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STANDING COMMITTEE ON RURAL AND REGIONAL AFFAIRS AND TRANSPORT

Reference: Import risk analysis for apples from New Zealand follow-up hearing

WEDNESDAY, 9 MAY 2007

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SENATE STANDING COMMITTEE ON

RURAL AND REGIONAL AFFAIRS AND TRANSPORT

Wednesday, 9 May 2007

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

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

Senators in attendance: Senators Adams, Fielding, Heffernan, Joyce, McEwen, McGauran, Milne, Nash, O'Brien, Siewert and Sterle

Terms of reference for the inquiry:

To inquire into and report on:

Import risk analysis for apples from New Zealand follow-up hearing

WITNESSES

Committee met at 4.06 pm

CHAIR (Senator Heffernan)—I declare open this public hearing of the Senate Rural and Regional Affairs and Transport Committee. The committee is hearing evidence on the appeals process for the final import risk assessment analysis report for apples from New Zealand.

I welcome everyone here today—there is a bloody full house! This is a public hearing and a *Hansard* transcript of the proceedings is being made. Before the committee starts taking evidence I remind all witnesses giving evidence that they are protected by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage a witness on account of evidence given to a committee, and such action may be treated by the Senate as a contempt. It is also a contempt to give false or misleading evidence to a committee.

The committee prefers all evidence to be given in public, but under the Senate's resolutions witnesses have the right to request to be heard in private session. It is important that a witness gives the committee notice that they intend to ask to give in camera evidence. If a witness objects to answering a question, the witness should state the ground on which the objection is taken and the committee will determine whether or not it will insist on an answer, having regard to the ground which is claimed. If the committee determines to insist on an answer, a witness may request that the answer be given in camera. Such a request may of course also be made at any other time.

On behalf of the committee I would like to thank everyone for their cooperation here today.

[4.07 pm]

ASHTON, Mr Darral Ross, Chairman, Apple and Pear Australia Ltd

CORBOY, Mr John, Member, Apple and Pear Australia Ltd

RUSSELL, Mr Anthony Douglas, Business Manager, Apple and Pear Australia Ltd

RANFORD, Mr Trevor, General Manager, Apple and Pear Growers Association of South Australia Inc.

FRANKCOMB, Mr Thomas, Chairman, Pome Fruit Council, Fruit Growers Tasmania Inc.

HALL, Mr Roger, Consultant, Fruit Growers Tasmania Inc.

HANSEN, Mr Howard, Vice-Chairman, Pome Fruit Council, Fruit Growers Tasmania Inc.

DARLEY, Mr Peter, Chair, Horticulture Committee, New South Wales Farmers Association

CHAIR—I now welcome representatives of Apple and Pear Australia, New South Wales Farmers, the Apple and Pear Growers Association of South Australia and Fruit Growers Tasmania. So there you go—jeez, it's another one of these blokey things! If you would like to give an opening statement we would be delighted to hear it, and then we will go to questions.

Mr Ashton—I am an apple grower from Batlow. Firstly, we would like to thank you for giving us the opportunity to sit before you once again. We have done this several times in the last few years. We would probably prefer to be somewhere else, but this is an important matter. I am sure you recognise most of the faces sitting around here as we have been sitting around for seven or eight years on the same issue. We are doing it because we want to do everything possible to protect our livelihoods. That is really what is at stake for us. The consequences of outbreaks of exotic pests and disease in any part of rural industry but particularly in horticulture and, more importantly for us, in the apple and pear industry are extreme. We are really here to ensure that our livelihoods are protected and that our families are protected as well.

We believe that quarantine and associated legislation is the responsibility of the parliament and that this is a duly constituted committee of parliament on this issue. We understand that today you are only taking submissions, but we hope that after today's deliberations you will reconvene and address the shortfalls that we see in the Australian quarantine process. We would be more than happy to contribute to that, should you make that decision.

We have many serious concerns, but because of time limits today there are probably only a few that we will touch on. But we will put forward specific issues and the major one that we will address is fire blight, even though there are a raft of other serious pests and diseases that concern us right throughout this process. There are four major areas that Apple and Pear Australia Ltd

would like to address. The first one is the failure of Biosecurity Australia to provide sufficient information to allow stakeholders to respond fully to the draft and the final import risk analysis. The second is the lack of independence of the appeals panel and its failure to adequately consider the appeals by APAL and others. The third one is the compromising of the impartiality of the Director of Animal and Plant Quarantine in making a final determination. The fourth area we would like to address—even though we have had some discussions this morning—are the activities undertaken by BA to progress the inspection procedures with the New Zealand authorities to the exclusion of the Australian apple and pear industry.

