

The Senate

Rural and Regional Affairs
and Transport
References Committee

Australia's biosecurity and quarantine
arrangements

April 2012

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Senator Sean Edwards (from 1/7/11)	South Australia, LP
Senator Steve Hutchins (to 9/2/11)	New South Wales, ALP
Senator Julian McGauran (to 30/6/11)	Victoria, LP
Senator Christine Milne	Tasmania, AG
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Abbreviations and Definitions

AAHL	Australian Animal Health Laboratory – a national facility for animal health located in Geelong.
AHA	Animal Health Australia – a not-for-profit public company established by the Australian government, state and territory governments and major national livestock industry organisations.
ALOP	Appropriate Level of Protection – the level of protection deemed appropriate by a country establishing a sanitary or phytosanitary measure to protect human, animal or plant life or health within its territory – also known as the acceptable level of risk.
AQIS	Australian Quarantine and Inspection Service
ARB	Australian Racing Board
BA	Biosecurity Australia – the unit, within the Biosecurity Services Group, responsible for recommendations for the development of Australia's biosecurity policy
BAC	Biosecurity Advisory Council – a ministerially appointed council that advises the Minister for Agriculture, Fisheries and Forestry on matters across the biosecurity continuum including the performance of agencies delivering biosecurity services.
BARA	Board of Airline Representatives of Australia
BSG	Biosecurity Services Group – the group responsible for the delivery of biosecurity policy and quarantine services within the Department of Agriculture, Fisheries and Forestry.
CCEAD	Consultative Committee on Emergency Animal Diseases
CCEPP	Consultative Committee on Emergency Plant Pests
CRCNPB	Cooperative Research Centre for National Plant Biosecurity
DAFF	Department of Agriculture, Fisheries and Forestry
DPIPWE	[Tasmanian] Department of Primary Industries, Parks, Water and Environment
EAD	Emergency Animal Disease

EPP	Emergency Plant Pest
EADRA	Emergency Animal Disease Response Agreement
EPPRD	Emergency Plant Pest Response Deed
ESG	Eminent Scientists Group
GVP	Gross Value of Production
HLB	Huanglongbing – a disease of citrus also known as Citrus Greening
IRA	Import Risk Analysis – a type of risk with key steps regulated under the Quarantine Regulations 2000
IRAAP	Import Risk Analysis Appeals Panel
NHIA	National Herd Improvement Association of Australia
NMG	National Management Group
PHA	Plant Health Australia – Plant Health Australia is the national coordinator of the government-industry partnership for plant biosecurity in Australia.
RV	Racing Victoria
SPS Agreement	WTO Agreement on the Application of Sanitary and Phytosanitary Measures
WTO	World Trade Organisation

List of Recommendations

Current Report

Recommendation 1

The committee recommends that, as part of the process of developing the new Biosecurity Bill, the Government review the Import Risk Analysis (IRA) appeals process, the role of the Eminent Scientists Group (ESG) and the publication of scientific (and other) materials used by the ESG in making determinations.

Recommendation 2

The committee recommends that the Government give higher priority to funding and implementation of the Beale Review reforms.

Recommendation 3

The committee recommends that the Senate refer the exposure draft (and the consultation regulation impact statement) in relation to the new Biosecurity Bill to the Senate Rural and Regional Affairs and Transport Legislation Committee for inquiry and report.

Interim Report

Recommendation 1

The committee recommends that DAFF develop and maintain a comprehensive database (which includes current email addresses) and provides the means of contacting all relevant stakeholders.

Recommendation 2

The committee recommends that DAFF review its current consultation model, with a view to developing a more flexible, more inclusive model that can be used into the future.

Recommendation 3

The committee recommends that DAFF investigate and report to the committee on the feasibility of the proposal put forward by Mr Greg Darwell to reduce the costs associated with multiple certifications for small air freight consignments. The investigation should define the eligibility criteria for 'small air freight consignments' and include a cost analysis for each of the Ministerial Task Forces to ensure equitable treatment across commodity groups.

Recommendation 4

The committee recommends that the 40 per cent rebate for AQIS export certification functions remain in place, and fee increases not be passed on, until negotiations with all industry sectors have been finalised and consultations with individual businesses have taken place.

Recommendation 5

The committee recommends that DAFF explore the possibility of developing a mechanism whereby stakeholders can submit suggestions or complaints confidentially or anonymously.

Chapter One

Introduction

Terms of reference

1.1 On 23 June 2010, the Senate referred the following matter to the Senate Standing Committee on Rural and Regional Affairs and Transport (the committee) for inquiry and report by 22 November 2010:

- (a) the adequacy of [Australia's] current biosecurity and quarantine arrangements, including resourcing;
- (b) projected demand and resourcing requirements;
- (c) progress toward achievement of reform of Australian Quarantine and Inspection Service (AQIS) export fees and charges;
- (d) progress in implementation of the 'Beale Review' recommendations and their place in meeting projected biosecurity demand and resourcing; and
- (e) any related matters.

1.2 The inquiry was subsequently re-adopted by the committee in the 43rd Parliament.

1.3 On 22 November 2010, the Senate granted an extension of time for reporting until 28 April 2011. The reporting date was further extended to 21 March 2012 and 4 April 2012.

Conduct of the inquiry

1.4 The inquiry was advertised in *The Australian* on 30 June 2010 and 13 October 2010. The committee also sought submissions from interested organisations, agencies and individuals. Notice of the inquiry was also posted on the committee's website.

1.5 The committee received 79 submissions, including 12 supplementary submissions and two confidential submissions. A list of submissions is provided at Appendix 1.

1.6 Throughout the inquiry process, the committee took a specific interest in the progress toward reform of the AQIS export fees and charges regime. In addition to holding hearings directly related to these reforms, committee members pursued specific issues through the Senate Estimates process. The committee also wrote directly to a number of key stakeholder groups, organisations and individuals seeking submissions specifically in relation to term of reference (c).

1.7 The committee held a number of public hearings relating to this inquiry. The dates, and issues raised during these hearings are as follows:

- **Monday, 14 February 2011**
 - Response to Beale Review recommendations
 - Funding for national plant biosecurity
 - Facilities to replace Knoxfield and Eastern Creek Quarantine Stations
 - Responses to disease incursion and eradication
- **Thursday, 7 and Friday, 8 July 2011**
 - Removal of the fee rebate for AQIS certification functions
- **Thursday, 21 July 2011**
 - Importation of apples from New Zealand

1.8 A list of witnesses who attended these hearings is provided at Appendix 2.

1.9 On 27 and 28 June 2011, the committee conducted inspections and site visits in Sydney in order to gain a more detailed understanding of AQIS facilities and services. The committee visited:

- AQIS Central East Regional Office – Rosebery;
- Eastern Creek Quarantine;
- Sydney Gateway Facility (International Mail), Clyde;
- Sydney International Airport; and
- Port Botany.

Previous committee inquiries

Inquiries into the import (or proposed import) of specific plant or animal products

1.10 The committee notes that it has, over the past decade, undertaken a number of inquiries which have examined biosecurity and quarantine arrangements in relation to the importation (or proposed importation) of specific plant or animal products. These inquiries include:

- 2001, 2005 and 2007 – inquiries into the importation of New Zealand apples;
- June 2009 – inquiry into the Import Risk Analysis (IRA) for the importation of Cavendish bananas from the Philippines; and
- June 2010 – inquiry into the possible impacts and consequences for public health, trade and agriculture, of the Government's decision to relax import restrictions on beef.

Inquiries into the management of incursions of particular pests and diseases

1.11 A number of the committee's past inquiries have also considered issues surrounding the management of particular incursions of pests and diseases into Australia, such as:

- June 2006 – inquiry into the administration by Department of Agriculture, Fisheries and Forestry (DAFF) of the citrus canker outbreak;
- August and November 2010 – inquiry into the Australian horse industry and an Emergency Animal Response Agreement; and
- June 2011 – inquiry into the science underpinning the inability to eradicate the Asian honey bee.

1.12 A number of the issues raised by submitters to the current inquiry were raised by stakeholders during a number of these previous inquiries. Whilst a number of submissions raised concerns in relation to the IRA process for specific products, stakeholders also expressed concerns in relation to the IRA process generally. Concerns were also raised in regarding Australia's current definition of Appropriate Level of Protection (ALOP), the current arrangements as they relate to import processes and the status of the Eminent Scientists Group (ESG).

1.13 The committee also received submissions which provided comment and raised concerns in relation to outcomes, possible future problems, and lessons to be learned from the management of incursions of specific pests and diseases into Australia.

Interim report – reform of export fees and charges

1.14 As noted above, part of the terms of reference for this inquiry required the committee to examine the 'progress toward achievement of reform of Australian Quarantine and Inspection Service (AQIS) export fees and charges'.

1.15 Given the timing of the reforms, the committee resolved to inquire into the issues raised regarding term of reference (c) separately, and table an Interim Report on its findings. The committee tabled *Biosecurity and quarantine arrangements – Interim report: the management of the removal of the fee rebate for AQIS export certification functions* on 12 December 2011.

Current report

1.16 As noted above, the committee has, over a number of years, taken a keen interest in biosecurity and quarantine arrangements in relation to the importation (or proposed importation) of specific plant or animal products. The committee has also undertaken a number of inquiries which have reviewed the management of specific incursions of pests and diseases into Australia.

1.17 In addressing the remaining terms of reference (a), (b), (d) and (e) the committee is conscious that proposed new legislation to replace the *Quarantine Act*

1908 is close to finalisation. DAFF have indicated that 'the new Biosecurity Bill exposure draft and a consultation regulation impact statement is expected to be released in the first half of 2012'.¹ DAFF also anticipates that the Biosecurity Bill will be introduced into Parliament in the second half of 2012.

1.18 The committee signals its interest in conducting a detailed examination of the exposure draft and/or conduct a further inquiry following the tabling of the proposed Biosecurity Bill. Therefore, the committee's current report will essentially provide a brief overview of Australia's current approach to biosecurity and quarantine and outline several issues raised by submitters (and the evidence received from industry stakeholders and DAFF) during the current inquiry.

1.19 Evidence provided to the committee's current inquiry has enabled the committee to gain a further appreciation of the operation of Australia's biosecurity and quarantine arrangements and examine a number of issues from a more strategic viewpoint. The examination of these issues has provided a valuable source of background material which will assist the committee to conduct a more detailed examination of the exposure draft and/or the Biosecurity Bill when introduced later this year.

Structure of the report

1.20 Chapter 2 of the report outlines Australia's existing administrative and legal arrangements in relation to biosecurity and quarantine. The chapter also provides a brief overview of Australia's current approach to managing the risk of incursions of exotic pests and diseases.

1.21 Chapter 3 outlines the issues and common themes which have been raised by key stakeholders; both during both past inquiries and in evidence to the current inquiry. The issues raised include concerns about the IRA process generally, Australia's definition of ALOP and Australia's current preparedness for a major pest or disease incursion.

1.22 Chapter 4 outlines the committee's examination and response to term of reference (c) – the reform of AQIS export fees and charges, and term of reference (d) – progress toward the implementation of the Beale Review recommendations.

Acknowledgements

1.23 The committee appreciates the time and effort of all those organisations and individuals who provided submissions and attended public hearings. Their work has assisted the committee considerably and has provided the committee with valuable evidence for the purpose of this and potentially future inquiries.

1 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. 18.

A note on references

1.24 References in this report are to individual submissions as received by the committee. The Hansard transcripts of the committee's hearings are available on the Parliament's website at www.aph.gov.au. References to the Hansard throughout the report are to the proof transcript. Page numbers may vary between the proof and the official transcript.

Chapter Two

Background

Australia's current approach to biosecurity and quarantine

2.1 The terms of reference for the inquiry required the committee to examine the adequacy of Australia's current biosecurity and quarantine arrangements, including the adequacy of resourcing. The following chapter outlines Australia's existing administrative and legal arrangements in relation to biosecurity and quarantine. The chapter also provides a brief overview of Australia's current approach to managing the risk of incursions of exotic pests and diseases.

National administrative and legal arrangements for biosecurity and quarantine

2.2 The Department of Agriculture, Fisheries and Forestry's (DAFF) *Import risk analysis handbook 2011* (the risk analysis handbook) notes that the objective of Australia's biosecurity and quarantine measures is:

...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.¹

2.3 The Commonwealth does not have exclusive power under the Constitution to make laws in the area of biosecurity and quarantine. The administration of Australia's biosecurity and quarantine is, therefore, governed by both Commonwealth and state and territory laws. The states and territories are, for example, responsible for the intra- and inter-state movement of goods of quarantine concern.

2.4 The Commonwealth's quarantine laws are contained in the *Quarantine Act 1908* (the Quarantine Act) and associated subordinate legislation, including the Quarantine Regulations 2000 and the Quarantine Proclamation 1998. The 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.²

2.5 The Biosecurity Services Group (BSG) in DAFF is responsible for Commonwealth biosecurity policy development and the establishment of risk management measures. DAFF is also responsible (through Biosecurity Australia) for undertaking risk analyses.

