



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

JOINT COMMITTEE OF PUBLIC ACCOUNTS AND AUDIT

Reference: Review of Auditor-General's reports Nos 21 (2006-07) to 3 (2007-08)

WEDNESDAY, 12 SEPTEMBER 2007

CANBERRA

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**JOINT STATUTORY COMMITTEE OF
PUBLIC ACCOUNTS AND AUDIT**

Wednesday, 12 September 2007

Members: Mr Barresi (*Chair*), Ms Grierson (*Deputy Chair*), Senators Mark Bishop, Chapman, Hogg, Humphries, Murray and Watson and Mrs Bronwyn Bishop, Mr Broadbent, Dr Emerson, Dr Jensen, Miss Jackie Kelly, Ms King, Mr Laming and Mr Tanner

Members in attendance: Senators Hogg and Watson and Mr Barresi, Mrs Bronwyn Bishop and Ms Grierson

Terms of reference for the inquiry:

To inquire into and report on:

Review of Auditor-General's reports Nos 21 (2006-07) to 3 (2007-08)

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Committee met at 12.07 pm

BAILEY, Ms Jane, National Director Cargo, Australian Customs Service

BROCKLEHURST, Mr Jon, Acting Deputy Chief Executive Officer (Corporate Operations), Australian Customs Service

CORCORAN, Ms Jo, National Manager, Industry Engagement and User Services, Australian Customs Service

HARRISON, Mr Murray, Chief Information Officer, Australian Customs Service

MANN, Mr Neil, Deputy Chief Executive Officer (Passengers and Trade Facilitation), Australian Customs Service

CASS, Ms Barbara, Executive Director, Australian National Audit Office

LACK, Mr Steven, Acting Group Executive Director, Australian National Audit Office

WHITE, Mr Peter, Executive Director, Australian National Audit Office

CHAIR (Mr Barresi)—I open today's public hearing, which examines the Auditor-General's report No. 24 for 2006-07: *Customs cargo management re-engineering project*. I welcome representatives from the Australian National Audit Office and the Australian Customs Service. I ask the participants to remember that only members of the committee can put questions to witnesses if this hearing is to constitute formal proceedings of parliament and attract parliamentary privilege. If others wish to raise issues for discussion, I ask them to direct comments to the committee. I also remind witnesses that the hearings today are legal proceedings of the parliament and warrant the same respect as proceedings of the House itself. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of parliament. The evidence given today will be recorded by *Hansard* and will attract parliamentary privilege.

Thank you very much for coming in to have a chat about the audit report. We had a brief discussion with the ANAO a moment ago, so we welcome an opportunity to tease out some of the issues directly with Customs. Before we do so, do any of you wish to make an opening statement? We will make it very brief, though, because we have some questions.

Mr Mann—In early 2006, Customs commissioned Booz Allen Hamilton to undertake a review to understand both the causes of the problems with 'go live' in ICS Imports in October 2005 and the lessons learnt to incorporate into future ICS releases. The review found that, notwithstanding the problems, the integrated cargo system is now a stable system that is showing good functionality and performing reliably. ICS offers substantial benefits over the legacy systems it replaces. It is integrated and well structured; it is based on high integrity data architecture and it is highly configurable. However, the review made 13 recommendations about how the ICS could be optimised. They fall into three themes: one was establishing sound governance for the overall program of work, including clear business ownership of systems; the second was industry driven tactical improvements to the system for an unlimited period; and the

third was a strategically focused program to exploit the ICS and to improve the efficiency and effectiveness of Customs and the imports processes. Just over 12 months later, 11 of those recommendations have been addressed, with work well advanced in respect of the remaining two, which focus on how we take ICS forward into the future.

The ANAO review of the Customs cargo management re-engineering project was tabled in February 2007. Noting the work already underway in Customs in response to the Booz Allen Hamilton review, the ANAO made seven recommendations in regard to: alignment of the legislative framework for the ICS; reviewing major projects to gain assurance about appropriate project and contract management practices; establishing improved applications testing processes; improving communications with industry; reviewing the ICS business continuity planning arrangements; and, updating memoranda of understanding with related agencies. Customs agreed with all seven recommendations and has made good progress on addressing them. A new executive team is now in place, the organisation has been restructured to provide clear lines of business ownership and the trade facilitation program is overseen by a board that meets monthly to review progress with key projects across the program. A corporate projects office has been established to implement a whole-of-Customs approach to program and project management and to provide an independent assurance to the Customs executive in respect of major projects.

Customs has redesigned its procurement processes and a number of internal and external audit reviews have confirmed substantial improvements and compliance by Customs with its procurement obligations. Significant work has been undertaken to improve the ICS testing processes, including a regular release cycle and agreed test windows with industry and software developers, which require sign-off from key groups before any change is moved into production.

Following the implementation of the integrated cargo system in October 2005, Customs, in consultation with AQIS and industry, undertook a comprehensive review of the business continuity plans for supporting industry, should the ICS be unavailable. Since the ICS BCP became operational in December 2006, it has been utilised on two occasions to assist with client system failures. Customs has been publicly congratulated on the plan by industry following the assistance provided during one of those system outages.

Customs has also established new relationship management arrangements to develop open and effective business relations with industry with the aim of facilitating the prompt resolution of issues impacting on the movement of legitimate trade. Co-design forums are held with relevant industry groups to progress procedural system and strategic changes. These forums will be used as an ongoing mechanism to ensure that solutions meet industry requirements. These and other improvements demonstrate Customs' commitment to act on the lessons learnt from the implementation of ICS and to work in partnership with industry to ensure that we realise its full potential.

CHAIR—In summary, the picture you paint is that, notwithstanding all the problems that you had in the past, the systems, the management structure and everything are on track at the moment and working well.

Mr Mann—We have certainly done a lot to restore the confidence of industry in how we are managing the system.

CHAIR—Who amongst you was responsible for the implementation of the project?

Mr Mann—The team here were not intimately involved with the oversight of the project. Our CIO would have been there at the time of the integrated cargo system going live.

CHAIR—Is there anyone here who now has responsibility for it?

Mr Mann—Yes, I certainly have responsibility for it. I am the business owner for the systems.

Mr Harrison—My responsibility at the time was for the technical component of the project.

CHAIR—You would be the only one in this gathering who has been with the project from the start?

Mr Harrison—No. I started in Customs on August 2002.

CHAIR—I am trying to find out whether any personnel who had responsibility for the design and implementation of the project are still with Customs and are here today.

Mr Mann—I think the answer is no. It started out with a cargo management re-engineering strategy in 1996. It was a quite a long endeavour and throughout that time, quite clearly, there has been some turnover of key executive staff. On the current Customs executive, there is no-one who has been with the project from beginning to end.

Ms GRIERSON—This sort of project would not have involved just your IT person or your systems person; it would have involved personnel in operations, imports, security and risk assessment. Was there a team focus or was it handed to IT basically?

Mr Mann—The project was largely implemented by a purpose-built project team, the Office of Business Systems, and that carried through until the exports release.

Mr Harrison—The exports was released into production in October 2004 and the imports in October 2005. My recollection is that the Office of Business Systems was disbanded around the middle of 2004.

Mr Mann—That was when the design work for the system had largely been completed.

Mr Harrison—The application had been built at that point for imports.

