



Inquiry into the Integrity of Australia's Border Arrangements

July 2017

Submission by the Department of Agriculture and Water Resources

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1. Introduction

In June 2015, the Department of Agriculture and Water Resources (the Department) lodged a submission to the previous Parliamentary Joint Committee (PJC) on the Australian Commission for Law Enforcement Integrity (ACLEI) Inquiry into the Integrity of Australia's Border Arrangements. This submission provides an update on the role of the Department and seeks to address the updated terms of reference of the PJC on ACLEI Inquiry.

2. The Department

2.1 *Mission*

The Department supports the sustainability, profitability and competitiveness of Australia's agriculture, fisheries and forestry industries. The Department:

- provides advice to the Australian Government on how to help our primary industries remain competitive, productive and sustainable into the future;
- provides advice to the Australian Government on how best to achieve social, economic and environmental benefits from the use of water resources in the national interest;
- administers government programs and legislation that support these objectives, including the collection of levies for research, development and marketing;
- regulates the importation of food and other goods to ensure that Australia is safeguarded against exotic animal and plant pests and diseases and imported foods are safe to eat; and
- regulates the provision of export certification of agriculture, fish and forest products to meet importing country requirements.

2.2 *Key deliverables at the border*

The Department helps people and goods move in and out of Australia while managing biosecurity risks to the environment and animal, plant and human health.

Australia's biosecurity system relies on a risk-based approach supported by research, science and intelligence. Biosecurity activities not only protect Australia's environment and economy from exotic pests and diseases, but help maintain Australia's reputation as an exporter of clean, green agriculture, fisheries and forestry commodities.

The Department's biosecurity activities at the border are focused on:

- screening and inspection of international vessels, passengers, cargo, mail, animals, animal products, plants, and plant products arriving in Australia;
- managing the high biosecurity risks of live plants and animals through containment, observation and/or treatment at biosecurity facilities;
- raising awareness of travellers, importers and industry operators of Australia's biosecurity requirements; and
- undertaking compliance and enforcement activities where biosecurity requirements are not satisfied.

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Each year the Department processes several million passengers, mail items, cargo consignments and animals arriving in Australia. During 2015-16:

- 19 million passengers were cleared, 138 million international mail articles were received and 180,000 vessel pratique visits occurred.
- 250,000 wharf gate sea container inspections and 46,000 country Action List sea container inspections (first port) took place.
- 270,000 items were seized from air passengers, 3,900 items were seized from sea passengers and 23,000 seizures of mail articles occurred.
- 5,700 live animals and 6,600 hatching eggs were processed at Government post-entry quarantine facilities.

2.3 *Our locations*

As detailed in the Department's previous submission, our staff are located nationally across multiple department and third party sites.

The Department also regulates external territories including the Cocos (Keeling) Islands, Christmas Island and Norfolk Island under the *Biosecurity Act 2015* (the Biosecurity Act).

The Department has a joint presence with other Commonwealth agencies in some facilities, namely seaports, select third party premises, airports and international mail gateway sites. However, for the majority of facilities in which the department operates, it does not have a joint presence with other Commonwealth agencies. Examples include regional offices, export facilities, meat processing establishments, laboratories, approved arrangement sites and quarantine facilities.

2.4 *The role of approved arrangements in delivering biosecurity outcomes*

Approved arrangements established under the Biosecurity Act are legal agreements entered into by the Department and another entity (designated as a Biosecurity Industry Participant - BIP). Approved arrangements allow third parties to carry out biosecurity activities at their own premises and facilities, which are generally not located within the seaport or airport environments, using their own equipment and people, to manage biosecurity risks and/or perform the assessment of goods in accordance with departmental requirements. These approved arrangements are the subject of compliance monitoring and/or auditing.

These arrangements cover a range of business types, including customs brokerages, cold stores, freight companies and importers, and allow businesses to manage the biosecurity risk in a cost-effective manner.

