

CHAIR: Thank you, officers who are supporting Mr Quinlivan in exports. We appreciate your attendance. We will now go on to the white spot issue to allow senators to deal with that. Mr Quinlivan, I believe you have an opening statement you would like to make.

Mr Quinlivan: Yes; we do have a statement. I think we can table copies of it, but I think it is worth reading. It is quite short.

CHAIR: That is fine.

Mr Quinlivan: It is very much to the point of concerns the committee has had. I think we have a couple of documents that we can table as well—reports that we have generated from our systems—which again go to questions that the committee raised. We did not have a document that answered one of the questions you raised as part of the questions on notice, but we have generated one, which we are happy to provide.

CHAIR: You can proceed at your pleasure.

Ms O'Connell: I would like to take a few minutes to give an update on the department's progress with respect to prawns since our last estimates hearing in February. Firstly, on the outbreak, we have continued to assist Queensland with the response. All ponds on all farms will be emptied by the end of this month, and the response is nearing completion. About 20,000 samples from the Logan River area and Moreton Bay have been tested.

CHAIR: How many?

Ms O'Connell: Approximately 20,000.

CHAIR: These are samples from the wild?

Ms O'Connell: Yes—both. Eradication remains the objective. Testing of samples in other prawn farming areas, in northern NSW and elsewhere in Queensland, have not detected the virus. We have taken action against six importers by removing permits and approved arrangements. We have made a referral to the CDPP to pursue charges, and further referrals are being considered. We have withdrawn imported raw prawns from retail outlets and are testing them for presence of the virus before releasing them for sale, if they are not infected, or directing them to be exported or destroyed, if they are infected. We have been progressively working through appropriate conditions that might allow resumption of trade, and to date we have lifted the suspension for a number of classes of product.

We announced last week that we will lift the suspension to resume trade in marinated raw prawns with new import conditions. These conditions are that the prawns be tested offshore and certified to be free of white spot syndrome virus by the competent authority in the exporting country as well as being subject to testing on arrival in Australia. Last week we also announced the commencement of a review of import conditions that will consider the biosecurity risk for the importation of prawns from all countries and develop appropriate import conditions. This review will identify and categorise hazards of biosecurity concern, and it will also include an assessment of new diseases. The announcement of the review has been welcomed by the prawn farming industry.

Since December 2016, the department has been working with the Australian Prawn Farmers Association to deliver support to farmers affected by the outbreak. Unlike most of the other plant and animal industries, there was not an established agreement or deed for responding to outbreaks in the aquaculture industries. The Commonwealth, states and territories and aquaculture industries are working on an agreement to provide that form of certainty for these industries in the future. Whilst not having a deed in place posed an obstacle, the assistance being provided to farmers is consistent with other existing response agreements that are in place for other industries.

On 5 May, the Commonwealth announced additional funding of up to \$20 million. This will cover eradication costs incurred by prawn farmers to date and costs associated with the remainder of the response period, such as being out of production for the next season. This additional year of no farming of prawns on the Logan River will give us the best possible chance of eradicating the disease. During this time, testing of prawns and crustaceans in the wild for any traces of white spot disease will continue.

The experience has revealed a number of shortcomings in our administration, and we are addressing these by updating our instructional material to provide clearer instructions to staff doing inspections and sampling, and to remove local practices that have developed over time. We are ensuring that our staff have all the necessary support to undertake their duties effectively and in a nationally consistent way by better instructions and specialist training. We are having our investigators regularly engage with our inspection staff on the latest methods used by some importers to circumvent biosecurity controls. We are increasing our assurance assessments and verification activities across the system to make sure that not only are staff correctly following procedures but the activities we undertake are effectively managing biosecurity risk. We are being more responsive to emerging biosecurity

risk by being clear where risk ownership lies in our organisation, noting that biosecurity risks are constantly and rapidly changing and that emerging or changing risk must be quickly identified and proactively managed.

The results of our compliance investigation known as Operation Cattai, show that the following three factors resulted in infected prawns being available for sale at retail. These factors are: testing methods; our inspection practices; and importer behaviour. Firstly, on testing methods, the variation in methods used by individual laboratories contributed to an inconsistent approach to determining infection rates in prawns. We are working with these laboratories and NATA to implement a more consistent testing process.

Looking at our inspection practices, we looked very closely at what our staff did, including that we have analysed the inspection activities associated with 2,000 test results to determine whether there were patterns of behaviour or signs of fraudulent or corrupt activity. We have looked at differences in sampling times between locations. We undertook a review of consignments that had previously been released and those that were subsequently found to be infected. We are working with ACLEI to investigate allegations of fraudulent or corrupt behaviour, and to review the actions of our staff. We are undertaking independent internal reviews of both inspection and assessment processes. We have conducted meetings between senior executives and prawn inspection staff to reinforce requirements and review inspection practices. While none of these activities have identified fraudulent or corrupt behaviour by staff, it did show shortcomings in our administration, which I have addressed earlier.

On importer behaviour, there was deliberate circumvention of our biosecurity controls by a number of importers. We took initial action against the first importer of concern last November before the outbreak occurred. We have now taken action against six importers. On the cause of the outbreak, the department's investigations to date have not confirmed the cause of the outbreak. We have investigated a number of possible pathways. Whilst it is still possible that some of these will be better understood with further analysis, the definitive course may never be known.

One continuing line of inquiry is genetic analysis seeking to identify if there is a link between infected prawns found in Australia and overseas strains of the white spot virus. This may shed some light on the origins of the outbreak. The independent review by the Inspector-General of Biosecurity into prawns is progressing and will be an important source of analysis for us. As you are aware, the Senate references committee inquiry is underway, and we provided a submission to that inquiry last month.

Australia adopts a conservative approach to biosecurity and aims to reduce risk to a very low level. However, our borders are not impenetrable. Zero risk would require the cessation of all trade and of international movement of goods and people. The department can only minimise the risk of pests and diseases entering and establishing in Australia, and we do this through a critical partnership with the states and territories, with the community and with industry. We manage biosecurity risk every day, and we do have a good system, but we always strive to improve it.

Some improvements to the biosecurity system that we are pursuing at present include using analytics to improve our active management of risk—and, with funding provided under the white paper, we are developing analytics tools and capability to better identify and respond to changing risk profile. We are looking at enhancing our powers to be able to remove goods directly from the market where there is a potential biosecurity concern. We are looking at improving consistency between laboratories undertaking testing of samples, which I mentioned earlier. And we are looking at greater emphasis, under that shared responsibility model that I mentioned, on on-farm biosecurity measures to assist in preventing outbreaks of disease.

Finally, the committee had written to us asking for answers to two particular questions. They were on the volume of white spot infected prawns and the department's awareness of increasing risk during 2016. If you would like, I could ask Tim Chapman to speak to those now.

CHAIR: We will come to that. I have written back to Mr Quinlivan. I will need to qualify that question a bit further before we get Mr Chapman to respond. Ms O'Connell, the report you referred to is this report?

Ms O'Connell: That is one of the things that I referred to. I referred to the submission that we put in to the references committee.

CHAIR: Yes, but put that aside. This report, I detected, was sort of prepared to address some of the concerns that we have raised in conversations and correspondence, Mr Quinlivan.

Mr Quinlivan: I am not sure.

CHAIR: There are two versions of this. One is with the references committee on a confidential basis.

Mr Quinlivan: Yes.

CHAIR: I am not going to go there; that is a matter for the chair of the references committee. But the second one, as I understand it, is one that can be treated as a public document. I would just need you to table that document if this is the public version. Over the morning tea break, Ms O'Connell, could you liaise with our secretary to be sure that we have the public version.

Ms O'Connell: Certainly.

CHAIR: Then, when we return, you might be kind enough to table the document, and then we can give the senators a chance to have a look at it. It might instruct them.

Senator STERLE: And Ms O'Connell's opening statement.

CHAIR: We have that. We should have that.

Senator STERLE: Oh, it has just turned up. Good. Thank you.

Proceedings suspended from 10:28 to 10:46

CHAIR: Our good friends in Hansard are ready to go and we have a quorum, so I declare open again this Senate Rural and Regional Affairs Transport Legislation Committee estimates program. Ms O'Connell did we have an opportunity in the break to determine whether this version is a version that you are capable of tabling for public purposes?

Ms O'Connell: Yes, we did. It has been sent to the references committee to be made public, so it can be made public.

Senator STERLE: So we can do that right now?

Ms O'Connell: And it can be tabled here.

CHAIR: I understand that there are two iterations—two different documents. Let's just make sure there is no confusion. Let's deal with references first—the chair is here. The chair has been given a version that is not for publication and he will deal with that, but we have been given another version, which I assume is a variation of it, and you are now proposing to table that in this committee?

Ms O'Connell: That is correct.

CHAIR: Thank you. There being no objections from my colleagues, it is so tabled. We have sufficient copies, I imagine. Certainly, Senator Back needs one.

I want to try to approach this, if I can, methodically. I want to go to this question, which I will best describe with my dingo fence analogy. With our biosecurity measures in Australia—we are talking about imported raw prawns specifically now—there has been evidence before the committee that there was a period of time where a part of the volume of imports were, for a variety of reasons which I am sure different senators will explore, making their way through the dingo fence into the retail sector. We knew, or knew eventually, that they possibly had not been subject to appropriate and comprehensive inspection under the IRA. So, for 10 prawns that come in we are not necessarily concerned about eight of them because they have come through reputable importers with competent officers who have applied the principles of the IRA. But we knew, sometime between 16 March and 1 December. I want to separate the infection at Logan. To me, that is in a class of its own and of course the response is in another class of its own. So, on my part at least, can we try to break this into three time frames and three related subject matters.

For some period we know that a percentage of the prawns possibly came through the dingo fence, where they may not have been subject to the rigors. That is the first thing.

Mr Quinlivan: Just on that, we have tried to quantify that. We have had a go at estimating those volumes and we have graphed them. We are happy to provide that graph to guide us through.

CHAIR: That will solve a problem. Can I tell you, Mr Quinlivan, some of the things here at the heart of the question on notice back on the 28th? In terms of estimating, or guesstimating, for any importer that is the subject of prosecution now—where the department was in possession of evidence to make you suspicious in the first instance that they may have been involved in activities that contravened the arrangements—I would have thought that the entire volume of their product that comes through the dingo fence would be categorised as potentially suspicious, particularly if that was coupled with evidence that one or more of your frontline officers had failed to stay with the protocols of how inspections were conducted.

I will make a point of difference there. If you have an importer who has deliberately conspired with an exporter—for example, for a pallet of prawns to arrive—where there are designated boxes that are empty and the importer has supplemented prawns into those boxes, then the question is about your frontline officers. How were they to select that box out of a room of 10,000 boxes? For any prawns that fell into those categories with people

for whom there is now evidence, or a strong suspicion *prima facie*, that they were engaged in that, that is the volume of prawns which I do not have confidence were subject to the IRA by the time they made it into the retail chain. That is the first thing.