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

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

2.6 The BSG was formed on 1 July 2009 in response to the Beale Review,³ which recommended the consolidation of the biosecurity activities of the Australian Quarantine and Inspection Service (AQIS), Biosecurity Australia (BA) and the Product Integrity, Animal and Plant Health division of DAFF.⁴

Managing biosecurity risks

2.7 DAFF describes the Government's approach to managing the risk of incursions of exotic pests and diseases as "multi-layered" in that it involves a series of "complementary measures applied along the biosecurity continuum – offshore, at the border and onshore".⁵

2.8 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 of risk analyses; and
- intelligence gathering and audit activities.⁶

2.9 AQIS is responsible both for the making of quarantine decisions under the Quarantine Act and for the development of border operational procedures.

2.10 Border activities seek to intercept 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

3 The Beale Review – an independent review of Australia's quarantine and biosecurity arrangements, chaired by Mr Roger Beale, AO. The panel's report titled *One Biosecurity: a working partnership*, was publicly released in September 2008.

4 Department of Agriculture, Fisheries and Forestry, www.daff.gov.au/aqis/about/reports-pubs/biosecurity-bulletin/2009/june-july, accessed 13 February 2012.

5 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.

- post-entry quarantine.⁷

2.11 In the event that there is an incursion of a pest or disease of biosecurity risk, Australia's onshore arrangements aim to reduce the likelihood that the pest or disease will become established. Formal national arrangements exist 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:

- 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.⁸

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.⁹

2.13 Australia expresses its ALOP in qualitative terms, and the risk analysis handbook states that Australia maintains a "conservative, but not a zero-risk, approach to the management of biosecurity risk".¹⁰ 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.¹¹

2.14 This approach is identified as being consistent with the international standards established by the SPS Agreement.¹²

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 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.

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. 6.

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

12 The full agreement is contained in Annex 2 of the Department of Agriculture, Fisheries and Forestry, *Import risk analysis handbook 2011*, p. 22.

2.15 In setting an ALOP, WTO members are required to take into account "the objective of minimising negative trade effects".¹³ The risk analysis 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.¹⁴

The risk assessment process

2.16 The undertaking of a risk analysis in relation to a proposed importation (or where new circumstances arise in relation to an existing importation) is a critical element of Australia's biosecurity and quarantine framework. The risk assessment handbook explains:

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.¹⁵

2.17 In conducting a risk analysis, BA:

- 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 or pest would enter, establish or spread; and
- assesses the probable extent of the harm that would result.¹⁶

2.18 If the assessed level of quarantine risk exceeds Australia's ALOP, BA then considers whether any risk management measures could reduce quarantine risk to achieve the ALOP. If there are no risk measures that reduce the risk to an appropriate level, the importation of the good in question is not allowed.

Types of risk analysis

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

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. 6.

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*, p. 9.

- a non-regulated analysis of existing policy or technical advice to AQIS; or
- an import risk analysis (IRA), in which the key steps of the analysis are regulated under the Quarantine Regulations 2000.¹⁷

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.¹⁸ This approach could be taken where, for example, BA has previously undertaken significant analysis in relation to the crop that is the subject of an import proposal.

2.21 The Chief Executive of BA 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.¹⁹

2.22 An IRA can be undertaken in either a 'standard' or 'expanded' format. The regulated steps for both types of IRA's 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 BA website and an invitation for public comment;

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

18 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.

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

- **review of draft report by the Eminent Scientists Group (ESG)**²⁰ – The ESG is a high level review group, independent from BA that 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 to 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;
- **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';²¹
- **provision of final IRA report and recommendation** – for a policy determination to the Director of Animal and Plant Quarantine;
- **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;
 - BA's response to the ESG report; and
 - any other relevant information, including Australia's international rights and obligations.²²

2.23 The steps outlined above reflect a number of changes to the IRA process that were introduced in 2007 to:

- increase its transparency and timeliness;

20 Further information on the Eminent Scientists Group can be found in Annex 5 of the *Import risk analysis handbook 2011*, p. 36.

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

22 Department of Agriculture, Fisheries and Forestry, *Import risk analysis handbook 2011*, pp 15-19.

- regulate key steps, such as timeframes for completing IRAs; and
- enhance consultation with, and scientific scrutiny of IRAs by the ESG.²³

Emergency Animal Disease Response Agreement

2.24 In Australia, animal health emergencies are coordinated nationally, with responses underpinned by the Emergency Animal Disease Response Agreement (EADRA) which was ratified in March 2002.²⁴ The EADRA was developed to facilitate rapid responses to, and control and eradication or containment of certain animal diseases (Emergency Animal Diseases or EADs). Under the EADRA, the costs of responding to EADs are shared by the affected parties, including the Commonwealth, all state and territory governments and livestock industries.²⁵

2.25 The current EADRA is an agreement between the peak body, Animal Health Australia (AHA),²⁶ the Commonwealth government, all state and territory governments and the following industry signatories:

- Australian Chicken Meat Federation Inc;
- Australian Egg Corporation Limited;
- Australian Dairy Farmers Limited;
- Cattle Council of Australia Inc;
- Australian Pork Limited;
- Sheepmeat Council of Australia Inc;
- WoolProducers Australia;
- Australian Lot Feeders' Association Inc;
- Goat Industry Council of Australia;
- Australian Honey Bee Industry Council Inc;
- Australian Racing Board Limited;
- Harness Racing Australia Inc;

23 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, accessed, 17 February 2012.

24 Animal Health Australia, *Emergency Animal Disease Response Agreement, Frequently Asked Questions*, p. 1.

25 Under the EADRA, an emergency animal disease (EAD) is one that is likely to have "significant effects on livestock – potentially resulting in livestock deaths, production loss, and in some cases, impacts on human health and the environment".

26 Animal Health Australia is a not-for-profit public company established by the Australian government, state and territory governments and major national livestock industry organisations.

- Australian Horse Industry Council; and
- Equestrian Australia Limited.²⁷

2.26 Under the terms of the EADRA, signatories are required to commit to:

- minimising the risk of EAD incursions by developing and implementing biosecurity plans for their jurisdictions of industries;
- maintaining capacity to respond to an EAD by having available adequate numbers of trained personnel to fill roles specified in AUSVETPLAN;
- participating in decision making relating to EAD responses, through representation on the Consultative Committee on Emergency Animal Diseases (CCEAD) and a National Management Group (NMG); and
- sharing the eligible response costs of EAD incursions.²⁸

2.27 The terms of the EADRA include an agreement from the Commonwealth to underwrite the costs of an emergency response to an EAD. In the event of an emergency, however, industry signatories to the EADRA must have in place plans to meet their obligations under the agreement. The proportion of signatories' payments depend on the disease category.²⁹

2.28 There are four disease categories which determine the proportions paid by government and industry (see Table 1).

Table 1 - EADRA – Disease Categories³⁰

Category of Disease	Cost Share
Category 1: EADs that predominantly seriously affect human health and/or the environment (depletion of native fauna) but may only have minimal direct consequences to the livestock industries.	100% government funding
Category 2: EADs that have the potential to cause major national socio-economic consequences through very serious international trade losses, national market disruptions and very severe production losses in the livestock industries that are involved. This category includes diseases that may have	80% government funding 20% industry funding

27 Animal Health Australia, *Government and Livestock Industry Cost Sharing Deed in respect of Emergency Animal Disease Responses*, Variation No. 11/01 – 28/06/11, pp 4-5.

28 Animal Health Australia, *Animal Health in Australia 2009*, 2010, p. 68.

29 Rural Affairs and Transport References Committee, *Australian Horse Industry and an Emergency Animal Disease Response Agreement*, November 2010, p. 2.

30 *Government and Livestock Industry Cost Sharing Deed in Respect of Emergency Animal Disease Responses*, Variation No. 11/01 – 28/06/11, p. 19.

slightly lower national socio-economic consequences, but also have significant public health and/or environmental consequences.	
Category 3: EADs that have the potential to cause significant (but generally moderate) national socio-economic consequences through international trade losses, market disruptions, involving two or more states and severe production losses to affected industries, but have minimal or no affect on human health or the environment.	50% government funding 50% industry funding
Category 4: These are EADs that could be classified as being mainly production loss diseases. While there may be international trade losses and local market disruptions, these would not be of a magnitude that would be expected to significantly affect the national economy. The main beneficiaries of a successful emergency response to an outbreak of such a disease would be the affected livestock industry(s).	20% government funding 80% industry funding

Cost of Disease Response

2.29 The cost to industries of a disease response is determined in relation to their Gross Value of Production (GVP). The government costs for a response is shared – 50 per cent by the Commonwealth – and the remainder shared between the state and territory governments.

National Management Group

2.30 The National Management Group (NMG) is the decision making body that determines whether to respond to an animal disease, and the direction of that response. The NMG has two primary functions:

- to consider EAD response issues; and
- to consider general issues around the EADRA (including regular reviews of the agreement).³¹

2.31 In the event of an EAD response, the NMG will be made up of a representative of each of the affected parties:

- the Secretary of DAFF (Chair)
- the CEOs of the state and territory government departments;
- the President/Chairman of each of the relevant industry parties; and
- AHA (as an observer).

31 *Guidelines for Accounting and Cost Sharing under the EAD Response Agreement*, February 2010, p. 14.

2.32 The NMG is responsible for:

- approving the EAD response plan (including an indicative budget);
- reviewing the EAD response plan when it believes the cost may exceed the agreed limit (1 per cent of the GVP of the affected industry(s) – 2 per cent for Foot and Mouth Disease); and
- determining whether a party has acted appropriately in the matter of reporting an EAD in the first place.

Consultative Committee on Emergency Animal Diseases

2.33 The Consultative Committee on Emergency Animal Diseases (CCEAD) is the key technical coordinating body for animal health emergencies.³²

2.34 The CCEAD provides the link between the Commonwealth, states and territories, industry and AHA. The members of the CCEAD are:

- the Australian Chief Veterinary Officer (who chairs the CCEAD);
- all state and territory Chief Veterinary Officers (or their nominees);
- one representative nominated by CSIRO Animal Health;
- one representative of AQIS nominated by the Australian Chief Veterinary Officer;
- one representative nominated by BA;
- one representative of AHA as an observer; and
- members of the relevant industry parties (generally including one member representing a non-affected industry).

2.35 Under the EADRA, the CCEAD has the following responsibilities:

- assessment of EAD Response Plans submitted by affected jurisdictions (in order to advise the NMG whether they should be approved);
- provision of advice regarding whether an EAD can be eradicated or contained;
- monitoring of progress in relation to the response and provision of regular updates to affected parties and the NMG;
- determining when a disease has been contained or eradicated under an EAD Response Plan; and
- recommending when 'proof of freedom' has been achieved.

32 *Guidelines for Accounting and Cost Sharing under the EAD Response Agreement*, February 2010, p. 15.

Emergency Plant Pest Response Deed

2.36 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 response plan specifies the procedures for handling emergency plant pest incursions at the national, state, territory and district levels.³³

2.37 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. The NMG is made up of the following representatives:

- the Secretary of DAFF (Chair);
- the CEOs of the affected state and territory government departments;
- the President/Chairman of each of the affected industry parties; and
- Plant Health Australia (PHA) (as an observer).³⁴

2.38 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 Limited;
- Australian Banana Growers' Council Inc;
- Australian Cane Growers' Council Ltd;
- Australian Dried Fruit Association Inc;
- Australian Honey Bee Industry Council Inc;
- Australian Macadamia Society Limited;
- Australian Mango Industry Association Ltd;

33 Rural Affairs and Transport References Committee, *Science underpinning the inability to eradicate the Asian honey bee*, June 2011, p. 2.

34 Plant Health Australia, *Emergency Plant Pest Response Deed (EPPRD), Questions and Answers*, February 2011, p. 8.

- Australian Olive Association Ltd;
- Australian Onion Industry Association Inc;
- Australian Plantation Products and Paper Industry Council;
- 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;
- Citrus Australia Ltd;
- Cotton Australia Ltd;
- Grain Producers Australia Ltd;
- Nursery and Garden Industry Australia Ltd;
- Queensland Fruit and Vegetable Growers Ltd;
- Ricegrowers Association of Australia Inc;
- Strawberries Australia Inc;
- Summerfruit Australia Ltd; and
- Wine Grape Growers Australia Inc.³⁵

2.39 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).

Table 2 – EPPRD cost sharing categories³⁶

Category of disease	Cost share
Category 1: Large impact on the environment, human health or amenity flora values and relatively little impact on commercial crops	100% public funding

35 Plant Health Australia, *Emergency Plant Pest Response Deed (EPPRD), Questions and Answers*, February 2011, p. 8.

36 Plant Health Australia, *Emergency Plant Pest Response Deed (EPPRD), Questions and Answers*, February 2011, p. 6.

Category 2: Significant impact on amenity flora and/or environmental values and/or effects on households, or very severe regional and national economic impacts	80% public funding 20 % private funding
Category 3: Minor adverse impact on public amenities, households or the environment, and/or moderate trade implications and/or national and regional economic implications	50% public funding 50% private funding
Category 4: Primarily affects commercial cropping industries, with minor or no economic, trade or environmental impacts	20% public funding 80% private funding

2.40 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.

2.41 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.³⁷

2.42 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.³⁸

Committee view

2.43 The committee acknowledges that Australia's biosecurity system has, over some years, been the subject of a number of major reviews – starting with the 1995 review chaired by Professor Malcolm Nairn.³⁹

2.44 The latest review, chaired by Mr Roger Beale, found that whilst Australia's "biosecurity system has worked well in the past, and is often the envy of other

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

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

39 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.

countries" ... "the system is far from perfect".⁴⁰ The Beale Report also noted that a number of systemic deficiencies have been exposed over recent years and concluded that there is certainly room for improvement.

