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SENATE

RURAL AND REGIONAL AFFAIRS AND TRANSPORT REFERENCES COMMITTEE

Thursday, 22 March 2007

Members: Senator Heffernan *(Chair)*, Senator Siewert *(Deputy Chair)*, Senators Ferris, McEwen, McGauran, Nash, O'Brien and Sterle

Participating members: Senators Adams, Allison, Barnett, Bartlett, Bernardi, Boswell, Brandis, Bob Brown, George Campbell, Carr, Chapman, Crossin, Eggleston, Chris Evans, Faulkner, Ferguson, Fielding, Hogg, Hutchins, Joyce, Kemp, Lightfoot, Ludwig, Lundy, Ian Macdonald, McLucas, Mason, Milne, Nettle, Payne, Polley, Robert Ray, Stephens, Trood, Watson and Webber

Senators in attendance: Senators Adams, Heffernan, Joyce, McEwen, O'Brien, Siewert and Sterle

WITNESSES

Committee met at 4.07 pm

ANDERSON, Ms Victoria Rosalie, General Manager, Policy Development Branch, Corporate Policy Division, Department of Agriculture, Fisheries and Forestry

CAHILL, Mr John, Chief Executive, Biosecurity Australia

GORDON, Ms Jennifer, Executive Manager, Quarantine, Australian Quarantine and Inspection Service

LIEHNE, Mr Peter, National Manager, Animal and Plant Quarantine, Australian Quarantine and Inspection Service

QUINLIVAN, Mr Daryl Paul, Deputy Secretary, Department of Agriculture, Fisheries and Forestry

ROBERTS, Dr William Philip, Principal Scientist, Biosecurity Australia

VAN MEURS, Ms Louise, General Manager, Plant Biosecurity, Biosecurity Australia

CHAIR (Senator Heffernan)—I welcome the witnesses to the hearing. We are obviously interested to hear on the record in the first instance the apple story and then we will be moving to a private briefing on other matters.

Mr Quinlivan—I might start by explaining the role of the department and Biosecurity Australia because the committee's letter was directed to John Cahill, as head of BA, but it was mostly about the apples appeal, which actually has nothing to do with BA. It is done in the department quite separately from BA. So questions on the appeal would be directed to us rather than to John. The IRA, of course, is John and Biosecurity's responsibility and the next steps—what happens from now on by way of developing a protocol with New Zealand for the import of apples, which might ultimately lead to applications to import apples—is the responsibility of AQIS. Jenny Gordon and Peter Liehne are here to speak about that. So there are three quite separate functions and roles here on apples. I thought it was important to make that point because the letter confused at least two of those.

CHAIR—Yes, like the wool classer and a welder.

Mr Quinlivan—That is right. I just felt it was good to get it straight.

CHAIR—Have there been any applications?

Mr Liehne—Not to date.

Mr Cahill—There is no policy determination in place yet.

CHAIR—I thought they might have been lining up.

Mr Quinlivan—No.

CHAIR—I suppose the most interesting question for me was my original question. Given that we have had approval of a process without knowing how high the first hurdle is going to be—that is, the inspection regime—can you explain the routine? You have gone through this process. It seems arse about face to me, to be candid, that we would not be putting some template or ideas to the Kiwis on what we think is a fair inspection regime rather than them advising us and us saying that we think it is all right or not.

Mr Cahill—For the committee's benefit I might also briefly explain where we are up to in the process. As you know, a final IRA report was issued. It had certain recommendations in it in relation to risk management measures for a range of diseases associated with the possible importation of apples from New Zealand. That was subject to appeal. There were appeals, which were handled independently from Biosecurity Australia. They were resolved. I received advice from the appeal panel that those appeals had been disallowed, or in one case did not meet the grounds of appeal. On the basis of that I have now proceeded with advice to the Director of Quarantine to enable a policy determination to be made. That policy determination by the Director of Quarantine will be used as a basis for issuing import permits, should any be applied for, from New Zealand with a set of conditions that sit around that. Once a policy determination is in place—and I expect that to occur reasonably shortly—work will be undertaken principally between AQIS and its counterpart in New Zealand to develop an operational work plan that gives effect to that policy determination and the recommendations and risk management measures in the IRA report.

So we have a process to follow yet, and we talked about this amongst other things at the last estimates hearing. But the process that we have gone through to date is an import risk analysis process, which is about identifying the pest and disease risks that present themselves through the possible importation of apples from New Zealand. We have gone through the process of identifying and analysing the risk to discern potential risk management measures that might be able to be put in place to manage those risks to within or below Australia's appropriate level of protection. That is the process we have gone through. We have essentially set a performance standard—and we can talk about the specifics of that in relation to particular pests and diseases—that the exporting country has to meet in order for exports to commence. So the onus will be on New Zealand to satisfy Australia that it can comply with the conditions that have been specified in the IRA to our satisfaction. As we have said before and according to the IRA, that will involve Australian quarantine officials in New Zealand as well.

CHAIR—What is the level of protection? Are we talking in percentile risk terms?

Mr Cahill—It varies depending on the risk that presents itself, so we can talk about fire blight or citrus canker or whatever. Perhaps Bill Roberts, who is Principal Scientist, Biosecurity Australia, can talk about that a little more.

Dr Roberts—As Mr Cahill has just mentioned, there are a number of pests, but the one I think most people are concentrating on is fire blight disease.

CHAIR—Is it a fair thing that there is a lot of focus on fire blight? Or do you wonder why they are not worrying about whatever it is we are not worrying about?

Dr Roberts—In the apple industry the technical experts are fully aware of the other pests and diseases, as are state governments—we have had discussions and we have comments from them. But the public discussion in the media and so on has focused on fire blight disease.

CHAIR—Really what I am asking you is: are there things that a fully informed person ought to be as concerned about as fire blight that have not been highlighted in the press?

