

Chapter 3

Comment on terms of reference

Possible imminent importation of beef products from countries whose cattle herds have BSE and/or FMD (tor (a))

3.1 FSANZ informed the committee that 14 countries have applied for BSE food safety assessments. The organisation provided the following table showing the details of the stage reached in its assessment of these applications.

Table 3.1—BSE Country Assessment Status¹

Country	Proposed date for country inspection	Anticipated date of final report	Assessment status*
New Zealand	Completed May 2011		Assessment finalised NZ assigned Category 1 status
The Netherlands	Completed March 2012		Assessment finalised The Netherlands assigned Category 1 status
Croatia	Completed March 2012		Assessment finalised Croatia assigned Category 2 status
Vanuatu	Completed June 2012		Assessment finalised Vanuatu assigned Category 1 status
Latvia	Completed September 2012	May 2013	Assessment report being finalised ²
Lithuania	Completed September 2012	May 2013	Assessment report being finalised ²
Chile	Completed March 2013	December 2013	Desk assessment and in-country assessment completed, final report in preparation
Brazil	Scheduled for 2013	March 2014	Desk assessment completed, in-country assessment to be confirmed
Argentina	Scheduled August 2013	May 2014	Desk assessment commenced
Mexico	Scheduled August 2013	May 2014	Desk assessment commenced
United States	To be confirmed		Desk assessment drafted. In-country verification visit being scheduled
Turkey	To be arranged		Pending commencement
Lebanon	To be arranged		Pending commencement
Taiwan	N/A		Withdrawn (Feb 2012)

*Reports and status of countries can be found at:

www.foodstandards.gov.au/consumerinformation/bovinespongiformencephalopathybse/statusofcountrybsefo5388.cfm

1 Food Standards Australia New Zealand, *Submission 10*, p. 6.

2 The committee understands that this assessment has now been completed but has not yet been published.

3.2 As described in Chapter 2, the BSE food safety assessment process assigns risk categories to the countries that apply to export beef products to Australia. As may be observed from the table above, only New Zealand, The Netherlands and Vanuatu have been assessed as Category 1 countries, that is, countries in which there is a minimal likelihood that the BSE agent has or will become established in the national herd. Croatia has been assessed a Category 2 country, a country that may have had exposure to BSE-related risk factors in the past but now pose a minimal level of risk.

3.3 FSANZ informed the committee that certification requirements for beef and beef products from Category 2 countries are more stringent than the requirements for those products from Category 1 countries. FSANZ also informed the committee that BSE has never been found in Croatia. However, while its active surveillance procedures are currently of a high standard, these procedures have not been at the appropriate levels relative to the size of the national herds for the eight years as required by Australia.³ Croatia had been granted access under the arrangements existing before 2010 and had applied under the current arrangements.⁴

Current applications

3.4 Since the policy was eased in 2010 two countries that were not already approved by FSANZ to supply beef products under the previous arrangements have applied to export beef to Australia—The Netherlands and the United States of America.⁵ As stated above, the Netherlands has been assessed by FSANZ as a Category 1 country. The Netherlands has applied for access for fresh (chilled or frozen) beef,⁶ which will require DAFF to undertake a biosecurity import risk analysis.⁷ At the time of the inquiry that assessment had not commenced.⁸ As may be observed from Table 3.1, the application from the United States of America, although it was received soon after the 2010 BSE policy change, has not proceeded to the same level. The reason given for this is that the United States was not able to provide the information sought by FSANZ.⁹

3.5 As mentioned in Chapter 2, beef and beef product imports were insignificant compared with Australian production. In 2011-12 only 115 tonnes of fresh beef were imported; all of that from New Zealand. In the same period, 234 tonnes of prepared or

3 Food Standards Australia New Zealand, *Submission 10*, p. iv.

4 Department of Agriculture Fisheries and Forestry, *Submission 9*, p. 5.

5 Department of Agriculture Fisheries and Forestry, *Submission 9*, p. 5. Countries that had approval under the previous arrangements had not reported any cases of BSE in the national herd.