The second question writ large that presents for me—and I will talk to our colleagues about this—is that at some stage this volume was known, or ought to have been known, to senior people in your department. As a retired policeman, I get: 'I need to assess behaviour and collate the evidence, with a view to prosecuting. I need to get a sense of volume myself.' I understand that they were legitimate and relevant things for the department to do. But the question writ large for us is: is there a point where we were, for those purposes, were allowing such a volume of products to come in that it started to make little sense, in terms of a biosecurity question, and that there was a real inevitability? I have never said, and I will never say, that the infection at Logan occurred as the result of imported raw prawns that had gone into the retail chain. Twenty years of preparing briefs of evidence in civil litigation matters tells me that you will never make that join. The infections could have been there. They could have come from anywhere. There are three parts. On the first part, we are interested that the officers of your department, starting at the front line and making their way through the decision-makers, weighed up the biosecurity interests of the nation against the conduct of your investigation to determine yourselves the volume and scale and to gather evidence. We need to be satisfied that at some point it did not cross over to where someone should have said, 'Despite these objectives, the national interest to our biosecurity borders is more important. I am going to do something that might inhibit our investigation and prevent us being able to detect all the inadequacies. I am going to stop it happening so that we do not increase the risk to the infection getting into the wild.' That is the absolute burden of where I have been personally going, and in conversations with my colleagues on this committee, we are, I think we can say, completely as one with the objective to determine that. There are a couple of ways to do that. You can give it up. You have got a hundred people there; someone can give it up to the point where we are satisfied that we have seen it, that we understand it, that there is no attempt to sort of mitigate the circumstances. You will be the judge in the future as to what may or may not happen within personnel—I have got some quite pointed questions coming your way on that soon.

But we do not need to sit through a million documents; we do not need to sit through 500,000, 300,000, 200,000 if they have been reduced and we are given sufficient insight into these questions that allows us to make our own determination, which may or may not influence us to make recommendations from this committee to the minister or indeed refer them to my colleague in his capacity as chair of references, which is probably the most appropriate forum to interrogate more seriously some of this information because that is the committee that will make its inquiry recommendations to the minister.

In a reversal of roles, I am happy to answer any questions your officers or you may have to the point where we can see two light bulbs come on simultaneously about the objective of this estimates thrust.

Mr Quinlivan: I think that is clear enough. An efficient way to do this might be for us to provide the committee with this document that is our estimate of the volume of prawns, over time, coming in—those that we know were infected and those that we believe may have been. In a sense, we are making estimates of things we did not know at the time and we are applying the knowledge we have now with further tests and what we know of the testing outcomes after the closure of the trade and we are sort of retro-fitting that logic back to the known trade.

CHAIR: Let's hold the phone on this point because, again, with the consent of my colleagues—and they will jump in as they need to—I would like to explore this. Before you give us a complicated document, I often refer to my friend here as a burnt-out old truck driver and I never finished grade 10. We have got an academic to the left.

Senator STERLE: And an old bush vet.

CHAIR: Can we just get a sense of these volumes? We may do that by interrogation or I would invite you to start by perhaps reporting on it. Because if we break these things into segments, I think we will do better job of understanding it.

Mr Quinlivan: It is a very simple graph so I think we will just table it and then we can take you through it over time.

CHAIR: Is there any objection to this being tabled?

Senator STERLE: No.

Mr Quinlivan: I should say, it reflects information that was accumulated through a whole body of documents over the period and retro-fits knowledge we have now. There was no document till this was created that told the story. It is our best estimate of what we think was going on at that time. If it is helpful to the committee, we have also mapped what we were doing in a briefing in a regulatory sense over that same time period. We will table this.

I do not think it is going to be particularly helpful. For questions, it is quite detailed but it would be a good reference document for you in mapping what we did, the actions we took—regulatory and our internal practices—against both the passage of time and the movements of these curves in this graph.

Senator BACK: Is this being tabled?

Mr Quinlivan: Yes, it is just being copied. I think we should wait until you have got in front of you because then we can have a more informed conversation.

CHAIR: While we are waiting for it to be distributed so we can look at it: in just a small snapshot, what will this tell us, Ms O'Connell, when we read it?

Ms O'Connell: That is a report that we have provided on looking at the possible cause of the outbreak in the Logan River area, so it goes through the possible pathways for the outbreak and discusses each of those pathways.

Mr Quinlivan: But it will not change your assessment of the probability of knowing the answer.

Ms O'Connell: Correct.

Senator STERLE: Chair, I do not want to distract from your line of questioning, but, while we have this document, can I just ask a couple of questions at the back now that may help us? I will go to you, Ms O'Connell, or Secretary Quinlivan. In conclusion, you tell us:

This report represents the information known to the department at the time of publication.

Fair enough. It says:

Inquiries are currently ongoing—

which we know, and:

At the time of publication the following information was still outstanding—

and there are three dot points. I think it would really help the committee if we could get our head around what those three dot points actually mean or are addressing. One is 'the genotype of the virus detected in the Logan River area', which you touched on, Ms O'Connell, in your opening statement.

Ms O'Connell: That is right.

Senator STERLE: We understand, and that may help find out where it has come through—in what batch or from what country or whatever. But I am a bit miffed on the next two. One is:

- interviews with foreign nationals who visited on 25 November 2016

Can you throw some light on that for the committee?

Ms O'Connell: Certainly. We have mentioned throughout the report the number of possible pathways for the disease to have entered Australia, and we are pursuing each of those pathways and any information that we get on any of those possible pathways. One of those which we have identified there is that there is the potential for the disease to have entered Australia through visiting foreign nationals, and we are pursuing interviews with a number of people, simply to conclude or not conclude that that may have been a possible pathway.

Senator STERLE: Do you mean backpackers or something working on the farms? Is that what you are talking about, or are you talking about someone who wants to buy some property? I am not quite sure, sorry.

Ms O'Connell: I think it is people who came to Australia, not in general but some specific visitors to Australia, whom we are having some discussions with.

CHAIR: Just one second. Are you being cautious with your answers here because it may lead to—

Ms O'Connell: I am being cautious because on the one hand, because we have not had these conversations yet and we are pursuing them, I do not want to suggest that it is the likely pathway, but equally, should we wish to take action against those individuals, I cannot disclose too much about it at this point in time.

CHAIR: These are people, obviously—sorry, Senator Sterle. The date is what nails this. You obviously have a person or a cohort of people in mind who did something on 25 November 2016.

Ms O'Connell: Potentially. We have to just say 'potentially'. It is a line of inquiry we are pursuing, along with a number of other lines of inquiry.

CHAIR: Is there a prospect that what they did or did not do could lead to a prosecution of individuals?

Ms O'Connell: Potentially, Senator. Potentially.

CHAIR: Glenn, it is a delicate space. The minister can take the public interest if she wants to.

Senator STERLE: I understand. Dot point 3 is:

- investigations concerning allegations received by the department in early May ...

Can you shed some light on that for us?

Ms O'Connell: I will have to ask Mr Terpstra to shed some light on that one.

Mr Terpstra: That third dot point relates to a source that came forward to our investigation team only a few weeks ago and made some allegations around certain historical events in the Logan River region which we need to be able to explore and pursue to either confirm or otherwise what impacts that event might have had on the disease status of the Logan River area in respect of prawns.

Mr Quinlivan: Just for clarity: I would not want you to think we have any expectation of a smoking gun in these areas. They are being explored just for completeness. That is the issue.

Senator STERLE: Yes, I've got it.

CHAIR: You have not given that impression, in my view.

Senator STERLE: That is fine, thank you.

Ms O'Connell: Senator, the graphs are now available.

CHAIR: Let us go to the graph. We in the Commonwealth are very frugal, and we have a black-and-white graph. There are only three lines. Could you call them by their colours?

Ms O'Connell: Certainly. I will ask Mr Chapman to talk through this question on rates of infection but firstly to explain the colours on the graph.

CHAIR: Let us start with the top line, Mr Chapman. No, look at this! The minister must have released more funds!

Mr Chapman: You have a coloured one now?

CHAIR: We have. You have the floor.

Mr Chapman: This information has been put together recently as an estimation of the number of white-spot-infected prawns that may have got past our border controls and entered the country. I will just explain how we did this, because there have been a number of samples taken from retail sales, and they have been extrapolated. That can be quite dangerous because the sampling is not statistically valid and there are significant potential issues with cross-contamination. So, in order to—

CHAIR: Just before you do, Mr Chapman, for my benefit: with the blue line, that information would be available to you on a daily basis and would have been known to officers in the department as quickly as you could process the reporting on volumes, but the grey line and the orange line—you may have worked those calculations retrospectively?

Mr Chapman: No, the orange line we would also know at the time. That is the number of consignments that failed testing.

CHAIR: So the grey line is retrospective.

Mr Chapman: That is correct.

CHAIR: If you have the information, it would be useful for us to know—and it may be that this is broken into tiny little segments—about when you were aware of the numbers in the grey line.

Mr Chapman: We have only become aware of the numbers in the grey line in the last few weeks, and that comes about from how we have generated this estimation. I will also say that that estimation is on current information. It may change slightly as we do more testing.

CHAIR: The grey line is an extrapolation. The orange line is known because tests were done, and this is the response on the data. Does the orange line reflect the contemporary testing on the way through? This is where the biosecurity arrangements were working. Your people pointed to a box; they took a sample; they sent it off. There was a lead time, I imagine, in when that information might have been known to you. Glenn, do you or Chris have any qualifying questions before we give Mr Chapman the floor to go through this?

Senator BACK: I am just interested in knowing how we interpret the gap between the failed test in the orange line and the estimated positive. I just do not know what you are trying to tell us.

Mr Quinlivan: I think we will need to explain that in some detail because it is an important question for us and for the committee, so it is worth—

CHAIR: In a really simple way, my interpretation is that the orange results are tests where our officers took their samples and sent them off to the lab and got the results, and that is extrapolated there. That is the orange. The grey is testing product in storage since the suspension. If the test results in storage were 20 per cent of what

was in storage, they would have extrapolated that back across the volumes which are delivered up by the blue line. Is that right?

Mr Chapman: That is correct. The red line is those batches of prawns which were tested on arrival and failed the test; in other words, they tested positive for white spot syndrome virus. A really simple way of describing it might be that, if everything had worked perfectly—if there had been no circumvention of border controls and testing had been consistent, the grey line would in fact be the orange line. Does that make sense? The grey line is those prawns which we estimated were positive, and, as you can see, that is more than the ones which actually were tested as positive for white spot.

Senator BACK: If there had been no circumvention of biosecurity, the orange line would be down at zero.

Mr Chapman: No, the orange line reflects our testing processes at the border working. It shows that prawns arrived and were tested; they were found to be positive for white spot syndrome and were therefore re-exported or destroyed in accordance—

Senator BACK: I understand.