I would now like to introduce Mr John Corboy. John grows a large amount of fruit in the Goulburn Valley and is also Chairman of the National Fire Blight Task Force. I would also like to introduce Mr Tony Russell, who is the Business Manager of Apple and Pear Australia Ltd. I would like John to take over now and highlight some of the issues that we have.

Mr Corboy—Thank you for the opportunity to speak to the committee. We would like to give you a very quick precis and leave it at that, but obviously there is some complexity to this. I will probably take up more time than either you or I would like, but it is important that we use this opportunity to put our case very succinctly and in a very informative manner. As an introduction, we would like to address some of the misconceptions or myths that are being circulated in relation to this import risk analysis and the purported low levels of risk that occur under it. As Darral said, we primarily deal with fire blight, and I suppose we do that in the sense that we as an industry see fire blight as the most serious disease that we face. The others are very serious, but if we happen to get apple midgets it is like having one arm amputated. If we get fire blight it is like being decapitated, so that is why we focus on it.

We note that BA continues to reiterate that this IRA was undertaken using sound science. This obviously leads people to assume that there is sufficient knowledge of the diseases out there, and that scientists have worked pests and diseases out to the nth degree. The reality is that in relation to fire blight there is a lot of key information out there that is not available. For example, we do not know why an orchard shows no symptoms of the disease despite the presence of this bacteria. We do not know how long this bacteria can remain in an orchard. We do not know if it can be present and not detectable. There is a lot of scientific work going on now on what is called viable but non-culturable bacteria—in other words, the pest can essentially hibernate and come back into play at some other time. We do not know whether this bacteria can move through the sap of trees, although there has been some interesting work published very recently by Japanese scientists demonstrating that it can move through the trees into the fruit. Probably as important as anything, we do not know how it got into 39 of the 48 countries where it exists. Scientists can clearly agree on nine; the rest of them are up for grabs. Granted, there are different assumptions of how it may have got there, but we do not know for sure. There are other examples that we could add to that.

But, on the other side of the ledger, what I can tell you is that there is no fruit-growing area in New Zealand free of fire blight. I can also tell you that this bacteria, in ideal conditions, can multiply from one to a billion in 48 hours. I can tell you that once it is established you cannot get rid of it. I can also tell you that Australia has perfect conditions for this disease—more so than New Zealand. New Zealand probably has much better conditions for European canker, for example, than we do, but conversely we have absolutely superb conditions for fire blight to establish itself and spread.

What I can also tell you is that if we get it, particularly in our pear industries, it will make those industries unviable. When you get to the end of it, for somebody to assure you it has been done with sound science is not as reassuring as you might hope it would be. You cannot have sound science if you do not know a lot of the fundamental issues. That has been an ongoing problem from APAL's view: when you do not know, do not assume you do; do not guess, just assume it will happen. And there is a whole raft of issues here where it has not been assumed it will happen.

We also note that the IRA team has assured us that this is robust enough to exclude any risks that it may have by way of its shortcomings. When you think about it, knowing there is a fundamental lack of knowledge, you cannot assure anybody that this is robust enough. If you look at it, history is littered with examples of where we thought we knew what we were doing. To give you an example, if we could rewrite history and go back into it, if somebody suggested you bring two rabbits into this country you would probably think it was a fair idea. History has shown that is not the case. Cane toads would be another classic example of where science believed it was a way out. If you look at the Nairn review, in the 15 years prior, Australia had 652 incursions of plant pathogens and 40 incursions of plant pests. In the years since, in our submission to BA we identified 16 instances of high risk import and system failures that have exposed Australia to major pest and disease risks.