6 The application from the Netherlands relates to veal.

7 Department of Agriculture Fisheries and Forestry, *Submission 9*, p. 5.

8 Dr Cupit, *Committee Hansard*, 17 May 2013, p. 31.

9 Ms Rona Mellor, Deputy Secretary, Department of Agriculture Fisheries and Forestry, *Committee Hansard*, 17 May 2013, p. 31.

preserved beef were imported from a number of countries, but the main supplier again was New Zealand. The committee was informed that Croatia has only two active permits for a small tonnage of processed meat.¹⁰ There was no indication in the first nine months of 2012-13 that imports of fresh or frozen beef or of prepared or preserved beef were about to increase.¹¹ Indeed, it would be difficult for imports to compete on price with the Australian product. The Australian Meat Industry Council (AMIC) submitted that:

The Government policy on BSE certification that brought Australia into line with international standards has been in place now for three years. The countries affected by the decision have to this point not been competitive in the Australian market.¹²

3.6 AMIC nevertheless was concerned that there is at least the potential for imports if Australia's terms of trade were to continue to strengthen:

...a time may come when some primals from specific international competitors who meet equivalent standards to those imposed on Australian beef exports, may be marketed in Australia.¹³

Risk assessment processes undertaken by government agencies (tor (b))

3.7 In its final report on the 2010 inquiry the committee stated that it intended to monitor the progress of the Import Risk Analysis process. This inquiry provides an opportunity to do so.

3.8 An overview of some of the processes involved in FSANZ's BSE country risk assessments was provided in Chapter 2 of this report. In the following section the committee discusses some of those processes in more detail. To illustrate the FSANZ risk assessment processes the committee has included, as Appendix 3 to this report, the executive summaries of the BSE Food Safety Risk Assessment Reports for Croatia and The Netherlands.

3.9 The BSE food safety assessment process employed by FSANZ is based on the OIE methodology, but includes some enhancements. Dr Scott Crerar, Section Manager, FSANZ, informed the committee that:

That [the OIE methodology] is the basis of our methodology. We go over and above that methodology in that we also consider slaughtering systems, meat processing systems including food recall and traceability once it gets into the food system. Importantly, the additional step we have is that we go to these countries and look at the effectiveness of the controls, how they

10 Dr Cupit, *Committee Hansard*, 17 May 2013, p. 26.

11 Imports to 31 March 2013 were 90 tonnes of fresh beef and 198 tonnes of beef product. *Source*: Australian Bureau of Statistics, International Trade, Australia.

12 Australian Meat Industry Council, *Submission 14*, p. 3.

13 Australian Meat Industry Council, *Submission 14*, p. 3.

implement those controls and how they ensure compliance. We want to be sure that they are actually doing what they say they are doing. The OIE does not do that.¹⁴

Desk assessments

3.10 In accordance with the OIE protocols FSANZ conducts desk assessments of the controls that applicant countries have instituted for BSE risk in their national herds. This process is based on the provision of comprehensive data and supporting evidence from the competent authority in the country as set out in Chapter 2.

Country visits

3.11 The desk assessment is followed by country visits to verify the claims made by the applicants and cover such things as inspection of abattoirs, animal feed mills and border inspection posts. FSANZ provided details of the verification visit to Croatia, including its itinerary, and the qualifications of the Australian staff involved in the visit.

3.12 In that case, the visit was conducted by three staff all of whom possess appropriate qualifications and experience. Establishments that were visited, in addition to the Ministry of Agriculture's Veterinary Directorate, included a rendering plant, slaughterhouses, feed mills and border inspection posts. The delegation travelled widely throughout the country on a five-day visit.¹⁵ The visit was arranged with the competent authority¹⁶ and the border inspection posts were the official posts. Dr Crerar observed that the delegation could only assess the official controls.¹⁷ Mr McCutcheon, FSANZ's Chief Executive Officer, stated that the involvement of the relevant government authorities is the normal practice, including when EU officials visit Australia.¹⁸

3.13 As stated in Chapter 2, in its 2010 reports on beef imports the committee stated that in-country inspections should be a mandatory part of the FSANZ and Biosecurity Australia assessment processes.¹⁹ This suggestion does not appear to have been accepted by the Government, but evidence submitted to this inquiry by FSANZ demonstrates that in every case where a country has applied for a BSE assessment, a

14 Dr Scott Crerar, Section Manager, Food Standards Australia New Zealand, *Committee Hansard*, 17 May 2013, p. 22.

15 Food Standards Australia New Zealand, answer to question on notice, 30 May 2013.

16 Mr McCutcheon, *Committee Hansard*, 17 May 2013, p. 25.

17 Dr Crerar, *Committee Hansard*, 17 May 2013, p. 23.

18 Mr Steve McCutcheon, Chief Executive Officer, Food Standards Australia New Zealand, *Committee Hansard*, 17 May 2013, p. 25.

