

# Chapter 2

## Australia's biosecurity and quarantine arrangements

### Introduction

2.1 This chapter outlines Australia's existing administrative and legal arrangements in relation to biosecurity and quarantine. The chapter also provides a brief outline of Australia's current approach to managing the risk of incursions of exotic pests and diseases.

### Australia's biosecurity and quarantine arrangements

2.2 Under the Australian Constitution, the Commonwealth does not have exclusive power to make laws in relation to biosecurity and quarantine. The administration of Australia's biosecurity and quarantine is, therefore, governed by both Commonwealth and state and territory laws.

2.3 The Commonwealth's quarantine laws are currently contained in the *Quarantine Act 1908* (the Quarantine Act) and associated subordinate legislation, including the *Environment Protection and Biodiversity Conservation Amendment (Wildlife Protection) Act 1999*, the Quarantine Regulations 2000 and the Quarantine Proclamation 1998. The Quarantine Proclamation identifies goods which cannot be imported into Australia unless the Director of Animal and Plant Quarantine grants an import permit or unless they comply with other specified conditions.<sup>1</sup>

2.4 However, responsibility for the movement of goods of quarantine concern within Australia's border is assumed by state and territory authorities, which undertake both intra- and inter-state quarantine operations that reflect regional differences in pest and disease status, as part of their wider plant and animal health obligations.<sup>2</sup>

### *Department of Agriculture – management of biosecurity*

2.5 The Department of Agriculture (DA) manages quarantine controls at Australia's borders to minimise the risk of exotic pests and diseases entering the country and provides import and export inspection and certification services.

2.6 DA is also responsible for the development of Commonwealth biosecurity policy, for undertaking risk analyses in relation to the importation of new products to Australia and the establishment of appropriate risk management measures.

### *Managing biosecurity risks*

2.7 The Department's *Import risk analysis handbook 2011* (the IRA Handbook) notes that the principal objective of Australia's biosecurity and quarantine measures is:

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1 Department of Agriculture, Fisheries and Forestry, *Import risk analysis handbook 2011*, p. 8. (The Secretary of the Department of Agriculture is appointed the Director of Animal and Plant Quarantine under the Act).

2 Department of Agriculture, Fisheries and Forestry, *Import risk analysis handbook 2011*, p. 6.

...the prevention or control of the entry, establishment or spread of pests and diseases that could cause significant harm to people, animals, plants and other aspects of the environment.<sup>3</sup>

2.8 The Government's approach to managing the risk of incursions of exotic pests and diseases is 'multi-layered' in that it involves a series of 'complementary measures applied along the biosecurity continuum – offshore, at the border and onshore.'<sup>4</sup>

2.9 Offshore (or pre-border) activities are described as those which seek to prevent biosecurity risks reaching Australia. In addition to understanding global risks, working with international trading partners and the private sector and engaging with travellers about Australia's biosecurity requirements, specific offshore activities include:

- participation in international standard-setting bodies;
- co-operation in multilateral forums;
- development of offshore quarantine arrangements;
- undertaking import risk analyses; and
- intelligence gathering and audit activities.<sup>5</sup>

2.10 DA is responsible for making quarantine decisions under the Quarantine Act and for the development of border operational procedures. Border activities include the interception of biosecurity risks that present at airports, seaports, mail centres and along Australia's coastline. Activities are therefore centred around the screening of mail, vessels (including aircraft), people and goods entering the country. Border activities also include:

- import permit decisions;
- audit activities; and
- post-entry quarantine.<sup>6</sup>

2.11 Should there be an incursion of a pest or disease of biosecurity risk, Australia's onshore biosecurity and quarantine arrangements endeavour to reduce the likelihood that the pest or disease will become established. The Commonwealth has formal, national arrangements in place for managing responses to both emergency animal and plant pests and diseases and food safety issues in aquatic and terrestrial environments. Onshore (or post-border) activities include:

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3 Department of Agriculture, Fisheries and Forestry, *Import risk analysis handbook 2011*, p. 6.

4 Department of Agriculture, Fisheries and Forestry, *Reform of Australia's biosecurity system – an update since the publication of One Biosecurity: a working partnership*, March 2012, p. 6.