The other incomplete story we would like to address is the eminent scientists. We have noted in the BA's briefing of this committee on 22 March a question was raised about the view of the eminent scientists. It was raised by the chair when he asked how stakeholders could be satisfied that their concerns were dealt with in the appropriate way. Dr Roberts responded that all of this information, including the comments, went to the Eminent Scientists Group and they independently had to confirm or otherwise that BA had appropriately dealt with all of the comments received. Mr Roberts and Mr Cahill, when asked whether the eminent scientists' view was unanimous, had stated they were. If you remember, Mr Cahill said, 'We are talking about very eminent scientists here.' From any lay person's view, you would think the committee is being told in that instance that the eminent scientists reviewed the science in this matter. The facts of life are that the eminent scientists were specifically excluded from commenting on science. The eminent scientists' charter and role were to review what BA had done and ensure that stakeholders' comments were taken into account or addressed. In simple terms, if stakeholders put an issue there that BA disagreed with, that was the end of the story. BA's position ruled. The eminent scientists were not allowed to comment on that. They were specifically precluded from forming a view on the science.

If you look at the eminent science role, it is an audit role. They have to look at whether BA has taken into account the stakeholders' view. I think earlier I mentioned 'considered,' but the correct words are 'taken into account'. To give you an example, a stakeholder might turn around—which we did in this case—and say, 'BA, you can't assume that all of these blocks have the same risk. Anything that has had previous infections is a higher risk, and you need to treat that in a different way,' which we as growers understand from our experience is just a given. If BA happens to disagree with that, so be it, eminent scientists give them a tick—they have considered that view. If we take that to an extreme, and I am not saying this is what has happened, but if clearly we said to BA on a risk analysis, for example, on another matter concerning constellations, that the moon did exist and BA took the view it did not, the eminent scientists

would give them a tick on that one, as long as they considered it. So it is very important that people understand that this has not been peer reviewed by any independent group.

The other issue that keeps being raised is: there is no proof that fire blight is being spread by the trade in apples. APAL do not take exception to that and do not disagree with it; but we would like to put two other points on the table. One is that there has been no proof that fire blight has not been spread by trade in apples. Of the 48 countries where it has been spread, scientists can only conclusively confirm how it has spread to nine of those. Clearly you cannot assume that this is a safe position. We noted that, in the briefing on 22 March, Dr Roberts, in response to a question about how fire blight was spread, gave the example of the movement of the disease from the UK to France. He presented the theory that birds carried the disease from infected hedgerows in the UK, dripping with fire blight, to France. It is quite conceivable that that is the case. However, as you would know from your own travels through Europe, hedgerows are beside thoroughfares, and it is equally conceivable that an apple from one of the trees that was dripping with fire blight could be thrown under a tree, be carried by an insect, and establish itself. It is a matter of whether you want to tell 80 per cent or 100 per cent. Our view is that the risk is there; it is demonstrable. If you go back to the UK issue, the theory of how it entered the UK is that it entered through fruit crates coming from the US. Nobody knows enough about this disease and how it is being spread. There can be no position of saying that it is done on pure science, and the situation of it being robust has to be questionable. Given all the possible scenarios in this, a reasonable person will come to the conclusion that it can happen in many ways. The problem we have as an industry is, because it is established in other countries, people do not worry about how it is spread when it is there. There is no use worrying about it. There has been very little research done on that matter. APAL itself has commissioned research in relation to viable but nonculturable, because nobody else was interested in it.

The other issue we would like to clarify is the WTO position as we see it. The statement primarily made by New Zealand is that the WTO has ruled on whether apples can be a vector for the transport of fire blight. The WTO ruled two things. The first thing was that Japan did not put sufficient evidence up to support that. Japan put up one example of science. The Americans, being very good in the WTO, put the position that the apple that the experiments were done on was an immature apple and, therefore, it did not count. They were also very critical of the way Japan undertook their risk analysis. There is no doubt in this case that BA has followed the steps in a risk analysis. We may disagree with the outcome, but our belief is that if we do end up in the WTO, the outcome will be totally different. It is not something we should be intimidated about.

With respect to the earlier statement about the protocols being some of the toughest in the world, I can tell you, as an exporter, they are not as tough as those of some countries we have to go into: pears into the US, citrus into Korea, summer fruit into Taiwan, apples into Japan and China. If I can deal with that Chinese protocol, I notice that it was discussed at the last meeting for clarification, and there seemed to be some doubt whether it existed or not. I can assure the committee members here: if you are a Tasmanian grower—and I am sure our Tasmanian colleagues will confirm this—and you want to export to China, you have to undertake three inspections for fire blight. And that is for a country that does not have it.