19 Biosecurity Australia has been renamed DAFF Biosecurity and is now part of the Department of Agriculture, Fisheries and Forestry.

country inspection has been carried out or, where the assessment has not been completed, a country inspection is planned.²⁰

Committee view

3.14 The committee has no reason to doubt either the competence of the people involved in the verification visit or the thoroughness of their investigation. Although this activity no doubt contributes significantly to the assessment process, it gives no more than a 'snapshot' of the controls implemented by the applicant country at the time of the visit. As discussed later in this chapter in relation to meat, the controls monitored by the FSANZ process may be circumvented.

Follow up

3.15 Countries that are accorded a Category 1 or Category 2 BSE risk status are required to provide an annual update on feed controls and changes to their epidemiological situation for the preceding calendar year for review by the Australian BSE Food Safety Assessment Committee. If countries do not provide this information by 31 January each year they may lose their Category 1 or Category 2 status until the required information is submitted, resulting in their imports being suspended.²¹

3.16 Additionally, Mr McCutcheon informed the committee that:

...there is a requirement for each country, once it is assessed and is given a category 1 or 2 ranking, to provide FSANZ with a report every four months on their system, basically an update report similar to the one that they would provide OIE as part of the reporting arrangements to sustain their categorisation.²²

FMD assessment

3.17 The AVA submitted that the science relating to FMD is well established and is incorporated in the OIE Code.²³

3.18 DAFF informed the committee that it had concerns that the OIE FMD recognition system was not sufficiently rigorous to meet Australia's needs and that, in February 2010, the department had implemented a system which includes a list of 'DAFF approved' FMD-free countries. If an outbreak of FMD is detected in one of the approved countries, that country is removed from the list and trade is halted.²⁴

20 Food Standards Australia New Zealand, *Submission 10*, p. 6.

21 Food Standards Australia New Zealand, *Submission 10*, p. 8.

22 Mr McCutcheon, *Committee Hansard*, 17 May 2013, p. 34.

23 Australian Veterinary Association, *Submission 12*, p. 3.

24 Department of Agriculture, Fisheries and Forestry, *Submission 9*, Attachment 1, p. 9.

3.19 The department stated that it conducts its own evaluation which includes a desk assessment and an in-country verification visit.²⁵ DAFF informed the committee that it had not conducted a biosecurity import risk analysis for The Netherlands, which has applied to export fresh beef to Australia but that the task was on its forward work program. Croatia has not applied to export fresh beef to Australia and so a biosecurity import risk analysis is not required.²⁶

Livestock identification systems

3.20 In its 2010 reports the committee recommended that applicant countries should be able to demonstrate traceability of livestock equivalent to the Australian National Livestock Identification System. In relation to the traceability of cattle in the EU, which includes The Netherlands and, in effect, Croatia, FSANZ provided the following information:

Traceability systems for beef in EU countries are mandatory under Regulation (EC) No 1760/2000, updated by Regulation (EC) No 1791/2006. The regulation establishes cattle identification and registration systems and a labelling system for beef and veal. The regulation mandates that any beef product destined for human consumption must be traceable across the entire production chain including a complete history of the animal from which the product was sourced. It is mandatory to have registration of and electronic ear tags for all cattle within EU countries and this information must be maintained in a central electronic database. Cattle without ear tags are not permitted to be moved to establishments or holdings and cannot be slaughtered for human consumption. The system allows efficient monitoring on the status of imports (and exports) as well as exchange of information on animal health, inspections, and identification and health emergencies.²⁷

3.21 Dr Crerar, in a response to a question regarding the identification system in Croatia, stated:

They have an exceptional animal identification and registration system. It has to comply with the EU. They are currently acceding to the EU. They have had that in place for several years and they have had to demonstrate that to the EU.²⁸