5 Department of Agriculture, Fisheries and Forestry, *Import risk analysis handbook 2011*, p. 6; and Department of Agriculture, Fisheries and Forestry, *Reform of Australia's biosecurity system – an update since the publication of One Biosecurity: a working partnership*, March 2012, p. 6.

6 Department of Agriculture, Fisheries and Forestry, *Import risk analysis handbook 2011*, p. 6 and Department of Agriculture, Fisheries and Forestry, *Reform of Australia's biosecurity system – an update since the publication of One Biosecurity: a working partnership*, March 2012, p. 6.

- monitoring and surveillance activities (for exotic animal and plant pests and diseases);
- development of emergency response plans; and
- coordination of national responses to pest and disease incursions.<sup>7</sup>

### ***Appropriate Level of Protection***

2.12 The World Trade Organisation (WTO) Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) underpins the biosecurity approaches of many WTO members, including Australia. The SPS Agreement defines the concept of an 'appropriate level of sanitary and phytosanitary protection' (ALOP) as:

...the level of protection deemed appropriate by a WTO member establishing a sanitary or phytosanitary measure to protect human, animal or plant life or health within its territory.<sup>8</sup>

2.13 Australia expresses its ALOP in qualitative terms. The IRA Handbook states that Australia maintains a 'conservative, but not a zero-risk, approach to the management of biosecurity risk'.<sup>9</sup> The Commonwealth, with the agreement of all state and territory governments, has described Australia's ALOP as:

...providing a high level of sanitary and phytosanitary protection aimed at reducing risk to a very low level, but not to zero.<sup>10</sup>

2.14 The above approach is identified by DA as being consistent with the WTO's SPS Agreement.<sup>11</sup>

2.15 In setting an ALOP, WTO members are required to take into account 'the objective of minimising negative trade effects'.<sup>12</sup> The IRA Handbook notes that, in conducting risk analyses, Australia takes into account the following economic factors:

- the potential damage in terms of loss of production or sales in the event of the entry, establishment or spread of a pest or disease in the territory of Australia;
- the costs of control or eradication of a pest or disease; and
- the relative cost-effectiveness of alternative approaches to limiting risks.<sup>13</sup>

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7 Department of Agriculture, Fisheries and Forestry, *Import risk analysis handbook 2011*, p. 6 and Department of Agriculture, Fisheries and Forestry, *Reform of Australia's biosecurity system – an update since the publication of One Biosecurity: a working partnership*, March 2012, p. 6.

8 Department of Agriculture, Fisheries and Forestry, *Import risk analysis handbook 2011*, p. 6.

9 Department of Agriculture, Fisheries and Forestry, *Import risk analysis handbook 2011*, p. 6.

10 Department of Agriculture, Fisheries and Forestry, *Import risk analysis handbook 2011*, p. 33.

11 Department of Agriculture, Fisheries and Forestry, *Import risk analysis handbook 2011*, p. 6. [The full SPS agreement is set out in Annex 2 of the Department of Agriculture, Fisheries and Forestry, *Import risk analysis handbook 2011*, p. 22].

12 Department of Agriculture, Fisheries and Forestry, *Import risk analysis handbook 2011*, p. 6.

### *The risk assessment process*

2.16 Undertaking a risk analysis in relation to a proposed importation (or where new circumstances arise in relation to an existing importation) is a central element of Australia's biosecurity and quarantine framework. The IRA Handbook notes that:

Within Australia's quarantine framework, the Australian Government uses risk analyses to assist it in considering the level of quarantine risk that may be associated with the importation or proposed importation of animals, plants or other goods.<sup>14</sup>

2.17 In conducting a risk analysis, DA Biosecurity:

- identifies the pests and diseases of quarantine concern that may be carried by the good/s;
- assesses the likelihood that an identified pest or disease would enter, establish or spread; and
- assesses the probable extend of the harm that would result.<sup>15</sup>

2.18 If the assessed level of quarantine risk exceeds Australia's ALOP, DA then considers whether any risk management measures could reduce quarantine risk to achieve the ALOP. If risk measures cannot reduce the risk to the ALOP, the importation of the product in question is not allowed.