CHAIR—Are personnel who were responsible for the project at the time no longer with Customs?

Mr Mann—That is correct.

CHAIR—What are the reasons for that?

Mr Mann—I think there was a retirement—

Ms Bailey—I have only been here since the end of 2004, but I recall that a number of significant managers retired at the end of 2005.

CHAIR—Did anyone take the blame for the project going off the rails?

Mr Mann—I think the former CEO has publicly taken responsibility for how the project was managed and implemented.

CHAIR—Thank you.

Senator HOGG—That is quite refreshing. We look at a number of projects that go off the rails, unfortunately, and no-one seems to take responsibility.

CHAIR—We were told that the project initially had a budget of \$30 million and the eventual cost was \$205 million, perhaps even a little more than that. I acknowledge that there have been changes to the scope of the project, but that is still a significant increase in cost. What do you put that down to? How has having such a huge blow-out affected the whole organisation?

Mr Mann—I might ask John Brocklehurst to add to this answer. Throughout the life of the project, it was seen that there was sufficient funding within the Customs organisation to fund the project. It is probably fair to say there was never a full life-cycle cost established at the outset of the project. However, the executive annually reviewed the work to be completed in the upcoming year and the capacity to fund that further work. Throughout the life of the project, it was ascertained that it could be funded on that basis. John, would you like to add to that?

Mr Brocklehurst—Yes. I think what you have just said is correct. In terms of the funding of the projects, one thing to bear in mind is that the majority of that expenditure is what is called capital expenditure as opposed to recurring, ongoing expenditure. All government organisations receive funding from the government that enables them to do an internal capital program each year. So there is an element of funding available to the organisation for each year that the project was in progress. I should say that that \$200 million was incurred over seven different financial years.

CHAIR—So you were able to dip into that capital allocation a number of times throughout the seven years?

Mr Brocklehurst—Yes. However, in 2003 the organisation recognised that it could not continue to meet the full funding requirement for the project and so, at that stage, went to the government and sought additional funding through its minister.

CHAIR—The question that we were asking ourselves before you arrived was: who actually came up with the original \$30 million cost? Obviously, they missed the target by quite a bit.

Mr Mann—The figure itself has been the subject of much discussion, as you can imagine, over the years and through the course of the audit. A number of views have been put forward.

Quite frankly, I do not think we could find the documentation that produced that figure, so I think it would be—

CHAIR—There is no documentation or you cannot find it?

Mr Mann—We have not found the documentation that would establish the basis of the \$30 million figure.

CHAIR—It is amazing that you could have a capital expenditure project of that size and there was no documentation? That would not occur these days, would it?

Mr Mann—Much of what we found was that there were governance processes in place and there were decisions being taken. But it is true to say that the documentation that accompanied those, either in its record keeping or creation, has been found wanting, and that is one of the key areas that we are addressing.

CHAIR—Can you assure me that this lack of documentation for major projects does not still exist with other projects that Customs is involved in?

Mr Mann—That is one of the reasons we have set up, in addition to each business area having its own program governance arrangements, an independent corporate project office that is reviewing all significant projects, to give the executive that second level of assurance.

Ms GRIERSON—Mr Mann and Mr Brocklehurst, you are now both deputy CEOs, or are you currently acting, Mr Brocklehurst?

Mr Brocklehurst—I am acting.

Ms GRIERSON—Is this the new structure that the present CEO has set up so as to have some structure to Customs operations?

Mr Mann—Yes. Over the last 18 months, the new CEO has rethought how the organisation is delivering its services. The deputy chief executives now have direct line responsibility for national programs. I am responsible for the passenger and trade functions, which include the business systems that support those airport operations and cargo management operations, which include the integrated cargo systems. I am directly responsible for the health of those systems and any changes that we make to those systems. Our other deputy chief executive is responsible for our border enforcement operations—

Ms GRIERSON—So that is quite separate?

Mr Mann—that is, our border protection command and our investigations and enforcement operations. The position that Mr Brocklehurst is acting in is in our corporate operations group, which is responsible for our enabling processes—that is, our information technology, people and place, other legal services and finances.

Ms GRIERSON—What is the involvement of the other three people here today?

Mr Mann—The CIO would be the person who advises us on the technical solutions to our business applications.

Ms GRIERSON—Yes. That is Mr Harrison?

Mr Mann—Yes. Ms Jane Bailey is the National Director of Cargo, which works directly to me and has responsibility for our national cargo operations.

Ms GRIERSON—‘National Director of Cargo’ sounded really good. It sounds as though you are the one, but you have a CEO above you and you do the more operational—

Mr Mann—Ms Bailey has been responsible, in particular, for working with industry over the last 12 months to identify their issues of concern and to ensure that our processes are improving and meeting their concerns. Ms Corcoran heads up a new Industry Engagement and User Services Branch.

Ms GRIERSON—And this perhaps reflects the effort you are putting into some remediation of the relationship and involvement?

Mr Mann—Certainly. For example, Ms Corcoran’s area has our help desk for industry.

Ms GRIERSON—Over six years, Customs has not been one of my favourite presenters at this committee in a time when the demand from the public, from government and from us has been very high and the expectations even higher. So this one is just unbelievable. This is a personal interest, I suppose. We have dealt with EDS several times and found them lacking in their management of your computer needs and system needs. Do they still have that role?

Mr Mann—I will ask Mr Harrison to explain how we have revamped our engagement of information technology services.

Mr Harrison—The EDS contract that was entered into in 1998 was a contract that was for five years plus two plus two. It ran out at the end of June this year. We have now conducted a market-testing exercise around a sourcing strategy about how we want to deliver those services going forward. It is a long story, but we have broken up those services into essentially six categories. Of the six categories, we have put four to the market. One we decided to bring back ourselves and with the other we are going forward on a case-by-case basis. What I mean by that is that all our services in our main processing of mainframes, midrange and all that sort of stuff were, under the previous arrangement, delivered by EDS, either directly or through contract.

Ms GRIERSON—Yes, for nine years.

Mr Harrison—The main processing was one—and this exercise by IBM. Another component is what we call the internet and secure gateway services. That has been won by Verizon, which used to be Cybertrust—they were doing it under contract before—and Telstra won telecommunications. On what we call ‘applications, maintenance and support’, we have essentially 100 or thereabouts basic business applications in the organisation. We have decided to put a panel arrangement in place to support those. Two companies will get the bulk of the

work. We are splitting it fifty-fifty. EDS will retain one of those components and KAZ, the other. There are three other companies on a panel, if necessary.

Ms GRIERSON—All right; so you have actually changed your way of choosing that person and dividing the jobs. As deputy CEOs, how will you know if they are doing the job properly and that the Australian public are therefore getting some value for money? Is that part of your contract arrangements too?

Mr Brocklehurst—Yes, it is time. In fact it might be worth while if we explain the performance measurements and contract management arrangements.

Ms GRIERSON—Briefly.

Mr Harrison—Yes, it is quite elaborate. We have a very distinct governance structure that incorporates meetings with the CEOs. With those various organisations, on a regular basis we have a performance scorecard approach. We have new arrangements around service levels. There is a very elaborate structure that is designed to provide that information.