3.22 Dr Crerar also stated that the system is audited by the competent authority.²⁹

25 Department of Agriculture, Fisheries and Forestry, *Submission 9*, Attachment 1, p. 9.

26 Ms Mellor, *Committee Hansard*, 17 May 2013, p. 32 and Dr Cupit, *Committee Hansard*, 17 May 2013, p. 37.

27 Food Standards Australia New Zealand, *Submission 10*, Attachment, p. 1.

28 Dr Crerar, *Committee Hansard*, 17 May 2013, p. 23.

29 Dr Crerar, *Committee Hansard*, 17 May 2013, p. 24.

Testing for BSE

3.23 As mentioned previously, there is no way to test live animals for BSE nor is there any prospect that a test may be developed in the near future.³⁰ Testing for BSE is therefore conducted post mortem.

3.24 Countries have developed testing protocols that mandate how many tests should be conducted and at what ages. The EU protocol, which applies to The Netherlands and also to Croatia, requires that all at risk animals and those animals suspected of a transmissible spongiform encephalopathy (TSE) must be examined in accordance with Article 12.2 of Regulation (EC) No 999/2001 of the European Parliament and of the Council laying down rules for the prevention, control and eradication of certain TSEs.³¹ Further, as Dr Crerar commented:

According to the definitions of the OIE, it is mandatory for any cattle over 30 months of age, as well as for suspect animals or any sudden death animals—those thought to be of a higher risk of TSE-like diseases. It is very comprehensive testing.³²

3.25 DAFF informed the committee that in 2011 Croatia had tested approximately 18 per cent of adult animals and 16 per cent of animals aged between 24 and 48 months.³³

3.26 Dr Doyle, National Veterinary Director of the AVA in response to a question from the committee commented:

...removal of "specified risk materials" (for BSE) is a requirement in all European countries including Croatia and the Netherlands. This is required under European Commission legislation and requirements and the OIE code. There are also other controls, such as inspection of animals (for neurological signs), traceability, ruminant feed bans, BSE testing animal over 30 months and other controls.³⁴

Apparent breach of biosecurity

3.27 Immediately before going to press the committee learnt of an alleged breach of biosecurity which could risk Australia's FMD and/or BSE free status. As noted below the committee intends to investigate this important matter at a later date.

30 Dr Doyle, National Veterinary Director, Australian Veterinary Association, *Committee Hansard*, 17 May 2013, p. 2.

31 Food Standards Australia New Zealand, *Submission 10*, Appendix, p. 2.

32 Dr Crerar, *Committee Hansard*, 17 May 2013, p. 24.

33 Department of Agriculture, Fisheries and Forestry, answer to question on notice, 30 May 2013.

34 Dr Doyle, answer to question on notice, 23 May 2013. *Note*: 'Specified risk materials' are tonsils and distal ileum from bovine animals of any age; brains, eyes, spinal cord, skull and vertebral column of bovine animals over 30 months of age. See FSANZ, *Submission 10*, p. 14.

European beef supply chain and horse meat contamination (tor (c))

3.28 In January 2013, the Food Safety Authority of Ireland (FSAI) published the findings of a study which examined the authenticity of a number of beef burger, beef meal and salami products available from retail outlets in Ireland. The study, which tested for the presence of horse and pig DNA, revealed the presence of horse DNA in some beef burger products. The FSAI stated this raised concerns in relation to the traceability of meat ingredients and products entering the food chain.³⁵ The FSAI reported that traces of horse DNA were also detected in batches of raw ingredients, including some imported from The Netherlands and Spain.³⁶ Subsequent investigations revealed that beef products contaminated with horse meat, which included beef lasagne and spaghetti bolognese, had been distributed widely throughout the EU.³⁷

3.29 A DAFF Fact Sheet states that there is no indication that products contaminated by horse meat have been imported into Australia and that there is no indication that horse meat has been sold as beef in Australia.³⁸ The department states that Australia does not import hamburger patties from the United Kingdom or Ireland and does not import lasagne-style meals from France or any other European country.³⁹

3.30 The Fact Sheet also deals with the consumption of Australian horse meat and the chances that it could contaminate the beef supply chain in this country. Horse meat may be sold and consumed in some Australian States under the laws of that state. The Fact Sheet states that it is unlikely that meat substitution is occurring in Australia due to the regulations and measures implemented by industry. The Fact Sheet also refers to Australian labelling laws which require that food must be labelled truthfully and Australian Consumer Law which prohibits misleading or deceptive conduct.⁴⁰

Committee view

3.31 The committee observes that these laws may of course be circumvented. The beef supply chain, in common with most economic activities, may be corrupted, for instance, due to human error or criminality.