Dr Roberts—There are fungal diseases—European canker, for example. That is a serious fungal disease present in New Zealand and absent in Australia. There are a number of insect pests that we have not got that New Zealand has. In WA, for example, there is codling moth and apple scab disease, another fungus disease. In fact, the WA industry believes that apple scab is a much more important disease world wide for apples than fire blight, for example. There are other significant diseases that this recommended protocol manages.

CHAIR—You might provide to the committee the various risks and levels. Do you do it by percentile?

Dr Roberts—No. What happens is an assessment of the risks of the individual pests against Australia's ALOP. The process that we follow is that we first say, 'Forget about risk management measures—what would happen if we just imported apples from New Zealand with no risk management at all?' We do that for each pest—fire blight, apple leaf curling midge, apple scab, European canker et cetera. In fact, I think there were 13 that we looked at. Then we say, 'What is the result of that analysis?' The risk has two components. One is: what is the likelihood that that particular pest and disease will end up establishing itself in Australia and spreading within Australia if we import this fruit? The second aspect of the risk is: what would be the consequences for Australia? In other words, how much would it cost, would it affect the industry, would it cost more controls and would it affect consumer safety? We factor those two components together according to a set of procedures that are out in the public domain and well known and we get an answer. We compare that answer with Australia's ALOP. It has to be very low or less to meet Australia's ALOP according to those set of rules and procedures that we follow.

CHAIR—Less than what?

Dr Roberts—Very low or less than very low. Negligible is the next category down. So there are two lower categories in our rules—

CHAIR—These things are always in the eye of the beholder. It depends how courageous you are. Some people think it is a risk to walk across the street. That is in the eye of the beholder. We would like to have it in a form where you can touch it. How do you make a judgement on what is—

Dr Roberts—By following a standard set of procedures which have been developed against a background of Australia's past quarantine decisions. If you look back at decisions Australia has made on quarantine protection, that reflects policy. We have made a whole lot of decisions. We import thousands of things into Australia every year, many of which have quarantine risk management measures associated with them. The standard Australia follows must be reflected in the risk management applied to the samples.

CHAIR—Is the information you get from analysing each of the pests made a public document?

Dr Roberts—Yes. It is all set out in the IRA report in three volumes. The methodology is separately available but is, again, reflected in full in the report itself.

Mr Cahill—There are three parts. Part A is essentially an expanded executive summary. That contains the description of the methodology on page 8 and the results of the particular assessment against each disease is on page 14. It is there as part of a public document.

CHAIR—Is that being challenged by the industry at all?

Dr Roberts—We have about 1,250 comments that we have extracted from submissions from stakeholders.

CHAIR—Are they in that printed public document?

Dr Roberts—No. The submissions are available separately. The final document, where appropriate, addresses the comments. It says things like, 'A number of stakeholders claim that, said that or told us that.' It then goes on to discuss what we did about that.

CHAIR—How many submissions did you receive? It was only a few, wasn't it?

Mr Cahill—It was 200 on the first draft, I think, and 30-odd—I think it was 33—on the revised draft.

CHAIR—Say I am one of the 30 and I write in a submission to you that I think X, Y and Z are up to putty, does that public document include my proposition, your answer to my proposition and the logic of it?

Dr Roberts—It depends. If you pick up our final version, you will not see 1,250 comments individually addressed—'Someone said this, this is the answer, and this is how we arrived at that.'

CHAIR—But suppose I am a farmer from Junee, I have a problem and you either publish it or deal with it. How am I satisfied that you have dealt with it in an appropriate way?

Dr Roberts—Because all of this stuff, including the comments, goes to the Eminent Scientists Group and they independently have to say, and confirm or otherwise, that BA has appropriately dealt with all of the comments received. So it is done separate from us. They get all the material. They get our final draft and all of the comments provided by stakeholders—

CHAIR—Now think carefully. Did the Eminent Scientists Group have a unanimous view?

Dr Roberts—They did.

CHAIR—They got someone else into trouble once.

Dr Roberts—No, you are thinking of the IRA team. The Eminent Scientists Group comes towards the end of the whole process when the IRA team—

CHAIR—So they unanimously—

Dr Roberts—Yes.

Mr Cahill—They unanimously agreed on that particular occasion.

Senator STERLE—The IRA group did not make any difference at all.

Mr Cahill—We are talking about very eminent scientists here.

CHAIR—So there is no challenge.

Mr Cahill—There is no dispute and their report is public on the website.

CHAIR—In their scientific assessment, and sure the science is sound—going back to my welder view—who reviews that the human failure of the science is sound? Something can be scientifically sound—all the sums add up—but human intervention in a scientific process can bring it undone and has done very spectacularly on occasions.

Dr Roberts—If I am getting your point correctly, you are saying that the conditions might be perfect but someone cheats or they have a bad day or something happens in terms of delivery. Really that is AQIS's business. That is really the business that they are in to confirm and judge—

CHAIR—I have had a big night out and whatever, or I have had a blue with the missus or something goes wrong, how do you allow for—

Dr Roberts—We make very conservative assumptions. If you look through this report, we believe we have made extremely conservative assumptions. We have thought the worst at almost every turn and allowed for that in the final risk management measures. The analogy that I always use is that we think we are a long way from the edge of the cliff so the very occasional slight failure happens in a system robust enough to account for that. I know that is a matter of argument and it is very difficult to prove that one way or the other, and clearly some of the industry stakeholders believe that we are perched right on the very edge of the cliff with the potential of falling over if even the slightest thing goes wrong. But we believe we have made conservative assumptions on all of the science and finally on the risk management measures.

CHAIR—So has the industry challenged any of the science?

Dr Roberts—They are provided information and they have challenged some of the science.

CHAIR—The unanimous view of the scientists has been challenged, has it, by the industry?

Mr Cahill—It comes in two ways. Firstly, when you put the draft report out they challenge some of the conclusions that might be reached in the draft report. There are plenty of

opportunities to do that and, not surprisingly, they made a substantial submission in relation to that. They also have the opportunity to appeal against the final outcome, which they also did.