Ms GRIERSON—If that is available in documentation form, we would probably like to see something like that. It was nothing short of a debacle, and as an MP I know the phone was hot. I want to put on the record that the personnel involved in Customs did respond and did fix things with orders that were going to be delayed by months—for Christmas and for charities and all sorts of things—so I would praise the individual personnel who helped smooth out some of those problems. But now that you have an independent report and an audit report to respond to, how are you structuring that? Who is now going to be responsible for when we have another audit review of the performance on those new criteria? Whose project is this now?

Mr Mann—As Deputy Chief Executive Officer, Passengers and Trade Facilitation, I would be the key executive responsible.

Ms GRIERSON—And you are responding to all those recommendations—the 13 and the seven?

Mr Mann—Yes.

Ms GRIERSON—What time frame have you put on that?

Mr Mann—We have, for the ANAO recommendations, some expected completion dates. Two, I believe, we have completed, but we have a schedule of when we expect to complete the rest of the recommendations. We are treating it seriously. When I took over my role, I tasked our internal audit function to give me a report on how we thought we had gone against the Booz Allen Hamilton recommendations, to make sure that we were starting off on the right foot.

Ms GRIERSON—To see if there was a match or a mismatch—was there a mismatch?

Mr Mann—There was a need for us to go back and make sure that the intent of the recommendation had been properly addressed in our implementation plans. That has now been done, and the same approach will be taken to the ANAO's recommendations.

Ms GRIERSON—Have business ever estimated the loss to them of your failures, basically?

Mr Mann—We have had different responses from different sectors in the industry. One of the lessons we have learnt is that it is a very heterogeneous group of stakeholders. Those who were well equipped with their own systems and supply chain management approaches in fact have told us that they believe the new systems produced benefits. Many of the players, however, in the sea cargo movement and in the broking and freight-forwarding industries have not had the same experience and believe that they have experienced some significant loss of productivity in the changeover. That is what the program of work we are performing is aimed at reducing. We have received compensation claims that we are working through. To this date I think it is about 1.75—

Mr Brocklehurst—We have paid \$1.75 million. We have reviewed and settled 555 compensation claims.

Ms GRIERSON—Can you equally match the expectation then? You cannot compensate for allowing risky cargo in, but can you tell us that the system now does identify high-risk cargo and that your results from that identification process are higher in terms of intervention?

Mr Mann—From my review of what occurred there were certainly problems in the initial cut over. Like you, I think the efforts of Customs personnel and industry did restore the effectiveness of the system quickly. I might just ask Jane Bailey to give a bit of an analysis from a community protection perspective of how we believe that has been addressed.

Ms Bailey—I guess there was discussion—and the ANAO pointed out that some profiles were deactivated in the system for some time—and we have done a pretty thorough analysis of the percentage of profiles that were deactivated and what percentage of cargo reports or import decs were assessed against those to understand that. I think we provided quite detailed answers to questions on notice on those matters.

By 3 November, basically all the profiles had been restored and were fully functioning. Today we have the profiles for effective work, the cargo processing is quite stable and the risk processing is quite stable in the ICS. So while there was some time, especially on the first day or two, when a significant cohort of the air cargo profiles were deactivated, we in that case of course had a second line of defence there, which was basically our Customs officers. They were active there. For sea cargo the deactivation was for a much smaller cohort and they were quickly reactivated. So, while we recognise that there were issues, we quickly moved to restore them. Since that date, that process of profiling, and the activation and deactivation of them, has been standard and works as it is directed by the intel and targeting team.

Mr Mann—Importantly, the new system also offers us the opportunity to improve the profiling that can be undertaken, compared to the legacy systems—

Ms GRIERSON—One would think that that should be changing constantly, given the constantly changing threat environments.

Mr Mann—That is exactly correct.

Senator HOGG—Mr Mann, you mentioned that you now have internal audit processes in place that are feeding back to you how things are going. In the original project there were internal audit processes as well, but where those internal audit processes flagged difficulties they seemed to have been ignored by Customs. One of the worries that I always have with internal audits is that it sometimes may well be easier to ignore the problems and say that the problems will go away rather than to respond to the problems. So what is different in the culture today that will ensure us that, if an internal audit does raise difficulties, they will be responded to in a positive sense rather than just saying, ‘Maybe this problem will go’?

Mr Mann—I think there are a number of changes. Some are outside Customs in the sense that projects of this size in the future will be subject to gateway review and external government processes; the same kind of information would need to be escalated outside the organisation for review, for example. Within Customs, the chief executive, in responding to the Booz Allen Hamilton report, made sure that there was reporting about the program in some detail going to the audit committee, which has an independent member on it. So there is a capacity there, with the obligations of being an audit committee member, to ensure that the CEO is advised of any issues of concern. The other element is a very methodical approach to implementation of project management disciplines which addresses the issues that the audit found, which were: yes, risks were raised; they may well have been discussed and acted upon, but there was no record or documentation of what action was taken. We do not believe that that can reoccur.

Senator HOGG—In terms of the project that you may well be undertaking now, it seems from this project that there was little or no scoping done. At best, it was poor. There were no milestones—or, as we sometimes call them here, ‘millstones’—that were identified, and there were no key performance indicators or anything else. What is now different in the project management that will give us the assurance that a systematic approach is being adopted and that that approach is transparent and requires accountability that was lacking in this major project?

Mr Mann—There was a good deal of project planning and documentation, but the areas where it may have been deficient—and which we are looking to address—are as you described: clear benefit descriptions of what tangibly is expected to be different by what time in the life cycle of the project. That will facilitate stakeholders being much clearer earlier about whether or not the project is going to deliver what is sought, and will flag earlier if there are major issues of concern. In the implementation of our project management approach there is a big focus on much earlier stage gates around describing the intent, objectives and deliverables. For large projects they will be escalated to the Customs executive rather than left to the relevant project board.

Senator HOGG—How easy is it to get through those gateways, or are there some fairly strict tests in place that mean you do not simply pass through the gate and that is it?

Mr Mann—We have added to the basic project management methodology—PRINCE2 is the version that we are using—to go even further to get clear statements of intent and deliverables at an early stage, which would need to be agreed at the highest level within the organisation. We have also taken a different approach to large projects, where, rather than committing ourselves to the full implementation of a project, we are saying: ‘Hang on, let’s just go to a proof-of-concept stage and develop a business case. Let’s make quite clear that there is a go/no-go stage, without committing into the future.’ That is certainly the approach that we are taking in response to the

redevelopment of our passenger assessment and clearance systems. In that case we sought an initial two-year funding from government to do some basic work around the infrastructure and platform issues, and we will be going back to government with a more detailed description of benefits in the out years before we seek the long-term funding.

Senator HOGG—You have an audit committee and a corporate project office. Are they one and the same or are they different?

Mr Mann—They are quite different.

Senator HOGG—Are any of the people who are members of the corporate project office also members of the audit committee, or vice versa?

Mr Mann—They are not members. At the moment the head of the project office is external to the organisation to ensure that we have industry best practice disciplines and assurance. So we get independent advice about the projects at this stage.

Ms GRIERSON—Who is that?

Mr Brocklehurst—We appointed Acumen Alliance to work on that assignment.

Senator HOGG—Sorry, is there someone appointed to that position yet, or are you in the process of appointing someone?