2.45 The committee notes that a number of major reforms have been proposed by the Beale Report with the intention of strengthening Australia's biosecurity system. Proposed reforms include the revision of legislation, improved targeting of resources, more efficient timelines and operations, improved risk management and increased transparency.⁴¹

2.46 The committee agrees with the Beale Report's statement regarding the importance of developing a "seamless biosecurity system that fully involves all the appropriate players"⁴² and notes that it 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.

2.47 The committee notes that, consistent with the Beale Review, DAFF is currently moving away from mandatory intervention targets and working toward a more risk-based strategy. The committee understands that in moving toward a risk based approach to biosecurity operations, resources will be focused on the risk of greatest biosecurity concern. The committee agrees, in principle, to DAFF pursuing a more risk-based approach to biosecurity. However, the committee also believes that it is vital that an appropriate level of resources continue to be allocated to maintain assurance on what DAFF describes as "lower-risk items and pathways".⁴³

2.48 The committee understands that proposed new legislation to replace the *Quarantine Act 1908* is close to finalisation. DAFF has indicated that the new Biosecurity Bill exposure draft and a consultation regulation impact statement is expected to be released in the first half of 2012. DAFF has also indicated that it is proposed that the new Biosecurity Bill will be introduced to Parliament in the second half of 2012. As previously noted, the committee is interested in conducting a detailed inquiry of the exposure draft and/or the new legislation.

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

41 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.

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

43 Department of Agriculture, Fisheries and Forestry, *Update to the Import risk analysis handbook 2007*, 1 July 2009, p. 11.

Chapter Three

Issues raised

Adequacy of current biosecurity and quarantine arrangements, resourcing and future requirements

3.1 The committee has identified a number of issues and common themes which have been raised by key stakeholders – during both past inquiries and in evidence to the current inquiry. The issues raised include concerns about the Import Risk Analysis (IRA) process generally, Australia's definition of ALOP and Australia's current preparedness for a major pest or disease incursion.

IRA processes

3.2 In a number of its previous reports, the committee highlighted specific concerns about Australia's IRA process and the way assessments are conducted. These concerns included the circumstances and criteria under which a formal IRA process is undertaken, the adequacy of the IRA consultation process, the time taken to undertake an IRA process and the role of the Eminent Scientists Group (ESG).¹

3.3 The Beale Review also highlighted certain concerns relating to IRAs. While a number of reforms to the IRA process were implemented in 2007, evidence presented to past and current inquiries suggests that industry groups continue to have significant concerns about certain aspects of the process. The Beale report, while acknowledging the 2007 reforms, noted that there is still "uncertainty and debate surrounding the risk analysis methodology used by Biosecurity Australia (BA)".²

3.4 The Victorian Wine Industry Association (VWIA) for example, pointed to shortcomings in the IRA consultation process in relation to the importation of table grapes from China:

During the consultation phase, Biosecurity Australia did not seek comment on the draft risk assessment report from a broad range of industry stakeholders. It is important that Biosecurity Australia consults broadly across industry when undertaking an IRA to ensure that its consultation process is representative. In the case of the importation of table grapes, there are a range of viticulturally based industries that may be impacted

1 See, for example: Rural and Regional Affairs and Transport Legislation Committee, *Administration of Biosecurity Australia – Revised draft import risk analysis for apples from New Zealand*, March 2005, Rural and Regional Affairs and Transport References Committee, *Import risk analysis (IRA) for the importation of Cavendish bananas from the Philippines*, June 2009 and Rural and Regional Affairs and Transport References Committee, *The possible impacts and consequences for public health, trade and agriculture of the Government's decision to relax import restrictions on beef*, Final Report, June 2010.

2 Beale, Roger et al, *One Biosecurity: a working partnership*, September 2008, p. 96.

including wine, dried fruit, nurseries, vine improvement as well as the table grape industry itself.³

3.5 In its 2009 report on the import of Cavendish bananas from the Philippines, the committee expressed concern that stakeholders had not been adequately informed with respect to the IRA methodology prescribed by BA's guidelines and had not had any opportunity to contribute to the ongoing development of those guidelines.⁴ In its report, the committee noted efforts made by BA to improve consultation in relation to IRAs, but concluded that there was "scope for improvement" in this area.⁵

3.6 Similarly, the Australian Racing Board (ARB) and Racing Victoria (RV) submitted that the consultation process in relation to the IRA for horses in 2009 was limited, and argued that:

The IRA process only included one consultation step. As such, interested parties were not given the opportunity to consider general comments from other parties or the opportunity to consider comments relating to scientific, technical, or other gaps in the data, misinterpretations and errors. If there are gaps misinterpretations or errors the general comments from interested parties will necessarily be based on incorrect or incomplete information. Despite this limited consultation process the IRA becomes non-appealable after submission to the Minister.⁶

3.7 Despite the inclusion of timeframes in the regulations in 2007, the time taken to complete IRAs continues to be a concern for some industry groups. In the course of the inquiry into Cavendish bananas, stakeholders indicated that they often found it difficult to respond to detailed and complex IRA material within the stipulated timelines.⁷

3.8 The Beale report indicated that Australia's trading partners took the opposite view, and noted that that one of the major complaints made by Australia's trading partners was the length of time taken to complete IRAs. The report noted that:

While these Import Risk Analyses may have involved complex scientific assessments, the Panel's judgement is that the time taken is difficult to justify. The panel notes that in other equally complex areas such as therapeutic goods and major project approvals involving environmental

3 Victorian Wine Industry Association, *Submission 13*, p. 2.

4 Senate Rural and Regional Affairs and Transport References Committee, *Import risk analysis (IRA) for the importation of Cavendish bananas from the Philippines*, June 2009, p. 8.

5 Senate Rural and Regional Affairs and Transport References Committee, *Import risk analysis (IRA) for the importation of Cavendish bananas from the Philippines*, June 2009, p. 8.

6 Australian Racing Board and Racing Victoria, *Submission 4*, p. 8.

7 Senate Rural and Regional Affairs and Transport References Committee, *Import risk analysis (IRA) for the importation of Cavendish bananas from the Philippines*, June 2009, p. 9.

issues, the time for assessments has been much less than in the biosecurity context.⁸

3.9 The Beale report did, however, acknowledge that "the time taken by trading partners to assess Australia's market access requests could also be considered to be excessive in some cases".⁹

3.10 The committee has previously expressed its concern regarding the standard time horizon for risk assessment. In that instance the committee noted that one year does not adequately take into account long range predictions or probabilities of the entry, establishment and spread of pests and diseases.¹⁰

3.11 The Tasmanian Department of Primary Industries, Parks, Water and Environment (DPIPWE) also raised this issue, and argued that:

Biosecurity Australia currently assumes a standard one year volume of trade when estimating the likelihood of pest entry to accommodate seasonal variations in pest presence, incidence and behaviour. BA also takes the view that this does not mean any quarantine measure recommended for that organism is only good for one year because the risk estimation matrix implicitly reflects consideration of establishment, spread and consequence over more than one year. Despite this assurance from BA, we have not yet seen any evidence or explanation of a systematic process for converting this annual likelihood estimate and long run consequence estimate into a long run risk estimate.¹¹

3.12 The ARB and RV also expressed concern that the interpretation of technical information lacks transparency, and therefore does not necessarily provide a sound basis for risk analysis. It was argued that one of the consequences of poor analysis could include:

...development of overly restrictive importation conditions. Such conditions can limit opportunities associated with horse importation and impose significant costs on the horse industry. Also once conditions are established they tend to become a paradigm and so become very difficult to amend, even if they are based on incomplete analysis.¹²

3.13 The committee has also previously noted its concerns in relation to:

- the apparent lack of rigour in IRA assessments of the consequences of an incursion of a pest or disease; and

8 Beale, Roger et al, *One Biosecurity: a working partnership*, September 2008, p. 100.

9 Beale, Roger et al, *One Biosecurity: a working partnership*, September 2008, p. 100.

10 Senate Rural and Regional Affairs and Transport References Committee, *Import risk analysis (IRA) for the importation of Cavendish bananas from the Philippines*, June 2009, p. 11.

11 Tasmanian Department of Primary Industries, Parks, Water and Environment, *Submission 38*, p. 8.

12 Australian Racing Board and Racing Victoria, *Submission 4*, p. 8.

- documented instances in which the basis of substantial changes to assessments of the probability of entry, establishment and spread (PEES) of a particular pest or disease was not clear.¹³

Appeals process

3.14 The committee has, during previous inquiries, heard criticism of the appeals process in relation to IRAs. As described above, non-judicial appeals are heard by the Import Risk Analysis Appeals Panel (IRAAP) in cases where a stakeholder can establish that the prescribed IRA process has not been followed such that their interests have been adversely impacted. The Apple and Pear Australia's (APAL) submission argued that the current appeals process is inadequate because "the Appeals Panel operates under a narrow interpretation of the terms of reference".¹⁴

Eminent Scientists Group

3.15 Concerns have been raised during previous inquiries regarding the operation and transparency of the Eminent Scientists Group (ESG). APAL continues to be concerned that the ESG is "not required to demonstrate the rigour of their assessment" or to "provide transparency about the scientific materials they use in making their determinations".¹⁵

3.16 The committee raised these specific criticisms of the ESG with DAFF during a hearing on 14 February 2011 and asked whether anything was being done to improve the transparency of the assessment of the ESG. In response, DAFF indicated that:

Ms Mellor – There is no activity going on to improve the transparency, as has been put to you by other witnesses. The key role of that group is to provide advice to the department on the development of the science and the department takes that advice and publishes and consults on its product.

Chair – In other words, it is all right for you to know but not for us to know.

Ms Mellor – The science that we publish is informed by whatever peer review to ESG does.

Senator Milne – That is the thing – people would like to know what the peer review was, what new information, if any, was assessed. At least if you knew what new information was assessed, growers would have an opportunity to know whether or not they thought that was adequate. At the same time they also complained, in relation to the appeals process under the IRA, saying that there is a really narrow definition of whether the process

13 Senate Rural and Regional Affairs and Transport References Committee, *Import risk analysis (IRA) for the importation of Cavendish bananas from the Philippines*, June 2009, pp 13-15.

14 Apple and Pear Australia Limited, *Submission 6*, [p. 3].

15 Apple and Pear Australia Limited, *Submission 6*, [p. 2].

has been adhered to. In fact, they say, and I agree with them, that while that is important, they want to know whether Biosecurity Australia actually did what you would expect it to do – that is, identify the pests and diseases of quarantine concern... Is the appeals process being reviewed?

Ms Mellor – No, it is not being reviewed. It is an administrative tool for people to raise issues about the process and that is how it is used.¹⁶

Appropriate Level of Protection (ALOP)

3.17 Australia's ALOP was set by the Government following consultations through the Agriculture and Resource Management Council of Australia and New Zealand, and the Primary Industries Ministerial Council. The Beale Report indicates that ALOP definition followed a Senate Rural and Regional Affairs and Transport Legislation Committee report on the importation of salmon products, tabled in June 2000.¹⁷ The Beale Report also notes that:

The Committee recommended that the Commonwealth Government, in consultation with the community and the states, be responsible for establishing a more explicit Appropriate Level of Protection. The Primary Industries Ministerial Council then agreed that the draft guidelines for risk analysis, developed by Biosecurity Australia and which illustrated the concept by way of a risk estimation matrix, adequately met Australia's needs and that further definition was not a Ministerial Council priority (Primary Industries Ministerial Council 2002, Meeting 1, Resolution No. 1.3).¹⁸

3.18 A key area of concern raised by DPIPWE during the current inquiry related to what it described as "the policy void that is Australia's Appropriate Level of Protection (ALOP)". DPIPWE submitted that the current ALOP is "ambiguous and open to interpretation"¹⁹ and argued that:

Since the ALOP statement is fundamentally about the level of biosecurity risk Australia is prepared to accept, these policy links have direct implications for how public resources are deployed to achieve satisfactory 'risk return' in all areas of biosecurity.²⁰

16 Ms Rona Mellor, Department of Agriculture, Fisheries and Forestry, *Committee Hansard*, 14 February 2011, p. 60.

17 Rural and Regional Affairs and Transport Legislation Committee, *An Appropriate Level of Protection? – The Importation of Salmon Products: A case study of the Administration of Australian Quarantine and the Impact of International Trade Arrangements*, June 2000.