### *Types of risk analysis*

2.19 Following the receipt of an import proposal (or notification of a change to the risk profile of existing trade in a good), DA considers whether a risk analysis is required. A risk analysis may take the form of:

- a non-regulated analysis of existing policy or technical advice to DA; or
- an import risk analysis (IRA), in which the key steps of the analysis are regulated under the Quarantine Regulations 2000.<sup>16</sup>

2.20 A non-regulated analysis of existing policy could take the form of, for example, a pest risk analysis or a relatively narrow course of consultation with relevant stakeholders.<sup>17</sup> This approach could be taken where, for example, DA

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13 Department of Agriculture, Fisheries and Forestry, *Import risk analysis handbook 2011*, p. 6.

14 Department of Agriculture, Fisheries and Forestry, *Import risk analysis handbook 2011*, p. 15.

15 Department of Agriculture, Fisheries and Forestry, *Import risk analysis handbook 2011*, p. 9.

16 Department of Agriculture, Fisheries and Forestry, *Import risk analysis handbook 2011*, pp 9–10.

17 Pest risk analysis is a concept that is derived from international standards contained in the International Plant Protection Convention. Australia's regulated IRA process is, in fact, an augmented version of a pest risk analysis as defined in international standards (that is, the IRA process contains additional consultative and administrative elements. So, although pest risk analysis may be a 'lesser' form of risk analysis than the regulated IRA process, it contains many of the same elements and, often, a significant level of detail.

Biosecurity has previously undertaken significant analysis in relation to the crop that is the subject of an import proposal.

2.21 The Chief Executive of DA Biosecurity determines whether a risk analysis will be conducted as an IRA. An IRA will generally be undertaken when:

- relevant risk management measures have not been established; or
- relevant risk management measures for a similar good and pest/disease combination do exist, but the likelihood and/or consequences of entry, establishment or spread of pests or diseases could differ significantly from those previously assessed.<sup>18</sup>

2.22 An IRA can be undertaken in either a 'standard' or 'expanded' format. The regulated steps for both types of IRAs include:

- **consultation** – on scope and approach with the proposer, industry and other stakeholders;
- **announcement and commencement** – which triggers the regulated timeframe for the IRA;
- **issues paper preparation** – expanded IRA only;
- **consultation on issues paper** – expanded IRA only;
- **risk analysis and draft IRA report preparation;**
- **consultation on draft IRA report** – through publication on the DA website and an invitation for public comment;
- **review of draft report by the Eminent Scientists Group (ESG)**<sup>19</sup> – the ESG is a high level review group, independent from DA Biosecurity. Whilst not used during standard IRA processes, the ESG is tasked with providing external scientific and economic scrutiny of expanded IRAs. The ESG is required to take into account any relevant new information and assess conflicting scientific views to ensure that:
  - all submissions received from stakeholders in response to the draft IRA report have been properly considered;
  - all relevant matters relating to the likely economic consequences of a pest or disease incursion have been properly considered; and
  - the conclusions of the revised draft IRA report are scientifically reasonable, based on the material presented;
- **preparation and publication of the provisional final IRA report** – taking into account stakeholder comments and, in the case of an expanded IRA, any recommendations made by the ESG;

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18 Department of Agriculture, Fisheries and Forestry, *Import risk analysis handbook 2011*, p. 12.

19 Further details regarding the Eminent Scientists Group (ESG) can be found in Annex 6 of the Department of Agriculture, Fisheries and Forestry, *Import risk analysis handbook 2011*, p. 36.

