest between Dr Farrugia and others on risk analysis versus the various options. With this being a report that you were contracted to undertake by DoHA, did they provide you with any guidance on the issues of governance, process or seeking contribution from others?

**Prof. Mathews**—I sought advice from members of the NHMRC special expert committee and I had a discussion with the department about them also asking NHMRC to look at the report.

**Senator HEFFERNAN**—So you were contracted to do an independent report by DoHA.

**Prof. Mathews**—Yes.

**Senator HEFFERNAN**—You then go to DoHA and say, 'Do you want some input into my independent report through the NHMRC?'



**Prof. Mathews**—It was discussed and I cannot remember whether I suggested it or the department suggested it, but it is a way of providing reassurance to me and the department—

**Senator HEFFERNAN**—I realise the department would want some reassurance. They wanted to know the outcome before you wrote it and, given they only gave you two and a half weeks to absolutely tip the cattle industry on its head and then blame the cattle industry, I do not doubt you were the meat in the sandwich.

**CHAIR**—That is your view, Senator Heffernan.

**Senator HEFFERNAN**—You mentioned earlier that the quantification of risk calculations were included after a comment back from the NHMRC. Did you consider including these calculations in your draft report before then and, if you did, why had you not included them in the draft report?

**Prof. Mathews**—On the basic science that led to my quantitative risk estimates: I had already done the calculations but I had not written all of them up to include them in the draft report, but on the basis of having done the calculations I concluded that the risk was negligible in the draft report. NHMRC asked me to document the reasons why I had come to the conclusion that it was negligible and that is what is included in the detailed tables at the end of the final report—the rationale for that conclusion.

**Senator HEFFERNAN**—If you did not consider putting them in before—

**Prof. Mathews**—I did consider putting them in.

**Senator HEFFERNAN**—But you didn't.

**CHAIR**—Hang on, Senator Heffernan. We might get to the reason why they were not included.

**Prof. Mathews**—I had done the calculations. I had written down the conclusion. I had not put all the details of the calculations in the draft report.

**Senator HEFFERNAN**—I will rephrase it: in considering whether to put them in, did you consider—because you knew, at the end of the day, with all the externalities that have been discussed here today, running it around and testing it—that it would necessarily be over-theoretical and, you might say, rubbery, when all the realities came home to roost? I mean, you cannot really be absolutely comfortable that these predictions of risks are right. How can you be comfortable that the risks you have analysed are correct, other than being the best estimate?

**Prof. Mathews**—They are the best estimates I can make, and they are based on robust data from the BSE epidemic in the UK and the variant CJD epidemic in the UK, and they are consistent with everything we know about the science.

**Senator HEFFERNAN**—So you did not sort of link it in to Europe?

**Prof. Mathews**—If you actually look at all the BSE epidemics in Europe, in the countries that are of relevance because we have enough good data, their epidemics are small and coming down in the same way as in the UK.

**Senator HEFFERNAN**—Is one of the base considerations, in arriving at the calculation of risk, that there is a presumption that blood and meat products are no longer fed to animals?

**Prof. Mathews**—It is assumed that the measures to prevent BSE, which preclude feeding of MBM to animals, will be in place; if they were not in place, I cannot imagine that the government would authorise importation of beef products from those countries.

**Senator HEFFERNAN**—I can assure you, I know of places where they still feed blood and meat products to animals.

**Prof. Mathews**—If you know, Senator, I guess the government would know, too.

**Senator HEFFERNAN**—We are going to test that. So in terms of being able to make a categorical statement—like they did with, ‘That is a foot-and-mouth-free zone in Brazil; the OIE says so; tick here; therefore, away you go,’ which turned out to be a complete farce, which I have to say the government has never reported back on—how, in your view, would it be possible to tell Australians, ‘We have taken this decision; it does not have to come to parliament; there is no way of stopping it,’ which is what we have been told, when we do not even know—and neither does the government, as of a week ago, according to Minister Crean—or have any idea of (1) what the protocols would be, or (2) how they would supervise the protocols? I mean, you are dealing with crooks and all sorts of dodgy characters. We have enough of them in Australia—I mean, the cattle MIS, the Great Southern, was full of cattle duffers!

**CHAIR**—Senator Heffernan, we might move on.

**Senator HEFFERNAN**—So how the hell can you say that without knowing the protocols? And this committee—

**CHAIR**—Is about to ask the department.

**Senator HEFFERNAN**—wants to test it. We want not only to be told the protocols; we want to test them for human failure, given the track record of human failure in scientific prediction—and none better than citrus canker. Would it not be reasonable for this committee to know the protocols and test them before the government ticked—which they already have—the box saying, ‘You may apply as of 1 March, even though we do not know what the protocols are’?

**Prof. Mathews**—It is not my detailed area of expertise—the protocols. There is an assumption in the risk estimates that the lessons that have been learnt in the UK and spread around the world by veterinary and industry experts would be in place, and of course it is the responsibility of other arms of government to reassure themselves that those protocols are being followed. We would have early warning that there was a problem if BSE started to re-emerge in any of the countries—

**Senator HEFFERNAN**—It is too late!

**Prof. Mathews**—and we now know that, with the internet and so forth, it is very hard for those things to be totally hidden.

**Senator HEFFERNAN**—But it would be too late after you discovered that somewhere—out the back of Alberta or somewhere—there was a beast with it, and the thing has been through the process and someone has had a hamburger from the meat.

**Prof. Mathews**—Sure, but part of the quantitative argument is that the epidemic in Britain depended on hundreds of thousands of infected animals going into the food chain. It just comes down to the quantitative risk estimate that most of the people who were exposed in the UK have not been harmed and are highly unlikely to be harmed in the future.

**Senator HEFFERNAN**—We will come to you again in the later report. Do you have any understanding of the untraceability of sausage casings around the planet?

**Prof. Mathews**—I have heard that discussed and I am sure that is a potential problem.

**CHAIR**—Professor Mathews, thank you very much for giving us so much of your time. We do appreciate it.

[1.22 pm]

**BARTHOLOMAEUS, Mr Andrew, General Manager, Risk Management, Food Standards Australia New Zealand**

**BIDDLE, Dr Bob, General Manager, Animal Health Programs, Department of Agriculture, Fisheries and Forestry**

**BISHOP, Professor James Frank, Chief Medical Officer, Department of Health and Ageing**

**CARROLL, Dr Andy, Chief Veterinary Officer, Department of Agriculture, Fisheries and Forestry**

**CUPIT, Dr Andrew Allan, Senior Manager, Biosecurity Australia, Department of Agriculture, Fisheries and Forestry**

**HILL, Ms Amanda, Manager, Food Safety, Food Standards Australia New Zealand**

**MATHEWS, Professor John Duncan, Consultant, Department of Health and Ageing**

**McCARTHY, Ms Caroline Ann, Director, Food Trade and Quarantine Section, Office of Trade Negotiations, Department of Foreign Affairs and Trade**

**McCUTCHEON, Mr Steve, Chief Executive Officer, Food Standards Australia New Zealand**

**McDONALD, Ms Mary, First Assistant Secretary, Regulatory Policy and Governance Division, Department of Health and Ageing**

**MORRIS, Mr Paul, Executive Manager, Trade and Market Access, Department of Agriculture, Fisheries and Forestry**

**O'BRIEN, Ms Julia Catherine, Executive Officer, WTO Trade Law Branch, Office for Trade Negotiations, Department of Foreign Affairs and Trade**

**READ, Mr Greg, Executive Manager, Biosecurity Services Group Food, Department of Agriculture, Fisheries and Forestry**

**YEEND, Mr Timothy John, First Assistant Secretary, Office of Trade Negotiations, Department of Foreign Affairs and Trade**

**CHAIR**—Welcome. I remind senators that the Senate has resolved that an officer of a department of the Commonwealth or of a state shall not be asked to give opinions on matters of policy and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to a minister. This resolution prohibits only questions asking for opinions on matters of policy and does not preclude questions asking for explanations of policies or factual

questions about when and how policies were adopted. Officers of the department are also reminded that any claim that it would be contrary to public interest to answer a question must be made by a minister and should be accompanied by a statement setting out the basis for the claim. As none of you want to make any alterations to your submissions, would you like to make a brief opening statement before we go the questions?

**Mr Morris**—Nothing from the DAFF.

**CHAIR**—Before I pass to my colleagues, I am trying to get an understanding of the process and how we have got to this point. It would be quite useful if somebody would like to give us a brief rundown of the process as to where we are at the moment. I understand this kicks off on 1 March, so if the committee could just be given a clear and concise understanding of what led to the decision to change the arrangements and what the actual formal processes were to getting to the point of kicking off on 1 March.

**Mr Yeend**—I am happy to have a go at that.

**Senator HEFFERNAN**—Speak away!

**Mr Yeend**—The decision to review the policy follows over a number of years. Concerns that have been raised with us by various industry groups with the existing policy and concerns that it was out of step with the science that had evolved in a number of ways since the initial decision to put the ban in place were taken—

**CHAIR**—Sorry to interrupt, but before you go on, to clarify: you said consultation with the industry groups—can you just outline for the committee which ones you are talking about?

**Mr Yeend**—We have a range of industry groups over a number of years—

**CHAIR**—That is not quite specific enough for the committee.

**Mr Yeend**—I think that we have previously outlined the groups that we have consulted with—

**CHAIR**—And I will subsequently ask you again, if you would not mind.

**Mr Yeend**—It has included groups like the Red Meat Advisory Council, Meat and Livestock Australia, the Cattle Council of Australia, AMIC and the Lot Feeders Association. Over a number of years we have had industry groups concerned at the situation on BSE, that the policy as it was being implemented domestically raised concerns for them in terms of these issues around the possibility of any outbreak requiring beef to be taken off the shelves, which is an issue we have covered in our submission. There have been changes in the science. I think that, as we have said previously, a number of trading partners have been raising this issue regularly. There were a range of factors. Certainly from a DFAT perspective, the number and frequency of representations of our trading partners, who were expressing concerns that the ban in place was out of step with our international trading obligations, saw a position where the industry last year, I think in August, wrote and this started a review process that was conducted. Previously we have outlined the process that was followed there. There was involvement by all of the agencies

that have responsibilities in this area. We took on a coordinating role, but DAFF and DoHA were also involved. There was the work of Professor Mathews, and the review took place. Then it was decided that a change to the current policy was warranted, and that brings up to where we are today. I do not know whether my—

**Senator HEFFERNAN**—You have not said anything yet.

**CHAIR**—Senator Heffernan, hang on, just wait five minutes, please. You said that it was decided. At what point was it decided that there would be a change in the arrangements? Did all of that advice go to the minister and he made a view? Did all the department sit around a table together and go, ‘Right, beauty, we are going to change the arrangements’? What actually happened at that point where the decision was taken to change the arrangements?

**Mr Yeend**—I think that the departments worked jointly on preparing a submission for ministers. It was considered by ministers and ministers took a decision to change the policy.

**CHAIR**—Can you just outline for me then: on 1 March what exactly is going to happen and what exactly will our trading partners and other countries be able to do on 1 March that they cannot do today?

**Mr Yeend**—That is probably a question best answered by FSANZ, I would think.

**Senator STERLE**—To clarify, when Senator Nash asked you whom you consulted, you did mention a few names. You said ‘like’ and then mentioned those groups. It would probably be helpful if you just supplied to the committee the names of those who were actually consulted—a full list.

**Mr Yeend**—Senator Nash had asked over recent years who we had raised it with—

**CHAIR**—I am fairly sure that they have answered that in writing before, but just for the purposes of today, following the questions, I just wanted to make sure that was available to all those in the room here today.