CHAIR: I know it is a bit of static here, going back and forth, but I think it is important—when you look at the orange line and then consider back before March 2016, were there no real surprises in the orange line for you? Is that the tickety-bob of what was being detected?

Mr Chapman: Yes. Over the years there were obviously minor fluctuations, but the average percentage of consignments which tested positive for white spot syndrome ranged between four and eight per cent; that is my memory.

CHAIR: In the period between March and April 2016 we see an elevation, and particularly from June through to October we see a steady elevation. Is that to do with Christmas and Easter and those sorts of things?

Mr Chapman: Partially. If you compare the orange line and the blue line, the blue line is the number of tests. Obviously there are more imports where it spikes up, so you would expect that we would get more positive tests if the percentage level stayed the same.

CHAIR: Except June contradicts that completely.

Mr Chapman: I am not sure what the rationale for that is. Where it becomes interesting is—

CHAIR: Could you take the June question on notice, because that is a mathematical anomaly in front us. And September, again, for the reverse reason.

Mr Chapman: What you see towards the end of the graph, where the orange line spikes up a lot more, is Operation Cattai and the target inspections having an effect. That increase in the orange line is a clear indication that—

CHAIR: The frontline are doing a better job of their job.

Mr Chapman: And that Operation Cattai was having the desired effect.

CHAIR: Are we all with it?

Senator STERLE: Yes.

CHAIR: You have the floor, Mr Chapman.

Mr Chapman: To explain the grey line—the estimation—that is work that we have been doing since February. When the suspension was put in place there were quantities of prawns which had been imported prior to the suspension and were being held in approved arrangements. They are only released if they are negative to white spot syndrome virus when they are tested by AAHL. We have the very sensitive testing now that we talked about the last time we met. What we are doing is using a proper sampling regime of all the stored prawn product we have. We are finding that some of it is negative to white spot but some of it which had already cleared our border processes and has just been held in storage is positive for white spot. So we are using that proper sampling regime of all those prawns in storage to estimate the total volume of prawns that may have entered the country when they should not have done because they had white spot.

CHAIR: Do you have the raw data sheet with you?

Mr Chapman: I can give you the numbers.

CHAIR: No. I imagine there is quite a comprehensive raw data sheet you have relied upon to enter this data to produce this graph.

Mr Chapman: This work has been done by the compliance division, but I am sure it is available.

Ms O'Connell: We could make that available to you.

CHAIR: Could you do that for the committee—in as much detail as possible?

Ms O'Connell: As a question on notice?

CHAIR: Yes, please.

Ms O'Connell: Yes.

CHAIR: Thank you. I want to make a statement just to get it out of the way. No matter what the reason, we would nearly have to make a declaration that this represents a catastrophic collapse of our biosecurity arrangements insofar as they are applied to the importation of raw prawns.

Mr Chapman: The estimation we have is that nearly half of the prawns imported into Australia were positive for white spot syndrome. The vast majority of that came from the six importers that we have concerns about. But you are correct in saying that, considering that the IRA was based on only a very small number—

CHAIR: Five per cent.

Mr Chapman: If there were less than five per cent—

CHAIR: The IRA has an objective of less than five per cent.

Mr Chapman: Well, it is to detect prawns with a prevalence of less than five per cent of white spot. So the IRA did assume that a small number would get through, not an actual percentage. This is much greater than that, so obviously it is unacceptable to us.

CHAIR: So, the ability for this to happen—tell me if I am missing all the explanations—relates to a frontline biosecurity officer not doing their job or not doing it properly and thoroughly or, unbeknownst to them, the criminal behaviour, as I will refer to it, of an importer, aided by deceptive or criminal behaviour of an exporter from the country of origin. That is going to bring me to a question later on, Ms O'Connell, about this inspection regime that is going to happen over in these countries now and the extent to which we should rely upon any certificate that comes. I do not want to blemish any country, but I have done a lot of work up in some of those places. Could there be any other explanation for the failure of the IRA provisions?

Mr Chapman: This is not an issue of a failure. It is just something that helps explain some of the big differences in the test results. That is that, as we discussed last time, the testing that has been used at the moment to identify whether there is any white spot virus present in the prawns is the AAHL test—the Australian Animal Health Laboratories. That is a very sensitive test, so it will identify very low levels of white spot virus in prawn tissue that might not have always been identified.

CHAIR: But it should have been?

Mr Chapman: Not necessarily. Different laboratories have different approaches and different interpretations.

CHAIR: So, the virus could be—and you are going to have to work with me here—one per cent of itself, in which case it is not transferable and it is no risk. At 10 per cent of itself and 20 per cent of itself, if we were to put a decimal measure around it, using 100 as the case where the prawn has just died from the virus and 1 as the case where it just swam past and there is a tiny bit of it on the antenna. We were obviously working on a test that took us up to a figure. If we use my numeral—it might not be a figure; Chris will save me here in a minute!

Now our tests are looking for a higher sensitivity, the figure would be lower when expressed as parts per 100. Should it always have been lower? Is there a point where, below that, we do not worry, but above that, we should be concerned?

Mr Chapman: I will get Dr Cupit to provide a more scientific explanation in a moment, but it is very difficult to determine exactly at what level the virus will be viable and transmissible to others. As I said last time, at the moment, we are taking a very conservative approach. Any white spot virus identified in a prawn counts as negative. There has been some discussion—we have just facilitated discussion between the laboratories—to try to have a much more consistent approach and a consistent interpretation, and that resolves—

Senator STERLE: We touched on this last time. We remember that AAHL has a far more stringent test than the other mob. We understand that. I understand that, okay, maybe our testing has not been as stringent as it could have been because—

CHAIR: Sensitive—

Senator STERLE: Sensitive is the word that I am using. But let's take a couple of steps back. There are six importers who could possibly be facing criminal charges. Is that correct, Ms O'Connell?

Ms O'Connell: There are six importers that we have taken action against; that is, to remove their approved arrangements, permits and ability to import prawns.

Senator STERLE: Great—so let's go back a couple of steps. You get the bigger microscope or whatever you do. That is your business—fantastic. But you did not sideline six of these importers because AAHL's microscope is bigger than the other mob's.

Mr Chapman: No.

Senator STERLE: Correct? So I think we should be coming back here.

CHAIR: We will—my view was that we would go from this to the application of this and to the investigation. Right? We have determined the failures—

Senator STERLE: Cool, okay.

CHAIR: We will go through failure by failure—

Senator STERLE: I just do not want to go two hours on who has got the bigger microscope.

CHAIR: We have to be careful, because this sets the scene. The higher sensitivity on tests plays out, does it not, in the grey line?

Mr Chapman: What I was saying was that that will have a bit of an influence on the grey line, but the primary issue, going back to your original question, was what we believe was very deliberate and—

CHAIR: No, I have the vibe, but it is important, as we settle our minds on this, as to what impact—if the tolerance is five per cent, 10 per cent, 15 per cent or 20 per cent, we can live with that. The more sensitive test—it is not going to obliterate the grey line, it is just going to affect it and reduce it.

Mr Chapman: That is right.

CHAIR: I am interested as to what sort of tolerance we should put into that as we think about this.

Mr Chapman: As I was saying, we have been working with NATA and the laboratories, including AAHL and the three, so that we can have an agreed and consistent approach to how that is interpreted and what is an appropriate cut-off.

CHAIR: The burden of my question is that the testing on the grey line, even though it appears here across a calendar, really should not appear across a calendar because we are not suggesting that the grey line results of 200,000 kilograms in March 2016 were known to anybody in March 2016. They are the results of tests that might have happened in March 2017 that came from however you have determined to put them into the time frame of March 2016. It might be a batch, it might be marked or it might be named. The really serious question is: is all of the grey line under more sensitive testing?

Mr Chapman: Yes.

CHAIR: This might be a question for Dr Cupit, and Chris may have to explore it more. Had we applied the old testing regime, is it possible that the grey line would have disappeared altogether?

Mr Chapman: No, the grey line would still be there; it just would not be as high. I was just looking for some numbers—

CHAIR: That is the burden of my question. I am trying to say, for me and my colleagues, 'Just apply a tolerance of 10 per cent', which will be a reducing tolerance in this case, so that we do not get too excited when we are not entitled to. We have to look at this through the mindset of the testing sensitivities that were in place at the time; otherwise, we are going to get a corrupted view of the planet.

Mr Chapman: I will just find some numbers. Since the suspension of trade we have put in place what we have called the enhanced testing regime. That works whereby the screening laboratory has a result of a positive or a negative, and all negative results then go to AAHL for confirmatory testing. So the enhanced testing regime is that the initial testing is done by EMAI, AAA or Agrigene, and if there is a negative test there—in other words, negative to white spot syndrome virus—those prawns then go to the Australian Animal Health Laboratory, AAHL, for confirmatory testing.

CHAIR: Is this apples-and-apples testing?

Senator BACK: It is higher level sensitivity testing as well.

Mr Chapman: AAHL was using its tests, which, as we discussed last time, are more sensitive. The number I am looking for—

CHAIR: is which are the negatives that have turned into positives at AAHL.

Mr Chapman: I have the numbers here now. Of the 72 batches that underwent the initial screening tests, 18 tested positive to white spot and 54 tested negative.

CHAIR: We can put a 33 per cent tolerance in, but—

Mr Chapman: What I was going to say then is: 25 per cent positive and 75 per cent negative.

Senator BACK: That is of the 54 that were negative and went down to AAHL?

Mr Chapman: Of the 54 negative that went to AAHL, 21 tested positive and 33 were confirmed as negative.

Senator BACK: That is 40 per cent.

Mr Chapman: That is right—39 to 61.

CHAIR: I have just one more question. I do not want to get down into the reeds here, but is there a prospect that we cannot entirely rely upon that test either. What if, out of a batch, they have tested a different prawn to one that tested negative with one of the three other providers.

Mr Chapman: No, AAHL, I believe—

CHAIR: Say we have a batch of 100 prawns. We could have a circumstance, could we not, where one of the other three providers with the less sensitive test could take out a prawn that was genuinely not infected, and hence that would be their declaration. It would not be that prawn that is sent on; it would be the balance of the batch that would be sent on and from which they would take another sample.

Mr Chapman: I do not believe so, Senator. Somebody will correct me if I am wrong, but I believe the same prawns are being tested.

CHAIR: Let's call the prawn Fred. Fred is tested with one of the three and Fred comes in negative. Fred is sent across for the next test; not another sample from the batch.

Senator BACK: This is the problem we had last time.

Mr Chapman: Fred is sent to AAHL and, by the AAHL, test it turns out that he is not negative, he is positive.

CHAIR: I do not know how the test is undertaken but is there no prospect that someone may have chopped off a bit of Fred's head where the viral load is located and the next one may have chopped off the tail where the viral load is less likely to be?