The protocols proposed by BA come down to one inspection for fire blight at four to seven weeks after flowering or three to four months before harvest, a wash in chlorine, and an inspection. In the case of fire blight, you cannot see it, so the inspection is wasted. Can you

imagine in some of your constituencies if we applied a similar protocol to the equivalent of fire blight in animals—foot-and-mouth-disease? Is it acceptable to go and inspect something four months before you ship it? Is it acceptable to put it through something that you know does not get to where the disease is? The chlorine dip definitely does not; science has proved that, because you create an air pocket. Is it acceptable to give them a quick look-over before you ship them off to the country? I would put it to you that, if something like that was put in livestock, your lives as parliamentarians would be made unbearable by your constituents. Certainly whoever is proposing it would be looking over their shoulder. In our view, it is not a tough protocol.

CHAIR—Listen, you are getting a bit longwinded here.

Mr Corboy—Okay.

CHAIR—Are there other opening statements that we need to hear?

Mr Corboy—That is the end of that other than the four issues we want to raise specifically on process.

CHAIR—You better cut to the chase.

Mr Corboy—Okay. Fortunately, we both reached the point at the same time. The first one we want to raise is the failure of BA to provide sufficient knowledge or information to stakeholders to fully respond. With this issue we are specifically talking about how the protocol for inspection will be undertaken. We as growers believe—

CHAIR—The answer is: they do not know.

Mr Corboy—Exactly, they do not know, but, equally, the answer from a stakeholder's viewpoint is: if you ask us to comment on whether you think something is sufficient to protect us from this disease and you will not give us the information of the plank that is there—and very clearly inspection is the major plank of this; you cannot see it at the end inspection—

CHAIR—I am on your side.

Mr Corboy—From our perspective, if you were doing anything in a legal sense or a business sense and a person had a right to comment to influence the thing, and you did not supply them with it, they would say they had been denied due process and they would be taking you off to court. We have every right—the legislation is clear about it, the handbook is clear about it, comments from parliament and your colleagues are clear about it—to respond in an informed manner. We are very concerned that, as we go forward and this is implemented, there will be a lack of knowledge in that sense.

CHAIR—So what you are saying there—because we have got a long way to go—is that, once they come up with his protocol, which is going to come from the other side, you would like to be able to comment?

Mr Corboy—We would certainly like to have input into it. Just reading again from the *Hansard* of last time, it does not look like we are going to be asked to have input into it. To exclude that wealth of knowledge to me just seems to be suicide in itself. That is one area where we have a lot of expertise.

If I can go on, for the sake of brevity, to deal with the lack of independence of the panel, as you know, if you disagree with this IRA you can put it before a panel and that panel assesses it on two grounds only. It cannot deal with the science; it can only deal with it if there has been a significant deviation from the process and/or there has been a significant body of scientific information not considered. The panel, as I am sure you are aware, is to a large degree an in-house panel under DAFF. By commercial standards, you could not call it an independent review. I am not questioning the integrity of the people; I am just saying that that is a practical reality. We appealed on seven grounds. At present we have had all seven knocked out. What is infuriating us as to this issue is the reasons given for knocking out those appeals. Perhaps I will keep it at one or two rather than the seven.

CHAIR—We can ask you that in questions.

Mr Corboy—All right. We do not believe that that is an independent review of BA's decision. We know from the minutes of the last *Hansard* here that they met 39 days after the appeals had been lodged and three days after that, with some minor redrafting, they came out with their conclusions. APAL certainly had no contact with them. When you ask about the decisions and we go through them, you will see why we are asking how they could make those decisions without coming back and asking the relevant questions. We have quite a few issues that we believe we can demonstrate—

CHAIR—Can you table the document that you are reading from?

Mr Corboy—Yes, we will. Hopefully, it will allow some questions of relevance to come out of it. The next one is the compromise of the impartiality of the Director of Plant and Quarantine. It is a very serious issue. It is a very serious thing to put before you. As you know, this system is designed with checks and balances. It goes through a heap of processes and at the very end the director makes a decision, taking into account all of the issues. We know that the director herself, immediately after the release of this and before any appeals had been heard or lodged, was out there saying how good this was et cetera. In other words, it had been done properly, it was firm and there was nothing to worry about. She said things along the lines of: 'You have to understand that fire blight has never been proven to be spread in the trade of apples. We have that chlorine treatment in there to protect us.'

CHAIR—Who are you talking about?