Mr Quinlivan—In that appeal they did not challenge the science. The grounds of appeal were that there was some deviation of process, which had a material impact on the stakeholder, or that some significant body of evidence had not been taken into account. There were claims made against both of those aspects by applicants but in those claims there were no claims that BA science was flawed. There were claims that various things had not been taken into account but I do not think that even they would say that those things went to the heart of BA's scientific analysis.

CHAIR—I think we were advised as a committee that the assumption in this process was that the orchards that these apples are coming from in New Zealand are infected.

Dr Roberts—Yes. That itself is a very conservative position because there is evidence that quite a lot of orchards are not. Some of the orchards on the South Island for instance have never seen fire blight.

CHAIR—If we assume that the inspector got up drunk one morning—this is an exaggeration, but let us say that he was having a bad day and missed an infection—so the apples were drawn from an orchard that was infected then, despite that, this process will protect Australia from infection from the importation of apples from an infected orchard. Is that right?

Dr Roberts—That is right. That is the conclusion we reached. We believe that the risk management measures are very robust, so they can tolerate the odd failure. They certainly cannot tolerate systematic failure across the whole process but they can tolerate, say, the odd inspector having a bad day and missing one. The inspection is such that it has to deliver a result that says you are 95 per cent confident that no more than one per cent of the trees in that particular registered export block have got fire blight symptoms. So he has to have a very bad day to totally miss a heavily fire blighted orchard. It is conceivable—

CHAIR—So the inspection regime may miss one. I have been wondering what the protocol on the inspection was going to be and why there would not be a buffer and all that. The protocol will allow for importation of apples from an infected orchard of one per cent—

Dr Roberts—No, it is no symptoms. If any symptoms are found, it is not a question of saying, 'There's 200 trees and we only found one with the disease and therefore that orchard is okay.' It is one and it is out immediately. So it is no symptoms, but what everyone then says is: 'What do you mean by no symptoms? Are you going to crawl over every tree with 10 inspectors or is someone going to flash past down the road on a motorbike?' Of course, we have gone to the point of explaining that. So what we are saying is that the inspection protocol delivered by New Zealand must be shown to be able to deliver a result such that you are 95 per cent confident that if one per cent of those trees in that orchard were showing symptoms, you would have detected it. So it is a performance standard. That is what we have set.

CHAIR—What we do not know and I guess what the committee would like to know is: what will be the inspection protocol?

Dr Roberts—That is still to be finalised. I will just briefly read what we say in the report:

MAFNZ must provide details of the proposed inspection methodology, including an analysis showing that the methodology will achieve the required efficacy, in advance of commencement of exports. This analysis must address practical issues such as visibility of symptoms in the tops of trees, the inspection time needed, the number of trees to be inspected to meet the efficacy level, and training and certification of inspectors. The proposed system will need to be approved before the commencement of trade.

So what we have done is to set a gold standard, if you like, for inspection and we are saying to New Zealand: 'You know what your orchards look like; you know the areas you are likely to export from. You tell us how you are operationally going to deliver this—how many inspectors, when they are going to operate et cetera—but separately you provide us with an analysis that eventually needs to convince us that what you are proposing does meet the standard we have set.'

CHAIR—Right, but what worries me about that is that we do not appear to have in our minds what a fair thing is. Are we going to look at their thing and then say, 'We think that's fair enough?'

Dr Roberts—We are going to look at the analysis and then decide whether we think that is fair enough.

CHAIR—Who will make that judgement?

Dr Roberts—It will come back to BA via the negotiation process involving AQIS. But we will engage whatever expertise we need to look at it. Clearly, if we are talking about trees in an orchard in a practical situation we will seek industry expertise, say, an experienced apple grower—

CHAIR—So you will consult the industry?

Dr Roberts—We will need expertise from the industry to provide comment on whether they think that is reasonable in terms of what is proposed. I might add that we have a very experienced apple grower on our IRA panel anyway. It is a long-standing apple-growing family from Victoria. We have immediate access to that expertise.

CHAIR—That person has not been away at university all of his life; he has spent a bit of time in the orchard, has he?

Dr Roberts—Yes. That is exactly the sort of practical experience and that is exactly why he is there. Interestingly enough, he recently visited New Zealand under this improvement scheme and he is involved in this process of improving the Australian apple industry.

CHAIR—So, in any event, when they come back to us with the inspection model, you will then put that to our people and say, 'Do you think this is a fair thing?' That will include some people who are going to look at it from the industry point of view. It might be this character or others. The industry will have the opportunity, will they, to say, 'We think that is flawed,' if they see something in particular they think is silly?

Mr Cahill—As we indicated, once the policy determination is in place it really then switches to AQIS to go through a process with each counterpart.

Mr Quinlivan—The decision maker is the Director of Quarantine or her delegate.

CHAIR—So this inspection regime is your bailiwick?

Mr Quinlivan—It is that of the Director of Quarantine, and she takes advice from AQIS. Jenni is here to speak for AQIS today.

CHAIR—So it is you that is going to go out and test this with the practical human side of the protocol?

Ms Gordon—Most likely the way the process will work is that, once the determination has been made, the New Zealanders will approach us—if they are considering exporting apples, which we assume they will want to—with what they propose to be the way they will develop the protocol from their point of view. We will talk to them to make sure that they understand the time frames that are involved, depending on the season that they are proposing to export from. As you know, it is quite an extensive process that they must go through. If they were to work very quickly and we were able to satisfy ourselves, it still would not be until the 2008 season or at the end of this year or early next year that we would even be contemplating looking at apples coming into Australia. At this stage, that would still be a very tight program. It may not happen for a year beyond that, because you need to go through various seasons. Once they have come to us with their proposal—

CHAIR—Their model.