Dr A Cupit: There are a couple of things. Firstly, to answer your question, the viral load or the virus is spread throughout the prawn, so if you take any bit of the prawn, that bit, whether you take the tail, the middle et cetera, will test positive. The key bit you are trying to get to, I think, is this: does the sensitivity of the test make a big difference in the overall risk? Of course, any test will have a certain degree of sensitivity and specificity, which means: if it is really sensitive, is it actually going to pass on the disease? The AAHL tests are really sensitive, and they are purposely sensitive, because we are looking for outbreaks et cetera. The tests we use at the screening labs, which we are quite confident with, are exactly that: for screening. In the IRA, we always tried to reduce the risk at each point in the pathway through testing, through removing head and shell, through making sure that marinated or bread-and-battered were diverted to legitimate pathways. That is the way we were managing the risk. We never thought we needed to have a highly sensitive test to manage the risk coming in. However, when we started to see this level rise will, we thought we needed to bring this under control. That is why we started sending it on to AAHL—to get more confidence and to get more data to understand the risk. So, yes, that line, if you took out AAHL, would drop down towards the other one, but it would still be above.

CHAIR: By 30 or 40 per cent.

Dr A Cupit: There is still a material difference there.

CHAIR: Yes, but we are going to revert to thinking in volumes at the end of this conversation. We are not going to look at percentages or graphs. We are going to start to think whether it was a tonne of prawns or 10 tonnes of prawns, and then we going to ask you questions about the number of distribution points, if you already know the answer to that. Of the grey prawns, of the six that we are suspicious of, which have been factored into here, what was their market share overall both in volume and in distribution points around the country?

Mr Chapman: Those six firms have about one-third of the entire volume of imports.

CHAIR: Volume and market, yes. Now what about the outlets?

Senator BACK: And they distributed right around the nation?

Mr Chapman: Yes. Some of the companies distributed more in some areas than the others, but they were all around the country.

Senator STERLE: I am sure there must be one in WA.

CHAIR: Do you have that number in a more—you would have it, because these tests have come, retrospectively, from end points or storage points. That would be a very useful number for us to know, the spray—how many different locations these prawns went to from this 30 per cent of the market share.

Mr Chapman: I will have to refer that to colleagues in compliance division, as they have done all of the trace back.

CHAIR: Sure.

Ms O'Connell: We can provide that in terms of location, but, as Mr Chapman mentioned earlier, in terms of that testing of product that has been recalled from retail and is in cold stores, we have done 40 per cent of it. The testing there needs to be complete before we can give you a full picture, but we can give you a picture on the basis of having done—

CHAIR: You have done 40 per cent of the stuff that is on this side of the dingo fence since the suspension?

Ms O'Connell: That is correct. It is held, and we are completing that testing.

CHAIR: How are we managing it? Is every person who is in control of these prawns—are you satisfied they are cooperating fully, that they are not circumventing these arrangements and retailing prawns that are not going through this second test regime?

Ms O'Connell: Yes, we have issued biosecurity control orders to hold that product. We know how much product there is. We are working our way through testing that sampling rate. We are 40 per cent of the way through. It needs to be completed.

CHAIR: So a retailer could not avoid the arrangement, because you would know if there was a deficiency in the volumes if you go back to finalise the tests at that facility? Sorry, when you say 40 per cent, I imagine—this is an important question, because there are people out there who believe these prawns are still making their way onto the shelves and we are going to have a continued problem. When you say 40 per cent, is that 40 per cent of my warehouse and you are going to come back and complete it? Or is it 40 per cent of the warehouses, and 60 per cent have not been able to retail their product because you have not quite got to them yet?

Ms O'Connell: It is 40 per cent of the overall product held, but I can ask my colleague David Mackay to speak to the sequence.

CHAIR: No, but this is a door-to-door thing. I am asking you: do we have some retailers who would declare today that 100 per cent of their products are now finished, that you have given them the green tick; or is it 40 per cent of their product; or is it, I've got an order, so I can't retail, but they're yet to come and see me?

Mr Mackay: In terms of those distribution centres that we have placed secure orders on since February, we have sampled prawns or prawns batches within 70 of the 76 premises that hold those prawns and we have sent samples off to AAHL for testing. Currently we have 40 per cent of those test results back.

CHAIR: So you have almost completed the testing, but you have only 40 per cent of the results of the tests so far.

Mr Mackay: Yes.

CHAIR: So if you could get the next six places done next week, we could be satisfied that you have put a control order on every storage facility in the country that has raw prawns.

Mr Mackay: These were approved arrangements. Approved arrangements are specialised cold stores that we have placed secure holds on prawns within those approved arrangements. We have been able to do that because they are approved arrangements under the Biosecurity Act.

CHAIR: So we have cold storages in the country that have raw prawns, or have had since February, that you did not put a control order on because you could not?

Mr Mackay: We have had a number of different strategies as we have worked through the withdrawal process, the secure end test process that we have been operating. Our first approach was to deal with the major retailers, and so we worked with the major retailers to put in place—

CHAIR: Can I recommend something? Look, we are bright enough to know when we need to further drill down into an answer you provide, but we would urge all of the officers to listen to the question. Some of them will give us a yes or no answer—we will crack it off; we are not interested any more—or we will ask you questions that will elicit the sort of information you are giving us on a voluminous way. We now know that 76 facilities around the country have a control order. We know that you have done 70 of them. There are six to go, and they will be done by next Friday hopefully. Of those samples, we have seen results for 40 per cent.

Mr Mackay: Yes.

CHAIR: Right; we are clear. Are there other cold storage facilities in this country, other than those 76, that have had, from February to now, raw prawns in them?

Mr Mackay: Yes.

CHAIR: How many?

Mr Mackay: We do not know that specific number.

CHAIR: Right, so that leads us then to this: we can make a blanket statement that there are prawns that would fit in the grey line that got through the dingo fence that are now in facilities other than the 76 that are probably infected to a rate of 30 per cent or 40 per cent, and they may have been sold or are in the process of being sold, and because of constraints—and we are going to ask you about the constraints, so you do not need to volunteer—we really do not know who they are. We may be able to estimate the volumes by deducting from the blue line what we know are the volumes in the 76 facilities. Is that a fair statement?

Mr Mackay: We get some indication—

CHAIR: And does anyone know what the gap is between the volume in the 76 facilities versus the blue line? Do we know what the gap is here by volume? It is pretty simple maths.

Mr Terpstra: We do not know that. The reason we do not know that is just because some of those products were imported well over 12 months ago and we do not know what the rate of consumption actually is or how much product they have actually had on hand over that time.

CHAIR: All right; that is a fair and reasonable response.

Senator STERLE: What happened in WA while the ban was on was there was one mob going crazy selling a heap load of imported prawns, but they were not even approached because it was not in their facility.

Senator BACK: I want to follow on that exact same line: this blue line suggests the total imports, but it is not. What do you estimate to be the proportion of total imports that are actually captured in that blue line then and now?

CHAIR: That would be 100 per cent.

Senator BACK: No, it is not.

CHAIR: No, the blue line reflects 100 per cent.

Senator BACK: No, it does not.

Mr Mackay: The blue line is for prawns that have been imported into the country and tested.

Senator BACK: 'And tested'.

Mr Mackay: And the standard is that all prawns imported into the country are tested.

Senator STERLE: Now.

CHAIR: No, no; that has been there.

Mr Mackay: Yes.

Senator BACK: So you are confident that that blue line represents all imported prawns, and whatever the testing regime was, and however adequate or accurate the preliminary screening was, there are no prawns that have come into Australia other than those that have been the subject of some assessment or testing or surveillance?

Mr Terpstra: Without trying to be clever—

Senator BACK: No, I'm not.

Mr Terpstra: I am talking about me, not you—the issue here is that the blue line represents everything that has been declared as a prawn product. Given the fact we are talking about deliberate subversion, we have no way of estimating the misdescribed product that might have entered the country, which was really prawns but might have been declared as squid, octopus or whatever else that is not subject to physical inspection or a testing regime.

Senator STERLE: Or could be the pink band around the box.

Senator BACK: And if someone is going to deliberately attempt to subvert our biosecurity measures, it is likely that that is exactly what they could have done.

Mr Terpstra: That is correct. In the same way that any dubious trader can misdescribe a product to avoid interest by any of the border agencies—and every border agency around the world deals with this particular problem—a lot of what we are dealing with here, through our targeting and intervention, does in fact rely on either an accurate description of cargo or intelligence about misdescriptions by particular entities et cetera.

Senator BACK: Then can I ask—and I want to go back to some issues eventually about testing—as to these half a dozen, Ms O'Connell, who are now the subject of further scrutiny or have been charged, have any or all of

those been the subject of any scrutiny by your agency to see if they have brought product into Australia labelled anything other than 'prawns'?

Ms O'Connell: Yes, and part of the work done as part of our compliance and investigation indeed looked at the potential for misdeclaration as part of our investigations, and it was one way of circumventing the system.

Senator BACK: And that has happened?

Ms O'Connell: Yes, it has.

Senator BACK: So they got caught with the prawns but they did not get caught by wrongly naming product under some other label—

Ms O'Connell: Sorry—we did detect that people had incorrectly declared product as it entered Australia.

Mr Quinlivan: I do not want to disturb the flow of questions here, Chair, but actually we are discussing quite a fundamental issue for us, because our biosecurity system, by and large, has been based on the assumption that we are dealing with people who are making mistakes or acting benignly, and our systems are designed to detect those, with some areas in which we have reason to believe there is something more than that, in which case we are investigating it intensively and so on. But the experience here—and we have had a couple of other incidents in other areas over the last 12 months—has led us to think that we are going to need to rethink our posture and the assumptions we make about the motives and behaviour of not so much passengers crossing the border but industrial-scale importers in some areas. So that is going to be a huge challenge for us because even those who start off with that assumption, and that is their principal role, struggle with it, of course. I would not say it is a new way of thinking but it is clearly a growing challenge for us.

CHAIR: With the consent of my colleagues: I think we got a grasp of the graph; I would like to lead in to trying to dissect these failures in the three or four arrangements we had. Mr Quinlivan, I am going to ask you to listen for the notes that we are trying to hit here, because, at the end of this, we are going to ask you what you have done about people who have been involved in these failures, or what you intend to do. So I would like you to keep an ear to that note as we ask the questions.

Mr Quinlivan: Sure.

CHAIR: Let us look first of all at what it is even possible to measure. The examples that have been given to us so far in estimates range from marked boxes of prawns of which the importer had prior knowledge in dealing with the exporter and could rely upon that if the tests came out of the marked box then it should be okay, followed by empty boxes that the importer physically removed, put product in and put back into the batch, and there was a third, I think, given in evidence, about putting a different coloured cord—if 'cord' is the word; the plastic wrapping—

Senator STERLE: The band.