BIPs who hold an approved arrangement must meet specific requirements for the type of arrangement being entered into, including:

- having premises that meet departmental requirements and can be audited;
- meeting a fit and proper person test for themselves and their associates that considers outstanding debt, relevant criminal convictions, compliance history related to biosecurity activities and previous revocation or suspension of biosecurity-related approvals; and
- undertaking specific training for the type of approved arrangement being applied for.

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3. Addressing corruption and corruption risks at the border

3.1 *The Department's powers at the border in relation to corruption*

In order to manage the risk of corruption at the border, the Department holds a range of powers under the Biosecurity Act. These include a variety of search warrants for risk assessment, compliance monitoring and evidentiary purposes.

A range of sanctions are also available under the legislation to provide disincentives for non-compliance. Sanctions include warnings, infringement notices, enforceable undertakings, injunctions and both civil and criminal prosecution. With the exception of the issuance of infringement notices, enforcement measures are undertaken by skilled and qualified departmental staff in accordance with the *Australian Government Investigation Standards* and the *Commonwealth Fraud Control Guidelines*.

The Department does not tolerate corruption in any form and, upon detecting corruption or receiving an allegation of corrupt behaviour, will pursue one or more of the following courses of action:

- should the staff member in question be prescribed under ACLEI jurisdiction, refer the matter to the Integrity Commissioner;
- should the staff member in question not be prescribed under ACLEI jurisdiction, authorise an internal investigation to be undertaken by investigators in accordance with *Australian Government Investigation Standards* to determine if corruption has occurred;
- should the matter reach a criminal threshold under the *Crimes Act 1914* or *Criminal Code 1995*, refer the matter to the Australian Federal Police (AFP) or the relevant state law enforcement agency.

3.2 *The Department and ACLEI*

The Department continues to see its partnership with ACLEI as a key element of its corruption prevention, detection and response efforts. This is particularly true at the border, where a number of departmental staff were prescribed under ACLEI jurisdiction from 1 July 2013. These prescribed staff include:

- the Secretary of the Department
- persons who hold, or are acting in, the position of Regional Manager of the Agriculture Department
- members of staff of the Agriculture Department whose duties include undertaking assessment, clearance or control of vessels or cargo imported into Australia; and
- members of staff of the Agriculture Department who have access to the Integrated Cargo System.

With the exception of the Secretary, who has specific reporting obligations under the *Law Enforcement Integrity Commissioner Act 2006* (LEIC Act), these staff were included in ACLEI's jurisdiction on the basis that they either work in a high risk environment – the waterfront and cargo environments of the border – or they make decisions or have access to information about proposed importation.

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The LEIC defines a prescribed staff member as engaging, or having engaged, in corrupt conduct if the staff member, while employed by the Department, engages in:

- conduct that involves, or that is engaged for the purpose of, the staff member abusing his or her office as a staff member of the agency; or
- conduct that perverts, or that is intended to pervert the course of justice; or
- conduct that having regard to the duties and powers of the staff member as a staff member of the agency, involves or is engaged in for the purpose of corruption of any other kind.

Pursuant to sections 19 and 20 of LEIC Act, the Secretary is required to report each allegation of corrupt activity undertaken by prescribed staff to the Integrity Commissioner, and to indicate whether or not it is considered a significant corruption issue. On assessment of each allegation, the Integrity Commissioner will advise the Department how it is to be investigated and handled. ACLEI may direct an investigation to be undertaken:

- by ACLEI alone, with the full co-operation and assistance of the Department;
- by the Department alone;
- Jointly between ACLEI and the Department; or
- Jointly between ACLEI and another agency of its determination.