**Senator STERLE**—Does that mean that you are happy—

**CHAIR**—It is already on the record.

**Senator STERLE**—So are half the questions that have been asked, with great respect to those same witnesses from the ABA, Dr Steel—

**CHAIR**—Senator Sterle, if you would like it taken on notice I am more than happy to accommodate that.

**Senator STERLE**—Thank you.

**Senator HEFFERNAN**—Minister Crean said that this decision was driven by the beef industry. We know that 2½ weeks were given to Professor Mathews back in September or whenever it was to organise a report. At what stage after the departments had met and decided

they were going to do this did you go to the industry and say: 'We are going to do this. By the way, this is all commercial-in-confidence; you can't talk outside the loop'? They had confidentiality. At what stage did you do that? I am looking for a very simple, black-and-white answer.

**Mr Yeend**—The consultation with industry and with medical and health groups was conducted by the departments with responsibilities in those areas.

**Senator HEFFERNAN**—Well, who is going to be the spokesman for answering those questions you cannot?

**Mr Yeend**—My understanding is that there were consultations with the meat industry groups through August, September and October and that there was consultation with the medical and health groups on 28 September 2009.

**Senator HEFFERNAN**—But my question is, having decided that you were going to change the policy in the department and that it did not need to be referred to parliament, did you then consult the industry? The industry is really p'eed off on this, because they have been hung out to dry. Crean says it was driven by them. It was not driven by them at all. It was driven by Trade, and we have the in-camera evidence of that. You can shake your head as much as you like, but you are saying the industry was consulted—after the event they were consulted.

**CHAIR**—To perhaps assist here, if I can clarify: can you give us the date on which the decision was taken to change the policy? There must have been a point of sign-off somewhere.

**Mr Yeend**—It was announced on 20 October.

**CHAIR**—You just said you consulted with the industry groups through, I think, August, September and October. At what point after that sign-off—which I think is what Senator Heffernan is trying to get to—was there consultation with industry, once the decision had been reached? Because what you are saying to us at the moment is that the decision was taken after consideration, after all these years of discussion with the industry.

**Mr Yeend**—What I have said is that there was a detailed consultation process with industry and with medical and health groups that took place during the course of the review of the policy. My understanding is that the decision was conveyed to these groups once the announcement was made. But, as I said, DFAT have not been the ones conducting these discussions, so I am not sure whether either of my partner departments would like to make any comments about the industry consultation.

**CHAIR**—I will come back to the issue of the changes on 1 March later, but can either of you—Mr Morris or Dr Carroll—give some clarification to this?

**Mr Morris**—A question on notice was taken by the department at the supplementary budget estimates hearing in October last year, and I am fairly confident that the response to that is now being tabled. It provides quite a detailed list—

**CHAIR**—Don't be that confident—we have most of them this week, but we will bring that up on Monday!

**Mr Morris**—If it has not been tabled, I am sure it will be tabled shortly. This particular answer to the question taken on notice goes through the detail of when the consultations occurred.

**CHAIR**—Can you give us the question? You have not alerted us to what the question was, so the response does not make any sense. Could you keep it brief and clarify if it relates to the question that I asked.

**Mr Morris**—Sure. It says that the first consultation occurred in relation to this particular process on 28 July 2009 with the Red Meat Market Access Committee.

**CHAIR**—No, I do not want to know that, Mr Morris. What we want to know is what occurred after the decision had been taken on 20 October in terms of consultation with the industry.

**Senator HEFFERNAN**—You will not even give us the question that was asked there. We asked you for the question. But we do not want to know that as we want to know the answer to the question that the chairman was asking.

**Mr Morris**—Sorry, I misunderstood what question you were asking. I am not sure what consultation you are talking about in terms of after 20 October because the consultation we—

**CHAIR**—All right; let me put it as simply as I possibly can. I refer to those involved in the beef industry that had not been involved in the industry groups that were consulted along the way, the industry bodies that you were talking about. What opportunity has anybody outside of those high-level industry bodies had to make their views known on the decision that was taken on 20 October?

**Mr Morris**—Consultation normally occurs before the decision is made, which is what happened here. As far as I am aware, there is no consultation that has occurred after the decision was made.

**CHAIR**—So now, if I can take you to this, what is the process in terms of taking that weight of opinion from the overall industries, not just the industry bodies? I ask this in the context that a lot of our experience has been around a lot of industries in terms of the IRAs and the process that they go through, when we are talking about importation, with an ability for producers and growers to put in a submission at a certain appropriate stage during that IRA process. As far as we can ascertain, and this is not something that I have had a lot to do with, obviously there is no IRA process attached to this. Why not? What is the alternative process that is in place to give some ability for people to feed into the process—or is there simply not one?

**Mr Morris**—Sorry, I understand where you are going to now. I suppose there is a number of stages to this which might help. The first stage is obviously the interpretation of the current policy with respect to BSE, which is what the decision was taken on back in October and there was a certain consultation process, which we referred to, prior to that. There will be other steps in the process, the first of which is obviously the work being done by FSANZ at the moment in



terms of the methodology and so forth in relation to the protocols. What process is going to be involved there I will leave to FSANZ to answer. A third step will be quite separate from the BSE issue. If there are other non-BSE-related issues—so animal health or human health issues or food safety issues—related to the import of beef there may be separate processes involved in doing those assessments as well. In terms of what process of consultation might occur for those on the animal quarantine side of things relevant to us, I will let Biosecurity Australia talk to that.

**CHAIR**—I will now go to Mr McCutcheon and ask the question I asked before. What can happen on 1 March?

**Mr McCutcheon**—From 1 March 2010 countries will be eligible to lodge applications for assessment of their BSE risk status.

**CHAIR**—Sorry, would you say that again for me.

**Mr McCutcheon**—From 1 March 2010 any country that has an interest in exporting beef to Australia will be eligible to lodge an application with FSANZ to have their BSE categorisation reviewed or assessed.

**CHAIR**—So they can lodge an application before the protocols are even determined?

**Mr McCutcheon**—No.

**CHAIR**—Hang on; let us take this one step at a time. You are obviously far more across this than I am. Mr Morris has just said that the methodology for the protocols will now be undergone by FSANZ. This is only four weeks away.

**Mr McCutcheon**—That is correct. That process is underway at the moment.

**CHAIR**—So you expect that to be finished by 1 March?

**Mr McCutcheon**—Absolutely. The government have asked us to do that. They made a decision, so it is our job to deliver on that. We are in the process now of developing the governance and risk assessment processes for that process that will commence from 1 March. That process is well advanced and it will be peer reviewed by an expert from the World Animal Health Organisation. Once we have completed that protocol, for want of a better term, that will be available on our website, so everyone can see what questions we will be asking and so on. From 1 March countries using that information will be able to lodge their applications.

**CHAIR**—Okay. So what you are telling us is that the protocols are not finished, but within the next three weeks or so they will be done and from 1 March and those countries overseas can launch an application. What check and balance is there that those protocols are going to be appropriate? Given that there is no parliamentary oversight whatsoever on this as far as we can tell, apart from this committee—absolutely none—and departments are going to come up with these protocols, how can we, the industry and people across Australia who have some concerns about this feel assured? What are the checks and balances that the protocols are going to be right?

**Mr McCutcheon**—The first thing is this that is a scientific risk assessment protocol looking at the food safety risks associated with BSE.

**Senator HEFFERNAN**—But normally you consult the industry.

**Mr McCutcheon**—So that will be developed by FSANZ in accord with the various other scientific risk assessment documents that we have. Secondly, it will be based on OIE methodologies. This is a publicly available document. It will be reviewed by an expert from the OIE to ensure that Australia's risk assessment methodology is scientifically sound and consistent with what is acceptable in international terms.

**CHAIR**—Correct me if I am wrong. The department will come up with these protocols on the basis of all that gobbledygook that I will read later and try make some sense out of, but there will be no opportunity whatsoever for any kind of parliamentary oversight to determine if those protocols are appropriate, and there will be no opportunity whatsoever for industry itself to determine whether or not they think the protocols are appropriate? Is that correct?

**Mr McCutcheon**—That is correct.

**CHAIR**—Before I go on, I will just do a little bit of comparison. The IRA process provides an opportunity for industry and others to contribute to the process in terms of whether or not it is appropriate. Why is this not occurring in this case for something like BSE, which to all intents is probably the most impertinent thing we have been looking at?

**Mr McCutcheon**—Essentially, FSANZ's role in this is drawn from its legislation. One of our functions under that legislation is to provide risk assessment advice to, in this case, DAFF, on the food safety risks associated with a particular commodity. So it is in the within that head of power within our legislation that we are undertaking this role.

**CHAIR**—I understand you have to work under the legislation—I do. This is in no way directed at you but at the process that is in place. In essence, the departments are saying to Australia, 'Just trust us,' because, if these protocols are not right, this whole thing turns to custard, let alone—

**Senator HEFFERNAN**—Why can't you go back to the industry with the bloody protocols like we do with everything else?

**CHAIR**—Hang on, let me finish. Let alone the human failure component on something like this. Can you please give me an outline of the process that was in place for pig meat? I will make it very simple: was there an IRA process for the importation of pig meat when we change those arrangements?

**Mr McCutcheon**—That would be a matter for DAFF or Biosecurity Australia to talk about.

**CHAIR**—Fantastic—they are right here. Maybe they can answer. Was there an IRA process for the importation of pig meat—anyone? This is a really easy one. This is a yes or a no.

**Dr Cupit**—Yes, there is an IRA process for pig meat.

**CHAIR**—Excellent. Thank you. Why is there not one for beef?

**Mr McCutcheon**—FSANZ's role is specifically around the food safety risks associated with meat. If you are going beyond that, that is Biosecurity Australia.

**CHAIR**—I am happy for anybody to give me a whirl on this one.

**Senator HEFFERNAN**—We did this in the last hearing, Chair—we flicked from one side to the other because no-one knew the answer. For God's sake, what's the answer? If you can do it for pigs, why can't you do it for beef? If you haven't got someone to answer it, get them here! It is a disgrace!

**CHAIR**—Can anyone at the table or in the room answer why there is was an IRA process for pig meat and there is not one for beef?

**Senator HEFFERNAN**—It is no good whispering amongst yourselves.

**CHAIR**—Sorry, I should have backgrounded that. Given the similarities and the arrangements between pig meat and beef, I cannot understand why there is not one.

**Dr Cupit**—Certainly, there has been an extensive assessment process for both—

**CHAIR**—No, I do not want the assessment. If no-one can answer it, just say, 'We haven't got a clue,' but I would like somebody to be able to inform the committee why there is no IRA process for beef when there was for pig meat.

**Senator HEFFERNAN**—You enjoyed Christmas, Dr Carroll.

**Dr Carroll**—We did not have existing import conditions for pig meat; for beef, we had pre-existing conditions. We are not starting from, 'We have never imported beef, and now all of a sudden we are.'

**Senator HEFFERNAN**—That is a weak answer. You have dreamt that up.

**CHAIR**—Senator Heffernan, just wait! Go on, Dr Carroll.

**Dr Cupit**—I can further elaborate on that. We have had beef imports for many, many years and we have assessed the risks previously. Beef still comes in from New Zealand, for example, and we have well-established import conditions for that product. In 2003 we imposed conditions to restrict beef from those countries, and that was purely for BSE. Now, because the science has been re-evaluated we are now re-establishing trade. Therefore it is quite different from pig meat, which was allowing it to come in for the first time.

**CHAIR**—All right. I have not been around for all that long, so I would be very interested in the answer to this question: have we at any stage accepted beef from countries that have had BSE?

**Dr Cupit**—We previously accepted beef from those countries. Once they had cases of BSE we then stopped the import.

**CHAIR**—Sorry, I will rephrase the question. Have we ever accepted beef from any countries once there has been a known case of BSE?