Mr Corboy—Joanna Hewitt. Equally, she said: 'If we put stronger protocols in place here, we will most likely end up in the High Court and lose.' We are sitting here as people who are putting in an appeal, looking for an independent assessment at the end of it, when the person who makes the assessment went out and supported where it is, before the whole argument has been finished. You can understand the reluctance of stakeholders to go through a process like this. In all fairness, we did alert Ms Hewitt about this. We went and saw her and put out views on this clearly to her. Where is the impartiality in this? Is this whole thing set up to—

CHAIR—We got the message.

Mr Corboy—I will hand to Mr Ashton for the next issue. He may be a bit quicker than I am, Mr Chairman. I will let him deal with it.

CHAIR—You are all right.

Mr Ashton—Back in early February I was at a major European trade show and had a cup of coffee with my New Zealand counterpart, the Chairman of Pipfruit New Zealand, Ian Palmer. He made the comment, 'I understand that discussions and negotiations re the protocols have been well advanced and have been very good.' I said: 'What discussions?' It appears that there had been discussions. We had a meeting with some of the AQIS people this morning and we understand that they were not involved in it. So we can only assume that it was Biosecurity Australia meeting in New Zealand to progress the protocols. Our New Zealand counterparts had been briefed by Biosecurity New Zealand, and we are sitting out in the dark.

We have looked at this thing all the way through to try to be as constructive as we can in our input. To be left high and dry makes us wonder what is going on. We had some confidence out of the discussion with AQIS this morning, but that still leaves a big concern hanging over the whole episode.

CHAIR—I think this is a peculiar process. I will ask some questions of the department again later. You do not know about the protocol inspection, do you?

Mr Ashton—No.

CHAIR—And you say that Biosecurity may have been having discussions in New Zealand about that? We will ask them.

Mr Ashton—The Chairman of Pipfruit New Zealand was briefed that that had been going on—obviously during December-January, I gather. I had the discussion with him on 9 February.

CHAIR—In my view, some of the logic that was used in the Japanese experience is fundamentally stupid. I am sure Senator O'Brien will move to that in a minute. What do you think happened in the Botanic Gardens in Melbourne?

Mr Corboy—There are only two, or potentially three, things that could have happened in the Melbourne Botanic Gardens: somebody got off an aeroplane from a country that had fire blight and dropped a leaf or maybe an apple that had fire blight in it, or it was sabotage. There is no way it could have been transferred on the known vectors—the air currents—because we are at the right area, thank God. It is the same scenario with birds. There seems to be no other logical explanation than misplacement by a tourist or whatever.

CHAIR—One assumption seems to be that the inspection regime is not all that important because the scientific assumption behind the import protocol is that the apples will be coming from an orchard that has fire blight and the protocol will be good enough for entry so that that fire blight, even if it were there, would not spread. What do you think about that?

Mr Corboy—We obviously totally disagree with that attitude.

CHAIR—I am not saying it is—

Mr Corboy—We agree with BA on one thing: that without any protocols the risk does not meet Australia's appropriate level of protection. On that point we are in agreement. Where we start to disagree is that they believe they can bring that risk down from an unrestricted risk by applying protocols. As an industry and as people who make our living out of dealing with pest and disease, we are saying, 'No, hang on people; not with what you are proposing. If you put in more stringent conditions, yes, you might have a chance, but certainly not by having an inspection so long before harvest.' BA will tell you that that is the time when you get the most infection and when most of the residual will be there, because it is in the calyx. You have had the chair of the panel here telling you a theory of how it spreads to France from plants dripping with fire blight. The issue here is that you could be picking fruit out of an orchard that was burnt out by fire blight. There is no protection as to that whatsoever. It just defies logic to me how you can scientifically justify that, let alone work out how you are going to do an effective inspection. We turned our mind to that as an industry; to hit that standard of 95 per cent of one tree will be a real challenge.

CHAIR—I know what I think about that but I have been in enough trouble for loose language in the last week or two. Would the New South Wales Farmers Association like to make an opening statement?

Mr Darley—Certainly. Apple trees have a combination of flowers and fruit at the same time. I have some photographs here to substantiate these comments. These photos will prove that this occurs. The photos were taken on 7 May 2007, the same day that harvesting commenced. Sundowner apples were the last picked apples for the season. If the blossom were to be infected by fire blight, there would be nothing to stop the apples being infected by the bacteria and in turn infecting a complete crop of fruit, with those flowers on those trees, to be harvested,.

CHAIR—Are you saying that these are late flowers?