3.3 *The Department's corruption prevention capability*

There is a significant program of work underway to enhance the Department's capability in relation to corruption prevention, both at the border and more broadly within the Department. The Department has implemented the following initiatives:

- established the Assurance Branch within the Legal and Assurance Division to give appropriate focus to the ongoing management of the risk environment
- strengthened arrangements regarding secondary employment and real or perceived conflicts of interest. These matters are reviewed at least annually as part of the performance management process
- provided training and access to mentoring and specialist support in dealing with matters of integrity or staff behaviour to supervisors of staff who operate offsite
- undertaken an independent review of the capability and capacity to effectively prevent, detect and respond to corruption by departmental employees. This informed the development of a plan to enhance the Department's Integrity Framework
- established a Senior Executive Service level Integrity Management Committee to monitor staff misconduct information and provide a whole-of-Department risk based response strategy
- introduced a network of integrity champions to promote an internal integrity culture and establish a mechanism to communicate corruption risk concerns to the entire workforce.
- implemented an auditable case management system to effectively manage the department's corruption allegations and investigations information
- expanded existing on-line e-learning packages to include face-to-face integrity workshops and scenario based training and workshops highlighting corruption vulnerability trends which enable corrupt behaviour

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- expanded the Department's "community-of-practice" activities to develop more timely and efficient stakeholder engagement with our strategic integrity partners including ACLEI and DIBP
- strengthened the Department's personnel security processes. These include the requirement for national police checks for new employees and inter-departmental transferees, as well as the requirement for ongoing staff to advise of changes in their circumstances and any security-related associations or contacts. All staff are required to seek approval for secondary employment
- strengthened staff separation processes to remove system access, asset reconciliation and finalisation of performance management data
- required 'Declaration of Associations' to be completed as part of the recruitment process

The Department is in the process of implementing the following initiatives:

- an independent risk-based assessment is in progress to assist the Department in reviewing its biannual Fraud and Corruption Control Plans. This will ensure the Department's understanding of, and measures to control, fraud and corruption risks are current and relevant
- work is underway to strengthen the competency and verification framework for biosecurity officers, with a strong focus on ensuring a nationally consistent approach and ensuring that staff have the required competencies to undertake the task at hand
- improved systems and data are progressively being delivered to assist managers oversight the activities of staff, including through the Service Delivery Modernisation and Biosecurity Integrated Information System programme
- a strengthened Integrity Framework is being rolled out in 2017, with immediate focus on raising the visibility and awareness of a strong integrity and trust culture within the Department, including at the border. The focus will also be on giving staff a voice – reinforcing staff understanding that not only are they encouraged to speak up if they have concerns but in fact they are expected to do so
- the development of a new declarable associations policy which will apply to all staff as part of the strengthened Integrity Framework

4. Additional term of reference

The Department welcomes the opportunity to address the additional term of reference:

- c. The shared work environment and the effectiveness of joint management arrangements at Australia's seaports and airports.

The complexity and multi-faceted operations at Australia's border require a range of operating models, capabilities and equipment. To meet the demands of such a diverse environment significant work has been undertaken within and between relevant agencies to deliver the most effective management and operational arrangements.

Within the seaports and airports (outside of the passenger terminal) environments, the nature and physical location of the work undertaken by departmental officers is generally distinct from that of the Australian Border Force (ABF). Departmental officers primarily

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operate at seaports for the purposes of conducting vessel inspections, specific cargo inspections (such as break bulk, cars and machinery, export inspection for a range of goods), external container inspections, and surveillance activities for exotic pest and disease.

Whilst both departmental and ABF officers operate in the airport and mail environment, in the vast majority of locations each agency has its own specific operational area and infrastructure to undertake its agency-specific activities. Recent developments, such as the creation of an international airport at Canberra, have resulted in the adoption of a more integrated approach.

While the Department and the ABF have significantly different profiles for screening and assessing the risks associated with mail items, goods and passengers, robust processes are in place to ensure matters of relevance are referred between entities. For example, if organic material is identified by ABF staff during the x-ray screening process, the item will be referred to a biosecurity officer for assessment.

Joint management meetings are held between the Department and ABF on-site leadership teams to discuss operational activities, security and other logistical and management matters. Co-operation and mutual assistance are recognised as vital for maximum protection at the border.

As highlighted earlier, the Department continues to strengthen its integrity and supervision arrangements to ensure the highest standards of control at our borders. While there are differences in the policies and procedures regarding integrity and behaviour between the agencies operating at the border, the Department adopts standards to provide maximum assurance.