35 Food Safety Authority of Ireland, *FSAI Survey Finds Horse DNA in Some Beef Burger Products*, press release, 15 January 2013, www.fsai.ie/enforcement_audit/horse_meat.html, accessed 27 June 2013.

36 Food Safety Authority of Ireland, *FSAI Survey Finds Horse DNA in Some Beef Burger Products*, press release, 15 January 2013.

37 Food Safety Authority of Ireland, *Horse Meat Substitution*, press releases, www.fsai.ie/enforcement_audit/horse_meat.html, accessed 27 June 2013.

38 Department of Agriculture, Fisheries and Forestry, *Submission 9*, Attachment 1, p. 1.

39 Department of Agriculture, Fisheries and Forestry, *Submission 9*, Attachment 2, p. 1.

40 Department of Agriculture, Fisheries and Forestry, *Submission 9*, Attachment 2, p. 2.

3.32 The question that arises from the meat substitution issue in the EU is whether the beef supply chain in EU countries that has been compromised by meat substitution could also be vulnerable to the introduction of meat that, at least potentially, could be at risk in relation to disease, including BSE or FMD.

3.33 On one level the answer is clearly 'yes', because in the case of horse meat substitution, the traceability systems that would be relied on by FSANZ and DAFF assessment processes were compromised. On another level, the committee is somewhat comforted by the fact that the corruption was identified and addressed. In the meantime, however, if that corruption had involved illegal trade in animals with BSE or FMD, and had the resulting diseased beef been imported, the matter may not have been discovered until too late and the damage would have been done.

3.34 Significantly, however, as the FSAI has concluded, the substitution of horse meat for beef raises concerns in relation to the traceability of meat ingredients and products entering the food chain in the EU. The committee considers that beef and beef products should not be imported from any country where BSE has been identified in the national herd. In reaching this conclusion the committee is also mindful in particular of the long incubation period for vCJD.

Implications for Australia's reputation as an exporter (tor (d))

3.35 Given Queensland's pre-eminence in the industry the following statement from the Queensland Department of Agriculture, Fisheries and Forestry (QDAFF) is relevant to the Australian beef industry:

Queensland has world's best market access for beef because of a long-established status in relation to herd health. The beef industry has taken maximum advantage of this in terms of marketing and value. It is therefore critical that our world-class, disease free status be maintained. The detection of BSE or FMD would be catastrophic for the Queensland beef industry.⁴¹

3.36 To illustrate the possible consequences for the Australian industry and for the economy, QDAFF drew attention to the experience of exports of beef from the United States of America (USA) to Japan. QDAFF informed the committee that, following detection of BSE in the USA beef herd in 2003, Japan initially banned imports from that country. As a result, Japanese imports from the USA dropped from 416 000 tonnes in 2003 to 5400 tonnes in 2004. According to QDAFF, the possible effects on the Queensland economy would be significant as the State exported more than \$1 billion of beef products to Japan in 2011-12.⁴²

3.37 To illustrate the possible effects of an outbreak of FMD in Australia, QDAFF submitted that an outbreak in the United Kingdom in 2001 caused losses of more

41 Queensland Department of Agriculture, Fisheries and Forestry, Submission 4, p. 1.

42 Queensland Department of Agriculture, Fisheries and Forestry, *Submission 4*, p. 2.

£8 billion.⁴³ Dr Gibbs, Vice President, Australian Veterinary Association, stated that the Productivity Commission had estimated that an outbreak of FMD in Australia would cost \$16 billion in the first year.⁴⁴

3.38 Although Australia must continue to protect its enviable reputation as a disease-free beef exporter, it must also adhere to international trade arrangements. DAFF submitted that:

The former 2001 policy was largely inconsistent with the current science and, without revisiting the policy, Australia was vulnerable to retaliatory trade action ... In addition to reflecting current science, the revised policy reduces the risk of a challenge to Australia's approach to BSE through WTO processes. Australia's earnings from agricultural, fisheries and forestry exports...rely on world markets accepting our science based approach...⁴⁵