Mr Mann—We appointed Acumen Alliance. I think they are now called Oakton. They are doing two things. They are reviewing our current project management approaches to ensure that they are industry best practice. They are working directly with project managers to ensure that they are equipped to perform the duties of project managers and sponsors, and they are providing an independent assurance on the more significant projects, directly to the CEO at the Customs executive.

Senator HOGG—That is a new practice.

Mr Mann—Correct.

Senator HOGG—That is something that was completely lacking before.

Ms GRIERSON—At what cost?

Mr Mann—I think we have allowed—

Mr Brocklehurst—We have allowed \$1 million a year for that function.

Ms GRIERSON—Over how many years?

Mr Brocklehurst—We plan four years into the future with our financial forecasting and we have allowed for each year.

Senator HOGG—So this is an ongoing commitment by Customs?

Mr Mann—In addition to it we will be looking to transfer those skills into an ongoing Customs position that would be the head of the project office in the long term.

Senator HOGG—How many are there in the corporate project office?

Mr Brocklehurst—That is still being determined at this stage, but we anticipate it will be a group of six or seven people.

Senator HOGG—Can you give us some idea of the make-up of who those six or seven people will be? We do not want names.

Mr Brocklehurst—In terms of the nature of the work that they will be doing—

Senator HOGG—No, the nature of the people. Will they be internal people from the department?

Mr Brocklehurst—At the moment they are provided through Oakton, but the intention will be that they will all be Customs officers in the future. They will also call on external support, as required.

Senator HOGG—And the audit committee? Just give me some idea of the structure that. How many are on that and are they internal or external?

Mr Brocklehurst—We have just restructured our audit committee. We used to have one external member and five internal members, but we have now restructured the committee and, going forward, there will be two external members, three internal members and a number of observers to the committee as well. I should say that we have adopted the ANAO better practice guide in relation to the audit charter and the audit committee composition as well.

Senator WATSON—As you know, I have been on this JCPAA for a number of years and, during that time, all too often we have had to really evaluate failure. While it is encouraging that the systems are now operating efficiently and delivering what is required under a new management structure, I find it quite unsatisfactory to be confronted with the situation where for a major department, in terms of the audit, the outcomes and benefits were not clearly defined, there was no overall project plan, financial management plan, project budget or proper project investment or risk assessment, and there was a lack of supporting documentation. I think we have to, as a committee, look a lot deeper. My first question is: why is it that the Auditor-General waits so long before he moves in and looks at these major undertakings which are subject to such high risk?

Mr White—It is true that we did come after the event, because that is the nature of the audit work. We are not management consultants that advise departments on IT projects. I do not believe it is the role of the Audit Office to advise a department on how to implement an IT project, particularly one that is under development. We put out better practice guides to assist departments.

Senator WATSON—Did you do that?

Mr White—We have not done a specific better practice guide on this. We have better practice guides on contract management, on procurement and on how to set up audit committees. So, we have a wide selection of better practice guides.

CHAIR—But this project probably predates all of that, doesn't it? Better practice guides have been a more recent thing.

Mr White—They have. I think we started doing them in the late nineties. I will address Senator Watson's question. We have tried to give departments ideas of better practice. The actual implementation comes down to the department.

Senator WATSON—To me, there does seem to be a need for some sort of a mechanism for, at least, oversighting the plans that are necessary to implement a major expenditure, because it has cost the taxpayers a lot of money and it has cost the clients a lot of money. Mr Chairman, I see a need to almost extend the responsibilities of the Australian National Audit Office to go into some of these high-risk areas because we do need some earlier assurance that there are project plans and that there are financial management plans.

CHAIR—Senator, I do not disagree with some of the things you are saying, but I think they will be discussions that we will need to have, firstly, amongst ourselves and, secondly, directly with the Auditor-General, Mr Ian McPhee. For the moment though, because time is short, can we concentrate on just getting to the bottom of this review while we have Customs here. I think we should not lose your point and we should put it, Russell, as a discussion point for amongst ourselves.

Senator WATSON—I am certainly not going to lose it. I think we have to get at this early stage the views of the witnesses around the table to these things, because I almost see a need for the reintroduction of an interdepartmental committee oversighted by an independent chairman to look at these sorts of things. We just cannot continue to have repetitions of these sorts of failures. Mr Mann, how would you view the introduction of an interdepartmental committee oversighted by an independent chairman to look at these sorts of things? Would that tend to solve the problems?

Mr Mann—Without commenting on a policy discussion, I point to the fact that there is now a requirement for projects of this kind to be subject to an independent gateway review process that the Department of Finance and Administration organises. That brings together an independent team of experts drawn from the public and private sector to review, from the earliest stages, the business case as well as the implementation of such projects.

CHAIR—It is called the gateway review process. It was discussed at the conference that we held early this year.

Senator WATSON—Do you think they are satisfactory? Looking at it with hindsight, do you think they would pick up the sorts of problems that you inherited?

Mr Mann—Certainly they have been active with subsequent projects that are subject to the process. I am aware of two in Customs that they have been quite intimately involved with in the earliest stages. I think that has provided feedback to the organisation about where there may be risks that need to be addressed.

Mrs BRONWYN BISHOP—Where did the idea for this project originate? Who thought it up? Did it come out of the department, and if so which section? What was the method of working it up? Where did it come from?

Mr Mann—I might answer at a high level, and Ms Bailey can answer in detail if I gloss over any of the history. It has a lengthy history—back into the nineties. It was probably developed from within Customs, but right from the beginning there was industry involvement in an idea about how cargo management could be enhanced for the future, taking advantage particularly of electronic communications.

Mrs BRONWYN BISHOP—So it originated in the department?

Mr Mann—Yes, I believe it did originate within the department, but at a very early stage industry was engaged.

Mrs BRONWYN BISHOP—Somebody wrote a minute and said, ‘This will be a good thing to do.’

CHAIR—We cannot find the minute though?

Mr Mann—No, we can.

CHAIR—We can find the minute but we cannot find the documentation?

Mr Mann—We can find a very early outline of the major components of the cargo management reengineering strategy, which clearly talked about an integrated cargo system to replace our legacy systems.

Mrs BRONWYN BISHOP—But you know and I know that it does not just come out of the ether. Somebody has to think it up and say, ‘This is a good idea.’ When the idea was thought up, where did it go then? Did it muddle its way through the department or did it go as an initial idea to the minister: ‘Minister, we have this idea. As you are responsible for policy development we would like your authority and input on this concept’? Did that happen?

Ms Bailey—The original idea was contained in the cargo management strategy in 1996 and there appears to have been a series of industry and departmental consultative processes—

Mrs BRONWYN BISHOP—That was in 1996. We have had a change of government, so where did it come from? Was it a fait accompli or a leftover document? What was it?

Ms Bailey—The idea of needing to modernise customs cargo systems was born and drawn together in this high-level outline in the department. There was then discussion with industry and an exposure draft of this strategy, which included this, was released by the minister in, I think,

late 1997—I can confirm the date for you. It was very much an idea at that point that we needed to modernise our systems. The thought was that international trade was growing and we needed more compatibility with industry and more ease of access. It was a concept. There was then a recognition that when Customs outsourced its IT systems entirely this would provide an opportunity to reengineer the legacy cargo systems, building on this concept.