Ms Gordon—Yes—we will look at it against the standards set in the IRA report that has been approved by the Director of Quarantine and we will start to work through whether we think that it prima facie meets those standards.

CHAIR—You said you will look at it again against the standards being set in quarantine.

Ms Gordon—The IRA, yes.

CHAIR—So can we see that standard now, or does it not exist?

Mr Quinlivan—Bill has just been talking about it.

Ms Gordon—It is in the IRA.

Dr Roberts—It is in the report.

CHAIR—The inspection—

Ms Gordon—Yes.

Dr Roberts—We have not seen anything from New Zealand yet.

CHAIR—Yes, but have we bothered to go out and say to the industry or whoever, 'What do you reckon a fair model would be for an orchard inspection that would work and be fail safe'? Do we have that model?

Ms Gordon—The standard is set out in the IRA about how much inspection is required. It is a series of steps—it is not just one thing.

CHAIR—Yes, but the implementation of the standards is what I am after.

Ms Gordon—It is up to New Zealand to give us a proposal about how they would implement it. This process would involve not just inspections et cetera but also registration of their pack houses and orchards, a series of standard procedures and an administrative management oversighting arrangement. So it is quite a complex process with a series of steps. We need to say, 'If you were to do all of this, this would give us the degree of satisfaction that we require that the standard has been met.' In coming to that conclusion, it is most likely that the decision makers in AQIS will say to Biosecurity Australia: 'This is our assessment, but we need further degrees of satisfaction that this actually will meet the requirements on any particular range of these steps. Can we ask you for further advice? Would this meet the standard that you believe is set out? Are there experts available in the Australian industry who can provide comment that this would be a practice that they would see as meeting the standards?'

CHAIR—Yes, but up until this point we actually have not bothered to model—ourselves; our own people, our own experts and the people who live in the orchards—what a reasonable inspection regime would be. I keep remembering that bloody citrus canker thing. It was just stupid.

Ms Gordon—The answer to your question is certainly not from the AQIS side because we have not stepped into the frame yet. We will not do that until the determination is finally made and New Zealand approaches us with their proposal. At that point, we then need to go through a fairly rigorous process to determine what other questions we might need to ask, what other issues we might need to examine or what other assessments we might need to have done to test whether that proposal or approach by them will meet our standard.

CHAIR—But at this moment there is no template of the physical limitations of inspection—I mean what one or 10 people can reasonably expected to do?

Ms Gordon—Not in the way you frame that question.

CHAIR—That surprises me.

Ms Gordon—If you read the standard it is not just about inspection of trees; it is about a range of things. It is up to New Zealand to ensure that the arrangements are in place to have the orchards inspected. So they need to satisfy us that—depending on the size of the orchard, the number of trees, the particular stage that they are at—they will have sufficient people who are trained on the ground and a standard operating procedure that can be audited that will deliver the particular outcome. What we have in the IRA is a fairly rigorous set of standards, which are

effectively an outcome. It is up to New Zealand to demonstrate to us that they are going to be able to meet that outcome and for us to be satisfied that they will. We will then be auditing and verifying that they are actually doing what they have said they will do to deliver the particular outcome.

CHAIR—Dr Roberts, the other diseases that have not had the coverage in the media, one of which you suggested—

Dr Roberts—There is European canker, a fungal disease or apple leaf curling midge.

CHAIR—So is it one of those diseases that will show up by inspection, or how does it show up?

Dr Roberts—For European canker, which is a fungal disease, we have proposed or recommended a winter inspection of trees for the cankers. You get damage on the trunks and the limbs of the trees. You should be able to detect that if the disease was present in winter, when there are no leaves and it is easy to inspect.

CHAIR—So all those diseases that are in the worry list, are they going to involve a separate inspection in a separate time frame in the life cycle of the tree?

Dr Roberts—No, not necessarily a field inspection. Apple leaf curling midge is a fruit inspection in the packing line. There are two field inspections, one is in winter or when the leaves have fallen from the trees—it does not have to be the dead of winter—and that is for European canker. Then the fire blight one is just post flowering, when the conditions are optimal for fire blight disease developments.

CHAIR—How does canker travel?

Dr Roberts—At a short distance it is spore transmitted. That is only a few metres. It is not very well transmitted by aerial spores. Long distance, it is almost invariably planting materials and if you get infection in nursery stock when they are planted out in the field they may well develop European canker. It is a disease that is strongly dependent on rainfall. In fact it is likely, although again we have assumed the worst, that it would be a significant disease only in a few areas of Australia. Again, I say we have assumed that it would be equally bad across all of Australia.

CHAIR—In the scientific assumption, we are saying that as a bottom-line proposition we are assuming that the orchard is infected.

Dr Roberts—For fire blight, yes, but not for European canker.

CHAIR—Are we also assuming that the fire blight cannot travel on the apple?

Dr Roberts—There is some evidence that a few apples will carry low numbers of the bacteria, if you harvest from trees with active fire blight.

CHAIR—In the list of objections or queries that have been put back to you, the 30, does that include the challenge to the fact that the fruit cannot bear the disease? Because that was one of the things that was put to me: the fruit indeed can.

Dr Roberts—That is right. One stakeholder in particular asserted that there is no chance of apples transmitting disease anywhere. They pointed to for example the WTO case between the US and Japan which effectively concluded that.

Mr Cahill—Indeed, the main industry submission identifies that fire blight has not been transmitted on the surface of mature apples in any instance where fire blight has been detected.

CHAIR—How was it transmitted? Just in leaf?

Dr Roberts—Almost invariably in planting material, sometimes in curious ways. For example, the disease got into the UK, I think in the fifties, and then it appeared in France some years later. The belief is that birds that migrated between the UK and France transmitted it, because the hedgerows in England are full of fire blight hosts and you literally have fire blight bacteria dripping off the plants at some times of the year. The sparrows or whatever fly 15 miles across the channel, scratch around in other plants and transmit the disease.

Senator JOYCE—How did it get to New Zealand?