3.39 Australia's accession to the OIE protocols may provide some comfort in the event that a BSE event occurs in this country. Dr Doyle alluded to this:

America, for example, which really has not had an indigenous case, is categorised as a country of negligible risk, as are we. We have not had an indigenous case. There is some merit in this...in the sense that, if we were to have one for some reason in an imported animal or some other means, we would be in the same category.⁴⁶

Parliamentary scrutiny

3.40 As indicated in Chapter 2, this committee on two occasions has expressed concerns about a lack of ministerial and parliamentary scrutiny in relation to import risk analysis processes. It recommended that ministerial and parliamentary approval should precede any determination to change the policy relating to the importation of beef from a country that had reported a case of BSE. The committee was concerned in particular that the significant change in policy in 2010 was not subject to effective scrutiny.

3.41 The committee reported that it accepted that FSANZ and DAFF officers are ultimately responsible to the relevant minister, but it did not accept that this was the same as a minister signing off on policy decisions or parliamentary scrutiny of significant changes in policy.

3.42 In its second report on the Government's decision to relax import restrictions on beef the committee made the following recommendation:

43 Queensland Department of Agriculture, Fisheries and Forestry, *Submission 4*, p. 2.

44 Dr Peter Gibbs, Vice president, Australian Veterinary Association, *Committee Hansard*, 17 May 2013, p. 1.

45 Department of Agriculture, Fisheries and Forestry, *Submission 9*, p. 10.

46 Dr Kevin Doyle, *Committee Hansard*, 17 May 2013, p. 3.

The committee recommends a process whereby the relevant Minister is required to consider and rule on the recommendations provided by Biosecurity Australia [now known as DAFF Biosecurity], following an Import Risk Analysis, and the Australian BSE Food Safety Assessment Committee, following a country assessment. The committee also recommends that the relevant Minister report any decision to approve or reject such recommendations to the Parliament and this committee prior to a determination by the [Director of Animal and Plant Quarantine], in the case of an Import Risk Analysis, or the Chief Officer of FSANZ, in the case of a country assessment, and prior to formal advice being provided to the applicant country.⁴⁷

Committee view

3.43 The committee has concluded (see paragraph 3.33) that there should not be any imports of beef from countries that have recorded cases of BSE. If, however, the Government were to persist with its new policy, the decision to do so should be open to the greatest possible scrutiny, especially including scrutiny by the Parliament.

3.44 Given the importance of Australia's multi-billion dollar beef industry and the possibly catastrophic effects those decisions may have on the industry, the committee reiterates its 2010 recommendation that the relevant Minister report any decision to approve or reject such recommendations to the Parliament and this committee prior to a determination by the Director of Animal and Plant Quarantine, in the case of an Import Risk Analysis, or the Chief Officer of FSANZ, in the case of a country assessment, and prior to formal advice being provided to the applicant country.

Food labelling (tor (e))

3.45 The committee recommended in its final report on the 2010 inquiry on beef imports that all food products be labelled with both the country of origin and the country of processing, if different. At the time of the inquiry, FSANZ had prepared a proposal for extending country of origin labelling to unpackaged beef, and consultation on the issue was proceeding.⁴⁸ (Country of origin labelling was already mandatory for packaged beef.)

3.46 In relation to packaged beef products, FSANZ submitted at this inquiry that:

The Australia New Zealand Food Standards Code requires most packaged beef products to be labelled with certain information, including country of

47 Rural and Regional Affairs and Transport References Committee, *The possible impacts and consequences for public health, trade and agriculture of the Government's decision to relax import restrictions on beef*, Final Report, June 2010, pp 10–11.

48 Rural and Regional Affairs and Transport References Committee, *The possible impacts and consequences for public health, trade and agriculture of the Government's decision to relax import restrictions on beef*, Final Report, June 2010, p. 19.

origin information, the name or description of the food sufficient to indicate its true nature, and an ingredient list.⁴⁹

3.47 In relation to unpackaged beef, the committee was informed that the COAG Legislative and Governance Forum on Food Regulation had agreed to extend country of origin labelling requirements to unpackaged beef, sheep and chicken meat sold in Australia. This new requirement will take effect on 18 July 2013.⁵⁰