Mrs BRONWYN BISHOP—To get it back.

Ms Bailey—Can we get it back?

Mrs BRONWYN BISHOP—You mean, get it back from the outsourcing process.

Ms Bailey—Well, no—

Mrs BRONWYN BISHOP—Now, honestly, you cannot tell me that there was not a debate that went on between the department saying, ‘We could get this function back if we do this, this and this, because we really don’t think they are doing it well.’ Did that happen?

Mr Harrison—The reference to the outsourcing was that the strategy anticipated a rewrite of our applications, of the way that we do it, and that was built into the tender documents for the outsourcing.

Mrs BRONWYN BISHOP—But you had legacy systems.

Mr Harrison—Yes, but this strategy said that we were going to redo those.

Mrs BRONWYN BISHOP—And departments do not like losing function, do they?

Mr Harrison—The strategy envisaged rebuilding those legacy applications and that was included in the tender documents that went to the market for the outsourcing, which is where the original \$30 million popped up.

Mrs BRONWYN BISHOP—Yes, but somebody wrote the outsourcing documents; somebody wrote the tender. Who wrote the tender?

Mr Harrison—I do not know that offhand.

CHAIR—Bronwyn, before you arrived we tried to nail down personnel, so we already had on the public record who was responsible.

Mrs BRONWYN BISHOP—I am sorry.

CHAIR—It seems that they have all moved on. The CEO took responsibility, and he has moved on too. We went through that at the beginning.

Mrs BRONWYN BISHOP—What I am saying is I am not happy with just the CEO taking responsibility.

CHAIR—The other people have also moved on.

Mrs BRONWYN BISHOP—This is a brand new concept and I think we need some good systems, which maybe the ANAO can reinforce. When there is a new idea on the way, it has to be reported up to the minister level, all the way through, so that you see it, and it has to be fair dinkum briefing. And you have to have a mechanism in place that ensures that the information going to the minister is up to date, accurate and that decisions can be made on it. Otherwise it wallows around down here, decisions are taken, they are untidy, and you end up in a mess. What I am trying to work out is: having ended up in a mess, have you now put in place the structure which will allow those steps to happen—that there is constant reporting to the minister of what is happening, that there is no fudging of where the difficulties lie, that they can be addressed at various stages when they are coming along, because if you leave them all to the end you will never deal with them?

Ms Bailey—Since I have joined, the process we now have is that we have an industry action group which meets quarterly. The minister's office staff attends every meeting and gives an independent report back to the minister on those occasions. Jo and I monitor those issues arising from industry. So I do think we have a much clearer line of sight now on the issues that are arising for industry dealing with the system and we make sure that that is treated with high priority and the respect it deserves. The minister's representative is there and we do regularly update them on the arrangement of issues that are arising. While I personally regret the issue about cut-over, I think we are all now of the view that we have actually got a very stable high-performing system. We regret that it did not start as well as it could have, but in terms of processing trade transactions it has turned out to be a very reliable platform. We would like to and will work with industry to return more productivity through them, but I think there is definitely a focus now at all levels, from the CEO, to the DCO, to me, to my national managers, to industry, about how to manage this and to make sure that all the issues are given the credibility and priority they deserve.

Mrs BRONWYN BISHOP—But somebody had to actually make the decision to put the system in place when it was not ready. Who made that decision? Or did you ask that before?

Mr Mann—I think if you looked at the history of the project, there were a number of deferments of the implementation of the imports release, and there were mixed views leading up to the October date around whether or not it should proceed. There were industry roundtables that the minister was present at where, taking into account all of the views expressed, a decision was taken by the CEO to proceed.

CHAIR—Sorry, colleagues, but we have another review to do and we have question time at two o'clock.

Ms GRIERSON—But ANAO has not had any opportunity.

CHAIR—I know, and I have a couple of questions—I have not finished. I am going to wrap it up. I have two more questions—one for you and one for ANAO—touching on what you were just covering. What measures have you introduced to enhance the links with a business industry group? That was a serious criticism and part of the problem, because you did not have proper specifications. Have you got measures in place to bring them into the process?

Mr Mann—We still have our Customs national consultative committee that allows all of the major peak bodies to tell us what they think is going wrong or right, and we can provide them with updates. In addition, we have created a cargo processing executive steering committee, where the CEO has invited respected individuals from industry—

Mrs BRONWYN BISHOP—Good—individuals—because peak bodies do not necessarily always speak for their individuals.

Mr Mann—They have been asked in their own right to be advisers to the CEO on not only how the current process is working but the future improvements they believe need to be made. Evidence of that is that, at industry's request, we are looking at whether there are benefits in moving to an alternative cargo reporting system such as that used in the United States. We are working in a joint team with industry to do the evaluation of a model that could perhaps take us forward. That is a process where we now are bringing industry into our working teams to actually provide joint advice to us around the merits of going one way or the other.

In different parts of the organisation, much more now, we are bringing other government agencies and industry members into those consultation and codesign approaches. The industry action group that was established by the minister when things went bad is still going, and we are constantly prioritising with them on what the most important changes are, whether they be procedural, policy or system changes, to address their concerns. We will continue to do that for as long as industry wants to participate.

We have also set in place stakeholder managers for elements of industry, whether they be exporters, importers or brokers. We now have dedicated people to get to know the industry, get to know the issues of the industry and be the channel—there is almost an internal advocate—for teasing apart what the consequences are for industry. They then represent those issues into our release management processes around which candidates we will promote for further work. We are not rushing to a systems solution; we are asking, 'What are other ways we could do it, either in the interim or permanently?' It could be policy issues or it could be our processes that need to be fixed to address their concerns. So, there are a range of measures that we have put in place in the last 12 months.

CHAIR—Thank you for that, Mr Mann. Peter or Steven, you have the final comment. Is there anything you would like to say after hearing all that, that we need to know?

Mr White—We would just like to acknowledge that Customs is putting mechanisms in place to address some of the problems that came up. I think what is critical is that they have flagged the 13 Booz Allen Hamilton recommendations and the seven recommendations that we have made, and also flagged to rebuild this relationship with industry. That should give them a solid platform to go forward on.

CHAIR—You guys are planning on doing another audit some time next year?

Mr White—Yes, at the moment we are doing our forward planning for the 2008-09 year and our recommendation to the Auditor-General, bearing other priorities in mind, is that we do a follow-up audit of this audit.

CHAIR—Fantastic.

Ms GRIERSON—I just want to express one concern. I am hearing that there are many groups—the industry action group, the executive steering committee, a corporate project office and the audit committee with an independent member. Yet all those things will not outsource or deflect the responsibility. Someone within Customs still has to be responsible and that is the person who is, I guess, we will be wanting to ask those questions again when that audit report is done. That is what really scares me when you are setting up so many responses and so many groups. It is going to be very hard to keep managing and keep distilling the information from those bodies. Yet you still have to get the system running and keep it running and be responsive to change. So, it is still someone's responsibility—I suppose it is yours, Mr Mann?

Mr Mann—Under our new arrangements, I am the responsible person.

Ms GRIERSON—That is what we wanted to hear.

CHAIR—He is the man we will want to talk to in 18 months time after the next review.

Ms GRIERSON—Absolutely. Good luck.