CHAIR: around the box so it could be identified. Let me ask this question. This requires a yes or no answer, unless it really does beg further explanation. If I am doing my job as a frontline inspector and I walk into a facility and I am about to take the sample in, in accordance with the guidelines, it would be as unlucky as waking up next to your mother-in-law to pick the box yourself that had been planted into 10,000 boxes in a storage facility. It almost begs the question as to whether the officer, as diligent as they may be, has let their guard down to be guided to a box—talking about the kids' soccer, saying 'You're coming over to my daughter's wedding next week. Here, I'll get that down for you'—versus an officer who comes in and sits at the front counter, drinking a stubby with his or her feet up on the desk, while someone plonks some prawns down. In both instances, there is a failure on the part of the officer.

Senator STERLE: Yes, that is right.

CHAIR: One may be forgivable; the other is not. Have you been able to, from the investigation, find out—and I will run the questions; they are broad and then you can relate—how many officers have been involved? Let me ask that question first: how many different officers out of your teams would have been involved with the 30 per cent of the market shared by these six?

Senator STERLE: Chair, before we go on, sorry—is Ms Vivian is not here?

Mr Quinlivan: No, she is not available.

Senator STERLE: Isn't this her area?

Mr Quinlivan: This is mainly a question for Mr Padovan and his staff.

Senator STERLE: Only because Ms Vivian was the one who told us last time that there was a downfall in the inspection regime.

CHAIR: So do you want the question to go to Mr Padovan?

Mr Quinlivan: I think he is a starting point for this question.

CHAIR: How many officers do we have on the frontline collecting these samples and doing this testing? Let's get a few stats down.

Mr Padovan: Certainly, Chair. In relation to prawns, we have around 50 officers who specialise in prawn inspections and there is a pool of a further 50 that we can draw on if we have—

CHAIR: Who are inspectors in other product lines?

Mr Padovan: We have a workforce of around 1,300 frontline inspectors and, of those, there are 50 that specialise in the area of prawns. Generally those officers are drawn from the pool that deals with food safety inspections and—

CHAIR: They are the same 50 each time? This is a stable workforce that does is for the most part?

Mr Padovan: Over the period in question, over the past year—

CHAIR: No—we get that there will be movements and people have babies and change professions. We are talking about this: it is meant to be a stable workforce of the same cohort of people. You do not rotate everyone through the 1,300 to—

Mr Padovan: Certainly not, Senator. The group of 50 is the core group that we use on inspections.

CHAIR: It may be that geographic considerations impact on the answer to this. Is the volume of their workload equal or, for example, do your people in Sydney have more work to do than the fellow in Darwin or—

Mr Padovan: To put it in context, the bulk of the prawn inspection activities are in Sydney and Melbourne—that is the bulk of the point of entry for prawns—but we also have teams in Adelaide, Brisbane and Perth that do prawn inspections. In a steady state, we deal with around 1,300 consignments a year, just to give you a sense of the volume.

CHAIR: Of the six importers, who are subject to the comments of Ms O'Connell—either they have been prosecuted or have had their licences withdrawn—how many of the 50 would it take to service 30 per cent of the market? Is it 16.6 of them?

Mr Padovan: If I could just contextualise it, in terms of the process of how prawns were coming into the country prior to 9 January, there were essentially three core steps in the process. The first was a document assessment and that was undertaken by a separate team out of our assessment services group. They were checking that the documentation provided complied with regulatory requirements. That is a small team of four or five. Then we have the inspectors who go out and do the physical inspection and send the samples off for testing. When those test results come back, the results go to another team that is independent of that inspection group and has a check-and-balance approach to ensuring that only the consignments that a negative are actually released. So we have a distributed model that tries to make sure that no one individual has complete control over the inspection—

CHAIR: Let us move a bit more quickly. We do have individuals who put on a big pair of gumboots and they go into a coldroom facility and they point to a box—or this is what they are supposed to do—it is taken down, they take a sample, they deal with it in the appropriate fashion, they leave the facility and whatever happens next we will explore later. Is that correct?

Mr Padovan: That is correct.

CHAIR: How many of those people are there?

Mr Padovan: There are 50.

Senator STERLE: Do they watch the seals being broken?

Mr Padovan: In terms of the seals-intact model, that was applied to a targeted group of importers during Operation Cattai last year, and was rolled out more broadly to all prawns from 9—

CHAIR: So these 50 men and women—and they are men and women, I imagine?

Mr Padovan: That is correct.

CHAIR: Do I have my plants? Am I going back to the same importer's facility or the same storage facility each time?

Mr Padovan: Depending on the location. In the smaller locations, such as in Adelaide or—

CHAIR: Let us stick with these big suckers.

Mr Padovan: With the big cities, the inspector does not choose who they go to visit. In fact, we did quite an exhaustive analysis looking at all the tests—2,000 plus test results—and all of the prawns that were released from biosecurity control and subsequently found to be positive—

CHAIR: So I do not have a beat? I do not go back to the same producer, because I know where I am going—

Mr Padovan: You may be assigned—

CHAIR: Be careful with this. Whereas we may have had six or eight people not doing their job, the answer to this could determine all 50 of them were not doing their job.

Mr Padovan: You may be assigned to the same facility on a number of occasions.

CHAIR: Do you know that? Do we know that?

Mr Padovan: Yes.

CHAIR: Do we have that data?

Mr Padovan: Yes.

CHAIR: Then answer this question for me. We agreed that this could not happen without a failure of frontline security.

Mr Padovan: For all the work that we have done—and going to Ms O'Connell's opening statement about the analysis we have done on what our staff did, where they did it, the work that we are doing to support the ACLEI investigation—there is no instance that I am aware of where an inspector did not do what was required of them as per the instructions.

Senator STERLE: Ms Vivian sat, just about where you are, and said—in my words, not hers—that some of the inspectors had not done their jobs.

CHAIR: Hold on. Before you answer, that is an extraordinary statement. How did these hundreds and hundreds and hundreds of thousands of infected prawns get through, if your officers were all doing their job? You have no evidence that they were not doing their job, right?

Mr Padovan: What I said was that I have no evidence that the inspectors were not following the required procedure or the required instruction—

CHAIR: All right, let us go to that. We have one of two instances here. Your procedures that were designed for them to follow are solely responsible for this catastrophic failure of biosecurity?

Mr Padovan: We have heard from various officers at the table here that there are a range of factors that have contributed. We have heard about the—

Senator STERLE: And this is one of them.

Mr Padovan: We have heard about misdeclaration. We have heard about partial or full substitution of consignments. But there are a range of—

CHAIR: Hold on. You cannot trot this chestnut out. There is a testing regime governed by the IRA. Is that correct?

Mr Padovan: That is correct.

CHAIR: Anyone can contribute here, including everyone to the back wall. There is an IRA, and if that is applied, as designed, we should have a tolerance of five per cent of infected prawns out there, at worst. At worst, Mr Chapman?

Mr Chapman: At worst, yes.

CHAIR: We have 40 per cent. So you, sir, if you want to take the burden of the question, need to tell us how the other 35 per cent got out. You have just broadened the explanation. It may be that the IRA is so flawed it was never going to achieve the objective of 95 per cent clearance. That is one explanation: it was so flawed it was only ever going to give us a 60 per cent result, based on this data here. So someone has to explain to me. And then, where I found your statement so extraordinary, is that we have had evidence from your colleagues who talked about people being presented with samples that they did not randomly take themselves. Was that allowable? Was that an option? I could ring Fred and say, 'Fred, I'm coming down. Can you get me out 10 samples on the formula'?

Was that evidence given to this committee not correct?

Mr Padovan: The evidence on the 28th is that staff were handed samples of prawns. From the investigations that we have done since, staff have been handed samples of prawns, and that is in the context that they have selected the prawns that they required to be samples. When you have got 2,000 or more cartons in a consignment,

and because of the work health and safety requirement that we place on our staff, they quite legitimately asked the approved arrangements staff to get the box, bring them the box, that they have identified.

CHAIR: And that was the protocol that you had for them to do their job?

Mr Padovan: That is correct.

CHAIR: And there was never a risk assessment done that might suggest that they are going to bring anyone but Fred out? They are going to bring clean prawns.

Mr Padovan: An explicit requirement in the instructional material prior to 9 January, and in the updated material post 9 January, is that the officer was to select the sample. There is no ambiguity in relation to that requirement that was placed on staff.

CHAIR: So are you telling me now that officers did select every sample?

Mr Padovan: To the best of my knowledge. I have not been presented with a case where an officer was not presented with a sample—

CHAIR: No, no. There is a difference. You do not know. How do you explain this, sir? Mr Quinlivan, you had better take over. Someone needs to explain this, because this starts to get back to arse protecting, in terms of who did what to whom.

Mr Quinlivan: I think there is a bit of a misunderstanding here. What Mr Padovan is saying is that the—

Senator STERLE: Not from us there is not, Mr Quinlivan. Ms Vivian made it very clear last time, and she came out and said these officers had been retrained or counselled—I cannot remember the word. She was sitting right there where Mr Padovan is sitting now.

CHAIR: Let us just try and clarify.

Mr Quinlivan: I think what Mr Padovan is saying is that the responsibility on the inspector was to select the box, or the sample, that they wanted, not to physically retrieve it.

Senator STERLE: No, he is not. He was saying there was no evidence of anyone not doing their job. That is what started us getting fired up.

Mr Quinlivan: I am just breaking it down to this specific part of it, and, as I understand what he just said, their responsibility is to select the sample, and then the job of the importer, or whoever is the agent of the approved premises, is to physically retrieve the sample in accordance with the instruction that they were given.

CHAIR: They are present for this?

Mr Quinlivan: Yes.

Ms O'Connell: That is correct.

CHAIR: Then how unlucky are these 50 men and women? Seriously? Guys, this is where the hot and the cold air are coming together. Let's just get through this. It is a painful question and the answer is painfully clear. This cannot happen. There are only two explanations for this. One is: these procedures you had in place were never going to deliver the IRA result. Mr Chapman, go your hardest in contradicting that. They were never going to deliver it, and that is one big problem. Or the people did not stick to the script about what their frontline duties are, and that resulted in this, and that is a big problem. You get to choose, unless someone here has got the ability to give me option C.

Senator BACK: Yes, thank you. Option C: preliminary screening, from the figures that you gave us—I cannot recall where the figure of 72 came from, but, on preliminary screening of the 72, 18 were positive and 54 were negative, which is roughly 35 per cent were positive and 65 per cent were negative. Then you subjected that number of 54, being 65 per cent, to further, higher level screening at AAHL, and, of those that on preliminary screening got through because they were negative, in fact 40 per cent of them were indeed positive. You had that level of false positives on preliminary screening. Am I not correct in my assumption that it has been a failure of the sensitivity of preliminary screening, allowing 40 per cent of effective false negatives, that has caused our problem?

Dr A Cupit: That would attribute for part of it, yes. I would agree with that.

Senator BACK: That would play a big part, wouldn't it?

CHAIR: Well, all of it, because the grey line represents the figure that he has just calculated.