3.48 FSANZ submitted that the labelling requirements for unpackaged beef include the product name or description. According to FSANZ, labels must also include a statement that identifies the country or countries of origin of the meat, or that indicates that the meat is a mix of local and/or imported foods. The labels must be provided on or in connection with the display of the food. FSANZ also informed the committee that:

Requirements for defences (safe harbours) to specific country of origin claims such as 'product of' and 'made in' are set out in Australian Consumer Law, which is administered by the Australian Competition and Consumer Commission.⁵¹

3.49 The Australian Made Campaign informed the committee that to meet the definition of 'Australian Made' a product needs to have been 'substantially transformed' and more than 50 per cent of the cost of manufacturing or producing that product needs to have been incurred in Australia.⁵² Mr Harrison, Chief Executive of the organisation, stated that:

...we can have manufactured products that have a very high imported component and yet still meet the test as judged by the regulator for the government, the ACCC, that that process actually constitutes substantial transformation. We all know of the example where the imported pork can be cured into bacon or ham and the product legally can be called 'Made in Australia' because it meets both of the tests, because the ACCC says that process constitutes or meets the substantial transformation test.⁵³

3.50 In a recent report presented to the Senate, the Rural and Regional Affairs and Transport Legislation Committee found that the current definition of 'substantial transformation' could be more precise and less open to interpretation and manipulation.⁵⁴

49 Food Standards Australia New Zealand, *Submission 10*, p. v.

50 Food Standards Australia New Zealand, *Submission 10*, p. v.

51 Food Standards Australia New Zealand, *Submission 10*, p. 9.

52 Mr Ian Harrison, Chief Executive, Australian Made Campaign Ltd., *Committee Hansard*, 17 May 2013, p. 10.

53 Mr Harrison, *Committee Hansard*, 17 May 2013, pp 10–11.

54 Rural and Regional Affairs and Transport Legislation Committee, *Competition and Consumer Amendment (Australian Food Labelling) Bill 2012 (No. 2)*, March 2013.

Committee view

3.51 The committee welcomes COAG's decision to label unpackaged meat. The committee had made this recommendation in its earlier reports on this matter.

3.52 The committee also draws attention to the recommendation made by the Rural and Regional Affairs and Transport Legislation Committee in its recent report on the Competition and Consumer Amendment (Australian Food Labelling) Bill 2012 (No. 2), namely, that the Government should consider developing a more effective country of origin framework (including a more effective definition of 'substantially transformed') which would better balance the interests of consumers, primary producers and manufacturers.

3.53 This committee supports and reiterates that recommendation.

Conclusions and recommendations

Beef Imports

3.54 The committee concludes that the risk to human and animal health from the importation of beef from countries where BSE has been identified is such that imports from those countries should be prohibited. The principal reasons for that conclusion are that the beef production chain is susceptible to corruption, as may be seen from the experience of the recent meat substitution situation in the EU, and because, despite the best efforts of the Australian authorities, traceability of cattle cannot be guaranteed. Additionally, there is no live test for BSE, nor is there a prospect of a test being developed in the near future, which would require research on various forms of diagnostic tissue.

3.55 Allied to this is the fact that the symptoms of vCJD may not be become apparent for decades, so that any beef imports contaminated with BSE might not be identified for many years.

Recommendation 1

3.56 The committee recommends that beef and beef products should not be imported from any country that has:

- **reported any cases of BSE; or**
- **cross-border trade with an adjoining country which has reported any cases of BSE.**

Recommendation 2

3.57 The committee recommends that the Australian Government work with the OIE to develop a live test for BSE.

3.58 If the Government persists with its current policy, any decision to import beef or beef product should be made by the responsible minister and referred to the Parliament.

Recommendation 3

3.59 The committee recommends that the relevant Minister report any decision to approve or reject such recommendations to the Parliament and this committee prior to a determination by the Director of Animal and Plant Quarantine, in the case of an Import Risk Analysis, or the Chief Officer of FSANZ, in the case of a BSE country assessment, and prior to formal advice being provided to the applicant country.

Apparent breach of biosecurity

3.60 The committee intends to investigate further an alleged biosecurity breach which could risk Australia's FMD and/or BSE free status (see paragraph 3.27).

3.61 Accordingly, the committee intends to report on this important matter by the first day of the second sitting period of the 44th Parliament.

Senator Bill Heffernan

Chair