Mr Darley—Yes, they are late flowers on the tree.

CHAIR—I grow them at home too.

Mr Darley—That blossom could be the host for infection of the bacteria. The proposed one inspection four to eight weeks after flowering will not be adequate in that process. Therefore, a second inspection prior to harvest, at the very least, must be carried out, and if there is any doubt, which there certainly would be in that case, the fruit must be fumigated after harvest,.

The second concern that we have is wheat bug, which was detected in Belgium and Holland in mid-2006 when it was transported into these countries in the packaging of New Zealand apples. The report by the European and Mediterranean Plant Protection Organisation states that wheat bug is commonly found in the packaging of New Zealand apples and is a contaminating pest.

What is to stop the same thing happening in Australia when we know that AQIS does not have a QA system or a risk management plan in this country? Some commentators may suggest that

we already import goods from New Zealand in cardboard packaging and there could possibly always be a threat of the introduction of wheat bug into Australia.

We believe if there was to be approximately two million cases of apples imported from New Zealand, as reported, this would increase the risk of introducing wheat bug into this country. Wheat bug is a winged insect currently found in New Zealand and it can be found in products that include, but are not limited to, timber, kiwi fruit, tomatoes, apples or apple packaging. Wheat bug is a highly effective hitchhiker and moves around quickly in wood products and food packaging, such as cardboard boxes and wooden cases. Wheat bug feeds on the sap of brassicas, clovers, alfalfa, oats, barley, rye and wheat; damaging young plants and grain. 10,000 tonnes of wheat was damaged in New Zealand in 1970 and the pest is acknowledged as posing a significant threat to Australia. The insect's potential for spread into Australia is not known as no research has been done. However, this lack of knowledge is not a factor in the protocols for quarantine management.

Mr Frankcomb—I am a fruit grower and I am also the Chairman of the Pome Fruit Council for Fruit Growers Tasmania. We have come up today to present the unique concerns of the Tasmanian fruit industry about the import risk analysis for the proposed importation of New Zealand apples into Australia. We have a short submission which Howard Hansen, from the executive of Fruit Growers of Tasmania, will present to you.

Mr Hansen—There are two key points we wish to present. Firstly, we aim to develop the committee's appreciation of the unique quarantine status of Tasmania, the commitment our state has to protecting that status and the market access and resulting commercial opportunities that we get out of that. This unique status has not been allowed for in this IRA, which is why Tasmania is conducting its own assessment. The status and resulting commercial opportunities mean that the consequences of any incursion are far greater to us. The second issue that we want to speak about is our determination to see an industry representation in developing the work plan that will be required to accompany this IRA.

While Tasmania produces only about 18 per cent of Australia's apple production, we account for in excess of 65 per cent of apple exports. In recent years we have exported to over 20 different countries. The greatest volume of these exports has been to India, Sri Lanka and Taiwan. Sweet cherries are another of our outstanding horticultural exports; probably one of the fastest growing horticultural businesses in Australia. Between 80 and 90 per cent of Australian cherry exports are coming from Tasmania.

Tasmania's fruit is recognised as being free of many quarantine pests that occur on mainland Australia. The most significant pests are Mediterranean fruit fly, Queensland fruit fly, potato cyst nematode, tobacco blue mould, San Jose scale, phylloxera, lupin anthracnose, warehouse beetle, strawberry angular leaf spot, pea weevil and bacterial wilt; and there are others on that list. This quarantine status is very valuable to Tasmania as it enables Tasmania to export a range of products to a range of countries that mainland Australia is banned from exporting to. The government has an ongoing commitment to protecting this status and guards it jealously. Recently, Tasmania employed a further 20 quarantine officers, taking the total number of officers in Tasmania to 80. To put this into perspective, if you had the same amount of officers per capita, Victoria would need to have 800 officers—they have 20. So you could say that quarantine to us is 40 times more important than it is to Victoria, as an example. Recently the government

announced the installation of X-ray gear at incoming passenger terminals, and under the Department of Primary Industry and Water they established a biosecurity unit to assess a number of products coming into Tasmania.

Tasmania's fruit fly free status is also of concern in relation to this IRA in that there is no allowance for transhipping through mainland Australia and the possible infestation of fruit fly in Tasmania. When we ship cherries through mainland Australia to markets like Taiwan, we must have that fruit sealed inside a plastic bag inside two layers of cardboard. The actual cartons have no ventilation in them and all of that goes inside a master outer carton with no ventilation. It must be quarantine taped and it must have a sticker on it saying that all of that has been done in Tasmania in a fruit fly free environment. So we are looking for some allowance as to how we can maintain that protection of fruit being transhipped through the mainland.