Senator BACK: I am not trying to trip anybody up here. I am just trying to look at it and I am saying this to myself. The preliminary screening, which would have been the only form of screening anywhere in Australia—the one form of screening was this preliminary screening—suggested 36 per cent, in this case, of the 72, actually

came up as not being positive for this bloody virus. In fact, at a later stage, because of all this other business that has taken place, they were subjected to a very much higher level of screening, and four out of every 10 of those that got through originally have now failed. It just seems to me that, of everything else we have seen—unless we can have an explanation of that, we can draw the obvious conclusion that it was the preliminary screening that let everybody down. All this other stuff is interesting. We have been told conflicting evidence. But let us just put that to one side for a moment and let us just see whether or not it is the failure of preliminary screening. Forty per cent of samples were screened to be negative and would have gone through the process—everyone is happy—but we sent them down to AAHL, and four out of every 10 turned out to be positive.

Dr A Cupit: Certainly I agree with part of the conclusion you have made as far as the increased numbers. I question about the failure part, though, because the failure part implies that all of these samples going through are in fact infective and therefore have the potential to cause a significant biosecurity risk. That is the debatable part. If you get a more and more sensitive test, you then have to work out whether that material—although, yes, it is a positive test and, yes, there is a bit of white spot DNA there, the question mark between the screening laboratories and the confirmatory laboratory is: can that material cause a biosecurity risk and therefore an outbreak? So there is a bit of a grey zone there, and that is where our laboratory technicians will argue. So, yes, you are right that a great proportion of the difference in the lines is because we are using a very much more sensitive test, and that does explain a considerable amount of this difference. The question about whether it was a failure, whether we use screening as a biosecurity measure in combination with the others—that is the part I think we need to discuss a bit more.

Senator BACK: I agree with you.

Dr A Cupit: Whether you would say that is a failure or not, I would contend that we need to examine that further. That is one of the reasons why we are getting the laboratories together to try to distil a bit more about that issue.

Senator BACK: In any scenario, whether it is tuberculosis testing or whatever it happens to be—in your scenario, what we really have come to learn is that, on preliminary screening, if they showed up positive, they are positive: they are bugged, they are gone, they are culled. What we now learn is that, if they passed it, we actually do not know. On that basis, they have gone down a drafting race, they have been positive, they have been culled. The basic assumption for you, for the importer, for the retailer, for the customer, for anybody, unless you have got some other form of analysis or some other activity within your biosecurity processes, your IRA, is that they passed the test and therefore they are competent, eligible, to come into the country. What would be the other biosecurity measure that would otherwise pick up those that got through on the preliminary testing?

Dr A Cupit: The other biosecurity measure was always that we were looking at the pathway itself. With an indirect pathway, there is the potential for it to go into the environment, establish, potentially spread and then go from there to a farm. That is an indirect pathway. The vast majority of these prawns go into a retail outlet. The IRA always did have that understanding that a small amount would come through. That is why we set the initial levels at 95 and five. That is why we were quite comfortable with that testing regime for screening laboratories. In other words, once it gets through that system we rely on the direct or indirect pathway type controls.

Senator BACK: That 95.5 really interests me. I know I am focusing on the preliminary scheme, but I do not know of anything else, by the time the product gets through that process. It does not seem apparent to me, because we already know from the information you have given us that it is not 95.5 per cent, or a figure other than 95.5, but 60-40. I do not know where the other events take place to build you up to that level of confidence of 95 per cent, because the screening—I know we heard about the documentation; I understand all that, although we know from previous instances of, say, hides coming into Australia, which pre-dates you, Mr Quinlivan, but that was absolutely and utterly a failure. That becomes my question, Dr Cupit. The screening is not delivering the 95 per cent, and I am wondering what does. What confidence have you got yourselves, let alone giving to the ministers and this committee, that you build on to get up to the 95 per cent, when in fact the preliminary screening is probably showing you, at best, somewhere around 45, 50, 55 per cent? There is a 45 per cent gap there, and I cannot see where you get to your 95 per cent level of confidence under the import risk analysis.

Dr A Cupit: First of all, there are a couple of things we probably need to clarify. The 95 per cent is a 95 per cent confidence level if it was prevalent in five per cent of the prawn batch. In most times in a farmed population you will get much more than that because it is spread so easily within that farm population. Generally, if there is infection in there it will be much more than five per cent. So the 95 per cent is if it was at that level of five per cent. We are talking statistics. So, generally, you would get quite a great deal of confidence that you would be picking it up to the level that the sensitivity of the tests are designed. No test is designed—or, generally, most tests are not designed—to be 100 per cent. That is why we rely on other risk management controls such as the

pathway controls and those sorts of things. If it was a live animal et cetera, you would want to have much higher levels, especially of exotic disease like FMD. You would want your test to be 100 per cent or as close as possible. For prawns, we introduced this test. The IRA looked at it at a time of managing an indirect pathway—that is the way it was designed at that stage—so they thought testing would also be a way of managing that pathway better. But the test was never designed to manage it to 100 per cent, which is what people are now inferring. That is why we use the AAHL testing, to increase the confidence even greater because of the scenario that we were facing with this increased level. We thought we would add the AAHL testing as one means of bringing it down at a quicker rate.

Senator BACK: I am not picking points: the 95 per cent is actually not 95 per cent level of confidence that something might be—and I thank you for that explanation. What it is is that if there was five per cent incidence of that virus, then your testing would make you 95 per cent confident of an outcome.

Dr A Cupit: Yes.

Senator BACK: But if in fact it was 25 per cent or 35 per cent, not five per cent, it blows it out of the water.

Dr A Cupit: No, it should be then a higher confidence level.

Senator BACK: I am saying it blows it out of the water. I hear what you are saying, but that 95 per cent is on an assumption that you are looking at five per cent. If it never was five per cent—

Dr A Cupit: Yes, if the rate was much less—if it was less than one per cent, for example, in those batches or even in the environment—you have a much lower confidence level of picking it up. But, again, the virus in the whole thing is less. Therefore, you are managing the risk to an appropriate level—that is what we are always trying to do—not to zero, but to an appropriate level.

Senator BACK: But it is assuming a certain likelihood of the incidence of the virus in that population—either in or coming in. That assumption is based on that percentage, if it is not there. It pre-dates you, Chair, and it pre-dates you, Mr Quinlivan. It does not pre-date Senator Sterle. It is not the day to be discussing IRAs, but there are people in this room with whom we had spirited discussions when we were talking about the import of apples from New Zealand. I remember there was a Dr Findlay: she did me over, left, right and centre. The simple fact of the matter is that it comes back to the integrity and the validity of the IRA process—but not for the subject here. Thanks for your explanation.

CHAIR: Senator Back has just put a very solid theory forward in relation to an explanation. So we now have the 1, 2, 3. My colleague commented that there is human failure in any one of them. There could have been a failure in the IRA. There could be a failure in the process. Ms O'Connell, is there anyone here with you today that can manipulate this graph? We might wait for it over lunch.

Ms O'Connell: Potentially.

CHAIR: If we looked for a fourth line, using those figures before about the negative testing that then went on to the higher sensitivity to become a positive test—right? Taking these test results and assuming that they are now, whatever the figure is, 66 per cent of what they would have been had there been a more sensitive result, can they give us a fourth line? It will sit somewhere between the orange and the grey.

Mr Quinlivan: Effectively, take that parameter out of the grey line. Yes.

Ms O'Connell: I understand, Senator. So it will be a new line—

CHAIR: Yes. So, again, we are going to get back down to the volume that got through, but not as a result of more sensitive testing, right?

Ms O'Connell: Correct, yes.

CHAIR: Because this problem that we have formed a view is this big, in terms of the failure of people at the front line, may be not that big.

Mr Quinlivan: Yes. There are potentially other issues than just people at the front line influencing them.

CHAIR: No, no [inaudible].

Ms O'Connell: But if we take the test results line out—

CHAIR: Where we are trying to get to, Mr Quinlivan, is just to get the facts out. We will all interpret them differently. But, for the good people down at Logan and all the people around Australia that are watching, as long as we get these facts out that they can rely upon to form their views, it is going to take us a long way towards unravelling some of the mysteries around it, which is important. Senator Sterle, we are on the question of the potential contribution of human failure.

Senator STERLE: Yes.

CHAIR: Do you guys have any questions around that? Otherwise, we will move to—

Senator STERLE: No, I definitely want to come back to the AAHL testing. When did you introduce the AAHL testing, as in they all have to go to AAHL?

Dr A Cupit: The AAHL was introduced at the point of the suspension, for all in-transit product. It was at that point in time. The suspension was put in place on the 6th—

Senator BACK: Of?

Dr A Cupit: Of January.

Senator STERLE: Yes, I said January.

Dr A Cupit: So this data really represents the time from that point, over the last few months. That is why we have only been able to calculate it or get it prepared by this point.

Senator STERLE: No, that is fine—no dramas. I just want to come back to Ms Vivian's evidence last time, when she was sitting where you are, saying words to the effect that, yes, some inspectors, there was a bit of a breakdown, or whatever it was—I cannot put words in her mouth and I will not; the *Hansard* will protect that—compared to your statement that everything is mickey mouse, no dramas, 'haven't seen anything'. I want to know what steps you as a department took, following Ms Vivian's evidence—and you are all in the same paddock. What did you do with the inspectors who you as an agency identified had probably not performed the task to the best of their ability or to your guidelines?

Ms O'Connell: First, just to answer in terms of the major contributor to this, other than testing—and I outlined this in my opening statement—yes, there were shortcomings in our inspection practices, and Mr Padovan will talk to those. I mentioned them in the opening, but he will talk to them in more detail and what we have done to remedy that. But the most significant component was importer behaviour, where there were deliberate attempts to circumvent biosecurity controls.

Senator STERLE: Good. Let's go down that path. That suits me. Please tell this committee all about it.

Ms O'Connell: Okay.

Senator STERLE: You do not have to mention names—because there are charges pending, aren't there?

Ms O'Connell: We will not, but if we can talk to some of the practices—

Senator STERLE: Great.

Ms O'Connell: that importers use, being cautious because we do not want to air them completely, in detail, they would go to explain how the amount of infected prawns came into Australia.

Senator STERLE: That is great, because you sat there last time as an agency and told us there was something about pink bands rather than other coloured bands and all that sort of stuff—

Ms O'Connell: Part of that went to the importer behaviours that were circumventing our system—

Senator STERLE: I get it—and they had bamboozled some of your inspectors.

Ms O'Connell: substitution and a number of other things—

Senator STERLE: Lay it all out.

Ms O'Connell: that our inspectors would not have been able to necessarily pick up. But I will ask Mr Terpstra to talk to what were a number of those things that circumvented our system.

Senator STERLE: Cool.

Mr Terpstra: During the work we did through Operation Cattai there were 66 total consignments that we intervened with through that program of work. There were a range of behaviours that I will quote to you now in terms of the different behaviours that we saw. It added up to more than 66 because we saw more than one behaviour on some of the consignments—it actually added up to 86 behaviours.