18 Beale, Roger et al, *One Biosecurity: a working partnership*, September 2008, p. 87.

19 Tasmanian Department of Primary Industries, Parks, Water and Environment, *Submission 38*, p. 2.

20 Tasmanian Department of Primary Industries, Parks, Water and Environment, *Submission 38*, p. 2.

3.19 DPIPWE further argued that, as the core of national biosecurity policy, Australia's ALOP statement should be expressed in a way that is:

- consistent with relevant international frameworks so that import policy decisions made against it are above challenge; and
- comprehensible to people who bear the costs or enjoy the benefits of decisions, in particular the Australian community, therefore delivering policy transparency and accountability.²¹

3.20 Whilst DPIPWE noted that they were supportive of the Australian ALOP statement as written, it also suggested that the statement needed to be made a "lot more explicit rather than implicit".²² Further, DPIPWE provided the committee with an alternative ALOP statement which, it was argued, was capable of conferring increased security upon biosecurity decision-making and rectifying the transparency issues identified by Beale.²³

3.21 The committee raised the Tasmanian department's concerns with DAFF during a hearing on 14 February 2011 and asked whether, in the writing of the new biosecurity and quarantine legislation, the current ALOP statement was going to be a matter of public discussion. In response to the committee's question, DAFF indicated that:

The new legislation will put in place the recommendation of the Beale review, which was that the minister will be able to issue a statement which will be a legislative instrument but non-disallowable. In developing that statement, the minister will be required to consult with all of the states and territories. What we have done so far is that we have issued a discussion paper to all of the jurisdictions. They have all provided us with submissions about ALOP and what it should and should not say. Tasmania did put its view to that working group. The other states do not share the same view that Tasmania has in terms of the level of detail that should be included in that statement. We are still working through with all of the jurisdictions and the relevant agencies in the Commonwealth as to what the nature of that statement will be at the end of the day, but it will not be issued until after the legislation has come into force.²⁴

21 Tasmanian Department of Primary Industries, Parks, Water and Environment, *Submission 38*, p. 3.

22 Mr Andrew Bishop, Tasmanian Department of Primary Industries, Parks, Water and Environment, *Committee Hansard*, 14 February 2011, p. 31.

23 The Tasmanian Department of Primary Industries, Parks, Water and Environment's alternative ALOP statement is at Appendix 3.

24 Mr Russell Phillips, Department of Agriculture, Fisheries and Forestry, *Committee Hansard*, 14 February 2011, p. 60.

Levels of resourcing

3.22 The committee received a number of submissions which expressed concern about DAFF's ability to maintain an adequate level of resourcing. Submitters also suggested there was likely to be a decrease in the level of resourcing once the proposed reforms were implemented.

3.23 Mr Neil Donaldson, for example, questioned whether there would be adequate meat inspection staff, after the reforms have taken place, to ensure that proper implementation and oversight of relevant legislation is taking place.²⁵

3.24 The National Herd Improvement Association of Australia (NHIA) noted the Beale Review's call for an increase in funding to support the delivery of Australia's biosecurity system. The NHIA acknowledged the \$127 million funding increase announced by the Government in 2009, and argued that it does not appear to have filtered down to the 'coal face'.²⁶ NHIA also argued that there had been no significant improvement in the development of information technology or processes to improve efficiency of certification by the Australian Quarantine and Inspection Service (AQIS), and that:

Resourcing for staff at both Biosecurity Australia and AQIS appears to remain inadequate. For example, the recent outcry that led to the establishment of an IRA for beef imported from countries with BSE has removed a significant number of staff from the genetics/animal health protocol section of Biosecurity Australia which has left an enormous workload on the staff that remains behind. This has resulted in delays with the negotiation of animal health protocols which has had commercial consequences for the export of semen and embryos.²⁷

3.25 The CRC for National Plant Biosecurity (CRCNPB) indicated strong support for the Beale Review's recommendation regarding an improvement in both the quality and use of state and territory laboratories to support national biosecurity priorities.²⁸ The CRCNPB argued that whilst there is significant investment in animal health laboratories through the facility at CSIRO's AAHL,²⁹ there is no equivalent investment in infrastructure in the plant sector.

3.26 The CRCNPB argued that:

25 Mr Neil Donaldson, *Submission 1*, [p. 1].

26 National Herd Improvement Association of Australia Inc., *Submission 2*, [p. 1].

27 National Herd Improvement Association of Australia Inc., *Submission 2*, [p. 1].

28 Beale Review Recommendation 58 – The National Biosecurity Authority should ensure Australia has the laboratory capability and capacity to manage exotic pest and disease incursions of national significance. The Panel recommends that the Authority, working with the states and territories, should improve the quality and use of state and territory laboratories to support national biosecurity priorities.

29 Australian Animal Health Laboratory – a national facility for animal health located in Geelong.

...the implementation of this recommendation [Beale Recommendation 58] is a critical element to enhancing Australia's plant biosecurity system. In using the existing laboratories in states and territories it is essential that a formal national network is established to utilise resources in the most effective way.³⁰

3.27 The CRCNPB told the committee that Australia's biosecurity system is particularly complex and noted that the management of plant biosecurity involves a number of levels of legislation; implemented through numerous regulatory bodies and subject to review by various state and federal agencies. It was also argued that a lack of resources:

...means that regulators and industry, for the most part, are isolated from research in the field until, as is often the case, their paths cross at the point of an emergency pest incursion or market access issue. At that point, there is no time for regulators to explain the intricacies of biosecurity laws. Nor for researchers to develop a quick-fix solution to the problem.³¹

3.28 Riverina Citrus raised concerns about current levels of resourcing and Australia's ability to deal with a major disease incursion. In its submission, Riverina Citrus highlighted the damage currently being caused to citrus industries in Florida and Brazil by Huanglongbing (HLB) (a disease of citrus also known as Citrus Greening).

3.29 Riverina Citrus argued that the most likely pathways of entry of HLB and its vectors are:

- illegal introductions of budwood from South Africa, Brazil, Asia or Florida by growers seeking to gain advantage through new or improved varieties;
- householders illegally importing budwood or cuttings from trees owned by friends or relatives in countries where HLB occurs;
- legal importation of infested or infected material that has been inadequately tested or treated and inspected;
- passive transport of adult psyllids, which are strongly attracted to light, in commercial and military aircraft;
- air movements (eg. cyclonic and jet streams) carrying psyllids from areas such as Indonesia and Papua New Guinea;
- movement of people carrying citrus fruits and other plant material across the Torres Strait from Papua New Guinea, principally by sea; and

30 CRC for National Plant Biosecurity, *Submission 3*, pp 8-9.

31 CRC for National Plant Biosecurity, *Submission 3*, p. 9.

- unregulated landings of boats carrying citrus from other areas to the north of Australia.³²

3.30 Riverina Citrus noted that an HLB Task Force of industry, state and federal representatives is meeting regularly via teleconference and a Pest Specific Contingency Plan (funded by the citrus industry) has been formulated and is continually being updated as new information is becoming available. Riverina Citrus also told the committee that:

We believe that current biosecurity and quarantine arrangements, including resourcing are inadequate to meet the threat of HLB and the Asian citrus psyllid to Australian citriculture.³³

3.31 Riverina Citrus argued that "more needs to be done if we are to meet the challenge"³⁴ and put forward a number of suggestions regarding pre-incursion measures that should be undertaken.

3.32 At a hearing on 14 February 2011, the committee raised the issue of HLB and asked what steps, if any, were being taken to interrupt any spread of the psyllid or plant material which might facilitate its contacting the disease in Australia.

3.33 DAFF officials indicated that Australia's citrus trade is based on countries that are free of the citrus psyllid (or from areas that are free of the citrus psyllid). It was acknowledged, however, that some countries, such as the US, "do have the psyllid in some areas but we still get citrus from areas that are free of it".³⁵

3.34 When asked whether DAFF had confidence the appropriate measures were in place to ensure freedom from HLB, the committee was told:

I am more than satisfied with the arrangements in place – seriously. The combination of our own knowledge and the information provided by the US and our own pre-clearance are more than effective in the management of that. In addition, we have done a draft pest risk analysis on the importation of citrus planting material and we have got diagnostic procedures in place for that material coming through quarantine to ensure freedom from huanglongbing.³⁶

3.35 In its 2006 report into DAFF's management of a citrus canker outbreak, the committee noted that through its investigation it had become more aware of "how

32 Riverina Citrus, *Submission 5*, [pp 1-2].

33 Riverina Citrus, *Submission 5*, p. 3.

34 Riverina Citrus, *Submission 5*, p. 3.

35 Mr Bill Magee, Department of Agriculture, Fisheries and Forestry, *Committee Hansard*, 14 February 2011, p. 50.

36 Mr Bill Magee, Department of Agriculture, Fisheries and Forestry, *Committee Hansard*, 14 February 2011, p. 51.

poorly prepared AQIS appears to have been to deal with a disease outbreak".³⁷ The committee also noted that:

It [AQIS] would be even less prepared to deal with industrial sabotage or a possible bioterrorist attack. The committee has therefore come to the view that AQIS must take the steps necessary to ensure that it develops immediately an improved strategy to better deal with such an occurrence, that its staff are trained adequately and that it puts in place the communications infrastructure that will be required should such an attack occur.³⁸

3.36 The committee's inquiry into the citrus canker outbreak also made it clear that there is a need to examine the relationship between the penalties for the illegal importation of plant material – in this case budwood – and compliance with quarantine regulations. During its current inquiry, the committee again raised the issue of penalties for illegal importation and asked whether the proposed new legislation would include increased penalties:

Senator Milne – What I am trying to get to is that, with the writing of the new act, the opportunity is there to review the relationship between penalties and compliance and so on.

Ms Mellor – Certainly, one key part of our thinking around the development of new biosecurity legislation is to give us some teeth. We already use the prosecution pathway for those that do illegal activities. We refer them to the DPP and we have cases going on all the time. But certainly in the development of the legislation we will be looking at graduated penalties. For example, we issue infringement notices and there is a \$228 fine at the airport. What teeth is that for some people? It is certainly teeth for some but not so much for others. So we are looking at a graduated penalties regime not just in the passenger pathway or the cargo pathway but in our quarantine approved premises. There are people we register and give the privilege of participating and sharing with us in the importation and quarantine process and we will certainly be looking for a really good graduated penalties regime through the legislation.³⁹

Committee view

3.37 The committee has received many representations regarding the calculation of long term risk or the interpretation of long term risk based on the current approach of BA. The committee believes that an analysis of this risk could be considered by the

37 Rural and Regional Affairs and Transport Legislation Committee, *The administration by the Department of Agriculture, Fisheries and Forestry of the citrus canker outbreak*, June 2006, p. 52.

38 Rural and Regional Affairs and Transport Legislation Committee, *The administration by the Department of Agriculture, Fisheries and Forestry of the citrus canker outbreak*, June 2006, p. 52.

39 Mr Bill Magee, Department of Agriculture, Fisheries and Forestry, *Committee Hansard*, 14 February 2011, p. 51.

Australian Centre of Excellence for Risk Analysis to develop a methodology to allay the concerns that continue to be expressed.

3.38 The committee notes that the issue of Australia's ALOP statement has been raised during a number of inquiries by several stakeholder groups. The committee acknowledges DAFF's advice that Australia's ALOP statement is to be the subject of a discussion paper (distributed to all states and territories) prior to the release of the proposed Biosecurity Bill.

3.39 The committee has taken a particular interest in Australia's definition of ALOP and intends to re-examine this issue during a future inquiry. The committee notes that it will follow up the results of the consultation process with the states and territories – particularly in relation to the support for possibly re-defining or re-drafting the ALOP statement.

3.40 The committee notes that, consistent with Recommendation 34 of the Beale Review, membership of the ESG was expanded from 1 July 2009 to include an economist. The committee supports the inclusion of a professional who is equipped to provide analysis of the economic consequences of IRA decisions.

3.41 The committee notes, however, that concerns continue to be raised about the role of the ESG and more specifically, the perceived lack of transparency in relation to the Group's decision-making processes. Stakeholders remain concerned that ESG is not required to release detailed analysis or background information about scientific (and other) materials used in making determinations.

3.42 The committee therefore indicates its concern that in working toward the process of developing the proposed Biosecurity Bill, the Government does not intend to review either the IRA appeals process generally, or the role of the ESG.

Recommendation 1

3.43 The committee recommends that, as part of the process of developing the new Biosecurity Bill, the Government review the Import Risk Analysis (IRA) appeals process, the role of the Eminent Scientists Group (ESG) and the publication of scientific (and other) materials used by the ESG in making determinations.

3.44 The committee notes stakeholders' concerns regarding the level of funding required by DAFF in order to maintain an adequate level of resourcing for biosecurity and quarantine activities. A number of submitters also suggested that there is likely to be a decrease in the level of resourcing once the proposed reforms are implemented.

3.45 Whilst the committee acknowledges the progress DAFF has made toward implementing reforms, it also notes however DAFF's assertion that, notwithstanding the achievements made to date, "the future presents many challenges and

opportunities in a tight fiscal environment".⁴⁰ The committee shares the concerns of submitters and questions whether, even with the added funding provided by new cost recovery measures, DAFF will be sufficiently resourced – particularly given that there are still a substantial number of reforms yet to be achieved.

3.46 The committee signals its intention to further examine the issue of adequate resourcing for biosecurity and quarantine activities as part of its future inquiry.

3.47 The committee notes that as part of the process of developing the new biosecurity legislation, the Government intends to review the existing penalties in relation to the illegal importation of plant material. The committee supports this review and will pursue this issue further as part of its future inquiry into the proposed Biosecurity Bill.

40 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. 20.

Chapter Four

4.1 The following chapter outlines the committee's examination and response to terms of reference (c) and (d).

Removal of the fee rebate for AQIS certification functions

4.2 In 2009, the Government announced a proposal to remove the 40 per cent Government contribution towards the cost of export inspection and certification services to the meat, grain, fish, dairy, live animal and horticultural export industry (which had applied since 2001). The proposal was in accordance with recommendation 79 of the Beale Review, which recommended a return to full cost recovery on 1 July 2009, on the basis that the policy objectives for the subsidy were 'unclear'.¹

4.3 The committee has taken a particular interest in this issue and followed developments closely. The following is a summary of the two inquiries the committee has undertaken, specifically in relation to term of reference (c).