The recent fruit fly larvae discovery in Tasmania has helped to highlight our vulnerability, but it has also reiterated the importance of our quarantine status. It is also proven that, no matter how good a system is, it can still fail. We were just lucky on this occasion that the highly resourced state quarantine officers were able to be onto the problem very quickly and contain it very quickly.

It has come to our attention only recently that there has been no attention paid in the New Zealand apple IRA to the possible introduction into Tasmania of San Jose scale. Tasmania is recognised as being free of San Jose scale, which is present both on mainland Australia and in New Zealand.

As a result of our export orientation, it is probably fair to say that Tasmanian growers' opinion of an appropriate level of risk is far lower than the rest of the country's because the consequences of an incursion and the resulting loss of market access are far greater for us. The current IRA acknowledges that there will be apples coming into the country carrying the bacteria but deems this to be within an appropriate level of risk. It is a disappointment to us that the whole process seems to concentrate solely on the risk of an incursion whilst there are only a few paragraphs about the consequences of an incursion. Significant consequences of an incursion of fire blight would be the loss of the Australian apple growers' ability to produce apples without the requirement for antibiotic sprays. Whilst this is not a competitive advantage that we exploit today, I am sure that, in the future, the fact that we can produce apples in this country without antibiotics may give a lot more credibility to the clean, green status that we have.

We would also like to put to the committee that the next step in this process is to develop the New Zealand IRA into a work plan that will detail how the requirements of the IRA will be implemented and audited. We cannot express enough the importance and necessity that there is industry representation in this process.

Mr Ranford—Certainly our organisation supports all of what has been said by other people. I would raise two brief issues that are covered in the submission and reinforce them. One is the changing nature of the goalposts and inconsistencies in the process. John Corboy referenced the eminent scientists panel. In a document that I have tabled dated 18 October from Biosecurity Australia—it is a policy memorandum of 2006, No. 29—you can see that, in the fourth dot point, the role of the eminent scientists' panel has been strengthened. Unfortunately, this process will not come into place until after the apple IRA so, effectively, our growers have been denied that

natural justice of utilisation of a process which obviously both BA and the government see as not having been strong enough and are therefore looking to strengthen.

The other one is in reference to a document about trade between China and Tasmania in relation to apples. You have a document there which is a summary document of quarantine requirements for export to Tasmania. Interestingly, the document was dated November 1997 and I received it via AQIS officers out of Tasmania, yet I am informed by letters from Joanna Hewitt and also from the panel that this document was only ever a draft. It is interesting to note that in the letter it states that the previous signed copy of the requirements was dated 16 October 1997. We have a working document which the Tasmanian AQIS representatives and therefore the Tasmanian industry have used and which still exists which states a requirement for three inspections and also makes reference to an Australian code of practice. We believe that that shows further inconsistency in this whole process in relation to both setting protocols as well as the documentation being used by sections of AQIS on industries. The whole process has seen changing goal posts and total inconsistency which makes it very difficult for industry to work.

CHAIR—It seems to me that this whole thing fails at the first hurdle. I am a wool classer and a welder—not a scientist. The inspection protocol is something that I would be pretty interested in. This is based on a protocol that you blokes do not know about—the agreement—which is bloody stupid. I do not know that there will be a scientific reason why bloody stupid is not bloody stupid. And I still do not have an answer on what makes a scientist eminent. In terms of human failure, something that has occurred to me about your status in Tasmania is that one of the additional risks now in Tassie is the cars on the ferry. If you are mum, dad and the kids and you have a couple of apples under the bloody seat, you are not going to declare them because you probably did not know that the kids put them there. Those things are human failures which could bring you undone—would you agree?

Mr Hansen—That is right and that is why the state governments increased their commitment to quarantine officers. You could not come off that ferry without meeting a quarantine officer. I do not know what the chances are of there being a sniffer dog but I imagine a lot more than 80 per cent.

CHAIR—This could be quite accidental.

Mr Hansen—The sniffer dog will hop into the back of your car and you have to open the doors up. There is no doubt that there is a risk and we have sleepless nights worrying about it, but at least our government recognises that risk and is prepared to put the resources in.