What we saw were undeclared batches of raw peeled prawns. There were 24 instances of that. Carton marking—not necessarily in strapping but either a different coloured texture on the corner of the box or pink strapping as opposed to blue strapping, or whatever that might be, or some other stamping or something that you could identify one version of the supposed product from another—was used on 22 occasions. Carton marking using strapping and taping in order to influence border sampling was used on eight occasions, and the use of brand-new but like marked packaging was used on 10 occasions.

There were undeclared goods. When an importer or a customs broker make a declaration about what they are importing, each of the different commodity lines they are importing is required to have a line of description according to the tariff code description, as well as some other parameters, on each line of what is called the full

import declaration. That is like a manifest of what is coming into the country. There were six consignments involving undeclared goods, which goes a little to the misdescription issue that we touched upon before. There were three consignments where traders disregarded our direction for what is called a 'secure seals intact' inspection—that is where a container is ordered to remain secure until a departmental representative attends, watches that container opened and then goes through the inspection process. That is to provide some comfort that what was apparently in the container is actually what they are inspecting.

Senator STERLE: And they refused, did you say?

Mr Terpstra: A lot of the time when that kind of behaviour takes place we get responses like: 'Oh, sorry; we did not realise it was seals intact. Fred here, who has only been here for three weeks, did not know. We are very sorry'—blah, blah, blah. There was product relabelling, whereby there were re-markings on products that were misrepresented, if you like. There was incorrect or missing documentation in relation to some consignment elements on three occasions. There was suspected consignment substitution on two occasions. This is about substituting a clean product with what later turns out to be a non-clean product. There was incorrect country of origin labelling on goods. So they might say that prawns came from a particular country when they actually came from an alternative source, which can have implications about pest and disease status or likelihood thereof. We saw one case where a previously failed consignment, which had been re-exported, was again presented for import some months later. We managed to crossmatch that through batch reference numbers and so forth.

Senator STERLE: Well done.

Mr Terpstra: There were mismatches between importer lodging declarations and import cartons—so there was, apparently, a 'Sorry. We put the wrong number in the full import declaration' process—which, once again, is a potential avenue for product substitution to take place, and documentation not matching the requirements of the import permit was found on one occasion as well. So there were a whole range of different behaviours that we encountered there, many of which were designed either deliberately or inadvertently—depending on how cynically you want to look at it—to create an environment where our inspections staff are likely to be less able to determine whether they are looking at the product that is actually being imported in a means that gives them confidence that they are sampling the correct product. Of course, when that happens the labs will only examine the products that they are provided. So the results that they then glean are reliant on the integrity of the process of collection.

Senator STERLE: In what states of Australia are these six companies based?

Mr Terpstra: The six companies are broadly based in Brisbane, Sydney and Melbourne, and there is one in Adelaide and one in WA.

Senator STERLE: What are the penalties for these potential crimes?

Mr Terpstra: Under the biosecurity legislation there is an offence of 'aggravated illegal importation'. What that really means is that the illegal importation is done to gain a commercial advantage. So the scenario we are faced with here is very much around a commercial advantage.

Senator STERLE: Let alone deception.

Mr Terpstra: Let alone the deception et cetera. Assuming that is the penalty you are looking at, we are looking at a potential for 10 years in jail. And the potential fine for a body corporate—because you cannot jail a company—is about \$1.8 million.

Senator STERLE: Per company?

Mr Terpstra: Per charge—assuming that the court takes the view that it wants to impose the maximum penalty. There is a regime where the value of the penalty unit changes each year. It is due to change again this year on 1 July. That will bring that to a quantum of about \$2.2 million.

Senator STERLE: That is not to be sneezed at.

Mr Quinlivan: It is worth adding the sanctions under the Biosecurity Act as well, which have already been imposed in some cases.

Mr Terpstra: So where you cancel or revoke an approved arrangement, that means that that entity no longer has the permissions to operate a low intervention rate operation. So they get a much harder physical inspection rate; we watch everything they do. If we remove their permits, they are then not allowed to bring in goods of that particular description. We have removed prawn permits from some traders. Notwithstanding that we have a whole-of industry-suspension in place at the moment, upon re-establishment of that trade those entities are prohibited from bringing prawn products into the country for the duration of the removal of that permit.

Senator STERLE: Have we had similar examples where these people, entities or corporations actually have been fined? Like you, I still live the nightmare of the citrus canker. I know there are differences here. We can have all the penalties in the world, but if someone does not get prosecuted, we fail miserably.

Mr Terpstra: We have two regimes that we are dealing with in terms of noncompliance. We have criminal prosecutions in the Biosecurity Act, and the Criminal Code, the Crimes Act and the Customs Act all provide offences that may fall under what is called 'a criminal jurisdiction'. We send a brief of evidence to the DPP and the DPP adjudicates on that brief of evidence to determine the right charges to charge the entity with, based on available evidence and the fact that that evidence meets the required burden of proof. In a criminal matter, that means we have to prove it 'beyond reasonable doubt'. You would have heard that term before. That is a pretty high standard of proof. We have a number of investigations underway at the moment. We have a brief of evidence with the DPP.

Senator STERLE: Are these on top of the six companies that have already been identified?

Mr Terpstra: These are the six companies. We are dealing with them administratively through the cancellation of their approved arrangements and their permits. We are also dealing with them through this criminal brief of evidence process. We are allowed—it is not deemed as double jeopardy—to prosecute where we have evidence to a criminal standard of alleged criminal behaviour. We have one brief of evidence in relation to one of those entities with the DPP, which they are currently adjudicating. I recently spoke to my colleague in the DPP about that. They are almost at the point where they are ready to make a decision. We also have a number of other investigations—not for the entire six but for a further three of that same six—where we are pursuing the potential for criminal charges. Those investigations are ongoing and are not yet complete.

Senator STERLE: How long do you envisage this work will go on before we can determine whether there is guilt on behalf of these six companies? The reason I ask is that we still have our Senate inquiry going—and, as you know, we are not reporting until December.

Mr Terpstra: We would expect that we would be in a position to either make a decision ourselves as a department to progress the remaining three investigations to the compilation of briefs of evidence to pursue a prosecution or we would park them. That is not to say that if further evidence comes to light at a later stage we would not be prepared to reopen those matters. In all likelihood, we need to draw a line under some of these things at some point—for resource allocation. There is really not a lot of value in continuously digging up ground if you do not think you are going to reach some of the evidentiary standards required to pursue a criminal investigation. In all of these cases, we have ongoing dialogue with the Commonwealth Director of Prosecutions to make sure they are aware of the activity we are undertaking and that our investigations are being conducted in accordance with their posture on how they might like to prosecute these matters.

Senator STERLE: What changes have you made in the department to reassure us that the inspectors, after they have been hoodwinked, will not get caught again?

Mr Terpstra: You would understand that when we undertook Operation Cattai—it is actually a discovery process. You do not know everything we know now on the first day of a particular phase or process; you actually discover these things as the cargo arrives, as you see the behaviour. We had a system where we produced situation reports. We had operational summaries. We had intelligence summaries. As we got into the real nuts and bolts of intervention with cargo to determine how much infected product was arriving, through Operation Cattai, and discovered particular modes of what was allegedly non-compliant behaviour, we then compiled a situation report, generally once a week. Periodically, we provided intelligence summaries and those were distributed across the department to enable others with different roles and responsibilities to take those matters on board. We also had some of our enforcement staff work proactively with inspectorate staff to help them identify particular coercive behaviour to try and undermine their inspection activities. You will notice that, in the graph, there is a point marked where we started 'seals intact inspections' as we started phase 2 of Operation Cattai. But when we get to the end of that—probably October, November, December—we see a sharp decline in the number of dirty consignments, if I can characterise it that way, that are actually arriving. When we do the analysis on why that has happened, we also have some information to say that the six entities we were concentrating on had put a stop on their importation knowing there was a very high chance that they were going to get caught.

Senator STERLE: Chair, I might be asking about a matter of opinion here, so I will have to try and word it so that you do not have to pull me up. I will put the question to the secretary or to the minister. We have seen corrupt behaviour from the importers. So why wouldn't we have a regime to circumvent any possibility of corruption in the importation system whereby these inspections must be undertaken while the seals intact, full stop, whether it is one box or 2,000 boxes?

Ms O'Connell: That is the case.

Senator STERLE: You have now implemented that?

Ms O'Connell: It is now fully implemented, yes.

Senator STERLE: Good. There is one recommendation that will not be in the report.

Ms O'Connell: We have put that in place.

Senator STERLE: Very good.

CHAIR: My objective—and it will be a matter for the colleagues to agree on—is to get this out of estimates and over to references because that is going to deal with a big lump of the question on notice back on 28 February, and I think we have made great progress today. Can I give a bit of unsolicited advice. The best report we can do to the minister at the end of that references committee is to say: 'Nothing to see here; nothing to report, Minister. We have taken every reasonable measure to get biosecurity back to a level where people have enormous confidence in it.' And if there have been any questions along the way that needed to be dealt with—and this is leading to a question to you, Mr Quinlivan—you have dealt with them. I want to go to that, at the heart of this. I would find it surprising if we get all the way to the finish line here, and there have not been people under your control who have been identified as, on the lighter end, requiring retraining, reassignment, more supervision, relocation or whatever. That includes the possibility that a body of evidence presents to you that suggests—I am not even going to go into the space of whether they are corrupt or it goes to unlawful, conspiratorial behaviour—that their behaviour was gross to the point where you needed to take the appropriate action. I think it would aid this committee if you were to give us your view if you are confronted with circumstances because some investigations are happening in parallel—you have the independent biosecurity look at things and you are doing things yourself and the references committee is going to concentrate on this. I would like a statement so we can send a message to the world, including this committee—the estimates committee and the references committee—that no-one else will have to do your job for you if you get a tough decision on your desk.

Mr Quinlivan: I can give you an unqualified assurance on that matter, Chair. As you say, there are a variety of processes which may lead to decisions of that kind. But they will need to run their course before those judgements can be made.

Senator STERLE: We have rehashed some old stuff, but when did you first bring it to the attention of the minister that we may have a potential problem here?

Mr Quinlivan: We went over this in great depth last time—

Senator STERLE: We did!

Mr Quinlivan: I am very confident that there are lots of things that we have learnt more about since then—and we have talked about quite a few of those things today. One thing we have learnt nothing more about since that time is when the minister and I were informed of what happened in the days immediately following.

Senator STERLE: Remind me when you first—

Mr Quinlivan: I am trying to remember this while I speak. I remember, from the evidence earlier today, that the decision to suspend the trade happened on 6 January, which, from recollection, was the Friday after New Year. The conversations internally with me, which reached an in-principle decision to do that, subject to organising the documents and so on, happened on the Tuesday and we briefed the minister when he came to Canberra on I think the Thursday morning. So he was advised on either the Tuesday night or the Wednesday morning, I cannot be sure.

CHAIR: This was when?

Ms O'Connell: Very early January.