- **appeal on the provisional final IRA report** – a right of (non-judicial) appeal is available to the Import Risk Analysis Appeals Panel (IRAAP) for any stakeholder who believes there was a 'significant deviation from the [prescribed] IRA process...that adversely affected their interests';<sup>20</sup>
- **final IRA report and recommendation** – which is provided to the Director of Animal and Plant Quarantine for a policy determination;
- **determination by the Director of Animal and Plant Quarantine** – the determination provides a policy framework for decisions on whether or not to grant an import permit and any conditions that may be attached to a permit. In making the determination, the Director considers:
  - the final IRA report and its recommendations;
  - the outcome of any appeals;
  - the ESG report;
  - DA Biosecurity's response to the ESG report; and
  - any other relevant information, including Australia's international rights and obligations.<sup>21</sup>

2.23 The steps outlined above reflect a series of changes to the IRA process that were introduced in 2007, with a view to:

- increasing its transparency and timeliness;
- regulating key steps, such as timeframes for completing IRAs; and
- enhancing consultation with, and scientific scrutiny of, IRAs by the ESG.<sup>22</sup>

#### *Issue of import permit*<sup>23</sup>

2.24 At the completion of the IRA process, the risk management measures recommended in the final IRA often become the conditions imposed on any import permits granted by the Director of Animal and Plant Quarantine (or delegate) to limit the level of quarantine risk to an acceptably low level. An IRA may also identify risk management measures that require preparatory work to be undertaken by the appropriate authorities in the exporting country, before trade can commence.

2.25 Before an application for an import permit can be considered, the 'Competent Authority' of the exporting country is required to prepare an operational work plan and

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20 Department of Agriculture, Fisheries and Forestry, *Import risk analysis handbook 2011*, p. 18.

21 Department of Agriculture, Fisheries and Forestry, *Import risk analysis handbook 2011*, p. 19.

22 Department of Agriculture, Fisheries and Forestry, *Reforms to the Import Risk Analysis Process, Fact Sheet – September 2007*, [www.daff.gov.au/ data/assets/pdf\\_file/0004/386725/ira-factsheet.pdf](http://www.daff.gov.au/data/assets/pdf_file/0004/386725/ira-factsheet.pdf), accessed, 18 February 2013.

23 The following section is based on information contained in Department of Agriculture, Fisheries and Forestry, *Import risk analysis handbook 2011*, p. 20.

DA Biosecurity needs to be satisfied that the risk management measures recommended in the IRA have been complied with.

2.26 The Director of Animal and Plant Quarantine may delegate the power to grant import permits under the quarantine proclamations to an officer of DA Biosecurity, or another officer appointed under the Quarantine Act.

***Biosecurity Bill – proposed changes to IRA process***

2.27 As noted earlier in this report, new biosecurity legislation – the Biosecurity Bill 2012 and the Inspector-General of Biosecurity Bill 2012 – was introduced into the Senate on 28 November 2012. With the introduction of the new legislation, it was proposed to increase the transparency of the biosecurity system for clients and stakeholders (including trading partners) particularly in relation to the assessment and management of biosecurity risks.<sup>24</sup>

2.28 It was also argued that the Biosecurity Bill would lead to:

- better articulation of the role of the Director of Biosecurity and the Minister (which would improve confidence in scientific and operational decision making processes); and
- the establishment of a process for Biosecurity Import Risk Analyses (BIRA) whereby the Director of Biosecurity will be required to take into account Australia's ALOP in conducting risk assessments for the importation of goods.<sup>25</sup>

2.29 With the establishment of the statutory office of the Inspector-General of Biosecurity, it was proposed that:

- the Inspector-General would report directly to the Agriculture Minister;
- the Office of Inspector-General of Biosecurity would be independent from the regulator and the Director of Biosecurity; and
- the Inspector-General of Biosecurity will undertake independent audit and review functions focussed on biosecurity systems and processes.<sup>26</sup>

2.30 It was also argued that the statutory position of Inspector-General would:

...perform an important role ensuring the integrity and transparency of the Biosecurity Import Risk Analysis process. Stakeholders will have the opportunity to appeal where they believe there was a significant deviation

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24 Second Reading Speech, Biosecurity Bill 2012, Inspector-General of Biosecurity Bill 2012, 28 November 2012, p. 10085.

25 Second Reading Speech, Biosecurity Bill 2012, Inspector-General of Biosecurity Bill 2012, 28 November 2012, p. 10086.

26 Second Reading Speech, Biosecurity Bill 2012, Inspector-General of Biosecurity Bill 2012, 28 November 2012, p. 10087.

from the Biosecurity Import Risk Analysis process that adversely affects their interests.<sup>27</sup>

### **Emergency Plant Pest Response Deed**

2.31 The eradication of emergency plant pest incursions which pose a potential threat to Australia's agricultural industry is conducted in accordance with the National Emergency Preparedness and Response Plan (the response plan). The process is similar to that followed for an EAD. The response plan specifies the procedures for handling emergency plant pest incursions at the national, state, territory and district levels.