**Dr Cupit**—No, we have not.

**CHAIR**—Okay, then wouldn't that make it a new thing, to have a whole set of arrangements and changes in arrangements and protocols? Isn't that a new thing, because your argument is based on the fact that we already have arrangements in place for beef? But if we have never, as you have just said, ever had these sorts of arrangements, doesn't that make it a new set of measures?

**Senator HEFFERNAN**—Of course it is.

**Dr Cupit**—It is a new set of control measures, yes.

**CHAIR**—And on that basis, should we not have some sort of IRA process to make it equitable with what we have done for pig meat?

**Dr Cupit**—Again, we have assessed the risks and we have put in a number of control measures.

**CHAIR**—I am not talking about assessing—

**Senator HEFFERNAN**—You have not put any control measures in. We do not even know what they are. You do not know what they are.

**CHAIR**—Senator Heffernan, give me a crack at it. So, we now have the situation—and I do not want to talk about risk assessment, I am talking about the process—that the process with pig meat was that there was the ability for some oversight from industries and those interested in the arrangements that were being put in place. This has none. Not only does it not have any ability for industry input it has no parliamentary oversight. And yet, we are being asked to just trust the department to come up with some protocols that this whole thing is going to be based on within the matter of the next two weeks, and you tell me that we do not have an IRA because we have existing arrangements for the importation of beef. Doesn't that seem a little bit strange to you?

**Dr Cupit**—I would say that the process has been slightly different. In fact, this process has been through quite a bit of rigorous assessment. As Professor Mathews said, it has been peer reviewed and extensively evaluated, so it is quite a robust process.

**Senator HEFFERNAN**—Where was the peer review?

**Dr Cupit**—Professor Mathews's report was peer reviewed by other experts, including the NHMRC.

**Senator HEFFERNAN**—With great respect, that is not what he told us.

**CHAIR**—They did correct some typos though. No—to be fair—they did agree. Can I just ask about the nature of the advice that NHMRC provided to the Department of Health and Ageing on receipt of the draft from Professor Mathews that was not provided to Professor Mathews? Can you give us the nature of the advice from NHMRC and why it was not provided back to the author, Professor Mathews?

**Ms McDonald**—My understanding is that the advice from NHMRC was provided to Professor Mathews and the department, so that is something that is new to me. If Professor Mathews did not receive that information I would need to check what happened. My understanding of the process was that Professor Mathews delivered the report to the department; the department asked the NHMRC to get together an independent panel of experts to review the report; we provided the report to that committee; the committee, as part of their process, interviewed Professor Mathews and provided verbal feedback to him in a teleconference; there was then a document prepared which summarised the comments of that group, and it was emailed to both the department and Professor Mathews. The comments were largely clarifications editorial in nature—that comment is correct.

**CHAIR**—You did correct some typos, which was very good of you.

**Ms McDonald**—When I came in earlier I think I heard Professor Mathews saying that the group also asked for clarification of some of the conclusions he came to and for more information to be put into the report so that his terminology was clarified and it was clear why he was using certain terminology. There were obviously questions of clarification there. There was nothing in the comments that raised any issues about the robustness of the evidence or questioned whether he had picked up the full range of scientific evidence. His report was a drawing on the literature and research that had happened across the years. I am not sure whether the committee is aware, but this is the third report the department has had commissioned over the years when the ban was put on the importation of beef from countries that had had cases of BSE. Twice before the department had commissioned research looking at the evidence. Each time that information was built on and Professor Mathews utilised that earlier information and updated it for more recent research.

**CHAIR**—Could I just ask you to take something on notice—perhaps you might even have someone in the room. Professor Mathews clearly indicated earlier to the committee that there was a response from the NHMRC to the department that he was not privy to upon the receipt of the draft review.

**Ms McDonald**—Can I clarify what that might be? I received a letter from the NHMRC confirming to me that the TSEAC committee were satisfied with the final copy of Professor Mathews's report. They wrote to me rather than to Professor Mathews to provide that advice because it was me who asked the NHMRC to review the report that the department had commissioned.

**CHAIR**—That is the only advice they gave you—that they were satisfied with the report?

**Ms McDonald**—Yes, they said to me that they had peer reviewed the report, which was commissioned by the department of health. They said that it was reviewed by the committee on 18 September, that the members' comments were provided to Professor Mathews. Professor

Mathews subsequently revised the report and the TSEAC members are now satisfied with it. They gave me a contact officer's name at the NHMRC.

**CHAIR**—You gave no direction whatsoever to either Professor Mathews or the NHMRC during the process about any of the content within the draft?

**Ms McDonald**—We gave them the terms of reference and a set of requirements to Professor Mathews which stipulated—

**CHAIR**—I meant at the point after you had received the draft.

**Ms McDonald**—Drawing together the scientific evidence—we had no particular outcome in mind. We wanted to know what the evidence said about the risks to human health and that was the interest of our department.

**CHAIR**—Before I pass to my colleagues, can I just ask when the protocols will be released to the public—on what date?

**Mr McCutcheon**—I cannot provide a date.

**CHAIR**—Why not? Why can you not give me a date?

**Mr McCutcheon**—They will be ready for release before 1 March. I can give you 28 February if that would satisfy you.

**CHAIR**—For all intents and purposes they could be out at 11.59 pm today?

**Mr McCutcheon**—They could be. That is correct.

**CHAIR**—This is a very genuine question: do you think that that allows for the appropriate level of scrutiny of those protocols, whether or not they are appropriate?

**Mr McCutcheon**—The bulk of the details of the protocol, which is the term that is widely used in this instance, is now available on the OIE website—the World Health Organisation. Essentially, the Australian assessment procedures—

**CHAIR**—At the end of the day the protocols that will be used will be the ones that you determine. Once that process has taken place, what opportunity is there for either industry or the broader Australian public to have some input if they believe that those protocols are not stringent enough?

**Mr McCutcheon**—They will have an opportunity from the date they become public.

**CHAIR**—If those overseas countries can start this whole process on 1 March, what is the opportunity, given that there is no parliamentary oversight?

**Mr McCutcheon**—I hear what you are saying but, as I said previously, we are operating under our legislative arrangements. We are under no obligation to seek public comment.

**CHAIR**—If there is no opportunity for industry or the Australian people to have any comment on the protocols once they are published, just say so. If there is one, I would just like to know what it is.

**Mr McCutcheon**—I think I have said that.

**CHAIR**—Yes, but you have not said what it is.

**Senator HEFFERNAN**—Just say there is no opportunity.

**Mr McCutcheon**—There is no opportunity before they are published.

**CHAIR**—We are going around in circles. You just said there was; now there is not.

**Mr McCutcheon**—There will be after they are published, I think I said.

**CHAIR**—You said there is an opportunity after they are published. What is that opportunity?

**Mr McCutcheon**—If there are particular issues on protocols that anyone in the Australian community, or international community for that matter, wants to comment on after they are published they are quite free and able to let us know.

**CHAIR**—Sure, they can comment.

**Mr McCutcheon**—Protocols are not set in stone forever. They are always subject to refinement.

**CHAIR**—This is my question. What would be the process for changing those if there were enough weight of opinion that did not think they were stringent enough or appropriate?

**Mr McCutcheon**—We would look at the information that came in that raised any particular issues. We would examine that and, within FSANZ, make any changes that we deemed necessary.

**CHAIR**—Are you saying to me that at any stage during the process FSANZ can change those protocols?

**Mr McCutcheon**—It can, yes.

**CHAIR**—I did not realise this. Even if we have a set of protocols that exist on 1 March, you can change them, as FSANZ, at any stage from that point on?

**Mr McCutcheon**—That is correct. That is not unusual.

**Senator HEFFERNAN**—You say to the US, ‘These are the protocols; away you go and make application.’ They come back and you say, ‘Oops, we’ve changed the rules.’

**Senator STERLE**—Why don’t you let Mr McCutcheon finish.

**Mr McCutcheon**—I think any sensible person would understand that the protocols are designed to—

**CHAIR**—We all tend to be quite sensible here, Mr McCutcheon.

**Mr McCutcheon**—implement a particular policy. There will be a set of protocols that will be ready from 1 March onwards.

**CHAIR**—I understand that.

**Mr McCutcheon**—If, for example, suddenly there are some new risk factors, or new science emerges, then, clearly, FSANZ would be under an obligation to review those protocols to ensure that they were designed in a way that would address any new issues that came along.

**CHAIR**—But what is the mechanism to require FSANZ to do that? If FSANZ decided that it did not really matter that much but others did, what is the mechanism to require FSANZ to change those protocols?

**Mr McCutcheon**—There is no mechanism to require FSANZ to do that. But, again, operating under our legislation, we have an obligation in discharging our legislative functions to ensure that the protocols we have in place are the most appropriate.

**CHAIR**—So it stands to reason that if you can do that without any parliamentary oversight or any kind of accountability, down the track you could also lighten them off and change them so it is easier—hypothetically?

**Mr McCutcheon**—In theory, yes. When you say there is no parliamentary oversight, we are sitting here today in front of a Senate committee.

**Senator HEFFERNAN**—Yes, but the decision has already been taken, buddy.

**Mr McCutcheon**—That is policy, Senator, not the protocol.

**CHAIR**—I think this is quite important to know. If we make the decision, as it has been taken, that this goes ahead on 1 March without any parliamentary oversight whatsoever or any ability for input from industry, down the track, once that commences, FSANZ has the ability to change those protocols in any way they choose, without any accountability. Is that a yes or a no?

**Mr McCutcheon**—Yes, that is true.

**Senator HEFFERNAN**—That is all we need to know.



**Senator STERLE**—Can you tell us what the key elements of the protocols will be?

**Mr McCutcheon**—Certainly. Essentially, the protocols will set out a range of areas that we require information on. It is information from countries on matters such as: past history of the importation of meat and bonemeal; importation of potentially infected live cattle; importation of potentially infected bovine products; processing methods for bovine carcasses; by-products; abattoir waste; cattle feed practices in the country; and the diagnosis of BSE in the cattle population and the individual case histories, including origin, date of birth, place of birth and movement history. There will be questions in our protocol around the surveillance and monitoring that goes on in countries to ensure that if they have had a case of BSE they have a good management system in place to prevent it from becoming worse, or if they have not had BSE to ensure that they do not have it.

That is looking at issues like the collection of samples representing the cattle distribution, methods used to assess the age of animals sampled, the procedure for determining clinically suspect cases and the rationale for any annual variants in sample numbers of clinical suspect cases, documentation on the age and clinical signs of all clinically suspect cases, and the point in the supply chain where the animal is detected. We will also be seeking information on the BSE skills and knowledge programs of veterinarians and workers involved in cattle production in those countries and also details about the compulsory notification and investigation programs they have. Of course, we want to have a good look at what diagnostic capability these countries might have.

**CHAIR**—Dr Carroll wanted to add something, I think.

**Dr Carroll**—Just a point of clarification. Before the 2001 policy came in we imported beef from countries that had reported BSE. France reported BSE in 1991. We continued to import beef from them until 2001. Switzerland reported BSE in 1990. We continued to import beef from them.

**Senator HEFFERNAN**—How much did we—

**Dr Carroll**—Very small quantities.

**CHAIR**—Can I just get a clarification. If there is an alteration to any kind of importation arrangements is there ever a new IRA done? Is there a new IRA done if there is a change in the arrangements for importation or is it just the existing one?

**Dr Cupit**—On the animal side it depends on the significance of the new information. So if it is fairly important scientifically, yes, there could be a completely new review of existing policy. If it is a minor change—for example, a change in a test or something like that—we may just implement that without an extensive consultation period. It depends on the significance.