Dr Roberts—It got there in about 1915 or 1916, almost certainly by planting material, although there are all sorts of theories.

CHAIR—As part of the assurances that you wanted to give yourselves on the science, did you endeavour to discover what happened in the botanic gardens—that there might be something that you were not aware of, why it turned up there and why that might be something—

Dr Roberts—As far as it could be investigated it was investigated. There were investigations driven by DAFF—or its predecessor at that time: DPIE, I think. There were investigations by the Victorian department and there is no evidence one way or the other about how it ended up there. A few experts even dispute that it was ever there, because there were problems with the diagnostics that were never sorted out.

CHAIR—I think that would be as tricky as the CIA dealing with that.

Dr Roberts—Some people had conspiracy theories, so you are probably going in the right direction!

CHAIR—Very strange.

Senator JOYCE—So Australia is unique in that we do not have fire blight at the moment. It is in Europe and New Zealand. Is it in America?

Dr Roberts—It is in North America; it is not in South America or in China. It has been eradicated from Japan. It is not in most of South-East Asia; it is not in Africa. So we are certainly not unique. We might be one of the few substantial apple producing countries that do not have

fire blight, but we are certainly not the only one. South Africa is a substantial apple producing company and does not have fire blight.

CHAIR—Do we export apples to countries that do not have fire blight?

Dr Roberts—I think exports from Australia mainly go to Europe. As far as I know, it is not a specific trade advantage to not have fire blight, because all of the major apple exporting countries have it.

Senator O'BRIEN—I will correct you: it is a major advantage for Tasmania with an accredited trade into Japan.

Dr Roberts—But essentially nothing has moved.

Mr Cahill—No exports have occurred.

Dr Roberts—It is the same for China. There is a protocol for China, which as far as I understand it—

CHAIR—I am still trying to work out why we have not actually thought about what a fair thing is in the inspection of an orchard. I understand that the security for Australia is that we assume the orchard is infected anyhow, but I just wonder if the answer to that is that, if we are exporting apples to countries that do not have fire blight, surely they would not want to get fire blight.

Dr Roberts—Most countries have at the most a fairly low key chlorine dip. For example, most South American countries import apples from the USA, Europe and probably from New Zealand—I have not actually checked. The most that any of them seem to impose is a quick dip in chlorine and straight out the door.

CHAIR—What I am really saying is what is good for the goose is good for the gander. What sorts of things do we have to do to get apples into other countries that do not have fire blight or canker?

Dr Roberts—The Chinese protocol—and, as I say, as far as I understand it there have never been any exports—requires proof of Tasmania's freedom from fire blight, which is based on annual survey activities.

CHAIR—Does that involve an orchard inspection regime?

Dr Roberts—Not orchard by orchard. It is a Tasmania freedom requirement, which basically requires the Tasmanian government department to undertake an annual survey for fire blight disease in Tasmania and certify that the place is free.

CHAIR—How do they then physically complete that task every year?

Dr Roberts—They attempted it I think in about 1998—

CHAIR—Do they just ring up and say, 'Mate, have you got fire blight?'

Dr Roberts—but it has not gone anywhere. I think they did a start-up survey in about 1998. As far as I am aware it has gone nowhere since then.

Senator JOYCE—Does New Zealand export apples to China?

Ms van Meurs—Yes, they do.

Senator JOYCE—How do they do that? What is the process?

Dr Roberts—We are not necessarily privy to the fine details of that. It is country-to-country business.

CHAIR—It might be something that we would be interested in.

Mr Cahill—If we can get it, we are happy to make it available.

Dr Roberts—We will see whether we can find that, but I would just caution that often it is sensitive commercial information.

CHAIR—They might tell us to go jump, yes.

Mr Quinlivan—I assume we might get an inkling of the answer to that question when AQIS begin talking to them about protocols. New Zealand will be wanting to replicate their approaches. I imagine also that our gold standard, as we have described it, is probably a bit higher than China's as well.

Senator JOYCE—Obviously, there is a percentage chance under this current process that fire blight will come in. It is not the case that it will not come in. There is a percentage chance that it will. So ultimately if you take your time frame out long enough it will turn up. What is the process then, when it turns up, for how you are going to deal with it?

Dr Roberts—I will just comment on the proposition. The history of pests and diseases in Australia is that something turns up every year. The history of trade in regulated horticultural products shows that we are very safe in a pest and disease introduction sense. If you look at the history of plant pests and diseases in Australia, the risky pathways are through the north, where there are a lot of natural movement pathways, particularly for insect pests, and through what you would have to conclude is illegal movement of fruit—smuggling and so on—that has happened over the years.

Senator JOYCE—That was not the question that I asked though.

Dr Roberts—Getting to the point, there is a contingency plan already drafted for fire blight. The first iteration of it actually goes right back to about 1996 I think. That sets out a lot of the technical details, some of which were exercised, of course, with the Melbourne incident. Then, under the cost-sharing deed agreement that has been negotiated and agreed between industry, the

Australian government and state governments, there are cost-sharing provisions for dealing with those incidents.

Mr Quinlivan—And the capacity for an emergency response and eradication and so on.

CHAIR—Is that in a document that you can pass across the table?

Mr Quinlivan—I think the deed is widely available. I cannot not see any reason why not.

Dr Roberts—If you want to see the deed, that covers all industries that choose to sign on, of course. We can give you the contingency plan.

CHAIR—You say there is a protocol available in the event of an outbreak?

Dr Roberts—There is a contingency plan. We can send that to you.

CHAIR—Is that in that document?

Dr Roberts—No. The apple industry has a biosecurity plan, and at the moment it has been incorporated into the apple industry biosecurity plan. We can provide that. It is a public document.

CHAIR—I guess if you were a pessimist you would say that, if the contingency plan exists, we are being a bit pessimistic about the future. I would be curious to see it just to see that there are not some dopey flaws in it.