CHAIR—I thank you, Mr Mann, and your team for coming in and putting yourself through these questions. I also congratulate you on at least addressing the issues raised by the Audit Office and by the review and getting things back on track. So, well done on that. Thank you to the Audit Office as well for coming in and being part of this.

Proceedings suspended from 1 pm to 1.19 pm

DUDLEY, Mr Richard John, General Manager, Corporate Affairs, Airservices Australia

BOND, Mr Kim, Senior Director, Performance Audit Services Group, Australian National Audit Office

BOYD, Mr Brian, Executive Director, Performance Audit Services Group, Australian National Audit Office

HOLBERT, Mr Robert, Senior Director, Performance Audit Services Group, Australian National Audit Office

LACK, Mr Steven, Acting Group Executive Director, Australian National Audit Office

DOHERTY, Mr John, Executive Director, Aviation and Airports, Department of Transport and Regional Services

MOJICA, Ms Cristina, Director, Airport Planning, Airports Branch, Department of Transport and Regional Services

MRDAK, Mr Michael, Deputy Secretary, Department of Transport and Regional Services

CHAIR—I welcome you all to today's public hearing, which is examining the Audit report No. 29 2006-07: *Implementation of the Sydney Airport Demand Management Act*. I ask participants to remember that only members of the committee can put questions to witnesses if the hearing is to constitute formal proceedings of the parliament and attract parliamentary privilege. I also remind witnesses that the hearing today is a legal proceedings of the parliament and warrant the same respect as proceedings of the House itself. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of parliament. The evidence given today will be recorded by Hansard and will attract parliamentary privilege. Mr Doherty, would you like to make an opening statement?

Mr Mrdak—Perhaps, if I could, Chair.

CHAIR—Yes, that is fine.

Mr Mrdak—Thank you for the opportunity to meet with the committee. From the department's perspective, we welcome the ANAO's work on the slot scheme at Sydney airport. In response to the ANAO's audit report, we have undertaken a number of steps to improve the administration of the scheme. The department's view is that the scheme has been a very successful operation since its inception. It has been an effort which has gone very well with the airlines and the aviation industry to improve the way in which slots planning is undertaken at Sydney airport. The ANAO's recommendations in relation to the administration of it are welcomed in the sense of us ensuring that the act and the scheme operate consistently with the legislation and also with best practice administration.

CHAIR—I note that one of the criticisms was the lack of recorded information that was available to the Audit Office during their audit—the information just was not there. Why would that be the case? Surely when the legislation was first passed by the parliament to set up the slot management scheme, provision would have been made for adequate reporting mechanisms so it could be reported back to parliament.

Mr Mrdak—I think there are a number of aspects. Firstly, I think there are some issues around the retention of data, which Mr Dudley may wish to comment on from Airservices' perspective in their role in monitoring runway movements at the airport. Secondly, I think there are issues around the way the slot coordinator deals with data and records, and the way in which data is provided to the compliance committee. Steps have been taken by the department in the wake of the audit report to ensure that the data processes are clarified and the data that goes to the compliance committee is improved. I think steps have been taken to do that.

CHAIR—The slot coordinator being Airport Coordination Australia?

Mr Mrdak—That is correct.

CHAIR—Is that an outsourced organisation?

Mr Mrdak—It is appointed by the minister under the legislation. It is an organisation which is essentially a limited liability company, shares in which are owned by the airlines and Sydney airport. That is a model consistent with overseas practice for the allocation of slots. Finally, there is the issue in relation to the data provision for the purposes of performance monitoring. In the wake of the audit report, the department is taking steps to ensure the performance reporting that takes place in our annual report is much clearer in relation to meeting the objectives of the government in relation to the legislation.

Mrs BRONWYN BISHOP—I am concerned about the degree of satisfaction of the general public who are affected by air movements. The cap system was put in place because it was believed that that was what those people living in the environs of the report could and would tolerate. While there was reporting of compliance with the rules, there were no complaints. Now that you are reporting it, you have got some—is that accurate?

Mr Mrdak—Not quite. There has been reporting. Under the legislation, Airservices Australia provides a report to the minister and the minister provides reports to the parliament in relation to any breaches of the movements cap at Sydney airport—the 80 movements per hour cap.

Mrs BRONWYN BISHOP—We have just heard evidence from the Audit Office that the reports were wrong, that people were just left out.

Mr Mrdak—We have a different view. I think there has been a misunderstanding in relation to the data.

Mrs BRONWYN BISHOP—I thought the Audit Office said that you had accepted what they said. So you are now in dispute?

Mr Mrdak—We have agreed on the need to clarify and improve the data collection and presentation, but I do not agree that there has not been reporting in accordance with the act to the parliament of any breaches of the movement cap.

Mrs BRONWYN BISHOP—The problem concerned the data from which the breaches could be detected—in other words, the Audit Office is saying that the information is not properly recorded. In fact, without putting too fine a point on it, I think the quote was: ‘This is the way you’ve always done it.’ We passed the legislation, but you kept doing it the way you have always done it.

Mr Mrdak—I certainly would not agree with that statement.

Mrs BRONWYN BISHOP—How would you change it?

Mr Mrdak—I think the Audit Office has quite rightly identified that there is an inconsistency between the slot compliance procedures, which were based on international scheduling approaches and the legislation.

Mrs BRONWYN BISHOP—But local legislation overrides that, and you would be aware of that.

Mr Mrdak—That is right, and I think there has been a consistency in the definition of things such as runway movements and the way in which the slot allocation system operated. That is something we are working to address. It is important to recognise that what we have put in place—what the government has put in place—since 1997 is a very effective planning regime—

Mrs BRONWYN BISHOP—Hang on! What the Audit Office said very specifically was that you have not identified what were emergency movements. You could not say if there were an override of slots that this was due to the fact that we had too many police or whatever coming in and out—that was not recorded. And you are saying you were being very accurate.

Mr Mrdak—No, I was coming back to your original question, which was reporting against the movement cap and I think—

Mrs BRONWYN BISHOP—Yes, but you are only reporting against it if you are accurately dictating who and what is moving.

Mr Mrdak—I think there are a number of issues in the ANAO’s report in relation to the compliance committee activities repeal of their off-slot, but we certainly believe that the data gives us a degree of validity of the information in relation to—

Mrs BRONWYN BISHOP—I disagree with you.

CHAIR—Mr Bond, because the ANAO are being dragged into this, do you have a comment to make on that?

Mr Bond—We found there was some absence of a recorded process to reconcile the electronically recorded aircraft movements with the reporting to the minister on the breaches.

The issue at hand was that it was not possible for us to determine, say, if there had been a recorded number of movements of 85 in an hour, which of those movements were exempt movements under the act and therefore should not be counted towards the cap.

Mrs BRONWYN BISHOP—Which is precisely what I put to you, Mr Mrdak.

Mr Dudley—Perhaps, through you, Mr Chair, I could answer the honourable member. One of the key learnings from Airservices' perspective was that we need to improve our data and records management. We were keeping flight strips, which is the record of air movement in accordance with International Civil Aviation Organization operation—

Mrs BRONWYN BISHOP—Which you were not entitled to do.

Mr Dudley—No, they were within an operational requirement rather than the tightening up that we have now put into place. We accept that our system made it impossible to verify our own claims and also made it impossible for the ANAO to verify the claims because there was that lack of data.