**CHAIR**—Wouldn't you say that this is extremely significant? Given that your argument was that there are existing arrangements and that is why we do not have an IRA, doesn't that conflict with what you said about having a whole new IRA when there is a change in arrangements for importation? Wouldn't that predicate having an IRA for this process?

**Dr Cupit**—The change in this particular circumstance was in relation to human health. Therefore it is the Department of Health and Ageing that makes the change and not the department of agriculture.

**Senator HEFFERNAN**—I just want to follow on from that.

**CHAIR**—Senator Sterle has the call.

**Senator HEFFERNAN**—If he will accept it, I want to ask a very relevant follow-on question.

**Senator STERLE**—If it is one very relevant question, but otherwise—

**Senator HEFFERNAN**—You can smack me in the side of the head. Given that we made this mistake with prawns—you will recall that we looked at health and not animals originally and then we subsequently banned green prawns—and that since the last IRA on beef there has been a new wasting disease in Canada and the United States, which is not scientifically understood, isn't that a risk to Australia?

**Dr Cupit**—In relation to chronic wasting disease? Is that what you are referring to?

**Senator HEFFERNAN**—We received the evidence in this committee, if you were listening.

**Dr Cupit**—The chronic wasting disease is a disease of deer. There has been no evidence to show that that disease spreads to cattle. And there is also no evidence to show that that disease spreads to humans. Chronic wasting disease is not a disease of cattle.

**Senator HEFFERNAN**—We were told it was in cattle.

**Senator STERLE**—Going back to the key elements, Mr McCutcheon, how does that stack up against other countries and international best practice?

**Mr McCutcheon**—We would consider it to be international best practice because essentially it is based on what the OIE methodology examines.

**Senator STERLE**—Will our scientists conduct in-country assessments?

**Mr McCutcheon**—We have scope to conduct in-country assessments. If we believe, after conducting the desk risk assessment, that there are still some questions unanswered or we have some concerns then we have the capacity to conduct an in-country assessment.

**Senator STERLE**—My last question for now: will we factor in traceability of beef and cattle identification systems in other countries?

**Mr McCutcheon**—Yes. Traceability is an important element of managing potential issues with BSE so, yes, that will be looked at.

**Senator BACK**—I just want to go back to the start of the process. In 1988 I understand that the Commonwealth banned the importation of live cattle, semen and embryos from the UK. Was that correct?

**Dr Cupit**—To the best of our knowledge, yes.

**Senator BACK**—I understand it was in January 2001 that the suspension of imports of British beef products were expanded to include importation of beef products and virtually all foods containing beef from 30 European countries that either reported cases of BSE or had high exposure. Can anybody tell me when that was expanded beyond the 30 European countries to include other countries that had had BSE, such as America, Canada et cetera?

**Mr McCutcheon**—I cannot give you specific dates but essentially it worked on the basis that every time a country reported their first BSE case then the new import arrangements came in beyond Europe, so Japan, US and Canada.

**Senator BACK**—The advice available to me is that this came about following the introduction of an emergency regulatory measure under section 37 of the Australian New Zealand Food Authority Act 1991. Would that be consistent with your knowledge or recollection?

**Mr McCutcheon**—That would be correct.

**Senator BACK**—And that again amended the codes to require bovine meat and derived food products into the Australian food chain to be derived from animals free of BSE, excluding milk et cetera. Are you familiar with an instrument known as the Legislative Instruments Act 2003?

**Mr McCutcheon**—I am familiar with it but not in detail.

**Senator BACK**—It was only with this statute that the requirement that all delegated legislation be registered on the Federal Register of Legislative Instruments. Do you know whether this particular legislation was registered on the Federal Register of Legislative Instruments following that act in 2003?

**Mr McCutcheon**—I suspect it was not, because I have a feeling this particular standard came into effect in 2001. If that requirement did not come in to place until 2003, then I would not expect it was registered on the Federal Register of Legislative Instruments. It is a standard in the Australia New Zealand Food Standards Code.

**Senator BACK**—My understanding is that, whilst there is a significant back-capturing of legislative instruments prior to that date, it has nevertheless been a requirement of instruments prior to 2003 that it actually be incorporated into that register. But you do not know whether or not it has been?

**Mr McCutcheon**—I will take that question on notice. I will have to check on that. If there was a retrospective requirement then that is something that I would have thought would be applicable to the food standards code.

**Senator BACK**—I am trying to understand, Chairman, the legislative framework for all of this. I understand that under section 16 of the Imported Food Control Act—is that one administered under your department?

**Mr McCutcheon**—It is administered under the agriculture portfolio.

**Senator BACK**—Therefore, the minister responsible for this would be the Minister for Agriculture, Fisheries and Forestry, Mr Burke.

**Mr McCutcheon**—Yes.

**Senator BACK**—The question I am asking relates to section 16 of the Imported Food Control Act. Who is the minister with responsibility for that act?

**Dr Clegg**—The minister with responsibility for that act is the Minister for Agriculture, Fisheries and Forestry, Minister Burke.

**Senator BACK**—I understand that under that section the minister can make orders about particular kinds of food in terms of requirements for inspection and analysis under the food inspection scheme.

**Dr Clegg**—Yes, that is correct.

**Senator BACK**—Is that what is happening at the moment?

**Dr Clegg**—Yes.

**Senator BACK**—Is it with beef and other products or any sorts of products in the agricultural and related sphere that that would be taking place?

**Dr Clegg**—Yes. He can make orders based on a classification of whether it is risk or surveillance food.

**Senator BACK**—I will go to Mr McCutcheon for a moment. For my information, as somebody new to the process, is FSANZ operated by a board?

**Mr McCutcheon**—That is correct. It is an independent statutory authority.

**Senator BACK**—Of which you are the chief executive?

**Mr McCutcheon**—That is correct.

**Senator BACK**—Can you tell me who chairs it?

**Mr McCutcheon**—It is chaired by Ms Philippa Smith.

**Senator BACK**—And the number of members on the board?

**Mr McCutcheon**—It is a 12-member board. So there is the chair plus myself as CEO and 10 other board members.

**Senator BACK**—How often would the board meet?

**Mr McCutcheon**—The board meets in person four times per year.

**Senator BACK**—When did it meet last?

**Mr McCutcheon**—It met last, face-to-face, on 2 and 3 December 2009. It does meet by teleconference from time to time when decisions have to be made. The last teleconference of the board was on 28 January this year.

**Senator BACK**—When will the next scheduled meeting of the board be?

**Mr McCutcheon**—The next scheduled meeting for the board is in the first week of March this year.

**Senator BACK**—If I can go back to you Dr Clegg, the reason for asking that question is that, under section 17 of the Imported Food Control Act, the minister cannot revoke or vary in order without first consulting FSANZ.

**Mr McCutcheon**—That is correct.

**Senator BACK**—And this proposed move would require, presumably, a revoking of an order or a varying of the order under section 16?

**Dr Clegg**—No, it would not.

**Senator BACK**—Why would it not? Why would this not constitute—

**Dr Clegg**—Because at the moment the order says that beef and beef products are a risk food. I suppose it could be amended if it was proposed that beef no longer be a risk food, which would mean we would not bother inspecting it at the border. In fact, we need to, to inspect even now for certification for BSE. The fact that the content of the certification would change would not require the minister to make a new order.

**Senator BACK**—Are you suggesting that the minister would be content of the view that this change does not cause a variation under section 16? I find that to be—

**CHAIR**—Good question.

**Senator BACK**—It would be a very courageous decision by the minister, not for you. Are you telling me that this does not constitute a change under section 16?

**Dr Clegg**—No, it does not because it is working with the food standards. What we are doing is assessing food against the food standards.

**Senator BACK**—No, there is a role for food standards, or there ought to be. I will get back to that in a moment with Mr McCutcheon.

**Dr Clegg**—I would not think that it would, no.

**Senator BACK**—Has the minister given any directive to the department to that extent?

**Dr Clegg**—We have not approached the minister or asked him about that.

**Senator BACK**—Mr McCutcheon, as chief executive of an independent board—I think you just told me—would you regard this as a variation or as a change in the food importation control provisions and facilities? What advice would you give to your board in relation to the possible importation of beef from countries from which we have previously not allowed importation? Have you given advice to your board or do you intend giving advice to your board?

**Mr McCutcheon**—We will not be either giving advice or seeking decisions from the board on specific country assessments that we do. That is a scientific process which we undertake. The board have certainly been appraised of the additional role FSANZ have now in conducting these country risk assessments. Going to your first question about whether we would consider it a change in risk, whether it would require a change in the order, that is not really a matter for FSANZ. My understanding of how the act operates is that essentially you have a small category of foods which are classified as risk and if there is either a move to put something into that risk category or a move to move something out of that risk category, that is something FSANZ the would be consulted on. As Dr Clegg has indicated, meat products will continue to be considered as a risk food for the purposes of the legislation.

**Senator BACK**—So we do have an existing order in place, we agreed, and that goes back to 2001 or possibly even earlier—1988, in the terms of the UK, expanded in 2001. That is an existing order and it limits the importation of beef from countries which are country in the OIE category 2 BSE controlled? Yes or no? You are shaking your head, Dr Carroll?

**Dr Carroll**—My understanding is that the order specifies whether a food is a risk food, and therefore requires a higher level of intervention, or whether the food is not a risk food, and therefore it gets five per cent intervention. That is all the order does—it lists foods as ‘risk’ or ‘surveillance’, which gets an intermediate. It does not say, ‘and the food can come in under these conditions’. All the order does is say that beef is a risk food, which Dr Clegg has advised us, so it is subject to the highest level of intervention for inspection. That is all the order does and there is no proposal to decrease the categorisation of beef at this stage to a lower risk categorisation. The order does not specify the conditions under which it can come in.

**Senator BACK**—Is it not the case that the absolutely pivotal and heroic advice given by Professor Mathews changes the status for beef, for example, from the United States and Canada? Is it not upon that that it has been changed in categorisation, or is proposed to be changed, from ‘high risk’ to ‘less than high risk’?

**Dr Carroll**—They are two separate processes. The risk categorisation of food relates to the inspection intensity at the border and there is no proposal to change that. The process for FSANZ, which may be better answered by FSANZ, is to categorise countries as being eligible to

send beef into Australia, and there are requirements that might apply to that. The order contains none of that information. The order will say that for inspection purposes it is a risk food and therefore, if I have got it correct, for the first five shipments every shipment has to be inspected—

**Dr Clegg**—That is right, 100 per cent inspected, and then if you have a perfect history of compliance with the test, which will be the certification—every consignment has come in with certification—then the inspection rate will reduce. The inspection rates are listed in the regulations—how the imported food inspection act works. The actual scheme itself is in the regulations in detail.

**Dr Carroll**—It is not about the conditions under which food comes in; it is about that order relating to how often consignments will be inspected.

**Senator BACK**—Upon whose statement is it that the food standard from these countries will change?

**Mr McCutcheon**—The food standard in Australia has not changed and it will not change.

**Senator BACK**—No, I do not mean within Australia; I am speaking about the equivalent food standard of beef from these other countries. Who has made that statement or is making it?

**Mr McCutcheon**—We will be doing an assessment of a country's BSE status based on all the information they provide us. Then we will make our own decision on whether the country is going to be ranked as category 1 or category 2 or will not be given a category at all. It will be our independent assessment of the country's status. It will not have regard to the particular food standard that might be applicable in that country.

**Senator BACK**—So that I am clear, is it the view of this panel that, for beef products that have previously been regarded as high risk and are now no longer to be regarded as high risk, there is no requirement for the revocation or variation of the existing order under section 16 of the Imported Food Control Act as a result of these changes, which all hinge on Professor Mathews's report? Is that the conclusion that you are inviting the committee to make?