Mr Quinlivan—There are two things that are relevant here. We have a well-established process for responding to emergency incursions.

CHAIR—We saw that with the citrus canker.

Mr Quinlivan—That is right, and sugar cane smut and so on. That group meets regularly. It has a capacity to authorise activity to contain and eradicate and so on. There is a plant deed—and also a deed for animal health and diseases—which imposes obligations on all of the parties to cost share in various ways depending on what happens. A party or a state which has an incursion in the right circumstances can get a capacity to spend a lot of money very quickly on eradication.

CHAIR—Would it be possible for you to provide to this committee the actual plan?

Mr Quinlivan—The contingency plan?

Dr Roberts—The apple one, yes. In its full glory it is a few hundred pages long.

CHAIR—Are there any pictures?

Dr Roberts—Some, and there are nice coloured covers between the sections. Plan Health is the keeper. It has facilitated pulling it together. There is no problem; it is a public document.

CHAIR—We would be interested.

Dr Roberts—We will provide that.

Senator JOYCE—With your knowledge of it at the moment, would it involve quarantine of the orchard and pulling out all the trees?

Dr Roberts—Yes. If you look again at our report, the conservative view we have taken is that you would not be able to eradicate it. That has been the starting point of our analysis.

Senator JOYCE—That is very important; we will have that on the record. So if it turns up you will not be able to eradicate it?

Dr Roberts—That is our assumption in terms of building a conservative approach to risk management.

Senator JOYCE—There are 300 pages telling you that you will not be able to get rid of it. That seems peculiar.

Dr Roberts—The alternative is that you say it is easy to eradicate and we will not worry too much about risk management. We have assumed that you need really good risk management, because if it gets in, we are ruined, in a sense.

Senator STERLE—How did Japan cope with it?

Dr Roberts—They had it in a couple of steep valleys in Hokkaido. They detected it back in the 1950s. It was in a very contained area. They had some problems getting rid of it. In fact, it flared about 15 years ago. Because it was so contained and it was associated with a particular type of apple production—particular varieties and a particular cultural group—they managed to contain it.

CHAIR—How did they get it?

Dr Roberts—It is unknown how they got it. It is actually a variant; it is not exactly the same as the American, New Zealand and European form.

Senator STERLE—So, it flared after 40 years?

Dr Roberts—No, it was present; it was not properly eradicated.

Senator STERLE—Now it is properly eradicated?

Dr Roberts—Yes, as far as we are aware.

Senator JOYCE—So this is a correct statement: if we import apples from New Zealand, it is not that there is no chance of canker coming in—that is, there is a slight chance of canker coming in. That is a fair statement; is it not?

Dr Roberts—The chance of it coming in meets Australia's appropriate level of protection.

Senator JOYCE—There is a slight chance of it coming in.

Dr Roberts—Every passenger who comes from New Zealand also carries a slight chance.

Senator JOYCE—I am asking a straight question. There is a slight chance that it will come in.

Dr Roberts—The risk—and do not forget the risk includes the likelihood of its happening times the consequence—meets Australia's ALOP with the risk management measures—

Senator JOYCE—You are not answering the question. There is a slight chance that it will come in.

Mr Cahill—It will. The way it is expressed in terms of Australia's ALOP is very low.

Senator JOYCE—Okay, that is the answer. There is a chance it will come in.

Mr Cahill—It is not zero.

Senator JOYCE—You just talked about the—

CHAIR—Senator Joyce, we have been through this many times in your absence. The assumption is that the apples can, for the working protocol, come from an orchard that is infected, even though we will have an inspection regime to stop that happening. But the safety standards built into the importation protocol will include the fact that the product is coming from an infected orchard. The second thing is that, as I understand it, the differences between the importation on the apple into the country and then getting an infection as a consequence of an apple having it is another consideration of risk. So we need to separate your language of importation and then the risk of infection. The witnesses might explain that.

Dr Roberts—You are talking about needing a continuous chain of events that says that you take an apple from an orchard in New Zealand that happens to be carrying the disease organism. That disease organism survives the packing and transport chain and the distribution chain to Australia and is consumed in some form, perhaps eaten by someone in a school playground. The core is thrown away, still with the viable bacteria—that is, it still has the disease organism on it—and some mechanism comes along that transfers those bacteria lying on the apple core on the ground—perhaps it is dry, dusty ground or flooded if it is raining—and somehow takes those bacteria up and places them exactly in a suitable host flower that is at the right stage. Any break in any part of that chain means it is a non-event in terms of the introduction of the disease. The analysis looks at that those matters.

Senator JOYCE—A similar process must have happened for the valley in Hokkaido.

Dr Roberts—Yes, but it is most likely that someone imported apple, pear, cotoneaster, pyracantha or about 100 other ornamental varieties carrying the disease. It is a well-known disease that is transmitted by nursery stock.

Senator JOYCE—The ultimate thing is the time frame. You talk about 'T' equals time. Even with only one bullet in a 300-round chamber, if you keep spinning the chamber for long enough, you will find the bullet.

Dr Roberts—That is right. And that applies to every passenger, every movement of freight and every activity where things cross our border.

CHAIR—I guess it is fair to say, Senator Joyce, that all our protocols involve some risk. Not one is 100 per cent foolproof.

Mr Cahill—That is right. As Bill has just explained, sometimes there does tend to be a focus on the risk of entry of a particular pest or disease rather than on the other parts of the equation, which are about establishment and spread. Clearly, to determine what the risk is and what the risk management measures need to be, you have to look at the whole picture.

Senator McEWEN—Were all 13 diseases that you looked at ranked low or negligible—or whatever the thing is in the middle?

Dr Roberts—Some met Australia's ALOP without additional measures and some needed risk management measures. Fire blight, European canker and apple leaf curling midge were the three biggies in terms of risk management needed. But we do have a general provision in there that apples have to be inspected for anything of quarantine concern and, if it is detected, action taken. So, even though we have identified those 13, if something we have not even thought about turns up in that inspection, there is a provision that says we stop the line and report to AQIS, who considers what to do. For an insect pest, that might mean the whole lot goes for fumigation, for example.