2.32 Following the detection of an emergency plant pest and declaration of an outbreak, the Consultative Committee on Emergency Plant Pests (CCEPP) meets to determine the feasibility of eradication. The CCEPP is Australia's key technical body for co-ordinating national responses to emergency pest incursions and assessing the technical feasibility for their eradication. The CCEPP makes recommendations to the National Management Group (NMG), which is the decision making body that determines whether to proceed with an eradication campaign and, if so, approves the national cost sharing arrangements to fund the campaign. In addition to the Secretary of the Department of Agriculture, the NMG is made up of the following representatives:

- the Chief Executive Officer/s of the affected state and territory government parties;
- the President/Chairman (or officer who is properly authorised in writing to bind the party) of each of the affected industry parties; and
- the Chairman Plant Health Australia (PHA) (non-voting).<sup>28</sup>

2.33 Funding for eradication campaigns is allocated under the Emergency Plant Pest Response Deed (EPPRD), a formal cost sharing agreement covering industry and government funding arrangements for the eradication of emergency plant pests. The current EPPRD, which came into effect on 26 October 2005, is an agreement between PHA, the Commonwealth government, all state and territory governments and the following plant industry signatories:

- Almond Board of Australia Inc;
- Apple and Pear Australia Ltd;
- Australian Banana Growers' Council Inc;
- Australian Cane Growers' Council Ltd;
- Australian Forest Products Association Ltd;

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27 Second Reading Speech, Biosecurity Bill 2012, Inspector-General of Biosecurity Bill 2012, 28 November 2012, p. 10087.

28 Plant Health Australia, *Government and Plant Industry Cost Sharing Deed in respect of Emergency Plant Pest Responses*, January 2013, Schedule 8, p. 104.



- Australian Honey Bee Industry Council Inc;
- Australian Macadamia Society Ltd;
- Australian Mango Industry Association Ltd;
- Australian Olive Association Ltd;
- Australian Processing Tomato Research Council Inc;
- Australian Table Grape Association Inc;
- Australian Walnut Industry Association Inc;
- AUSVEG Ltd;
- Avocados Australia Ltd;
- Canned Fruit Industry Council of Australia Ltd;
- Cherry Growers of Australia Inc;
- Chestnuts Australia Inc;
- Citrus Australia Ltd;
- Cotton Australia Ltd;
- Dried Fruits Australia Inc;
- Grain Producers Australia Ltd;
- Nursery and Garden Industry Australia Ltd;
- Onions Australia Inc;
- Pistachio Growers Association Inc;
- Queensland Fruit and Vegetable Growers Ltd (Growcom);
- Ricegrowers Association of Australia Inc;
- Strawberries Australia Inc;
- Summerfruit Australia Ltd; and
- Wine Grape Growers Australia Inc.<sup>29</sup>

2.34 Under the EPPRD, Emergency Plant Pests (EPPs) are determined to be in one of four categories. It is these categories which determine the cost sharing split between affected government and industry parties, based on the relative private and public benefits of eradication of the pest (see Table 2.1).

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29 Plant Health Australia, *Government and Plant Industry Cost Sharing Deed in respect of Emergency Plant Pest Responses*, January 2013, pp 1–2.