**Dr Clegg**—The beef products will remain a risk food even though the information in Professor Mathews's report is talking about the risk of BSE being in beef products. However, BSE is still a risk and therefore beef is a risk food, from any country.

**Senator BACK**—Therefore, if it continues to be a risk food the equivalent food standard would have to be amended, would it not?

**Dr Clegg**—No, Senator.

**Senator BACK**—If, as you have said, it remains a risk food and we are now contemplating its importation—

**Dr Clegg**—It has always been a risk food.

**Senator BACK**—it will be a requirement for that to be amended. I put to you that there is then a responsibility under section 17 of the act for the minister to consult FSANZ.

**Dr Carroll**—The categorisation of the food under the order will not be changed.

**Senator BACK**—On what basis can it not be changed? It has not been accepted since 2001 or soon afterwards as indicated by Mr McCutcheon. It is now to be accepted. There has to have been a change.

**Dr Carroll**—The order you are referring to does not do that.

**Senator BACK**—Which one does?

**Dr Carroll**—I do not think there is one that does that. The order you are referring to sets the inspection intensity of consignments at the border. That is the scope of that order. It says that if it is a risk food, the AQIS inspectors must look at a certain percentage of consignments.

**Senator HEFFERNAN**—Does it deal with where the meat comes from?

**Dr Carroll**—No.

**Dr Clegg**—Every country comes in and is treated the same way.

**Senator HEFFERNAN**—You have no idea whose meat you are packaging up.

**Dr Carroll**—This is not the order that regulates the conditions under which meat comes in. This is an order which regulates intensity of the inspection on arrival.

**Senator BACK**—Which order does regulate which meat comes in? We have been dealing with this for days and weeks only to learn that we are not dealing with this particular issue in this order at all. Is that right? What order does require amendment for this to take place?

**Dr Carroll**—I do not think there is any order that requires amendment.

**Senator BACK**—Mr McCutcheon, has the FSANZ board or senior management undertaken some form of rigorous assessment of this other than that by Professor Matthews which feeds into the Department of Health and Ageing? Has your board directed you or have you advised your board that FSANZ should undertake an examination of this whole process?

**Mr McCutcheon**—Not of the whole process.

**Senator BACK**—Or any part of it?

**Mr McCutcheon**—The fact is the standard has not changed, so purely from a FSANZ point of view, a standards management point of view, there is no change.



**Senator BACK**—Why did anybody bother announcing anything if there was no need for a change back in October? Why was Professor Matthews given an indecently short period of time, incidentally, as a scientist? Why was there a need for this whole process? Why did we just not wake up one day and find that we have beef on the shelves from America and Canada and these countries? What is all this nonsense about?

**CHAIR**—That is a very good question. If it is none of what Senator Back has just been asking about and there is no need for an import risk analysis and no need to change any of the orders, what actual measure has changed? Which bit in which bit of legislation or which bit of regulation—not that it is either of those because it is not coming before the parliament—so what is it?

**Dr Clegg**—The policy for assessing the food safety risk of a country for BSE has been amended to enable countries which have had a case of BSE to be considered by the Australian BSE assessment committee. That is all. That is the only thing that has changed.

**CHAIR**—That is the only thing; a change in policy. There we go, Senators.

**Senator STERLE**—So you have the answer. We are all finished now.

**CHAIR**—What is the current step-by-step process for an overseas producer to get their beef into Australia? If I am sitting over there somewhere and I want to export my beef into Australia, what do I do?

**Dr Clegg**—You will need to have an Australian importer. There will need to be a risk assessment available that a person within AQIS can assess that country's product under the Quarantine Act for and you will also need to have an assessment status from the BSE assessment committee.

**CHAIR**—Okay. So what changes on 1 March in relation to that process?

**Dr Clegg**—Nothing. Until the assessments are complete, nothing does change.

**Senator HEFFERNAN**—With Brazil, the policy there was developed in 1999. We brought in those cartons of beef from Brazil. As Mr McCutcheon said it had this whoopee tick from OIE and that was the policy in 1999 and there was no trace-back mechanism. You mob are saying, 'We don't care if the country has no traceability because we are not interested in herd status or national status only beef status.' So it could come from Mexico, across the border, into some abattoir in Texas.

With Brazil there was no trace-back mechanism at all. DAFF did not inspect any of the facilities and did not bother to go over there, let alone send out teams. You were going to after the event, until the cartons arrived. What is going to change? Aren't we entitled, for God's sake, to know what the bloody protocols are so we can test them? That is a bloody good example of an OIE certification that went badly wrong. How do we know it is not going to go wrong again, for God's sake?

**Dr Carroll**—We are not using OIE certifications.

**Senator HEFFERNAN**—Mr McCutcheon just said that you were.

**Dr Carroll**—No, he said we are using an OIE process.

**Senator HEFFERNAN**—Do not give me that mumbo jumbo bureaucratic crap.

**Dr Carroll**—Sorry, Senator, but an OIE process is different to an OIE certification.

**Senator HEFFERNAN**—You still have not reported back on Brazil and what went wrong there.

**Dr Carroll**—The OIE categorises countries.

**Senator HEFFERNAN**—All right, Dr Carroll. You are the genius on this. Why wouldn't we have and demand full traceability if we are going to import meat from a country so that we know where it is coming from? I am talking about whole-of-life traceability. Not where it was killed but where it came from. Why wouldn't we demand that?

**Dr Carroll**—Part of the FSANZ process will be around what measures are in place to ensure the beef comes from countries—

**Senator HEFFERNAN**—But aren't we entitled to know that, God's sake? This is many times bigger than the IRA that was remanding pork and you are saying, 'Beef? Bugger off. We are not interested. We do not need an IRA.' What an insult to Australia's cattle farmers. What an insult. You are comfortable; I can see that. We are angry about this. You say we do not need an IRA. It is completely changed. We do not even know the science of the crossover of the wasting disease from deer.

**Dr Carroll**—There is no science on the crossover of the wasting disease from deer.

**Senator HEFFERNAN**—We do not know, you see. We do not know. There is no need for an IRA you say?

**Dr Carroll**—Correct.

**Senator HEFFERNAN**—How do we know if someone says they are going to bring in meat from Canada that it does not come from somewhere else if there is no traceability?

**Dr Carroll**—That will be part of the process that FSANZ will be—

**Senator HEFFERNAN**—Aren't we entitled—

**CHAIR**—Hang on. Just let the witness answer.

**Dr Carroll**—That will be part of the process FSANZ will carry out in assessing the country to see if it is eligible for a category A or a category B status.

**Senator HEFFERNAN**—But why, for God’s sake, can’t you at least set some standards that we can work on, or are you bureaucrats too scared to be human failure tested?

**CHAIR**—Senator Heffernan—

**Senator HEFFERNAN**—It is a fair thing to say. If they are not going to tell us until after the event and are saying, ‘We do not want you to test it. You are a farmer; you would not know,’ why wouldn’t we be entitled to say to other countries, ‘We demand full traceability as we have here.’ What is wrong with that?

**Dr Carroll**—We have full traceability here for a range of reasons that go far beyond BSE and far beyond various other—

**CHAIR**—If I am correct in distilling down through all of this to exactly what you mean, the only thing that has changed is that now more countries can use the same process that has already existed because of a policy change.

**Dr Carroll**—The previous policy position—

**CHAIR**—Can you just give me a yes or a no.

**Dr Clegg**—No.

**CHAIR**—Okay.

**Dr Clegg**—There is a policy already on the website today that describes the assessment for countries—the Australian BSE assessment committee. That is on the FSANZ website now. You can have a look at that. The one that comes into place from 1 March 2010 differs slightly. There are differences in country categorisations. In the current policy, countries are categorised as A, B, C or D. In the new policy they are categories 1 and 2, with category 3 not assessed or not permitted.

**CHAIR**—So the policy is just broadening out—sorry if I am being really simplistic here—those countries that are now eligible to send their beef to Australia.

**Dr Clegg**—No. It is to be considered by the assessment panel. It has to be considered. It is just the terms of reference under which they are considered that has altered slightly. That is all.

**CHAIR**—I will put it differently. At the moment there are countries that are precluded on the basis that they have had BSE.

**Dr Clegg**—Yes.

**CHAIR**—The change is that it is now opened up and those countries have an opportunity to apply.

**Dr Clegg**—Correct.

**CHAIR**—All right. That then goes back to—and I want to get to the process for assessment shortly—how important the protocols are if those countries that previously have had BSE are now going to have an opportunity that they previously did not.

**Dr Clegg**—Sure.

**CHAIR**—That is how important the protocols and there is no way to have any kind of accountability to determine what those protocols should be because it is all in the hands of FSANZ.

**Dr Clegg**—They are the risk assessors.

**CHAIR**—I understand they are the risk assessors, but there are an awful lot of people in this country who would be very pleased to be able to have input if they feel that those protocols are not correct. Who is actually drawing them up, Mr McCutcheon?

**Mr McCutcheon**—They are being drawn up by officers of FSANZ.

**CHAIR**—Which ones?

**Mr McCutcheon**—The team consists of Andrew Bartholomaeus—he is leading that team—Amanda Hill and Dr Scott Crerar, at this stage. We are also employing another three officers to be part of that team. The recruitment process is pretty much nearing its conclusion.

**CHAIR**—So there are three people and three assistants. Does that go to the board?

**Mr McCutcheon**—No, those sorts of things do not go to the board. As I indicated at the last hearing, this was an additional function provided to FSANZ and we were provided with additional money to do that. Essentially, we are tailoring our resources with that additional budgetary funding.

**CHAIR**—So there are essentially those three key people who are writing the protocols?

**Mr McCutcheon**—That is right, but they are not starting from scratch, if I can just reassure you, Senator.

**CHAIR**—No, I understand all that, but, at the end of the day, somebody has to sit down with a bit of paper or in front of a keyboard and write down what they are going to be. What is the process once they have finished writing?

**Mr McCutcheon**—Once they have finished it, there will certainly be consultation within the Australian government as we finalise those. Then, as I mentioned earlier in the hearing today, we will be getting an independent look at that by an OIE appointed expert. That will be done. Once it passes that test, we can finalise that protocol and that will be the protocol upon which countries will be able to make their applications.

**CHAIR**—Which, as you have said before, you can change at any time—FSANZ.

**Mr McCutcheon**—That is correct in theory, but it is not something that—

**CHAIR**—No, but I just want to know what is possible and what is not possible down the track. At the moment, what is the process for assessing a country's risk status?

**Dr Clegg**—Risk status for BSE or for any beef—

**CHAIR**—For BSE.

**Mr McCutcheon**—At the moment, if a country has had a BSE case, then it is not eligible to have an assessment done.

**CHAIR**—So it is as simple as that.

**Mr McCutcheon**—That is right.

**CHAIR**—What happens from 1 March?

**Mr McCutcheon**—For those countries that have a history of BSE, they are eligible to lodge an application to have their categorisation re-examined.

**CHAIR**—Who is going to do that?

**Mr McCutcheon**—That would be the Australian BSE safety assessment committee, which is essentially a FSANZ committee with one outsider from Biosecurity Australia.

**Senator HEFFERNAN**—Where will they get their advice from?

**Mr McCutcheon**—Much of the information we hope will be contained in the applications that come in from countries that lodge applications. Again, we have access to a whole range of experts within and outside Australia, so if we need additional information we will consult with those experts.

**CHAIR**—Could you just clarify for me exactly the change in policy? There is nothing in regulation, there is nothing in legislation, so this is just something that happens within the department or departments—I am not quite sure where. Perhaps you could outline for me very clearly how the policy change decision manifests itself in a departmental arrangement. What actually happens to trigger this whole change of arrangement? There is a policy decision here by the minister, who has opened this up and says, 'It's okay now—we've got countries that had BSE, but that's okay, they can have the opportunity to apply.'