Mrs BRONWYN BISHOP—Did that in turn allow more movements than the 80 now?

Mr Dudley—It is impossible to verify that because we did not see—

Mrs BRONWYN BISHOP—Precisely.

Mr Dudley—the records for the required period.

Mrs BRONWYN BISHOP—So it could have been in somebody's interest to keep the data that way.

Mr Dudley—We agree that they cannot be verified either way, and that is why we have put into place the strengthened provisions and the strengthened data—

Mrs BRONWYN BISHOP—Didn't we pass this back in 1997?

Mr Mrdak—Yes.

CHAIR—We are going to have to be punchy here because we are going to run out of time. Can you assure me that these records are now going to be accessible to Commonwealth officers if they need access to them?

Mr Mrdak—We have had no difficulty in accessing the records to date but we are taking steps as part of the response to the ANAO's recommendations to put in place regulations for the making and keeping of records by the compliance committee and the slot coordinator.

Mrs BRONWYN BISHOP—With respect, that makes it worse, not better. That means that they have just said they have no problem getting access to the records. You have had access to the records since 1997 and you have not picked up this fact and you have not done your job?

Mr Mrdak—I think they are separate issues.

Mrs BRONWYN BISHOP—I am sure you do. Why do think they are separate?

Mr Mrdak—I think Mr Dudley was answering something in relation to the runway movement data.

Mrs BRONWYN BISHOP—He was verifying the accuracy of what the Audit Office had said with which you were disagreeing?

Mr Mrdak—No, the point I was making—

Mrs BRONWYN BISHOP—You have just told me you have had access to those records all along, which means you have known they have not complied with our legislation and done zilch.

Mr Mrdak—The point I was making was that where we have sought information we have had no difficulty retaining the information. What I am now saying is we are putting in place measures in response to the ANAO's audit—

Mrs BRONWYN BISHOP—Mr Mrdak, that is cold, hard fact. You said you had access to the documentation. Mr Dudley has admitted it is wrong. The Audit Office has admitted that—

CHAIR—Let us just settle down. I want a bit of civility here.

Mr Dudley—I can give a response to that. The key learning from Airservices' perspective was the need to improve our data and records management. It was not that it was freely available; it was freely available but it was—

Mrs BRONWYN BISHOP—I am not talking about availability.

Mr Dudley—about our systems which are now designed to keep them for longer than the 30 days. That was key to the point: because we were not keeping them for longer than the operational requirement that made it difficult to verify. We have now put processes into place to be able to do that and we have new technologies which are converting the paper strip technology to electronics, which will make this problem not apparent any more.

Mrs BRONWYN BISHOP—As to this time line, the fact of the matter is that DOTARS have told us that they had access to your records. You said that they were not adequate. And it took all this time for the Auditor-General to come in and say that that was the case. This means that it was up to you—or your department, not you specifically in 1997—to have picked up the fact that it was not complying with the Australian standard and our legislation. The point I am making is that you did not.

CHAIR—The DOTARS organisation did not. Mr Mrdak, you are now saying that that has been addressed and that DOTARS is monitoring this and has acknowledged that perhaps it was not on top of it?

Mrs BRONWYN BISHOP—Mr Mrdak said it never happened.

Mr Mrdak—No, I do not think that was what I was saying. We are taking steps to improve the data collection and the access to data records.

CHAIR—More importantly, your monitoring of it.

Mr Mrdak—That is right.

Ms GRIERSON—That is my concern, which I raise now. From the report, there seems to have been a mismatch between what the legislation requires of the slot management scheme and what it is delivering. Is it industry preference? Probably. Because high operation demands make it that way, and a slot manager has their own preferences, perhaps. If it is not adhering to the industry requirements with a limit, with some regional access and ‘if you do not use it, you lose it’, what have you done to make sure that it does? Does the legislation need to be changed, or can you make the system fit what the parliament of this country wanted you to do?

Mr Mrdak—We are taking steps to look at amendments to the legislation which clarify some of the definition. Certainly, we have also taken steps with the administration of the scheme through the slot manager to ensure that the administration of the scheme is consistent with the legislation.

Ms GRIERSON—What are the triggers when you say: ‘It’s not working properly.’ ‘There have been too many movements this month,’ or ‘We don’t know who these movements are or why there is this blip in the system.’ How do you know? What data do you use? What sort of feedback do you get from the system?

Mr Mrdak—Data is provided to the compliance committee, which we chair. That is the main form by which we check compliance with the scheme.

CHAIR—Do you chair that committee?

Mr Mrdak—We do.

Mr Doherty—An officer of the department.

CHAIR—An officer. Not you.

Mr Mrdak—No.

CHAIR—This compliance committee is responsible for overseeing that.

Mrs BRONWYN BISHOP—There has always been one, hasn’t there?

CHAIR—And they have been there from day one.

Mr Mrdak—That is right.

Mrs BRONWYN BISHOP—They just did not do the job.

CHAIR—As Ms Bishop is saying, it is our assertion that they obviously have not been doing their job; otherwise, we would not have these criticisms.

Mr Mrdak—I would not go as far as saying that they have not been doing their job.

Mrs BRONWYN BISHOP—Why not?

Mr Mrdak—The ANAO has raised some issues about data and how that is operated, but I think on the whole the scheme has been very successful.

Mrs BRONWYN BISHOP—The Audit Office said that you did not comply with the laws we passed.

CHAIR—I think we may have made the point and you have got a response to it. The audit report also raised definitional problems: what is ‘at take-off’ and what is ‘at landing’? Have we resolved those so that there is consistency of the data that comes in?

Mr Doherty—That is part of the exercise of aligning the schemes and the legislation. The issue is that the cap movement talks about runway movements. The 80-movement cap is about movement on the runway. The slot management scheme is—

CHAIR—And a runway constitutes what? Just the specific runway itself?

Mr Doherty—Any of the through run.

CHAIR—Not the apron leading onto the runway?

Mr Doherty—No. Any of the three runways at Sydney airport. The management of the scheme revolved around slot times, which are essentially the departure or arrival times at the gate. There is a correlation between the two but it is not exact because, obviously, an arriving aircraft gets to the gate some time after the runway movement. A departing aircraft will leave the gate some time before the runway movement. What the ANAO study identified is that our scheme, the slot management scheme, is focused around the gate movement time, whereas to allow for complete accuracy in the monitoring of the exact time of runway movements you need a slightly different measurement scheme. We are looking at the alignment and the improvement of the management of the scheme to make sure that we are picking up both of those—the gate departure time as part of the management of the airline scheduling and what the public expects of scheduling, as well as the runway movement times, which is what is important for the community.

Mrs BRONWYN BISHOP—If you had a queue of eight planes that had to take off at 10-minute intervals, you want to take from the time the plane actually begins take-off, not from the time it leaves the gate.

Mr Doherty—Apart from those take-off planes, you also have the arriving planes, and you need to have a scheme which is sophisticated enough to take account of when their actual planned arrival at the gate is or departure from the gate is and what that means in relation to their

actual runway movement so that you can be confident that you have the 80 runway movements exactly right.

CHAIR—So if a plane leaving a gate and heading off to take off is all of sudden recalled for an engineering problem, is that included as a movement?