2009 report

4.4 In 2009, the committee undertook a specific inquiry into the management of the removal of the 40 per cent fee rebate for AQIS export certification functions. The committee concluded that there had been inadequate notice given to, and consultation with, impacted industries, and that the reform of export certification fees should proceed only in conjunction with broader regulatory reforms and, where necessary, additional funding. The committee also expressed concerns that the removal of the 40 per cent rebate would lead to the loss of markets and jobs, as well as business failures in regional Australia.²

4.5 The committee's report (tabled in September 2009) recommended that the Senate move to disallow the Export Control (Fees) Amendment Orders 2009 (No. 1).³ These regulatory changes were intended to facilitate the implementation of full cost-recovery for export certification.

4.6 Following the disallowance of the Orders on 15 September 2009, a series of negotiations resulted in the Government putting forward a \$127.4 million Export

1 Senate Rural and Regional Affairs and Transport References Committee, *The removal of rebate of AQIS certification functions*, September 2009, pp 1- 2.

2 Senate Rural and Regional Affairs and Transport References Committee, *The removal of rebate of AQIS certification functions*, September 2009, pp 23-25.

3 Senate Rural and Regional Affairs and Transport References Committee, *The removal of rebate of AQIS certification functions*, September 2009, p. 24.

Certification Reform Package (ECRP) to support the reform process. The Government also reinstated the 40 per cent rebate until 30 June 2011.⁴

4.7 Specifically, the ECRP provided:

- \$85.3 million for fee rebates to assist exporters to transition to the new fees and charges;
- \$16.1 million for reform of the regulatory and export supply chain; and
- \$26 million for meat inspection reform.

4.8 The disallowance of the Export Control (Fees) Amendment Orders 2009 was then rescinded on 25 November 2009.

2011 report

4.9 In order to follow-up on progress in relation to the removal of the fee rebate, the committee held two hearings in July 2011 – specifically to gather evidence regarding term of reference (c). The committee tabled a report in relation to this issue in December 2011.

4.10 The committee's report noted that several of the concerns raised during the 2009 inquiry, and the conclusions reached by the committee in that inquiry remained relevant.⁵ In conducting the 2011 inquiry, the committee also considered the following issues:

- the adequacy of the consultation process undertaken by the Department of Agriculture, Fisheries and Forestry (DAFF);
- the impact the proposed changes will have on smaller operators – including smaller abattoirs, exporters and cold storage export facilities;
- the extent to which the Australian Quarantine and Inspection Service (AQIS) has been able to identify efficiencies and cost saving measures; and
- the impact certification rates for small consignments (and a lack of flexibility within the new fee structure) will on users of air freight.⁶

4.11 The committee's report titled *Interim report: the management of the removal of the fee rebate for AQIS export certification functions* – tabled on 12 December

4 Government response tabled in the Senate, 10 February 2011, p. 1, available at www.aph.gov.au/senate/committee/rrat_ctte/aqis/gvt_resp_100211.pdf

5 Senate Rural and Regional Affairs and Transport References Committee, *The removal of rebate of AQIS certification functions*, September 2009, p. 35.

6 Senate Rural and Regional Affairs and Transport References Committee, *The removal of rebate of AQIS certification functions*, September 2009, pp 35-40.

2011, can be accessed on the committee's website.⁷ The conclusions and recommendations of the committee's report are included at Appendix 4.

Committee view

4.12 The committee notes that a number of industry sectors remain dissatisfied with the negotiations around AQIS fees and charges. This is particularly the case for smaller businesses facing increased registration fees that will need to be apportioned over small volumes of product. This effectively raises the piece rate to an uncompetitive and unviable level. Tasmanian horticultural businesses are a clear example, as are start up businesses establishing themselves in the export arena.

4.13 The committee notes that industry has expressed concerns at the "take it or leave it" approach being applied by government. The power differential is resulting in small business owners running out of energy and financial resources to remain in the negotiation process. They are simply being worn down and worn out.

4.14 The committee also notes that members of the committee remain in contact with stakeholders in industry regarding AQIS export fees and charges, particularly cold stores and horticulture who remain dissatisfied with the approach and proposals being offered to them through this process. To this end, the committee intends to maintain a watching brief and will continue to follow the reform process closely.

Progress in implementation of the Beale Review recommendations

4.15 As part of its inquiry, the committee has reviewed progress in relation to the implementation of the Beale Review recommendations. The Beale Review – an independent review of Australia's biosecurity and quarantine arrangements chaired by Mr Roger Beale AO – was tasked with providing recommendations on the appropriateness, effectiveness and efficiency of:

- current arrangements to achieve Australia's Appropriate Level of Protection (ALOP);
- public communication, consultation and research and review processes;
- resourcing levels and systems and their alignment with risk in delivering requisite services; and
- governance and institutional arrangements to deliver biosecurity, quarantine and export certification services.⁸

4.16 The Beale Review produced its final report – *One Biosecurity: a working partnership* (the Beale report) – in September 2008. The report identified a number of

7 The conclusions and recommendations from the Rural and Regional Affairs and Transport References Committee, *Interim report: the management of the removal of the fee rebate for AQIS export certification functions* are at Appendix 4.

8 Beale, Roger et al, *One Biosecurity: a working partnership*, September 2008, pp 231-232.

deficiencies in Australia's biosecurity and quarantine arrangements, and noted that the outbreak of equine influenza in August 2007 had "exposed significant deficiencies in relation to horse imports".⁹ The report also noted that the management of the risks associated with trade will become increasingly challenging, given projected increases in passenger and cargo movements, climate change and the threat of "agri-terrorism".¹⁰

4.17 The Beale report made 84 recommendations proposing reforms to strengthen Australia's biosecurity and quarantine arrangements, in addition to improvements to governance arrangements, transparency and timeliness. The recommendations relate to the following areas:

- a national biosecurity system;
- a national agreement on biosecurity;
- independent, science-based decision making;
- institutional arrangements;
- sharing responsibility;
- Australia's ALOP and its implementation and legislation;
- balancing risk and return;
- ensuring the integrity of the system; and
- resourcing the biosecurity system.¹¹

4.18 In its preliminary response to the Beale report in December 2008, the Government noted that the review panel, chaired by Mr Beale, "has presented a far-reaching a comprehensive blueprint for a stronger Australian biosecurity system".¹² The Government also offered in-principle support for all of the panel's 84 recommended reforms and noted that:

These reforms are aimed at preparing Australia for future challenges and making systemic improvements to areas in need of immediate reform.

These reforms strike the right balance and will restore integrity and confidence to our quarantine and biosecurity system.¹³

9 Department of Agriculture, Fisheries and Forestry, *Review of Australia's Quarantine and Biosecurity Arrangements – Preliminary Government Response*, December 2008, p. 1.

10 Department of Agriculture, Fisheries and Forestry, *Review of Australia's Quarantine and Biosecurity Arrangements – Preliminary Government Response*, December 2008, p. 1.

11 Beale, Roger et al, *One Biosecurity: a working partnership*, September 2008, pp xxxi-xlvi.

12 Department of Agriculture, Fisheries and Forestry, *Review of Australia's Quarantine and Biosecurity Arrangements – Preliminary Government Response*, December 2008, p. 1.

13 Department of Agriculture, Fisheries and Forestry, *Review of Australia's Quarantine and Biosecurity Arrangements – Preliminary Government Response*, December 2008, p. 3.

4.19 DAFF indicated that following the Beale Review "the department has been progressing reform to deliver a modern biosecurity system that is responsive and targeted".¹⁴ DAFF also stated that biosecurity reform has been supported by the provision of funding through successive budgets and work has been progressing on the development of a comprehensive policy framework, including:

- moving to a risk-based approach for biosecurity supported by intelligence, analysis, risk profiling, operational changes and feedback capabilities;
- increasing the management of risks offshore;
- building the capability and capacity to proactively anticipate, detect and respond to emerging pests and disease threats;
- improving partnerships between the Commonwealth, states and territories, industry, trading partners and the community;
- enhancing co-regulatory arrangements with industry partners;
- enhancing export market access;
- enhancing audit and verification activities;
- new biosecurity legislation to replace the *Quarantine Act 1908* and associated civil enforcement activities;
- business improvements, information and communication technology (ICT) systems, training and communication to support the new legislation and new business model;
- updating import conditions and facilitating more efficient importation of goods; and
- urgent maintenance and refurbishment of existing post-entry quarantine facilities and the purchase of land and design for future arrangements.¹⁵

4.20 In the update provided, DAFF also reported that a considerable amount of work has been completed (and changes made) in the move toward reform:

Moving to a risk based approach

- Moving away from mandatory intervention targets for international passengers and mail, arriving international sea vessels, sea and air cargo containers and for high volume, low value consignments.
- Changes have been made to the use of detector dogs at airports and mail centres – instead of working around the baggage carousels at airports,

14 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. 9.

15 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. 9.

quarantine detector dogs are now used in dedicated dog channels to screen passengers who have been assessed as being more likely to be carrying high risk material.

- A review of import conditions for plant based products has removed the need for an import permit for highly processed plant products – this has reduced the number of permit assessments required annually, with no change to the biosecurity risk.¹⁶

Managing biosecurity risk across the continuum

- A new approach to the risk profiling of vessels from Asian countries for the forestry pest Asian Gypsy Moth has been developed using remote geo-spatial analysis. This approach allows improved targeting of at-risk ports and more effective interventions at the border in Australia.
- DAFF and the Australian Customs and Border Protection Service have developed shared communication products targeting travellers returning to Australia from high risk destinations in South East Asia.
- The Australia Indonesia Partnership for Emerging Infectious Diseases – Animal Health 2010-2014 – is an AusAID funded program implemented by DAFF. It aims to build the institutional strength of animal health agencies in Indonesia. Similar work on a smaller scale continues in Timor Leste and Papua New Guinea.¹⁷

Partnerships with stakeholders

- The Intergovernmental Agreement on Biosecurity has been negotiated to strengthen the collaborative approach between the Commonwealth and state and territory governments in addressing Australia's biosecurity issues.
- The Biosecurity Advisory Council was established on 1 January 2010 and meets regularly to develop independent, strategic advice on biosecurity issues for the Minister for Agriculture, Fisheries and Forestry.
- In March 2011 a remote diagnostic microscope was installed in Papua New Guinea to enable better collaboration and information sharing on emergency plant pests.¹⁸

16 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. 12.

17 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, pp 13-14.

18 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. 15.

Intelligence-led and evidence-based decision making

- DAFF is working in partnership with the Australian Customs and Border Protection Service to improve its intelligence and targeting capability.
- The Aquatic Animal Health Training Scheme for practising aquatic animal health professionals has been launched, with applications closing in April 2012. The Scheme will improve knowledge and skills in aquatic animal health management to support Australia's fishing and aquaculture industry.
- A Postgraduate Curriculum in Plant Biosecurity has been developed to build expertise and capacity for plant biosecurity management. Enrolments in the course commenced in 2010 across five universities.
- A new Master of Veterinary Public Health (Emergency Animal Disease) course has been developed and will commence at the University of Melbourne in the second half of 2012.¹⁹

Modern legislation, technology, funding and business systems

- An Interim Inspector General of Biosecurity was appointed in July 2009 to conduct independent audits of Australia's biosecurity systems, with a statutory position to be established under the new biosecurity legislation.
- DAFF has invested in the establishment of an information services division with a view to modernising and optimising the use of technology across all biosecurity services.
- DAFF has set up a network of computer-connected microscopes so that entomologists in one location can look at a specimen elsewhere. The technology has sped up identification (and confirmation of identification) of insects.
- Existing biosecurity funding arrangements are being reviewed to ensure that funding appropriately supports the reformed system and is aligned with government policies including cost recovery principles.²⁰

4.21 It is noted that in anticipation of a number of longer term changes to Australia's biosecurity and quarantine arrangements, a number of interim arrangements were implemented. These included:

- consolidation of 'pre-border and post border biosecurity functions' with DAFF's Biosecurity Services Group. This change anticipates the Beale Review's recommendations relating to institutional arrangements

19 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, pp 16-17.

20 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. 18.

(recommendations 16 to 22), which propose the consolidation of DAFF's biosecurity activities and, ultimately, the establishment of an independent statutory authority;

- expansion of the Eminent Scientists Group (ESG) to include an eminent economist (Beale Review recommendation 13); and
- appointment of a Biosecurity Advisory Council (BAC) to replace the Quarantine and Exports Advisory Council (Beale Review recommendation 23). The BAC advises the Minister for Agriculture, Fisheries and Forestry on biosecurity matters.²¹

It is also noted that the Import Risk Analysis (IRA) Handbook was updated in July 2009 to reflect the changes outlined above.

Issues raised

4.22 The Preliminary Government response tabled in December 2008 advised that the Government's response to the reforms proposed were underway. The response also noted that:

Changes proposed by the...[Beale Review] are extensive and wide-ranging, and the Government's response will take some time.²²

4.23 Whilst submitters to the inquiry acknowledged that DAFF has been working toward reform stakeholders were generally of the view that progress toward the implementation of the Beale Review recommendations has been "very slow".²³

4.24 Citrus Australia's submission noted that, with the exception of Recommendation 79,²⁴ there is general in-principle support for the 84 recommendations of the Beale Review. In addition, Citrus Australia argued that whilst the Beale Review provides a welcome focus on biosecurity and import quarantine, it does not "provide the same focus on export quarantine, market access and development reform and poorly targets cost recovery to fund biosecurity reform through export certification".²⁵

21 Department of Agriculture, Fisheries and Forestry, *Update to the Import risk analysis handbook 2007*, 1 July 2009, p. 1.