Mr Cahill—It is worth stating for the record also that, in the case of apple scab disease, the IRA says there are no effective risk management measures that can be put in place. Western Australia is currently free of that disease, so we say that Western Australia should be excluded and there should be no imports into that state. That is the case with the movement of apples from eastern Australia, where apple scab is present, into WA at the present time.

Senator O'BRIEN—Can you run me through exactly what happened in the appeal process? Unfortunately, I was not able to be here at the commencement of your evidence.

Mr Quinlivan—Are you interested in the chronology and so on?

Senator O'BRIEN—Yes.

Mr Quinlivan—I am not sure how much detail you want.

CHAIR—Do you want it provided to the committee, Senator O'Brien? Do you want the written detail?

Senator O'BRIEN—The chronology could be provided in a written form.

Mr Quinlivan—We can give you the complete chronology, but the basic elements of it are that three appeals were received by 12 January.

Mr Cahill—That was the closing date of the appeal.

Mr Quinlivan—The appeal was established very quickly. John Crosby was chairman by virtue of the fact that he was also chair of QEAC. The chairman agreed on 17 January, within the week, that an appeal was warranted. A panel was put together very quickly—we will give you all this in a bit more detail. We had one difficulty in finalising the panel. Normally it is the case that the chief plant protection officer would be a member of the panel. But in this case Ms Lois Ransom, who is that person, had previously done some work on the IRA and thought that it was wise that she not participate. Eventually she was replaced by Dr Glen Kile, who you would know is an eminent Australian scientist.

The panel was formally convened on 29 January. People spent a couple of weeks reading and analysing the appeal documents and putting together some advice. Some members of the panel did their own independent research. The panel met on 19 February and pretty much settled its decisions on the day. There was a little bit of drafting work done in the following few days, and on 22 February the panel finalised its findings. On 23 February the chairman notified the appellants and the secretary and the chief executive of BA of the panel's findings. On 26 February, after all the interested parties had been informed, all the findings and the appeal documents were placed on the website.

Senator O'BRIEN—So there was no opportunity to address the panel or answer questions, or was a decision taken by this panel that that was not required?

Mr Quinlivan—It was not required.

CHAIR—Senator O'Brien, in your absence we were told there was no dissent amongst the eminent scientists.

Mr Quinlivan—Senator, we have now moved from the review of the submissions and the way BA dealt with them by the eminent scientists group to the point where BA's report has been completed. There were three appeals against BA's findings and so this is an appeal panel that was convened.

Senator O'BRIEN—Did the panel decide that they did not need any further information?

Mr Quinlivan—The appeal documents were quite self-contained and easily dealt with, with one exception. Two of the appeals claimed that BA had not properly taken into account an Australian code document. We can get the correct name of the document for you. It was a code for the export of Tasmanian apples to China.

Ms Anderson—Sort of, yes.

Mr Quinlivan—We will try to find the correct title of it. We had quite a hunt for this document and discovered in the end that the document did not exist. It is referred to in the contingency plan.

Dr Roberts—No, it is in one of the internal operational plans for Tasmanian exports to China.

CHAIR—It was never completed, though?

Dr Roberts—As far as we can determine, because we were also asked if we had a copy of it—and I think AQIS—

CHAIR—If it was completed would it have been completed by the Tasmanian government?

Dr Roberts—That has to be checked as far as I understand it.

Mr Quinlivan—We had quite a hunt for this document and we could not find it. We have had communications with the appellant. That was the only area of complication and the only area in which there was follow-up action required.

CHAIR—So no-one has actually applied to send apples over there? I presume they would have to be landed pretty cheaply over there.

Ms van Meurs—The Tasmanians do have a protocol. The protocol was signed off around the time we had the incident in the botanic gardens. The requirements that the Chinese have put together, in our view, are too onerous and not required. We are putting in a submission for mainland apples to China.

CHAIR—Can this committee be provided with the 'too onerous conditions' that the Chinese have put on us?

Senator O'BRIEN—That would be a very interesting exercise.

Mr Quinlivan—The document was called the Australian Code of Practice for Collection, Culturing, Identification and Replication Testing for Fire Blight.

Ms Anderson—That was what it was alleged to be called.

Mr Quinlivan—That was what it was alleged to be called, yes.

Ms Anderson—It does not actually exist.

Senator O'BRIEN—Did the panel contact the appellant and say that this document did not exist?

Ms Anderson—Yes, shortly afterwards, and it has not been provided. We have also had some contact with the appellant after the findings were delivered to sort out that some more and we are quite satisfied that it does not exist.

CHAIR—Let us just get this straight: someone must have proposed that it was a good idea that we try to export some apples to China. So then we thought, 'We'll go through the due process to achieve the protocol.' We started that journey and the conditions that were put upon us by China were proven to be too onerous, so we abandoned the process.

Mr Cahill—The decision about whether the process is abandoned is essentially a commercial decision that exporters make.

CHAIR—I appreciate that.

Mr Cahill—But it is not unusual to find other countries putting in place protocols that Australia might have concerns with at various points in time. In the case in question, we have said to China on numerous occasions that we do not believe the measures that they are proposing are technically justified. But we go through this argument with countries all the time.

CHAIR—You might provide us with information on the hurdles that they want us to jump over.

Mr Cahill—We can give you that information.

Dr Roberts—The history of that was that the protocol with China was almost completed and Tasmania was more or less ready to go and then the incident in the Melbourne botanic gardens was reported. My understanding is that, rather than wait for that to be resolved, the Chinese said, 'You prove Tasmania is free of fire blight, we'll put that in the protocol and it'll be okay then.' Subsequently, we have eradicated fire blight from the Melbourne botanic gardens and we have not been able to get China to move away from that. It was done more or less in the heat of that incident. I do not think it was part of the original protocol. Tasmania was not being asked to prove freedom from fire blight until it popped up in the Melbourne gardens.