**Senator HEFFERNAN**—Against the background, while you are thinking about that, that Minister Crean said this was driven by the beef industry. It is here in a press release. He has quoted Lucy Knight. You blokes have said today that it was driven by the industry. Do you agree with that? Who drove it? Come on, who drove it?

**Mr Yeend**—I have said that, over a number of years, there have been concerns expressed by industry and—

**Senator HEFFERNAN**—No—we will go back to the *Hansard*. You said it was triggered by the industry—words to that effect.

**Mr Yeend**—I did not say that. I said that the industry, over a number of years, has been expressing concerns. There have also been other factors; there have been the changes in the science—that has moved on—

**Senator HEFFERNAN**—Then I will ask you—

**CHAIR**—No, let him finish.

**Mr Yeend**—and also there have been concerns raised by some of our trading partners. All of these factors were considerations. But the driving factor in why the government commenced this review process was that, through the regular industry consultation that takes place, these issues had been raised, and raised, and then, in August—

**Senator HEFFERNAN**—In other words, it would be fair to interpret what you are saying as, ‘It was driven by the industry.’ Is that what you are telling me? I take that to be what you are saying.

**Mr Yeend**—I am saying that industry, through the consultation process, has raised concerns, and industry was wanting us to review the policy to see whether the current arrangements were appropriate or not.

**Senator HEFFERNAN**—Could you provide the advice from the industry that triggered this?

**Mr Yeend**—I think we can detail the contact we have had with the industry.

**Senator HEFFERNAN**—No, no—it would have had to be a written request to make such a catastrophic change of direction of the beef industry. You say it was driven by continuous pleadings from the industry and that that eventually triggered the government to do it; could you show us the continuous pleadings?

**Mr Yeend**—I think we could outline to you what I have been talking about.

**Senator HEFFERNAN**—But is there correspondence that supports what you are saying as more than hearsay?

**Mr Yeend**—There has been contact between the government and the industry.

**Senator HEFFERNAN**—No, I am saying: is there written evidence that what you are saying is not just hearsay?

**CHAIR**—Could the committee have any record of that contact is what we are asking.

**Mr Yeend**—Yes, I think we can provide you with detail of the contact there has been between government and industry through the consultation process.

**CHAIR**—All right. It is not just today and not just your evidence, Mr Yeend; it has been coming through quite clearly that there has been a very strong indication that this has been driven by industry. Would you say, then, that if industry had not driven it we would not be in this position today? Or would the departments have seen this as the best course forward and given that advice to the minister anyway?

**Mr Yeend**—What I am saying is that the concerns expressed by industry were a key factor in the decision to change the policy, but there were a combination of factors. You are asking me a hypothetical question but, from the perspective of the issues for which I have responsibility, this issue has been raised with us by our trading partners; concerns have been expressed both by trading partners and domestically that the science has moved on and it was something that needed to be looked at again. There were questions of consistency with our international trade obligations.

**Senator HEFFERNAN**—You are too well-trained as a bureaucrat. That will do.

**Mr Yeend**—So all of—

**CHAIR**—That is fine, Mr Yeend. Thank you. Senator Heffernan has the call.

**Senator HEFFERNAN**—Stop there, mate. Stop there. You are talking gobbledygook. According to your minister, Minister Crean:

It was the Australian beef industry's lobbying that triggered this week's decision to change food policy laws ...

So could you show us written evidence of the lobbying that Mr Crean refers to?

**Mr Yeend**—I think I have already said to Senator Nash that we will be happy to provide you with more information, but I would refer you to paragraph 6 of our submission that I think does say that the timing of the specific request from AHMAC was related to a discussion on 28 July 2009 within an AHMAC meeting. So I think we have addressed these issues on a number of occasions and we have put it in writing. I am happy to elaborate on it if you would like me to.

**Senator HEFFERNAN**—Did you say, Mr Morris, that the change of policy was announced on 20 October?

**Mr Yeend**—Yes, that is correct.

**Senator HEFFERNAN**—And yet, in earlier evidence, Professor Mathews said he did not send in his draft report until the 20th—so you made the decision before you got the draft report?

**Mr Yeend**—That is not correct.

**CHAIR**—Well, which one is not correct?

**Senator HEFFERNAN**—Which one is telling a lie?

**CHAIR**—Professor Mathews said it was 20 October—or September?

**Senator HEFFERNAN**—Who is lying?

**Dr Clegg**—Professor Mathews's report was received in September.

**CHAIR**—Can I just go back to my original question which I think was to you, Dr Clegg, though I am not sure if you are the one to answer this. My question was about the policy change and how that manifested itself in the departmental change that triggers this whole change in arrangements. Something has to happen somewhere to allow all of this to go forward, and I am just trying to determine practically what that is.

**Dr Clegg**—Do you mean what has triggered the reconsideration of the policy position after that has happened?

**CHAIR**—No. I just want the practical step. Put it this way, if it were a change in legislation we would say: 'That legislative change means this can go forward now.' There is no legislative change. There is no regulatory change. What is the change that is allowing this to go forward?

**Senator HEFFERNAN**—This is a complete snow job by the bureaucracy.

**Dr Clegg**—The only thing that has changed is the basis on which countries are being assessed as being eligible by the committee to put applications to them for their BSE statements. Say a country has been assessed and say it is a country that has had a case of BSE. Then up until 30 June 2011 if you are a new country you must satisfy all quarantine requirements—

**CHAIR**—You have gone just a bit further down the track. It is a pretty simple question and I think you have answered it. The fact now is that, simplistically, more countries have the opportunity to apply. Where does that change itself in the paperwork? Where is that change in the paperwork within the department that now lets those countries come in?

**Dr Clegg**—There is no letting the countries come in. There will be advice back to us from FSANZ about whether a country has a new status or not. Is that what you are after?

**CHAIR**—Yes, that is what I am after. Take countries that have had a status change. Where does that get rubbed out somewhere else and the new thing written in? In which department?

**Dr Clegg**—When we get the advice from the assessment committee we will add to our imported food notices a listing for that country, which will set out its—

**CHAIR**—No, before they apply, before there is any application.

**Dr Clegg**—Perhaps Mr McCutcheon can help.

**Mr McCutcheon**—Essentially, now under the existing policy there are protocols in place for assessment of countries seeking to be categorised under the existing four-category system.

**CHAIR**—And there are some that are precluded.



**Mr McCutcheon**—That is right. The new policy, which comes into effect on 1 March, has a new set of categories and of course, as has been discussed a lot today, countries that currently were precluded, because they had a BSE case, are now eligible to lodge an application. So following that decision—and you are talking about paperwork—we had to move to develop a new protocol for assessing those countries that might wish to make an application.

**Senator HEFFERNAN**—So if you have developed a new protocol why wouldn't you bring it forward to the public and to the industry as an IRA assessment?

**Mr McCutcheon**—Under our legislation we are not obliged to do that.

**Senator HEFFERNAN**—Bugger the legislation. This is the future of the beef industry here.

**Mr McCutcheon**—We are looking after the health and safety of Australian—

**Senator HEFFERNAN**—Well, let's jump—

**CHAIR**—Hang on!

**Mr McCutcheon**—That is our job. We do the protocols.

**Senator HEFFERNAN**—We are just jumping—

**CHAIR**—Mr McCutcheon and Senator Heffernan, just one moment. I want some clarification. Has this decision to change those categories been based on human health or animal health as well? Is it singularly human health that it has been based on or is it a combination of human and animal health?

**Mr McCutcheon**—This change of policy is around human health.

**CHAIR**—So has there been no consideration given to any potential risk to animal health within Australia as a result of this change?

**Dr Cupit**—In relation to BSE, the human health risks are being considered in this process. Now as for animal health, if you are talking about the potential transmission of beef causing BSE in cattle, because the human health risks are being managed and because (a) cattle are herbivores, so they do not eat beef and (b) we have a ruminant feed control so we have a ruminant feed band, there is no pathway for beef causing BSE in cattle in Australia.

**Senator HEFFERNAN**—But, in terms of an import risk analysis, there are other diseases around for animals.

**Dr Cupit**—Certainly there are, Senator—

**Senator HEFFERNAN**—But under this no IRA can consider that—

**CHAIR**—Senator Heffernan, let him answer that bit firstly and then you can go on.

**Dr Cupit**—Certainly there are, Senator, and in particular the animal health concerns are in relation to FMD and rinderpest and we have had policies for many years and import conditions, for example as to New Zealand and other countries and preceding the BSE issue when we used to import from the USA et cetera. The main conditions were in relation to foot-and-mouth disease and rinderpest.

**Senator BACK**—I want to stay with the point you made a moment ago, if I may, regarding meat meal. We heard this morning from Professor Mathews, and in fact I think it is repeated in the Department of Health and Ageing's submission to us, in point 9:

Furthermore the independent review indicates that it is possible to import beef from countries that have reported cases of BSE and maintain a high level of protection for the Australian public, provided the appropriate risk mitigation strategies are put in place.

I asked Professor Mathews this morning, and he agreed that in his view those risk mitigation strategies were built around the UK experience. My recollection at that time was that there were—there may be others—four principal aspects: firstly, the capacity to limit movement and confine animals to the farm of origin; secondly, a form of animal identification that could link animals back to the property of origin; thirdly, abattoir standards; and, fourthly, the feeding or non-feeding of meat meal to add protein to foodstuffs. Would you agree with the statement that has been made in the department's document to us in relation to these appropriate risk mitigation strategies? Would you confirm Professor Mathews's concerns and rider or proviso as being valid, accurate or reasonable?

**Mr McCutcheon**—Certainly from the FSANZ point of view, when we conduct our risk assessments on the basis of our protocol, all those matters are matters that we will be seeking information from countries on.

**Senator BACK**—Sure. I think I learnt, or at least I understood very clearly—and Professor Mathews, although he is not on the panel, could correct it—that his acceptance of the low risk was based on risk mitigation strategies based on the UK experience.

**Senator HEFFERNAN**—Why don't we bring him up here?

**Senator BACK**—I am sure the chair would allow Professor Mathews to dispute what I have said if it was wrong.

**CHAIR**—Absolutely.

**Senator BACK**—Armed with that, I ask the question: will it be a proviso in the protocols that there is individual animal identification? And the capacity to link them back to the property of origin will be one of the criteria in the protocols once they are implemented?

**Mr McCutcheon**—Certainly the protocols, as they are being developed, have a very strong focus on traceability, and particularly the ability to trace an animal back to its farm of origin—where it may have been potentially exposed to infected meat and bone meal—and obviously the ability to trace forward from there any other animals that may have been exposed to the same feed. So traceability is a fairly important element that we will be looking at.

**CHAIR**—So, if you cannot trace it, will you say no? Will you absolutely, categorically say no?

**Mr McCutcheon**—If we are not satisfied with the country's traceability requirements—

**CHAIR**—No, I am not even talking about countries. I am talking about individual exporters.

**Mr McCutcheon**—We do not look at individuals; we look at countries.

**CHAIR**—Who does? Who looks at the individuals?

**Mr McCutcheon**—That is the responsibility of the individual country making an assessment.

**Senator HEFFERNAN**—But if the evidence—

**Senator BACK**—Can I just stay with this for a second? I thought the responsibility rested with Australian authorities, not that it was the responsibility of other countries. I hope we are not divesting this to other countries to assure us that everything is in place. Are we not going to actually satisfy the Australian consumer by being able to say that Australian people under your direction are going to be satisfied? We are not going to be satisfied by some statement of an overseas country's inspectorate, are we?