22 Department of Agriculture, Fisheries and Forestry, *Review of Australia's Quarantine and Biosecurity Arrangements – Preliminary Government Response*, December 2008.

23 Qantas Airways Limited, *Submission 34*, p. 3. See also Mr Neil Donaldson, *Submission 1*, Apple and Pear Australia Limited, *Submission 6*, and Shipping Australia Limited, *Submission 12*, p. 1.

24 Recommendation 79: Export Certification Functions should return to 100 per cent cost recovery at the beginning of July 2009.

25 Citrus Australia, *Submission 20*, p. 6.

4.25 The Board of Airline Representatives of Australia (BARA) acknowledged that there have been general improvements in passenger facilitation rates and freight inspection procedures as a result of greater acceptance of risk analysis following the Beale Review. However:

...it is BARA's view that overall progress in implementing the recommendations of the Beale Review has been slower than desirable. Whilst BARA welcomes the arrangements established by the Department [DAFF] to improve communications with stakeholders, the final structure of the reorganised Department is still awaited. The full extent of the communications improvements will only become apparent when that process has been finalised. BARA also notes that progress on drafting the replacement for the Quarantine Act 1908 has been slow.²⁶

4.26 Plant Health Australia (PHA) noted that the findings of the Beale Review and their broad support from government "reinforced the primacy of the framework of shared responsibility and confirmed the significant public good in maintaining a world-class national biosecurity system".²⁷ PHA indicated its support for this view and argued that the benefits of the government-industry partnership should continue to be acknowledged. PHA also argued that:

Three years on from completion of the Beale Review it is important now that momentum be maintained. Approval of proposed new national Biosecurity legislation will be an important milestone.²⁸

Committee view

4.27 The committee notes DAFF's assertion that the biosecurity and quarantine reform program will ultimately have a range of benefits, including "a more efficient management of biosecurity risks, increased productivity in agriculture, facilitation of international trade and protection of Australia's unique environment".²⁹

4.28 The committee notes that DAFF has been at the centre of the planning, development and implementation of a number of important reforms and the committee acknowledges the considerable work undertaken by the department in relation to the reform program and the achievements made to date.

4.29 The committee notes DAFF's advice that the reform program is "moving forward at a measured pace; with funding considered as part of the usual budget processes."³⁰ The committee understands that it has been necessary to implement

26 Board of Airline Representatives of Australia, *Submission 33*, p. 3.

27 Plant Health Australia, *Submission 52*, p. 10.

28 Plant Health Australia, *Submission 52*, p. 10.

29 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. 20.

30 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. 10.

some aspects of the reform process incrementally (based on both funding and available resources), however it also acknowledges the concerns of stakeholders who argue that the reform process has been very slow.

4.30 The committee is concerned that the management of reforms and inadequate resourcing has put undue pressure on the agency to both carry out its work and complete reforms.

4.31 Over the last two years, the committee have seen the need to continuously look for additional funds to continue reform processes because the views of industry (proven to be correct) have not been heeded.

Recommendation 2

4.32 The committee recommends that the Government give higher priority to funding and implementation of the Beale Review reforms.

4.33 DAFF's advice is that the proposed new legislation to replace the *Quarantine Act 1908* is close to finalisation – with the new Biosecurity Bill exposure draft and a consultation regulation impact statement scheduled to be released in the first half of 2012. DAFF has also indicated that it is proposed that the new Biosecurity Bill will be introduced to Parliament in the second half of 2012. As previously noted, the committee is interested in conducting a detailed inquiry, both of the exposure draft and/or the proposed new legislation.

Recommendation 3

4.34 The committee recommends that the Senate refer the exposure draft (and the consultation regulation impact statement) in relation to the new Biosecurity Bill to the Senate Rural and Regional Affairs and Transport Legislation Committee for inquiry and report.

4.35 The committee notes that it has limited the number of recommendations made in its current report to three. The small number of recommendations, however, does not indicate a lack of concern regarding many issues. As outlined in the report, the committee has, over a long period of time, taken a very serious interest in the issue of Australia's biosecurity and quarantine arrangements. The committee will wait until it sees the exposure draft before it determines whether its concerns have been alleviated.

Senator the Hon. Bill Heffernan

Chair

Dissenting Report by Government Senators

1.1 The Government Senators disagree with several of the recommendations found in the majority report.

1.2 The Government Senators note that a number of the findings in the majority report appear to be generated from correspondence and discussions held directly between Coalition members and stakeholders rather than from evidence presented to the committee. Such findings should not be presented as outcomes of committee process.

1.3 The Government Senators acknowledge there are a range of pressures facing Australian exporters, including food exporters. In this context the Government Senators reject the majority view that AQIS fees and charges will make Australian businesses uncompetitive. The Government is committed to continued consultations with the industry that will lead to a removal of red tape, support regional jobs and improve Australia's competitiveness.

1.4 The Government Senators reject the majority view that the Government is using a 'take it or leave it' approach in regards to negotiations with stakeholders. The evidence brought before the committee does not reflect this.

1.5 The Government Senators note the contradictory nature of the committee view in the majority report which criticises the Government for its lack of consultation with stakeholders and its alleged "*take it or leave it approach*" at the same time it criticises the government for the time and resources taken to carry out these negotiations.

1.6 The Government Senators do not agree with the committee view that the Department of Agriculture, Fisheries and Forestry has had insufficient funding to carry out its reforms and negotiations with stakeholders.

1.7 In relation to Recommendation 1, Government Senators note the following:

- the recommendation is not consistent with that of the Beale Review;
- the Coalition should specify whether this recommendation is consistent with its stated support of the Beale Review;
- that the *Import Risk Analysis* appeals process was first outlined in the *Import Risk Analysis Handbook* published by the Howard Government in 2000;
- the Handbook takes account of reforms to the import risk analysis process announced by the Australian Government in October 2006 and implemented in 2007;
- that the document has not had any significant amendments since this date; and

- the Coalition's recommendations appear based on correspondence between Coalition members and industry stakeholders rather than evidence presented to the committee.

1.8 In relation to Recommendation 2, Government Senators note the following:

- the Government continues to implement a staged and responsible approach to reform;
- the Minister for Agriculture, Fisheries and Forestry is continuing discussions with the industry and stakeholders regarding the recommendations of the Beale Review and other reforms;
- the Government agreed in-principle to implement the recommendations of the Beale Review, yet the Coalition consistently attacks the Government when it implements the risk/return framework advocated by the Beale Review Panel;
- that the Beale review was critical of the Coalition's Mandatory Intervention Targets; and
- that the Coalition's policy had diminished the Australian Government's capacity to perform proper risk assessments.

1.9 In relation to Recommendation 3, Government Senators note this recommendation.

In conclusion, Government Senators oppose Recommendations 1 and 2 of the majority report.

Senator Glenn Sterle

Deputy Chair

Additional Comments by Senator Nick Xenophon

1.1 Australia's biosecurity and quarantine arrangements are of paramount importance in protecting Australia's reputation as a clean, green and disease-free producer of food. While I support the Committee's intention to hold a comprehensive inquiry into the Government's forthcoming legislation, I am concerned that, in the meantime, important issues are not being addressed with appropriate urgency by the Government.

1.2 It is vital that biosecurity and quarantine concerns take precedence over trade agreements. Most recently, we have seen the example of Australia being required to accept apples from New Zealand under the Closer Economic Relations agreement, despite the fact that New Zealand apples carry the risk of fire blight. Although DAFF has set out measures under which these apples can be accepted into Australia, it has been reported that many consignments have been turned back because of possible contaminated material¹. It is very concerning that New Zealand is now also threatening Australia with an appeal to the World Trade Organisation after the Tasmanian Government's decision not to allow the imports². It is unacceptable that a trade agreement would be allowed to jeopardise a major Australian industry, given the irrevocable harm an outbreak of fire blight would cause.

1.3 In response to this situation, I introduced the *Quarantine Amendment (Disallowing Permits) Bill 2011*, which effectively made Biosecurity Policy Determinations and permits to import, introduce or bring in an animal, plant, substance or thing disallowable instruments. Along with the associated measures in the Bill, this would mean that the decision to allow (or disallow) imports would be open to much greater scrutiny and transparency than is currently the case.

1.4 While I note the concerns raised during the inquiry into this Bill, I still believe that similar measures would be the best way to address these issues.

1.5 The example of New Zealand apples is indicative of a wider problem, where imports that could pose a real risk to Australian agriculture have been considered for approval due to trade agreements. These include the initial decision relating to beef imports from countries affected with BSE (which has since been postponed until a Risk Import Analysis is completed), and concerns relating to the importation of raw pork products into New Zealand and the repercussions this could have on Australia.

1.6 I also note the Committee's previous inquiry into the eradication of the Asian Honey Bee, and the concerns that were raised during this inquiry. This particular example demonstrates the importance of how Australia's biosecurity and quarantine arrangements work once a pest has reached our shores. I believe the whole-of-

1 Dubravka Voloder, 'Quarantine, costs bite apple imports', ABC News, 4 November 2011

2 Sue Neales, 'NZ threatens WTO action on Tasmania's apple import ban', *The Australian*, 12 January 2012

Government response to the Asian Honey Bee outbreak was inadequate and could be symptomatic of deeper problems in dealing with pests and disease.

1.7 I endorse the Committee's comments in relation to the removal of the fee rebate for AQIS certification functions, both in the Committee's interim and final reports. I strongly encourage the Committee to continually monitor this transition period, as there are very real concerns about the impact this is having on small to medium businesses. Further, given the pressure Australian agriculture and food processors are under with the high Australian dollar, low commodity prices and other costs pressures, the Government should reinstate the rebate as a matter of urgency.

1.8 I also note that AQIS' cost recovery arrangements are set out not only to recoup the cost of the inspectors themselves, but also associated costs. In response to a question I placed on notice during Additional Estimates in February this year, AQIS stated that approximately 66 percent of the fee or charge accounts for the direct cost of inspectors, while the remaining 34 percent "contributes to the costs of direct program management and administration, supporting IT systems and supporting corporate activities such as payroll, finance and accounting services".³ It would be useful to clarify whether these additional items should be included in the cost recovery process; it is reasonable to assume that this is appropriate if they directly relate to the program in question, but it would be preferable for this to be specifically enforced.

1.9 I acknowledge concerns among submitters, as referenced in the Committee's report, about the slow pace of implementing the Beale review's recommendations. I agree with these concerns, and I strongly encourage the Committee to consider this as part of any future inquiry into the Government's proposed biosecurity legislation.

1.10 While I support the Committee's intention to hold an inquiry into this future bill, it is very disappointing to find that the Committee has not seen fit to make further recommendations, which could have been taken into account by the Government as part of their consultation process on the upcoming legislation.

1.11 It is time for clear, decisive action to overhaul Australia's quarantine and biosecurity processes. Our reputation as a clean, disease-free environment holds great weight in the international community, and we should not risk or indeed squander that reputation. All future reforms in this sector must prioritise this reputation, and the reputations of our growers and producers. Only in doing this will we secure the economic future of Australia's food production.

Recommendation: That, given the current external pressures facing Australia's food producers and processors, the AQIS rebate be reinstated as a matter of urgency.

NICK XENOPHON
Independent Senator for South Australia

3 Senate Rural and Regional Affairs and Transport Committee, Answers to questions on notice, Agriculture, Fisheries and Forestry Portfolio, Additional Estimates 2012, Question 70

Appendix 1

Submissions Received

Submission Number	Submitter
1	Mr Neil Donaldson
2	National Herd Improvement Association of Australia Inc.
3	CRC for National Plant Biosecurity
4	Australian Racing Board Limited
5	Riverina Citrus
6	Apple and Pear Australia Limited
7	The Zoo and Aquarium Association
8	Nursery and Garden Industry Australia
9	CONFIDENTIAL
10	Zoos South Australia
11	Australian Agricultural Commodities Pty Ltd
12	Shipping Australia Ltd
13	Victorian Wine Industry Association
14	Animal Health Alliance (Australia) Ltd
15	Zoos Victoria
16	Mr John Landos, Quarantine and Inspection Resources Pty Ltd
17	Bromeliad Society of QLD
18	Tasmanian Farmers and Graziers Association (TFGA)
19	Priam Australia
20	Citrus Australia Ltd
21	Australian Maritime College (AMC)
22	Sydney Airport Corporation Ltd (SACL)
23	Australian Shipowners Association (ASA), Ports Australia and Shipping Australia Ltd (SAL)
24	National Farmers' Federation Ltd (NFF)
25	CONFIDENTIAL
26	Australian Wildlife Health Network (AWHN)
27	Harness Racing Australia Inc (HRA)
28	Professor Jim Franklin, School of Mathematics and Statistics , University of NSW
29	QLD Dept of Employment, Economic Development and Innovation (DEEDI)
30	Mr Bob Steel
31	Dept. of Resources, Energy and Tourism (RET)