CHAIR—Does New Zealand export apples to China?

Dr Roberts—We will check on that.

CHAIR—That will be a dead giveaway if they do.

Dr Roberts—My understanding is that the US does as well. If the US exports, there will be no, or very light, fire blight requirements—if there is any trade. It may well be a situation—

CHAIR—Could you provide—

Dr Roberts—We will try to provide what we can, but, again, we are not necessarily privy to the detail of this.

CHAIR—But we would know, surely, whether apples were being exported from New Zealand.

Mr Cahill—We can try to establish that.

CHAIR—They would not own up that they are exporting apples to China?

Mr Cahill—They would not necessarily share their protocol with us. But we can get the facts on whether they are exporting to China.

Dr Roberts—There are stats and we can check those.

CHAIR—We know what conditions were imposed on us. If they are exporting apples and they are infected, I would love to know what that protocol was.

Dr Roberts—New Zealand have a protocol with Japan. I think a couple of tonnes moved in the first couple of years and then New Zealand growers concluded that there was no money to be made. So, if they are exporting to China, the provisions for fire blight must be much lighter than the Japanese conditions.

Senator O'BRIEN—I have been told that small quantities of Fuji apples are being exported to Japan from Tasmania but that other varieties are not.

Ms van Meurs—That is true. There has been a greater issue around the fumigation for codling moth than around any other issue. That was resolved late last year, and they reckon they will be able to export some good, new varieties into Japan from Tasmania this year in this coming season.

Senator O'BRIEN—So the protocols have been used?

Mr Cahill—We were talking earlier about the China protocol.

Senator O'BRIEN—I asked a question earlier about Tasmania and Japan and you said nothing had gone.

Mr Cahill—My apologies; I was at cross-purposes on China.

Dr Roberts—I do not know how much, though.

Ms van Meurs—At the moment it is a very small quantity.

Dr Roberts—In the first year I think they air freighted a couple of cases over. It was symbolic more than anything. Whether a little bit more went subsequently—

CHAIR—The other thing that would be helpful to the committee would be to know if there have been attempts to export our apples to other countries that have been knocked back through AQIS or Biosecurity Australia type conditions. Have we failed to get apples into other countries because of what they have imposed upon us?

Dr Roberts—Codling moth is often a problem.

Ms van Meurs—For example, the industry exports a lot to Europe and the phyto conditions are very simple compared to those in other markets. So the apple industry is sending a lot of product into places where the protocols are not as difficult. For example, I think exporting pears into the US was always a bit difficult because of codling moth. So there has not been a lot. Exports of pears into the US became commercially unviable quite a few years ago—I think mainly because of codling moth.

Senator O'BRIEN—So the appeals did not require any other input from the appellants to the appeal panel after they had submitted the documentation?

Mr Quinlivan—That is correct.

Senator O'BRIEN—And they were concluded following a reading of the material at the first meeting? It was determined that the appeal would be dismissed?

Mr Quinlivan—No. There was only one meeting but there were several weeks of preparatory work, analysis and reading done by the panel members and also by the secretariat so that, when the panel did meet on 19 February, we were in a position to make judgements straight away.

CHAIR—Were the final three appeals from the industry?

Mr Quinlivan—They were from Apple and Pear Australia Limited, the Apple and Pear Growers Association of South Australia and the New South Wales Farmers Association Horticulture Committee.

CHAIR—They have been dealt with?

Mr Quinlivan—They have been, yes.

CHAIR—And they have been informed of how you have dealt with them?

Mr Quinlivan—Correct.

CHAIR—Have they commented on how they thought they were treated?

Mr Quinlivan—We have since had contact from the Apple and Pear Growers Association of South Australia. We talked about that before the search was made for the document that was referred to. We have also had a freedom of information request for the documents.

CHAIR—Have they put anything on the record as to what they thought of the way they were dealt with or the outcome?

Mr Quinlivan—I think that the freedom of information request was enclosed in a letter which also asked that this particular matter—

Ms Anderson—Different matters.

Mr Quinlivan—They were matters that had been dealt with the panel. They had not been dealt with adequately and they asked for the Director of Quarantine to stay her decision until they had been dealt with. She subsequently contacted the chair of the panel and asked him to reassure her that the panel had adequately dealt with those, and he has done that.

Ms Anderson—And if by 'public record' you mean in the media, there has certainly been some criticism of the process as well from some of the appellants.

CHAIR—I presume that some of them will be following this and will probably be in touch if they feel they have been seriously aggrieved. I will just ask one other thing on the record before we go to a private briefing. Where are we up to in terms of satisfying ourselves as a country and as an industry that citrus canker has been eradicated from the Emerald district?

Mr Quinlivan—I am not sure if we have a person equipped to answer that question at the table.

Mr Cahill—I suggest we take that on notice.

CHAIR—You can take that on notice. It would be a shame. I am talking about protocols here. I guess there have been a lot of lessons learned out of what went on up there. The first thing that you want to take with you when you go on these trips is a sledgehammer in case you come across a door that is locked! The original protocol that was put in place—what was it called, the California—whatever that protocol was—

Dr Roberts—Florida, I think.

CHAIR—The Florida protocol was a complete bloody failure. I am mindful of the fact that, whatever the protocols we are putting in place to satisfy ourselves, there is no citrus canker lying under a log somewhere or in someone's fridge. I would be curious to know how you are satisfying yourselves. Is it true that there has been advice that they are about to go back to planting?

Dr Roberts—Yes. I have seen those media reports, but it would be better if we get Chief Plant Protection Officer—

Mr Quinlivan—We will come back to you with some advice on that.

CHAIR—If we could have a briefing on that, I would like to test all that out.

Committee adjourned at 5.14 pm