**Mr McCutcheon**—The first step will be for us to assess what traceability mechanisms a country has and how effectively they are claimed to be used.

**Senator BACK**—And if they do not have—

**Mr McCutcheon**—Second, if we are not satisfied then we do have the scope to go and visit countries for an inspection. I will ask AQIS to jump in here, but basically if a country is put into category 1 or 2 and they are deemed to be eligible to export to Australia, subject to all the other sanitary requirements being met, then it is another country's responsibility to make sure that they satisfy our requirements. But, again, that is getting into AQIS territory.

**Senator HEFFERNAN**—Rather than mince your words, the US and Canada do not have full traceability at all. They have no traceability, as Senator Back points out, from the day an animal was born to when it was killed.

**Senator BACK**—Where would that place them?

**Senator HEFFERNAN**—So are they knocked out automatically?

**Mr McCutcheon**—If Canada or the US lodge an application then we will be examining traceability as part of that.

**Senator HEFFERNAN**—For God's sake, we have been here for two hours talking bureaucratic nonspeak. Wouldn't it be reasonable for Australia's cattle producers to expect you fellows, who are in charge of this without reference to the parliament or the industry, to at least demand full traceability? Isn't that a reasonable request?

**Senator BACK**—Can I ask the question—

**Senator HEFFERNAN**—No, just let him answer that.

**Mr McCutcheon**—I think I have already answered that question. I said we will need to be satisfied that the traceability arrangements that a country have manage the risks associated with BSE.

**Senator HEFFERNAN**—That is bureaucratic crap. They do not have any.

**CHAIR**—Senator Back has the call.

**Senator BACK**—I will ask the question differently then. When the guidelines and the protocols are put up on your website, upon which countries or companies from overseas may want to make applications to FSANZ, will they clearly state, for example, what our protocols are in relation to individual animal identification and capacity to trace back to property?

**Mr McCutcheon**—Firstly, it will only be countries that will be lodging applications, not companies. Secondly, the protocols will make it very clear that there is a range of information that we require in respect of their traceability arrangements to satisfy—

**Senator BACK**—And three weeks out you cannot tell us what that is going to be?

**Mr McCutcheon**—No, I cannot.

**Senator BACK**—When can you tell us what it is going to be?

**Mr McCutcheon**—It will be before 1 March, when we publish it on our website.

**Senator BACK**—I will ask you a second question in relation to the same area. It relates to the transportation of live animals, carcass meat or cut down meat from countries that have not made applications and probably would not be eligible; in other words, from South American countries into Brazil, then into the United States and then into Australia. What capacity have we got? Firstly, is it only based on the country making an application assuring you that that particular flow of illegal trade is not taking place?

**Mr McCutcheon**—We will only be assessing the applicant country's application. If there are issues around illegal movement of cattle and so on, clearly we will need to be satisfied that any risks are properly mitigated by that country. We will have look at this on a case-by-case basis.

**Senator BACK**—Sure. Secondly, if evidence was presented that that was happening, subsequent to a country such as the United States or Canada being given approval, what would be the mechanism that a person or an organisation would use to be able to prove or demonstrate that, and what would be the outcome?

**Mr McCutcheon**—After a country's assessment is completed and they are categorised, if there are any issues that are brought to our notice, or to the Australian government's notice in

general, that these risks are not being managed or if there are new issues around it, then we have the capacity to review that country's categorisation.

**Senator BACK**—On this risk issue, because the risk is so wide, is it likely that somebody such as Professor Mathews will be invited onto a BSE advisory committee?

**Mr McCutcheon**—That is something we have not considered but, as I said earlier, our normal modus operandi in FSANZ is to engage a whole range of experts nationally and internationally. So if there are particular areas in the BSE field that we believe we need some further expert advice on then we will engage that advice.

**Senator HEFFERNAN**—Will that include people, like growers, who actually knock the nuts out of the cattle out there in the paddock?

**Mr McCutcheon**—Anyone with relevant expertise for our process. It does not exclude anyone.

**Senator HEFFERNAN**—But I mean dirt under the fingernails experience rather than bureaucratic experience.

**Senator BACK**—I will go to a final question. For my own peace of mind I really just want clarification—I think Senator Sterle was asking a question about it earlier—on this business about beef off the shelf. The question I asked, I think, in December was: if a BSE case occurred in Tasmania what is the likelihood of beef being taken off shelves in Perth, Darwin, Alice Springs and Brisbane? A thousand to one says it never would. It never happened in the United States when they got BSE, did it? Can anyone tell me if beef went off the retail shelves in the United States or Canada? It didn't, did it? No, there is no precedent. I just want advice. Is it not the case that that decision would actually be a state or territory minister for agriculture's decision, not a federal decision? Is that not the case?

**Mr McCutcheon**—It would ultimately be a state minister's decision but not necessarily an agriculture minister.

**Senator BACK**—A state health minister. It is not within the federal sphere that that capacity could ever take place?

**Mr McCutcheon**—Yes.

**Dr Carroll**—If the beef were to remain on the shelves, it would be in clear contravention of our current beef import policy, which says that, if there is one case of BSE in a country, that meat is not safe for Australians.

**Senator BACK**—Yet, not one other country in the world, Dr Carroll, could come forward and stand up in an international court and say, 'You must impose that because there is a precedent around the world.' There is not one, is there?

**Dr Carroll**—It is not a precedent. We have our own legislation—

**Senator BACK**—What I am saying is that nobody could stand up and say, ‘Australia, you must do that.’

**Dr Carroll**—There are precedents for where our import policies are divergent from our domestic policies, and it would be inconsistent—

**Senator HEFFERNAN**—It is something that we dreamt up.

**Senator BACK**—Mr Yeend, I am very keen to hear your view as well.

**Mr Yeend**—When you said that there was no way that anyone could raise this as an issue with us, this brings us to the question of our international trade obligations and the non-discriminatory or national treatment provisions of the general agreement on tariffs and trade where, basically, measures that we apply domestically would be expected to be applied to any trading partner. So in terms of there not being a course that a trading partner could take in that situation is incorrect. They would have legal rights that would allow them to question the approach that we were taking.

**Senator BACK**—Just purely hypothetically and off the top of my head—and I cannot think why I thought of this country—if Canada came forward on that basis, they would have to do so tongue-in-cheek, wouldn’t they? Because not one Canadian kilo of meat came off the shelves voluntarily when they got their BSE? Yes?

**Ms McCarthy**—Australia is in a particular position because, under the old policy, it actually bans the import of beef from countries that have ever had a case of BSE. That puts us in a unique position in WTO parlance because, if we have a case of BSE in Australia, we would need to apply the same policy that we apply to overseas countries in our own country under the WTO rules.

**Senator BACK**—I put it to you that it is unique for two purposes: firstly, because we have not had it and the trading countries that have put pressure on your department are countries that have had it; and, secondly, unlike the New Zealanders who saw the clause and specifically excluded themselves from it, we signed it. Would both of those comments not be fair?

**Ms McCarthy**—I am not sure about the clause that New Zealand signed.

**Senator BACK**—New Zealand specifically excluded themselves from that clause when we signed it. Once again, I make the point—and it has been agreed—that it is actually the province of state or territory ministers, not the federal minister, upon which that decision, if ever heroically taken, would have to be taken.

**CHAIR**—Senator Sterle would just like a clarification.

**Senator STERLE**—Thank you, Chair. Isn’t it the case that the government is now trying to reflect the policies of these countries? Is that why the beef did not come off the shelves?

**Mr Yeend**—We think that, through the process of moving into the new policies, the government is correcting some of these anomalies so that we will be much more in accord with

international practice and with what other countries do, but in a way that takes account of Australia's unique circumstances. We look at the international standards and then we put measures in place that we hope reflect them.

**Senator STERLE**—In simple terms: the beef did not come off the shelves in these other countries because they have a policy similar to the one that the Australian government wants to get to?

**Mr Yeend**—Yes, that is correct.

**Senator HEFFERNAN**—The exception is that those countries have BSE. That is the only difference.

**Mr Yeend**—It depends on which country you are talking about.

**Senator HEFFERNAN**—A proportion of those countries have BSE. Is that true?

**Mr Yeend**—We are putting in place measures that will ensure that there is negative—

**Senator HEFFERNAN**—We will not go to the garbage argument of the off-the-shelves removal against the cost-benefit analysis, which they could have taken but refused, of mandatory SRM removal. Would you like to comment on that?

**Ms McCarthy**—I suppose our position is unique is in that we do not have BSE but we also have a ban on countries that have had BSE. The US, as far as I understand—

**Senator HEFFERNAN**—But you accept that our meat that goes to the US, Japan and Korea is mandatorily SRM removed?

**Ms McCarthy**—I would have to refer to my DAFF colleagues.

**Senator HEFFERNAN**—Come on boys. That is how we protect ourselves in those markets. In the event of a BSE, we mandatorily removed the SRM.

**Dr Carroll**—But that would not be sufficient to satisfy Australian import requirements.

**Senator HEFFERNAN**—No, but it would satisfy the markets we are exporting into and, if we cared to do it, and the industry said, 'It is going to be \$200 million, we don't want to do it, we'll take the risk, we'll lower the standards, we'll compete with the lower standards because we don't have BSE; with countries which do, we'll equalise the field and see if we can still compete,' even though it looks like going to parity with the dollar—this is all about trade.

**Senator STERLE**—I direct this question to Mr Yeend of DFAT. Quite clearly, are you saying that the Red Meat Advisory Council did not write to the government asking strongly for the policy change?

**Mr Yeend**—That is correct, they did write to the government asking for the policy change. I think I referred earlier to paragraph 6 of our submission which, in quite considerable detail, sets it out, including that there was a letter.

**Senator HEFFERNAN**—Could you table that?

**Senator STERLE**—Yes, I was going to ask that too. That is already in the submission at page 6, is it?

**Mr Yeend**—Yes.

**Senator HEFFERNAN**—When was the letter written?

**Mr Yeend**—The date of the letter I think is in paragraph 6, which I am referring to. There was certainly a letter to Mr Burke on 9 August and then another letter on 18 September.

**Senator HEFFERNAN**—Was that before or after the consultation where they were signed up to confidentiality? They met and were told, ‘This has to be kept in-confidence.’ Was it before or after that?

**Mr Yeend**—Again, DAFF had responsibility for that process. I think they have answered questions. You are alleging that there was a confidential—

**Senator HEFFERNAN**—Can you answer it now?

**Mr Morris**—As Mr Yeend said, there were two letters. From memory—I would have double-check the exact date—one may have been before and one after.

**Senator HEFFERNAN**—Before and after what?

**Mr Morris**—What you said—there was a teleconference where industry was asked to maintain confidentiality. I am trying to recollect to the exact time.

**Senator HEFFERNAN**—Could you table the two letters and table the time and the place of the instruction on confidentiality as well?

**Mr Morris**—Yes.

**CHAIR**—Out of interest, with all of the consultation which happened with all of the departments around this scenario, was there any consultation with beef producers who did not hold a position on any of the industry bodies you were talking about?

**Mr Morris**—I am sorry, Senator, I was slightly distracted there. I might get you to ask the question again—

**CHAIR**—I am very happy to ask again.



**Mr Morris**—but could I just go back to the previous question because I have the answer now. That might make things a little easier for the committee.

**CHAIR**—Certainly.

**Mr Morris**—The timeframe was that the Red Meat Market access committee met on 28 July when it was raised with them.

**Senator HEFFERNAN**—Met with whom? They met themselves.

**Mr Morris**—Yes. There was a meeting where this issue was raised. Hey wrote to Minister Burke 9 August 2009. The teleconference I referred to was on 14 September, after the first letter. Then the further letter was sent on 18 September. So my memory was correct: one letter was before the conference and one letter was after that teleconference.