- 32 Dr Tim Mather BVSc FAICD, Veterinary Advisory Services
- 33 Board of Airline Representatives of Australia (BARA)
- 34 Qantas Airways Ltd
- 35 Council for the National Interest - Western Australian Committee
- 36 Australian Veterinary Association (AVA)
- 37 Customs Brokers and Forwarders Council of Australia Inc. (CBFCA)
- 38 Tasmanian Department of Primary Industries, Parks, Water and Environment (DPIPWE) - Biosecurity and Product Integrity Division
- 39 South Australian Department of Primary Industries and Resources
- 40 Industry Working Group on Quarantine (IWGQ)
- 41 Agribusiness Research and Management
- 42 Dr Ben Diggles, DigsFish Services Pty Ltd
- 43 Tourism and Transport Forum
- 44 WA Farmers Federation Inc.
- 45 Community and Public Sector Union (CPSU)
- 46 Office of the Commonwealth Ombudsman
- 47 Commercial Egg Producers' Association of Western Australia (Inc.)
- 48 Australian Prawn Farmers Association
- 49 Australian Horticultural Exporters Association (AHEA)
- 50 Australian Council of Wool Exporters and Processors Inc.
- 51 Commonwealth Fisheries Association
- 52 Plant Health Australia
- 53 Agribusiness Research and Management
- 54 UNALLOCATED
- 55 Cherry Growers Association
- 56 Summerfruit Australia Ltd.
- 57 Sunraysia Table Grape Growers Association Inc
- 58 Australasian Plant Pathology Society
- 59 Victorian Farmers Federation Beekeeper Branch
- 60 Victorian Farmers Federation
- 61 Australian Meat Industry Council
- 62 Australian Dairy Industry Council
- 63 Kangaroo Industries Association of Australia
- 64 Community and Public Sector Union (CPSU)
- 65 Department of Agriculture, Fishery and Forestry
- 66 Australian Table Grape Association
- 67 Cattle Council of Australia

Additional Information Received

- Received on 14 February 2011, from the Tasmanian Department of Primary Industries, Parks, Water & Environment.
 - *'Tasmanian Biosecurity Strategy, Ensuring Tasmania's Biosecurity Future'* report;
 - *'Tasmanian Biosecurity Policy, Ensuring Tasmania's Biosecurity Future'* brochure;
 - *'Import Risk Analysis, A framework of context, concepts, methods and administrative procedures'* report.
- Received on 21 February 2011, from Nursery and Garden Industry Australia (NGIA). Answers to Questions taken on Notice on 14 February 2011;
- Received on 4 March 2011, from the Department of Agriculture, Fisheries and Forestry (DAFF). Answers to Questions taken on Notice on 14 February 2011;
- Received on 11 March 2011, from Riverina Citrus. Answers to Questions taken on Notice on 14 February 2011;
- Received on 3 August 2011, from the Department of Agriculture, Fisheries & Forestry (DAFF). Answers to Questions taken on Notice on 8 July 2011;
- Received on 3 August 2011, from the Department of Agriculture, Fisheries & Forestry (DAFF). Answers to Questions taken on Notice on 21 July 2011;
- Received on 4 August 2011, from the Australian Quarantine & Inspection Service (AQIS), Department of Agriculture, Fisheries & Forestry (DAFF). Answers to Questions taken on Notice during the committee site visit in Sydney on 27 & 28 June 2011;
- Received on 5 August 2011, from the Department of Agriculture, Fisheries & Forestry (DAFF). Correction to evidence provided to committee on 8 July 2011;
- Received on 30 November 2011, from Mr Greg Darwell, Mulwarra Export P/L. Additional information provided to the committee following the public hearing on 29 November 2011;
- Received on 5 December 2011, from Kangaroo Industries Association of Australia. Answers to Questions taken on Notice on 29 November 2011;
- Received on 5 December 2011, from the Department of Agriculture, Fisheries and Forestry (DAFF). Answers to Questions taken on Notice on 29 November 2011;
- Received on 5 December 2011, from Mr Greg Darwell, Mulwarra Export P/L. Additional information provided to the committee following the public hearing on 29 November 2011;

- Received on 6 December 2011, from the Senator the Hon. Joe Ludwig, Minister for Agriculture, Fisheries and Forestry. Correspondence from the Minister to Mr Max Summers, CEO, Australian Horticulture Exporters Association (AHEA) regarding evidence given at hearing of 29 November 2011 by AHEA representatives;
- Received on 6 December 2011, from Mr David Minnis, Australian Horticultural Exporters Association (AHEA). Answers to Questions taken on Notice on 29 November 2011;
- Received on 7 December 2011, from the Department of Agriculture, Fisheries and Forestry (DAFF). Response to statements made by:
 - Mr Greg Darwell, Mulwarra Export P/L in additional information to the committee on 5 December 2011; and
 - Mr David Minnis, Australian Horticultural Exporters Association (AHEA) in Answers to Questions taken on Notice from 29 November 2011, submitted to committee on 6 December 2011;
- Received on 12 December 2011, from Mr Daryl Young, Australian Agricultural Crop Technologies. Answers to Questions taken on Notice on 29 November 2011;
- Received on 21 December 2011, from Mr Tony Klausner, Spiess Australia Smallgoods. Answers to Questions taken on Notice on 29 November 2011;
- Received on 9 March 2012, from Mr Conall O'Connell, Secretary, Department of Agriculture, Fisheries and Forestry (DAFF). *'Reform of Australia's biosecurity system, An update since the publication of One Biosecurity: a working partnership'* report.

Tabled Documents

- Tabled by Ms Annie Farrow, Industry Services Manager, Apple and Pear Australia Limited on 14 February 2011 in Canberra. Apple and Pear residue testing data table;
- Tabled by Mr Gary Burridge, Australian Meat Industry Council (AMIC) on 7 July 2011 in Canberra. Introductory comments to Senate hearing;
- Tabled by Mr Andrew Spencer, Australian Pork Limited on 8 July 2011 in Canberra. Introductory statement;
- Tabled by Mr Lach MacKinnon, Australian Livestock Exporters Council on 8 July 2011 in Canberra.
 - Opening comments '*AQIS Reform Agenda*';
 - Extract of unnamed document, (p.3 of 29). '*Figure 1: Livestock Morality for Export by Sea (2000-2010)*';
 - Series of graphs:
 - '*LAE Revenue*';
 - '*LAE Expenditure*';
 - '*Staff Costs v's No Head Exported*';
 - '*Total Livestock exported by Year*';
 - '*LAE Cost per Head Trend*'.
 - '*OECD Trade & Agriculture Directorate*' Graphs:
 - '*Why is this important for Australia?*';
 - '*Support differs widely (Producer Support Estimates as a percent of gross farm receipts)*';
 - Tabled by Mr Alastair Scott, Australian Horticultural Exporters Association (AHEA) on 29 November 2011 in Canberra. Presentation to the committee;

Appendix 2

Public Hearings and Witnesses

Monday, 14 February 2011, Canberra

- BATTISTER, Mr Frank , Chairman,
Riverina Citrus
- BISHOP, Mr Andrew, Manager,
Biosecurity and Plant Health Branch and Chief Plant Health Manager (Tasmania),
Department of Primary Industries, Parks, Water and Environment, Tasmania
- CARROLL, Dr Andy, Chief Veterinary Officer,
Department of Agriculture, Fisheries and Forestry
- CHAPMAN, Mr Tim, Executive Manager,
Quarantine Operations Division, Biosecurity Services Group, Department of
Agriculture, Fisheries and Forestry
- DOYLE, Dr Kevin, National Veterinary Director,
Australian Veterinary Association
- FARROW, Ms Annie, Industry Services Manager,
Apple and Pear Australia Ltd
- HINDER, Ms Nicola, General Manager, Partnerships,
Department of Agriculture, Fisheries and Forestry
- LOVETT, Professor John, Chairman,
CRC for National Plant Biosecurity
- MAGEE, Mr Bill, General Manager,
Plant Biosecurity (Grains and Forestry), Biosecurity Services Group, Department
of Agriculture, Fisheries and Forestry
- McDONALD, Mr John, Industry Development Manager (National Biosecurity
Portfolio), Nursery and Garden Industry Australia
- McKIRDY, Dr Simon, Chief Executive Officer,
CRC for National Plant Biosecurity
- MELLOR, Ms Rona, Acting Secretary,
Department of Agriculture, Fisheries and Forestry
- O'BRIEN, Ms Lynne Maree, Executive Manager, Biosecurity Services Group—
Regional & Business Services, Department of Agriculture, Fisheries and Forestry
- PHILLIPS, Mr Russell, Acting Executive Manager, Strategic Projects Division,
Department of Agriculture, Fisheries and Forestry

- PRINCE, Mr Robert, Chief Executive Officer, Nursery and Garden Industry Australia
- READ, Mr Greg, Executive Manager, Food Division, Biosecurity Services Group, Department of Agriculture, Fisheries and Forestry
- TESTONI, Mr Dominic Claudio, Chief Executive Officer, Riverina Citrus
- WEPPLER, Mr Rob, Board Member, Riverina Citrus

Thursday, 7 July 2011, Canberra

- BURRIDGE, Mr Gary Forbes, Chairman, Australian Meat Industry Council
- CULLEN, Mr Ron, Chief Executive Officer, Sheepmeat Council of Australia
- FLETCHER, Mr Roger James, Board Member, Australian Meat Industry Council
- JEFFRIESS, Mr Brian, Director, Commonwealth Fisheries Association
- LANGBRIDGE, Dr John David, Veterinary Counsel, Australian Meat Industry Council
- MADON, Ms Trixie, Chief Executive Officer, Commonwealth Fisheries Association
- MARTYN, Mr Stephen John, National Director Processing, Australian Meat Industry Council
- MINNIS, Mr David Charles, Exporter; Member, Australian Horticultural Exporters Association
- SCOTT, Mr Alastair Lascelles Hannay, Executive Member, Australian Horticultural Exporters Association

Friday, 8 July 2011, Canberra

- CALHOUN, Mrs Kylie, General Manager, Plant Export Operations Branch, Department of Agriculture, Fisheries and Forestry
- CLAMP, Mr Phillip, Quality Assurance Manager, GrainCorp Operations Ltd
- CLEGG, Dr Narelle, General Manager, Residue and Food Safety, Department of Agriculture, Fisheries and Forestry
- DORNOM, Ms Helen, Manager Sustainability, Dairy Australia
- JUDD, Mr Wesley, Chairman, Australian Dairy Industry Council
- MacKINNON, Mr John Lachlan, Chief Executive Officer, Australian Livestock Exporters Council
- McDONALD, Dr Ann, General Manager, Export Reforms Branch, Department of Agriculture, Fisheries and Forestry
- MELLOR, Ms Rona, Deputy Secretary, Department of Agriculture, Fisheries and Forestry
- MERRILEES, Mr Dean, General Manager, Export Standards Branch, Department of Agriculture, Fisheries and Forestry
- MORGAN, Dr Peter David, Executive Director, Australian Council of Wool Exporters and Processors
- O'CONNELL, Dr Connall, Secretary, Department of Agriculture, Fisheries and Forestry
- READ, Mr Greg, Executive Manager, Food Division, Department of Agriculture, Fisheries and Forestry
- SALTER, Mr William, Manager, Supply Chain Systems Integration, Australian Pork Limited
- SCHIPP, Dr Mark, Chief Veterinary Officer, Animal Division, Department of Agriculture, Fisheries and Forestry
- SPENCER, Mr Andrew, Chief Executive Officer, Australian Pork Limited
- STAHLER, Dr Peter, Executive Director, Australian Dairy Products Federation
- WINTER, Mr Edmund Simon, Project Manager, Australian Livestock Exporters Council

Thursday, 21 July 2011, Canberra

- BENYEI, Mr Jonathan, Executive Manager, Biosecurity Quarantine Operations, Department of Agriculture, Fisheries and Forestry
- BRENNAN, Mr Tom, Legal Counsel, Apple and Pear Australia Ltd
- CORBOY, Mr John, Technical Adviser, Apple and Pear Australia Ltd
- FINDLAY, Dr Vanessa Louise, General Manager, Plant Biosecurity, Department of Agriculture, Fisheries and Forestry
- GRANT, Dr Colin, Chief Executive, Biosecurity Australia, Department of Agriculture, Fisheries and Forestry
- MELLOR, Ms Rona-Louise, Deputy Secretary, Department of Agriculture, Fisheries and Forestry
- RANFORD, Mr Trevor, Technical Adviser, Apple and Pear Australia Ltd
- RITMAN, Dr Kim, Chief Scientist, ABARES, Department of Agriculture, Fisheries and Forestry

Tuesday, 29 November 2011, Canberra

- CALHOUN, Mrs Kylie, Acting Assistant Secretary, Department of Agriculture, Fisheries and Forestry
- COOPER, Ms Barbara, Acting Assistant Secretary, Food Exports Branch, Food Division, Biosecurity, Department of Agriculture, Fisheries and Forestry
- DARWELL, Mr Greg, Managing Director, Mulwarra Export
- FLINTOFT, Mr James, Acting Deputy Secretary, Department of Agriculture, Fisheries and Forestry
- HILTON, Mr Gabor, Engineering Manager, Oxford Cold Storage Co. Pty Ltd; and Life Member, Refrigerated Warehouse and Transport Association of Australia
- KELLY, Mr John, Executive Officer, Kangaroo Industries Association of Australia
- KLAUSNER, Mr Tony, Managing Director, Spiess Australia Smallgoods

- McDONALD, Mr Brett, General Manager,
Bankstown Cold Store and Homebush Export Meat Co. Pty Ltd
- McDONALD, Ms Ann, Assistant Secretary, Export Reform Branch, Food
Division, Department of Agriculture, Fisheries and Forestry
- MERRILEES, Mr Dean, Assistant Secretary, Animal Export Operations
Branch, Department of Agriculture, Fisheries and Forestry
- MINNIS, Mr David Charles, Spokesman/member,
Australian Horticultural Exporters Association
- MOORE, Mr John, CEO,
Summerfruit Australia Ltd
- READ, Mr Gregory, First Assistant Secretary,
Department of Agriculture, Fisheries and Forestry
- SCOTT, Mr Alastair Lascelles Hannay, Executive Member,
Australian Horticultural Exporters Association
- YOUNG, Mr Daryl William, Manager,
Australian Agricultural Commodities Pty Ltd, trading as Australian
Agricultural Crop Technologies

Appendix 3

Alternative Appropriate Level of Protection (ALOP) Statement provided by Tasmanian Department of Primary Industries, Parks, Water and Environment¹

1.1 Australia's Appropriate Level of Protection (ALOP) is the standard of biosecurity the Australian Government applies when regulating pest and disease risks associated with international trade and travel.