Senator STERLE: Was there any conversation between your department and the minister's office before then? I know how diligent you people can be when—

Mr Quinlivan: No. I took full responsibility for that last time, and I still do that. If there were conversations with his office on the matter, they were not framed in a way that we could reasonably expect them to have been on the minister's radar, and I take full responsibility for that.

Senator STERLE: If we have a potential outbreak, which we have had, as catastrophic to certain parts of the industry as this could be, you would not just toss the coin in the air: 'Shall I, shan't I?'

Mr Quinlivan: He was well aware of the outbreak.

Senator STERLE: When?

Mr Quinlivan: He would have been aware as and when—

CHAIR: I think evidence was that it was the day following the positive test—

Mr Quinlivan: Probably 1 or 2 December.

Ms O'Connell: December, that is right.

Dr Martin: Yes, the minister's office was advised on 1 December. So, as soon as we had confirmation from ARL that it was positive, then the office was aware.

Senator STERLE: Thank you.

Senator Ruston: I think we should probably qualify that: the minister was aware of the outbreak in the Logan River. The minister was not aware of the situation with the high level of infected imported prawns and the activities around that until about 6 January. They are two separate things. I did not want Senator Sterle to think his first question was being answered by the chief vet; it was the second part of it.

Senator STERLE: I am sorry, Minister, were you talking to me?

Senator Ruston: No, just making a clarification in terms of what the chief vet has just said. It was 2 December that the minister's office was advised of the outbreak in the Logan River. That was not the date that your first question was in relation to—his advice in relation to the investigation of the high level of infected imported prawns. They are two different things. It is just a clarification.

CHAIR: Even as at 6 February, no-one is still aware of the volume of the infected prawns?

Mr Quinlivan: Correct.

CHAIR: We have heard evidence today that that data started to roll in some time considerably after that. I imagine from there the minister's office—I should not assume it, but you can tell me about the level of interest in the minister's office in monitoring all of these things since that time?

Mr Quinlivan: The minister and his office take a keen interest in all biosecurity outbreaks. They would have been taking a very keen interest in the eradication program, and obviously it was high-profile event. We were throwing a lot of effort at it, as the Queensland government was. We talked about this a lot last time. So I do not think there is any question everyone was fully engaged on that activity.

Senator STERLE: I just wanted to get that clear. So 1 December was when the minister's office was first informed: 'Houston, we have a potential problem.'

Mr Quinlivan: We have a disease outbreak and an eradication program problem, yes—as distinct from an unacceptable level of infected prawns being imported problem.

CHAIR: Which went to him on 6 January.

Senator KETTER: At what point where the state authorities alerted to this?

Mr Quinlivan: They informed us on—what date was it in November?

Ms O'Connell: The 30th.

Senator KETTER: And other state authorities?

Mr Quinlivan: The chief vet can take us through the process.

Dr Martin: Queensland notified the Australian Chief Veterinary Officer on 30 November that there may be an issue and that they had done some testing from a prawn farm located on the Logan River. Those results—always the tests have to go to ARL as our reference laboratory. On 1 December, a committee, which is the Aquatic Consultative Committee on Emergency Animal Disease, got together. That has all relevant state and territory officers from Agriculture or Fisheries. They started discussions then about the outbreak and provided technical advice to Queensland.

Senator KETTER: In terms of the interim report, I note there was an assumption that Australia was white spot free?

Mr Quinlivan: Can you identify the report a bit more clearly for us. Is that a report that has been tabled?

Ms O'Connell: It is interim pending—

Senator KETTER: It is the 22 May report. I think on page 7 you indicate that prior to 1 December 2016 Australia was considered to be free of WSSV. I know there was work done in 2009 on that issue. Was any risk assessment done in relation to the potential for bait to be an issue?

Dr A Cupit: When we did the risk assessment in 2009 there were a couple of bait and burley surveys that were done that informed the decision-making process when we did the IRA, and it did find that there was the potential, and always a small percentage of anglers would use prawns as bait.

Senator KETTER: When was that?

Dr A Cupit: Those two surveys—I cannot remember the exact dates, but they were done from the early 2000's after the Darwin incident. We did one in 2001 and one in 2007 or 2008. I will get the exact dates later.

Ms O'Connell: Both of those went to inform the IRA, which was a very public process, in 2009.

Senator KETTER: Was there a further risk assessment done in 2016 about the risk of imported prawns being used as bait while the operation was ongoing?

Dr A Cupit: Certainly as part of the compliance investigation we started looking at that issue in the local area, and Mr Terpstra, as far as the information that went in—or our investigators that went into this report were looking at that issue around that area.

Senator KETTER: Can you tell me a bit more about what analysis was done about that as part of the investigation in the early stages?

Mr Terpstra: The investigation was designed to look at the possible pathways that could have led to the incursion. Those processes are detailed in that report. They consider things like the use of second-hand but imported equipment. They consider the use of feeds and probiotics—those sorts of things. They consider visitation by people from outside the prawn-farming operation who may not have observed proper biosecurity protocol. And they also consider the introduction via an infection in the river itself, either pre-existing or through its introduction through contaminated product, such as illegally imported prawns or the use of white spot infected prawns as bait.

Senator KETTER: There was no conclusion as to which was the most likely pathway?

Mr Terpstra: There is no conclusion to this point. There are still three avenues of inquiry which the investigation is pursuing, which are discussed under the heading 'Conclusion', which is about the third last page of the report.

Senator KETTER: Are you familiar with the report of BK Diggles of 21 February 2017?

Mr Terpstra: I am, but I am not a scientist, so I am going to have to refer you to Dr Cupit to explain the thinking in that report.

Senator KETTER: The conclusion of the report was that the bait pathway was the most likely of the options available.

Dr A Cupit: I am aware of that report, but I think the consultant, Ben Diggles, who conducted the report, would not have been aware of some of the other information we are aware of as far as the investigation report. His conclusions would probably have a different range of knowledge than what we would. After the outbreak, on that limited time, he was primarily focused on the epidemiological picture of how the disease spread, and that is why he came up with that conclusion.

Senator KETTER: You do not agree with his conclusion?

Dr A Cupit: I think we have to be very careful about that conclusion. We are still of the opinion that there are a number of plausible pathways, and it is difficult to attribute definitively to one or the other. As we were talking about just before, those pathways are still considered everything from broodstock or genetics, human intervention—people coming from overseas and, potentially, onto those farms. Other considerations are also imported prawns, feedstuffs and another probiotics. There are still a number of pathways, including that it could have even been in that area at a very low prevalence level without us being able to detect it.

CHAIR: To support the line of questioning by Senator Ketter, isn't the establishment of the genotype going to, perhaps, give us a clearer pathway picture?

Dr A Cupit: Dr Martin would probably also like to comment. My view is that genotyping may give us some clues as to the origin, but it will not necessarily tell us when it came in or how it came in.

CHAIR: I appreciate that, but with the genotyping—and sorry for taking your time, Chris.

Senator KETTER: That is okay.

CHAIR: The lunchbreak is at one o'clock, isn't it?

Senator STERLE: No, quarter to one.

CHAIR: My apologies. This is a line that is well worth pursuing, and we will do so after lunch.

Proceedings suspended from 12:46 to 13:48

CHAIR: We will resume this Senate Rural and Regional Affairs and Transport Legislation Committee estimates. Mr Quinlivan, we have made a decision that the documents that you have produced here to the legislation committee today satisfies fully my question on notice of 28 February. There is no more requirement between the department and the legislation committee, with respect to any outstanding request for documents, apart from what comes out of the hearing here today.

Mr Quinlivan: Thank you.

CHAIR: I do not speak for Senator Sterle, who is chair of the references committee. We will communicate with you in the fullness of time to tell you what documents he wants or commands. As you know, there is more scope for us to be able to work around documents, that are more sensitive, in Glenn's committee than this committee. Just to make it absolutely clear: we now accept the documents tabled today by the department in full satisfaction of my question on notice of 28 February. So any burden the department had with respect to large volumes of documents has now been evaporated as far as legislation is concerned. Our ambition at the end of this hearing is to have this shifted to Senator Sterle's responsibility under the references committee. I do not speak for him in terms of what documents he might want, but we all know that there is greater scope to be able deal with the request in references.

Senator Ruston: Thank you. I think it is greatly appreciated by all.

Senator KETTER: If I could return to my questioning prior to lunch about the risk assessment approach. I had been asking about the risk assessments that have been previously done. After Operation Cattai and the findings in relation to quarantine failures, has the department done any risk assessment work from that point in time, which is early 2017, through to being alerted by Biosecurity Queensland of the outbreak of white spot?

Mr Chapman: Whenever there is a situation, we are constantly assessing risks and making judgements on that. Those are not formal risk assessments; it is part of ongoing business. What is particularly of note is that when we first got information that there were prawns available for retail sale there was a discussion between officers in compliance division and in my division on how we would deal with that—what was the assessment of risk and how would we deal with it. The view that we came to was that the best way to deal with a potentially increased biosecurity risk, without having any way of quantifying that, was to try to have enforcement and compliance activity to, if you like, prevent further entry of white-spot positive prawns in the country.

The problem in retrospect is we did not have any idea of the quantum. Using information that we had from the IRA in 2009, our assessment was that even though there were more prawns with white spot coming into the country than had been envisaged by the IRA, we thought that the pathway for that to cause a disease was still quite unlikely. As we said earlier today, we still do not know what the cause of the infection is.

Senator KETTER: With the benefit of hindsight and the Diggles report, it should have been seen at that time that the bait pathway was a very likely problem.

Mr Chapman: I do not think even now we would agree that the bait pathway was a likely pathway. It is certainly a plausible one and it is possible, but as we have said there are a number of quite plausible hypotheses which are still being pursued and explored. The reason we did not think the bait pathway was, if you like, a clear and present danger is due to the number of things that have to happen for the disease to get into the prawn farms. First of all, infected prawns coming into the country are really only a risk, or primarily a risk, in areas where there are prawn farms. For the disease to get from an infected prawn into a prawn farm, a number of things have to happen. First of all, prawns with a sufficient viral load of infective white spot virus need to be used as bait. Then they need to be not eaten by a fish but eaten by a susceptible species, which would be a crab or other prawns. And then those things which have eaten them need to get the disease and then they need to get into the prawn farm. There could be water transmission as well. But a series of events needs to occur and our assessment was that they were not likely, and those issues were covered-off in the IRA. Obviously, looking at the situation eight months later on, and after the disease, we might make different assessments, but we still have the view that there are a number of plausible hypotheses and we do not say that bait prawns are the only realistic way that the disease got into the prawns.

Senator KETTER: With the benefit of hindsight, would you say that it would have been better to do a formal risk assessment in early 2016?

Mr Chapman: With the benefit of hindsight, I think some adjustments to the import conditions might have been made a couple of years ago—that would primarily be with the improvements in testing regimes around the world, that we would have tried to put more of the risk offshore. So, instead of having a reliance on testing at the