**Senator HEFFERNAN**—So, after the second meeting and the swearing of confidentiality, Professor Mathews reported?

**Mr Morris**—I would have to double-check with the department of health in terms of the actual timing of the draft.

**Senator HEFFERNAN**—I think we were told it was September. So they were sworn to secrecy on what day?

**Mr Morris**—On 14 September.

**Senator HEFFERNAN**—Then, on 20 September, Professor Mathews put in his draft report.

**Mr Morris**—I think I heard that in evidence earlier, but—

**Senator HEFFERNAN**—And he was instructed to do that report 2½ weeks or thereabouts before that, so that takes it back to the beginning of September. When was the first meeting?

**Mr Morris**—When was the first time it was raised or when was the teleconference with industry?

**Senator HEFFERNAN**—On what day?

**Mr Morris**—It was raised initially on 28 July.

**Senator HEFFERNAN**—No, with the government, not with them.

**Mr Morris**—We were at that meeting. The 28 July meeting was a meeting between industry and government. It is a regular meeting.

**Senator HEFFERNAN**—You originally said it was just an RMAC meeting.

**Mr Morris**—Sorry, when I was referring to RMAC, or Red-MAC, it is a committee that involves both industry representatives as well as government representatives, and at that meeting both—

**Senator HEFFERNAN**—Could we see the minutes of that meeting?

**Mr Morris**—I believe we probably could table those. The committee is actually chaired by industry, so I would need to—

**Senator HEFFERNAN**—If you could table those and the minutes of the next meeting, and the minutes of the meeting where they were sworn to confidentiality.

**Mr Morris**—I do not think there are any minutes of the teleconference. That was just a teleconference—

**Senator HEFFERNAN**—They just said, ‘She’ll be right, mate; we’ll keep our mouths shut,’ over the phone?

**Mr Morris**—It was a teleconference. We do not always keep minutes of those sorts of meetings.

**Senator HEFFERNAN**—But I am sure you do; you would be a poor bureaucrat if you did not make contemporaneous notes! Are there contemporaneous notes which are available?

**Mr Morris**—With both the letters and any minutes, we will consult with the minister and the relevant people to make sure that they are comfortable with tabling those.

**CHAIR**—Can I just return to my previous question, then, which I will ask you again, Mr Morris. At any stage, with all the consultation process through all the departments involved, with everything—it has obviously been very comprehensive—was there any communication or contact with any beef producers who did not hold a position on one of the industry bodies that Mr Yeend outlined?

**Mr Morris**—I do not know who industry consulted with, so it is hard for me to say that.

**CHAIR**—No, I am not talking about who industry consulted with. I am interested from the point of view of the department. This has been a policy change and a very big decision that largely rests with the department, and you have obviously had advice from the industry bodies about their views in terms of meat off the shelves. But, in terms of the practical impact on the ground for beef producers, did anybody in the department speak to, talk to or communicate with a beef producer or a beef producer group that did not hold a position on any of those industry bodies?

**Mr Morris**—I would say no, but that is because we felt that that advice would be provided by the representative organisations for those—

**Senator HEFFERNAN**—Those that were sworn to confidentiality?

**CHAIR**—Hang on—just a second. They were sworn to confidentiality. Isn't that a rather large assumption? If you have got any understanding at all of agriculture in Australia, you would never assume that the industry peak body is actually representative of the people they represent!

**Mr Morris**—I think some of those representatives are producers in their own right.

**Senator HEFFERNAN**—We understand that.

**CHAIR**—That is why I specifically asked about ones that did not hold positions on those bodies—because it seems quite extraordinary to make such a change, even though this just a policy change and an opening up of opportunities for countries to—

**Senator HEFFERNAN**—Undermine us.

**CHAIR**—potentially bring products in, that there was no consultation with anyone other than those industry bodies, which you assumed were representative of all of those hundreds of thousands of beef producers. That seems quite extraordinary and a little bit slipshod.

**Senator HEFFERNAN**—But on top of that you—

**Mr Yeend**—Senator—

**Senator HEFFERNAN**—Go on, Mr Yeend; you have a go. You not only consulted just the peak bodies but then you said to them, 'Don't tell the industry; sign here,' as it were. You swore them to confidentiality. Were you in on that little lurk, Mr Yeend?

**Mr Yeend**—Just to respond to Senator Nash's question, we consult with the industry regularly across a whole range of issues, and the way we consulted on this issue reflects our normal practice. We go to the peak bodies, we speak to a range of organisations. In this instance, my understanding—

**Senator HEFFERNAN**—But, mate, why did you swear them to confidentiality?

**Mr Yeend**—Just responding to Senator Nash's question, we consult with industry regularly across a whole range of issues and the way we consulted on this issue reflects the practice that we normally do—we go to the peak bodies, we speak to a range of organisations. In this instance, my understanding is that those bodies are wholly representative of the vast bulk of the industry.

**CHAIR**—That is an assumption on your part. That is your view and your assumption.

**Senator HEFFERNAN**—Why did you swear them to confidentiality? If that is the case, why did you say to them 'but don't tell the industry'—

**CHAIR**—I just want an answer to that question. Is that normal practice, to be signed up to confidentiality, and why were they?

**Mr Morris**—There was no signing or anything, but they were asked to maintain confidentiality.

**CHAIR**—Why was that, Mr Morris? Before Mr Morris continues, I ask senators to be quiet. It is entirely up to Mr Morris to give me the answer, and he is perfectly at liberty to if he chooses to, Senator Sterle. I do not think you need to be the mouthpiece for the departments. Mr Morris, would you like to give your answer to my question.

**Mr Morris**—The decision made on this particular case was to undertake a targeted set of consultations, and it was targeted at the industry bodies. In some issues we undertake that sort of targeted consultation and in other issues it is broader.

**CHAIR**—I can understand that, and I take that point. But you then by doing that, didn't you, wrested from them the responsibility of making the decision to concur in the higher levels of the industry bodies themselves and the opportunity to consult with the broader beef producing community. That is correct, is it not—the minute you asked them not to speak about it they were not at liberty to discuss what you had put forward to them. If that is the process that is the process, but that was indeed the case, was it not? So the decision whether or not to accept what was being undertaken rested with the hierarchy of the industry bodies with no ability to consult with the broader industry.

**Mr Morris**—We asked them but then it was up to them as to whether they did or did not—

**CHAIR**—So you are saying that, even though you asked them to be confidential, they were at liberty to go and talk about it?

**Mr Morris**—We asked them to maintain confidentiality. As to whether they actually chose to or not, obviously we could not control that beyond that point. We said we would prefer that they—

**CHAIR**—From the perspective of the process you put in place, the expectation was that they would not consult any more broadly than within the body that you had spoken to and that you had asked to maintain confidentiality.

**Mr Morris**—Correct, yes.

**Senator BACK**—It came from industry; industry were the catalyst, according to Mr Yeend, on this occasion, and yet government asked industry not to consult. Senator Heffernan's name even got mentioned in all this. It never was us in the coalition that government did not want this consultation to go on with, was it? It was actually producers. We were going to find out about it; it was just bad luck we found out about it during estimates so we did ask the Director-General of Health and she ran like hell and said 'No, it did not come from us,' despite the fact it was Minister Roxon who put it out. The next in line was DAFF, and your CEO said 'It was not us,' and unfortunately it then fell to Trade, and we were advised that the Prime Minister's department was heavily involved.

The group to lose out in all this are going to be producers. We know that from the pig industry. I think we saw the stats this morning—67 or 70 per cent of all processed pig meat consumed in

Australia this last Christmas was actually imported into Australia. As a person who spent a good deal of his career as a veterinarian involved in the animal industry, what a shame it is that we have seen that in the pig industry and we are going to see it in the beef industry. All Christmas, since we met in mid-December, I have been saying to myself, 'Why is it we have not had producer groups beating the door down over this?' I think we now know—it was not us that the consultation process was not to take place with; it was producers. I just think that is pathetic. I know it is not your individual responsibility but in eight to 10 to 12 years time, when we have not got a viable beef industry in this country, when food security, for which you have responsibility, will be at risk—and I say it is at risk—I am glad it is not going to be me that is going to have to face up to the responsibility. Those of you across this table, and the senior people in your departments, and the ministers—and I have to say it was our own side that also looked at this originally—have an awesome responsibility. I am glad it is not me, that is all.

**Senator HEFFERNAN**—You will be comforted to know that when you signed the peak bodies up, Mr Justin Toohey actually stuck to it, because I said, 'Why didn't you actually tell us,' and he said, 'We didn't tell you because we knew you would disagree with the decision.' In other words, he was saying, 'We don't want to test the decision out in the wider community.' This is an outrageous disgrace; it is an ambush of the beef industry and you are to blame.

**CHAIR**—Are there any further questions?

**Senator HEFFERNAN**—I do not think we are finished by a long shot.

**CHAIR**—But we have, I think, drawn to a conclusion today, very nearly.

**Senator HEFFERNAN**—The meeting with the industry, Mr Morris, was on 28 July. Is that correct?

**Mr Morris**—That is correct.

**Senator HEFFERNAN**—I note that during July there were ferocious negotiations between Canada and the US and the Minister for Agriculture, Fisheries and Forestry and the Minister for Trade. Could we have any lead-up to what caused that meeting at the end of July—the paper trail that led to the meeting at the end of July from, say, a month or two before that? What triggered the July meeting?

**Mr Morris**—I believe it was just a regularly scheduled meeting, because they covered a range of issues there and it was just one item on a long list of items. If you would like me to confirm that, I can, but that is my understanding.

**CHAIR**—Right. Before we finish up, one of the things I am interested in is that, if the basis of all this is the risk and the impact on human health, why did it take—as you say—the drive from the industry, which was very concerned about the beef off the shelves and all that sort of thing? Why wasn't this done some time ago when the apparent science became available, because apparently it is a human health issue? It just all seems rather illogical.

**Mr Morris**—I think it has been considered over quite a large number of years. On at least two previous occasions there have been reviews done of the science, but decisions were not taken at

that time to change the policy. So in fact this is at least, I believe, the third occasion that this issue has been considered. In fact, similar consultation processes, as I understand it, were undertaken on those occasions as well, although I was not involved in the previous two.

**Senator HEFFERNAN**—So did the industry come to the government or the bureaucracy at any stage with a cost-benefit analysis on SRM removal?

**Mr Morris**—Not that I am aware of.

**Senator HEFFERNAN**—Mr Carroll, you are a vet or something?

**Mr Carroll**—Yes, I am a vet, Senator. I am not aware of it. It was not part of what came into considerations.

**Senator HEFFERNAN**—I have been told that it does not matter when this committee meets, how we meet or if we meet because we are going to have no influence, no opportunity and no outcomes that are going to influence this decision. It is a fait accompli: ‘Go and bite your backside. We are going to do this.’ I think it is a disgrace and you lot are a disgrace.

**CHAIR**—Absolutely. Thank you for appearing today. I must say I think it is appalling that we in the situation where we are looking at potential imports from countries that have BSE that we have never accepted before. The protocols have not been done. No-one has seen them—they might turn up at two minutes to midnight—and there is absolutely no way of providing a check and balance on those protocols. There is no parliamentary oversight and no ability for the industry to have any kind of input. Quite frankly, I think that is appalling.

**Senator HEFFERNAN**—Given the atrocious track record that you fellows have got of human failure, it is a disgrace.

**CHAIR**—Thank you all very much for appearing today and giving us so much of your time. We do appreciate it. I thank everyone who appeared. That concludes today’s hearing. The committee stands adjourned.

**Committee adjourned at 3.19 pm**