1.2 Australia's ALOP provides a high level of sanitary and phytosanitary protection aimed at reducing risk to a very low level. This reflects the community's aspirations for healthy environments, healthy people and a thriving economy while maintaining our nation's connectedness with the rest of the world.

1.3 ALOP therefore recognises that pest risks that come with travel and trade may be minimised but that it is rarely possible to reduce these to zero without forgoing the benefits of these activities. However, if serious pest risks cannot be effectively mitigated, the Australian Government will exercise its right to prohibit an import or other inbound movement so that ALOP is met.

1.4 Decisions about import risk are made using a structured assessment process that uses a risk estimation matrix.² The matrix combines estimates of likelihood of pest entry, establishment and spread, and the overall consequences were that to happen.

1.5 The likelihood of pest entry, establishment and spread is estimated in consistent qualitative terms³ over the anticipated duration and volume of trade or other inbound movement.

1.6 The potential magnitude of consequences is estimated by assessing impacts on communities, environments and economies at local, district, regional and national scales.

1.7 Sanitary and phytosanitary measures designed to satisfy Australia's ALOP apply to all Australian territory unless a region(s) is likely to be subject to significantly different risk compared with the remainder of the country. That region(s)

1 Tasmanian Department of Primary Industries, Parks, Water and Environment, *Submission 38*, pp. 3-4.

2 Refers to the risk estimation currently used by Biosecurity Australia in its Import Risk Analyses.

3 Refers to the qualitative scheme for estimating likelihood currently used by Biosecurity Australia.

may be subject to different sanitary and phytosanitary measures if these can be effectively implemented.

1.8 The Australian Government takes a prudent approach to uncertainty in the nature of biosecurity risk, particularly, if potential consequences of pest establishment and spread are likely to be severe or irreversible.

Appendix 4

Chapter Three - Conclusions and Recommendations

Rural Affairs and Transport References Committee Report – *Biosecurity and quarantine arrangements – Interim report: the management of the removal of the fee rebate for AQIS export certification functions*

3.1 As noted in the previous chapter, the Rural and Regional Affairs and Transport References Committee (RRAT References Committee) examined DAFF's implementation of the Export Certification Reform Package (ECRP) during its 2009 inquiry into the *Management of the removal of the rebate for AQIS export certification functions*.

3.2 Throughout the 2009 inquiry, the RRAT References Committee noted that overall, industry organisations were of the view that the reform process – particularly the consultation process – had been poorly designed. The RRAT Reference Committee's report also concluded that:

- whilst industry is prepared to engage in discussions with DAFF regarding the reform agenda, it is not prepared to pay what amount to significant additional costs for the Government to become more efficient (particularly when there is limited confidence that specific efficiencies can be delivered);
- the Government's decision to return to full cost recovery for AQIS services has the potential to have a significant negative impact on small to medium exporters – particularly in terms of regional exports and business development;
- whilst reforms to the AQIS Export Certification program may be necessary, they should be phased in, with additional funding provided where needed.

3.3 The committee notes that several of the concerns raised during the 2009 inquiry, and the conclusions reached by the RRAT References Committee, continue to be relevant, and a number of these issues have been re-examined during the committee's current inquiry process.

Consultation process

3.4 Evidence to the committee indicated that the efficacy of the Ministerial Task Force (MTF) model of consultation varied between sectors. For some sectors it has been successful, while for others, the model was not flexible or inclusive enough to allow for effective consultation with all stakeholders. Evidence also indicated that the level of consultation during the process has continued to vary dramatically from sector to sector.

3.5 The committee acknowledges the concerns of those industry representatives who indicated that they had been requested to maintain confidentiality regarding the MTF consultation process. The committee is concerned that this type of emphasis on confidentiality is not appropriate in these circumstances. The committee believes that requesting MTF members to maintain confidentiality has the effect of stifling debate and wider discussion across industry sectors.

3.6 The committee notes that in maintaining its commitment to the sole use of the MTF process, DAFF is now facing the situation of undertaking one-on-one consultations with a number of industry sectors, organisations and small businesses that were not included in the primary negotiations or represented by peak industry bodies.

3.7 The committee received evidence to suggest that one of the reasons these small businesses and organisations were overlooked during the consultation process, is that DAFF currently does not have an appropriate system for communicating with all key stakeholders. The committee regards this as problematic, given that AQIS is moving toward becoming a more commercially focused operation and there will be a continual requirement to consult with industry and provide updates and advice regarding changes to policy, fees and charges etc.

3.8 The committee also believes that DAFF's current inability to quickly contact all members of a specific industry sector, brings into question DAFF's ability to respond to a potential disease outbreak. The committee is seriously concerned that in the event of an emergency – such as an outbreak of Foot and Mouth Disease – DAFF does not have the means to contact all stakeholders quickly and provide advice in a timely manner.

Recommendation 1

3.9 The committee recommends that DAFF develop and maintain a comprehensive database (which includes current email addresses) and provides the means of contacting all relevant stakeholders.

3.10 The committee notes that DAFF has previously given an undertaking to refine and review the current MTF consultation process – including the terms of reference and the scope of their membership. The committee is disappointed to note that, to date, it would appear that this review has not been conducted.

Recommendation 2

3.11 The committee recommends that DAFF review its current consultation model, with a view to developing a more flexible, more inclusive model that can be used into the future.

Small operators

3.12 The committee notes that it has been following AQIS' management of the removal of the fee rebate for AQIS export certification functions for some

considerable time. From the beginning of the reform process, the committee has had specific concerns about the impact these changes will have on smaller operators, including smaller abattoirs, exporters and cold storage export facilities.

3.13 The committee also notes that it has voiced its concerns about the impact on small operators in various forums, including hearings for the 2009 inquiry, several Senate Estimates hearings and throughout its current inquiry.

3.14 The committee believed that consultation was taking place across all industry sectors. The committee also believed that all parties who would be impacted by reforms would be able to raise specific issues of concern during the primary consultation process and have time to make the necessary adjustment to their operations. The committee is therefore disappointed to learn the reforms (including increased fees and charges) appear to have come as a complete surprise to a number of companies and small businesses.

3.15 The committee notes AQIS' offer to meet with individual businesses to discuss their specific biosecurity and export certification requirements and negotiate possible reductions in fees and charges. The committee is concerned, however, that this commitment has been made only after there has been much angst created for the smaller, non-processing businesses.

3.16 The committee is concerned that AQIS' proposal to conduct one-on-one consultations with these smaller businesses may have come too late. The committee is also mindful that there is a possibility some businesses may experience financial difficulties – or be forced to close export premises – before they become aware that assistance is available.

3.17 The committee will continue to monitor the progress of these one-on-one discussions and negotiations to ensure that AQIS continues to consult effectively with all industry sectors. The committee believes that AQIS should accept responsibility for negotiating with all industry groups and individuals and find solutions before these businesses incur any additional costs.

Efficiencies

3.18 The committee recognises the concerns raised regarding the reform of export certification fees and charges prior to AQIS identifying substantial efficiencies or cost savings. The committee also notes evidence which suggested that the move to full cost recovery for export certification (without improvements to AQIS systems and processes) would significantly impact exporters.

3.19 The committee shares the concerns raised regarding the extent to which AQIS has been able to identify efficiencies and cost saving measures. The committee also shares the concerns of those who question whether there is currently sufficient incentive for AQIS to do so.

3.20 The committee notes, for example, the proposal put forward by Cherry Growers Australia (CGA). CGA suggested that an independent committee be appointed to review AQIS' structure and costs and make recommendations to industry and government on actions to increase efficiency and reduce costs.¹ CGA also argued that the proposed AAO model should be 'put on hold' until DAFF has completed negotiations and the model has been accepted by the governments of key export markets.²

3.21 The committee strongly believes that it is preferable, and more equitable, to negotiate cost savings and efficiencies before businesses are charged additional fees.

Certification rates for small consignments

3.22 The committee notes that some industry sectors – particularly those that supply small, niche markets – frequently export small volumes of product via air freight. The committee also acknowledges the argument put by small exporters regarding the lack of flexibility within the new fee structure and the negative impact this is likely to have on users of air freight.

3.23 The committee notes the proposal put forward by small businessman Mr Greg Darwell. Mr Darwell suggested that the Government, through AQIS, should investigate the possibility of reducing the costs associated with Health Certificates and Halal Certificates where the quantity of product is less than 1,400 kg. Mr Darwell also suggested that, for small shipments, the fees should remain at the old levels.³

Recommendation 3

3.24 The committee recommends that DAFF investigate and report to the committee on the feasibility of the proposal put forward by Mr Greg Darwell to reduce the costs associated with multiple certifications for small air freight consignments. The investigation should define the eligibility criteria for 'small air freight consignments' and include a cost analysis for each of the Ministerial Task Forces to ensure equitable treatment across commodity groups.

Extension of transitional arrangements

3.25 The committee notes the views put forward by a number of submitters and witnesses who proposed that the 40 per cent rebate should continue, to allow a longer transitional period or until unresolved issues have been addressed.

1 Cherry Growers Australia, *Submission 55*, p. 2.

2 Cherry Growers Australia, *Submission 55*, p. 2.

3 Mr Greg Darwell, Mulwarra Export, *Committee Hansard*, 29 November 2011, p. 24.

3.26 The committee notes the suggestion from the Commonwealth Fisheries Association (CFA) who argued that the Australian Government should consider extending the rebate for another two years on either full or part of the 40 per cent.⁴

3.27 The committee also notes the views put forward by the following organisations regarding the extension of transitional arrangements:

- The Cattle Council of Australia (CCA): who suggest that the 40 per cent contribution to export certification fees should be maintained until the efficiencies and productivity gains of the reform process have been delivered;⁵
- AHEA: who argued that either the 40 per cent levy should be continued or all central office functions (including EXDOC and market access maintenance functions of AQIS) should be paid for by the Government;⁶ and
- The South Australian Department of Primary Industries and Resources: who noted that Biosecurity SA supports the principle of cost recovery at a national level, but also recommend that cost recovery for export certification should be extended to apply equitably to all risk creators and beneficiaries, and to include importers as well as exporters.⁷

Recommendation 4

3.28 The committee recommends that the 40 per cent rebate for AQIS export certification functions remain in place, and fee increases not be passed on, until negotiations with all industry sectors have been finalised and consultations with individual businesses have taken place.

Feedback

3.29 The committee is aware that there are some stakeholders who are reluctant to raise concerns, or voice complaints, regarding AQIS services and processes. The committee notes that one witness actually suggested that there were some stakeholders who feared some form of retribution on the part of AQIS should they 'speak up'.⁸

3.30 The committee is aware of several government agencies which have developed mechanisms for providing confidential feedback. The Australian Transport

4 Commonwealth Fisheries Association, *Submission 51*, p. 4 and Mr Brian Jefferies, Commonwealth Fisheries Association, *Committee Hansard*, 7 July 2011, p. 2.

5 Cattle Council of Australia, *Submission 67*, p. 2.

6 Mr Alastair Scott, Australian Horticultural Exporters Association, *Committee Hansard*, 7 July 2011, p. 17.

7 South Australian Department of Primary Industries and Resources, *Submission 39*, p. 4.

8 Mr Daryl Young, Australian Agricultural Commodities Pty Ltd, *Committee Hansard*, 29 November 2011, p. 33.

Safety Bureau (ATSB), for example has the Aviation Confidential Reporting Scheme which allows people to report safety related issues on a confidential basis.

Recommendation 5

3.31 The committee recommends that DAFF explore the possibility of developing a mechanism whereby stakeholders can submit suggestions or complaints confidentially or anonymously.

Watching brief

3.32 As noted previously, the committee acknowledges that negotiations across some industry sectors are working toward (or have already reached) agreements that are claimed to be acceptable to all stakeholders.

3.33 However, the committee notes with some concern, for example, that the relationship between AQIS, AHEA and the Horticulture MTF appears to have broken down. The committee also notes that a second advisory group has been formed – Senior Horticultural Advisory Group (SEHAG) – and there appears to have been no overlap or communication between this new group and the MTF. As a result, negotiations in relation to the reform process for the horticulture industry have not progressed and agreement on key issues of specific importance to the horticulture industry has not been reached.

3.34 The committee intends to maintain a watching brief while negotiations and work plans for each of the six industry MTF's are finalised and reforms implemented.

**Senator the Hon. Richard Colbeck
Acting Chair**