**Table 2.1— Emergency Plant Pest Response Deed cost sharing categories<sup>30</sup>**

Category of disease	Cost share
<p><b>Category 1:</b> Major impact on the environment, human health or amenity flora values and relatively little impact on commercial crops.</p> <p>Also covers situations where the EPP has a wide range of hosts including native flora and there is considerable uncertainty as to the relative impact on crops.</p>	100% government funding
<p><b>Category 2:</b> Significant public losses through serious loss of amenity, and/or environmental values and/or effects on households, or indirectly through very severe impacts on regions and the national economy.</p> <p>Major costs on the affected cropping sectors such that the cropping sectors would benefit significantly from eradication.</p>	80% government funding 20 % industry funding
<p><b>Category 3:</b> Would primarily harm the affected cropping sectors, but there would also be some significant public costs – ie. moderate public benefits from eradication.</p> <p>Adverse affect on public amenities, households or the environment, and/or could have significant, though moderate trade implications and/or national and regional economic implications.</p>	50% government funding 50% industry funding
<p><b>Category 4:</b> Little or no public cost implications and little or no impacts on natural ecosystems. The affected cropping sectors would be adversely affected primarily through additional costs of production, extra control costs or nuisance costs.</p> <p>No significant trade issues that would affect national and regional economies. Eradication would have mainly, if not wholly, private benefits.</p>	20% government funding 80% industry funding

2.35 If a national emergency response is agreed under the EPPRD, the Commonwealth pays 50 per cent of the government share in all instances, with the balance of the government share divided between the relevant states and territories.

30 This table is based on information contained in Plant Health Australia, *Government and Plant Industry Cost Sharing Deed in respect of Emergency Plant Pest Responses*, January 2013, p. 20 and Schedule 3, pp 65–66.

2.36 Under the EPPRD, the Commonwealth has agreed to initially meet an industry party's cost sharing obligation where that industry party is unable to do so. The Commonwealth's payment is made on the basis that the industry party will repay the Commonwealth within a reasonable period of time (generally no longer than ten years) using a pre-agreed funding mechanism, such as an EPP Response Levy.<sup>31</sup>

2.37 Parties to the EPPRD can establish an EPP Response Levy to meet financial liabilities for responses under the EPPRD. While this is not the only option, many industries have chosen this approach, as it provides the greatest flexibility in relation to adjusting levy rates to suit particular needs. Other options available include using funds held by the industry in trust accounts, voluntary levies or funds raised by other means.<sup>32</sup>

### **Committee comment**

2.38 The committee notes that Australia's current biosecurity and quarantine arrangements – as summarised in this chapter – have been developed, revised and amended over a long period of time.

2.39 As noted in Chapter 1, Australia's biosecurity system has, over the past two decades, been the subject of several major reviews – including the 1995 Nairn review<sup>33</sup> and the 2008 Beale review.<sup>34</sup>

2.40 The committee notes that the findings of these reviews, and the recommendations made, have provided the basis for reforms to Australia's biosecurity and quarantine system. The Nairn review revealed, for example, that there was a definite imbalance between the animal and plant sectors with regard to quarantine. An examination of incursions since the 1970s showed that the rate of incursions of plant pests and diseases was about ten times more than of animals. As a result, the Nairn review recommended the Establishment of an Australian Plant Health Council and a Chief Plant Protection Officer position within the then Department of Primary Industries and Energy, to assist in achieving a higher status for plant industries.<sup>35</sup>

2.41 The Nairn review also argued that effective quarantine policy and programs are essential if Australia is to maintain its unique natural environment. The review recommended that industry and the community should be encouraged to have greater

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31 Plant Health Australia, *Government and Plant Industry Cost Sharing Deed in respect of Emergency Plant Pest Responses*, January 2013, Schedule 7, p. 95.

32 Plant Health Australia, *Emergency Plant Pest Response Deed (EPPRD), Questions and Answers*, February 2011, p. 9.

33 Department of Primary Industries and Energy, M.E. Nairn, P.G. Allen, A.R. Inglis and C. Tanner, *Australian Quarantine – a shared responsibility*, Canberra 1996.

34 Beale, Roger et al, *One Biosecurity: a working partnership*, 30 September 2008, p. ix.

35 Department of Primary Industries and Energy, M.E. Nairn, P.G. Allen, A.R. Inglis and C. Tanner, *Australian Quarantine – a shared responsibility*, Canberra 1996, p. 5.

involvement in the development of quarantine and biosecurity policy.<sup>36</sup> This is a sentiment with which the committee agrees very strongly.