Mr Doherty—No. A runway movement would only be when it actually moves on the runway. Part of the issue is that, depending on which runway is in use because of weather or other configurations, it can be slightly shorter or longer between the gate and the actual runway movement time, or it can be held on the taxiway by Airservices because of arriving traffic. So it is that sort of complexity that needs to be assessed.

CHAIR—Why is it a problem to come up with a standard definition?

Mr Mrdak—We are aligning definitions, and that is the work we are doing now for future legislation changes. Internationally, aircraft slots are done on a gate basis as Mr Doherty has outlined. That is the basis on which the scheme is operated. However, the definition under the act is about runway movements. So we have two purposes here. The act is about the cap of 80 movements an hour. It is also about a planning regime for how slots will operate for the airport. So the act is doing two functions: it is controlling the runway movements but it is also providing an orderly planning regime for the slot allocation and a push-back in arrival at gates.

Mrs BRONWYN BISHOP—Is this done by regulation or is it in the primary legislation?

Mr Doherty—It will be authorised in the primary legislation. It is essentially done through the schemes. There is a slot management scheme, which is a statutory instrument issued by the minister, and a compliance scheme, which is equally a statutory instrument.

Mrs BRONWYN BISHOP—That is why I am asking you—for any amendment that is to be made. Is it subordinate legislation or is it primary?

Mr Doherty—To make sure that we have the right framework, we think the definitional problem will need to be addressed in the act. It will be a package of amendments to the act but the alignment of the schemes would be the proper approach.

CHAIR—Audit Office, do you have a comment on that?

Mr Boyd—Yes. The only comment we wish to offer is that part of it is to ask: why did all this happen? Certainly from our perspective, as we pointed out in the audit report, the usual, standard and quite well-tested processes that are gone through in terms of portfolio departments developing legislation and subordinate instruments did not happen in the usual fashion here. We think, in terms of the lessons to be learnt as to how we can avoid this circumstance in the future, it comes down to looking at how the legislation and the subordinate instruments were put together. Had that been done in a better way, we should not have been sitting here today in a situation where acts and subordinate instruments do not align. They always should, by definition. I think there are lessons for the department—

Mrs BRONWYN BISHOP—I do not understand how the subordinate legislation went through because it would have gone before the regs and ords committee. Part of its job is to ensure that there is some conformity with the primary legislation.

Senator HOGG—When will the legislation be ready to come before parliament?

Mr Doherty—We have commenced the process of dispatch. We have put a bid in and we are waiting for the drafting. So it is when the next available opportunity in parliament is once it has been drafted.

Senator HOGG—So it is not drafted yet.

Mr Doherty—It is not drafted at this stage, no.

Mr Mrdak—We will need to get legislative priority status first before drafting is implemented.

CHAIR—What progress has been made in establishing authority which can suspend, cancel or vary the slot management and compliance schemes?

Mr Doherty—I think what the ANAO report showed was that the process could have more closely followed the procedure in the act. We have a procedure in the act for amending those schemes and we are committed to making sure that these amendments to the scheme come through in that process. To that end we have established a working committee. The requirement for the compliance scheme is that it comes through with a recommendation from the compliance committee and, for the slot management scheme, that it comes through with a recommendation from the slot manager. We have a committee which is looking at the whole of the arrangements as they work together and includes both the compliance group and the slot manager. Those recommendations will come through in turn to the minister so that we have amendments to the scheme through a process which aligns with both requirements.

CHAIR—If there is a breach, are there any penalties associated with that breach? If there are none then I could very well be making these breaches on a regular basis with no repercussion.

Mr Doherty—There are provisions in the act for people who recklessly or knowingly breach—

CHAIR—You can issue an infringement notice, but can you issue a penalty or fine?

Mr Doherty—There are two levels. The infringement notice is the sort of cut-down version of the fine, but there is also provision for action to be taken through the Federal Court for a higher penalty.

CHAIR—What constitutes an action that is to be taken to the Federal Court? How serious does an action have to be before you can take it to the Federal Court? Obviously, there have been breaches.

Mr Doherty—Again, there was some discussion about the interpretation of the compliance scheme. The way the compliance committee has interpreted the scheme is that if there are 20 per cent flights out of the tolerance—which essentially is 15 minutes either side—for reasons which are within the operator’s control, then that should be counted towards a penalty provision. The compliance committee has examined each flight record to determine whether it is within tolerance. With respect to those outside tolerance, they then look at the explanation provided by the carrier as to whether it is within their control or outside of their control. In the committee’s view there have not been, at this stage, any situations where 20 per cent of the movements were outside the tolerance because of reasons which were within the operator’s control.

Ms GRIERSON—But they would also not have had reliable data?

CHAIR—Apparently, there have been no infringement notices or penalties at this stage.

Mr Doherty—That is right. So none have reached that 20 per cent cap, which they understand. The issue of course that came from the report is that, in interpreting that scheme, there is an alternative interpretation that has a particular set of movements you should look at rather than that whole 20 per cent.

Ms GRIERSON—Data was missing for some 18 per cent of all aircraft movements.

Mr Doherty—With the data issue, essentially there is a two-stage process here. One is the collection of the raw data from Airservices and, as we have heard, there is a process to improve that. But that data then goes through a reconciliation process by the slot manager. Some of the codes do not match exactly into the system, so they go through a process. Our understanding is that that 18 per cent comes down to about two per cent—a much lower figure—by the time that reconciliation process has been properly done. We are anxious to expand that and ensure that we get 100 per cent so that we have all the records collected.

CHAIR—Are you comfortable with the powers to investigate that are currently available to the compliance committee?

Mr Doherty—We are giving further thought to whether they would usefully have additional powers to test the information that comes forward from carriers—the operators—so that we are confident about the veracity of those reasons. When they say, ‘It was for a technical reason which was not within our control,’ can we be confident that that is true? We are giving some further consideration to that. The aim is not to turn the process into something which is heavily punitive. It is trying to engender cooperation, and we do not want a huge time for compliance. But there do need to be sufficient fallback powers to ensure that the system is working.

Mrs BRONWYN BISHOP—The aim of the legislation is not to put too great a burden on the people who live in their own vehicle. That is the aim of the legislation; therefore compliance is necessary to see that that aim is met. So when you talk about tolerance—

Mr Mrdak—That is one aim of the legislation. There is now an orderly planning regime for the operation of aircraft in the airport to get rid of the issues we used to have with scheduling and the like.

Mrs BRONWYN BISHOP—Yes, we did. There was a great deal of debate about whether slot times were an improvement, but that argument will probably go on forever. But the aim of the legislation, believe me, was to ensure that there was not an unnecessary burden placed upon people surrounding the airport. It came out of a climate where there was great disquiet. Houses were being double-glazed and demolished. It was a very turbulent time.

CHAIR—We will now have to wrap up the proceedings on that closing comment from Mrs Bishop, unless the Audit Office has any final comment to make.

Mr Boyd—No.

CHAIR—We may put some questions to you in writing because we were rushed. If the committee has further questions we will certainly send them to you on notice. Thank you all for appearing and helping us go through things in such a fast way.

Resolved (on motion by **Ms Grierson**):

That this committee authorises publication, including publication on the parliamentary database, of the transcript of the evidence given before it at public hearing this day.

Committee adjourned at 1.44 pm