2.42 The committee notes that the most recent review, chaired by Mr Beale, supported Professor Nairn's concept of biosecurity being a 'shared responsibility'.<sup>37</sup> In addition, Beale proposed a number of major reforms, the majority of which are currently being implemented by DA. These reforms include improved targeting of resources, increased efficiency, increased transparency and improved risk management.<sup>38</sup>

2.43 The committee notes that whilst the basic tenets of the Beale and Nairn reviews have been accepted by previous governments, several key recommendations have not been taken up. Both the Nairn and Beale reviews recommended the establishment of an independent statutory authority to be charged with the responsibility for quarantine and biosecurity. The committee notes, in particular, Beale's recommendation that the functions previously performed by AQIS, Biosecurity Australia and the Product Integrity, Animal and Plant Health Division should be brought together in a single, independent, statutory authority – the National Biosecurity Commission.

2.44 The committee acknowledges that under the new biosecurity legislation introduced in 2012, it was proposed to establish the statutory office of the Inspector-General of Biosecurity under arrangements similar to those proposed by the Beale report.<sup>39</sup> The committee would suggest, however, that whilst the new role of Inspector-General may fulfil the required audit function (recommended by the Callinan Commission<sup>40</sup> and the Beale report) it would not go as far as establishing an independent body to undertake Biosecurity Import Risk Analyses.

2.45 The committee notes the concerns raised by submitters to the Nairn review who pointed to the fact that there is no formal mechanism of appeal against any risk analysis decision. Submitters to the Nairn review indicated that under the current process, DA Biosecurity is 'judge, jury and executioner'<sup>41</sup> – a sentiment also expressed by submitters to a number of the committee's inquiries.

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36 Department of Primary Industries and Energy, M.E. Nairn, P.G. Allen, A.R. Inglis and C. Tanner, *Australian Quarantine – a shared responsibility*, Canberra 1996, p. 5.

37 Beale, Roger et al, *One Biosecurity: a working partnership*, September 2008.

38 Department of Agriculture, Fisheries and Forestry, *Reform of Australia's biosecurity system – An update since the publication of One Biosecurity: a working partnership*, March 2012, p. 1.

39 As part of its preliminary response to the Beale Review, the Government agreed to establish the statutory office of the Inspector-General of Biosecurity. On 1 July 2009, the Government appointed Dr Kevin Dunn as the Interim Inspector-General of Biosecurity. Dr Michael Bond was subsequently appointed to the position on 1 July 2013 (for a period of two years).

40 The Callinan Commission investigated an outbreak of equine influenza at the Eastern Creek Quarantine Station in 2007.

41 Department of Primary Industries and Energy, M.E. Nairn, P.G. Allen, A.R. Inglis and C. Tanner, *Australian Quarantine – a shared responsibility*, Canberra 1996, p. 98.

2.46 The committee agrees with the Nairn review's contention that 'a number of fundamental principles should apply to import risk analysis':<sup>42</sup> they should be consultative, scientifically based and politically independent, transparent, harmonised and subject to appeal on process. The committee also agrees with Nairn's call for a formal appeal mechanism to be instituted.

### **Recommendation 1**

**2.47 The committee recommends that the Government create a single, independent, statutory authority – separate from the Department of Agriculture – with responsibility for quarantine and biosecurity policy and operations.**

### **Recommendation 2**

**2.48 The committee recommends that the Government ensure that Australia's import risk analysis process is consultative, scientifically based, politically independent, transparent, consistent, harmonised and subject to appeal on process.**

2.49 The committee is in agreement with the Beale report's focus and recommendations in relation to involving all appropriate players.<sup>43</sup> The committee has, over many years, stressed the importance of promoting an increased level of cooperation between all stakeholders; including trading partners, Commonwealth, state and territory governments, industry and the community.

2.50 As noted in the previous chapter, the committee is keen to see the knowledge acquired during these three inquiries incorporated into the proposed new biosecurity arrangements and taken into consideration as DA implements future reforms.

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42 Department of Primary Industries and Energy, M.E. Nairn, P.G. Allen, A.R. Inglis and C. Tanner, *Australian Quarantine – a shared responsibility*, Canberra 1996, p. 98.

43 Beale, Roger et al, *One Biosecurity: a working partnership*, September 2008, p. IX.