CHAIR—So the basis of the protocol is that, allegedly, there will be no apples coming into Australia from an orchard, as I understand it, that is detected to have—

Mr Corboy—That has visible symptoms.

CHAIR—Yes, I understand all that. Having seen the glorious failure of the inspection regime that destroyed every citrus tree in Emerald because a poor unfortunate lady and her mate were asked to inspect 20,000 acres or whatever it was in some ridiculous amount of time, I would have thought that common sense would demand that you knew before you took the second step

what the bloody protocol was going to be, because there is a limit to human capacity. Have you blokes any idea what a reasonable inspection would be for an orchard?

Mr Corboy—There are two issues with us here. One is only one inspection and that is a very crucial issue.

CHAIR—I understand that—a picture paints a thousand words.

Mr Corboy—We do not want it coming off trees that are infected with it, which it can do. The second issue is what we can do to participate in transferring the wealth of knowledge we have in identifying pests and diseases, and we understand that we are going to be excluded from that. The industry is not going to be consulted on whether we think this is a good or bad idea. The end result is that we are going to get what is agreed. We had a productive meeting with AQIS this morning, but they are going to have all hell to pay to try and work out whether this one fits the benchmark. My view as a grower is that, to fit the benchmark, the cost to do it properly will preclude exports.

CHAIR—It might also include predisposition. In New South Wales recently poor old Margaret Cunneen got taken off a case because she was seen to be too good at her job—she was too predisposed to put the victim in jail. In your case we had a grower come through that speaker up there from New Zealand saying that if he had a choice between an orchard that did have and did not have fire blight he would not worry if he was given the one that did have it. That is the predisposition. You would not agree with that, would you? You would prefer to have an orchard that did not have it.

Mr Corboy—I do not like questioning people's integrity, but that was a bit of a cheap line from him because every New Zealand grower I have talked to has said, 'If we could not have this disease like you guys don't, we would pay for it.'

CHAIR—But it does set down the predisposition of the people you are up against.

Mr Ashton—Can I just comment on the question you asked about inspections. We have tabled a paper here this afternoon which we did submit to the Import Risk Analysis Appeal Panel about an outbreak of fire blight in Michigan around five or six years ago. It occurred well outside the four to seven weeks after full bloom. The loss was around 450,000 apple trees. That paper was rejected because it was not seen to be peer reviewed scientific literature. It is a document based on the facts of the day and what actually happened, by a reputed and well-respected extension officer over there. The inspections are really at the crux of it. The Chinese one—the one on Tasmanian apples to China, which we have signed off on; it is the protocol—talks about three inspections: 30 to 40 days after bloom, when new shoots appear and immediately before harvest. If it is good enough for us to sign off on apples to go—

CHAIR—What is good for the goose is good for the gander.

Mr Ashton—Exactly. Some of the major outbreaks of fire blight in New Zealand that I am aware of occurred in late December and into January. That is well outside the four to seven weeks outside full bloom.

Senator O'BRIEN—As I understand it, you are aware of another country that has recently developed the fire blight disease in its orchards.

Mr Ashton—Morocco has just developed fire blight. They are not quite sure how it got in there. The end result is—and I think it goes back to our opening comments: we are here to protect our livelihoods—that one poor Moroccan apple grower had 43 hectares of his orchard pushed out. It is quarantined and that is it—the party is over. We are here to make sure we can continue.

CHAIR—Are there fire-blight-free areas in New Zealand?

Mr Ashton—No.

Mr Corboy—The New Zealand MAF themselves declared that there is no area in New Zealand free of fire blight. There are areas that are low pest prevalence where it creates a very minor problem. It does not flare up on a regular basis as in other areas that are high risk.

This is the issue. At your last meeting you were asking which countries were free of fire blight. You were informed that Africa was free of fire blight. After that intervening three weeks, I hate to tell you that Africa is not free of fire blight now. That is the nature of the disease. If you look at Morocco and its geographic location, it is not easy to explain how it got there. In the UK, yes—the winds go from the UK across. If you look at the climatic conditions from Spain into Africa, it is a different ball game. So we are going to have another one there where we do not know how it got in.

Senator O'BRIEN—In terms of your answers about the appeal process, I take it, if I can summarise them, that what you are saying is that it is an administrative appeal about process only—in other words, where they have not properly considered the matters before them rather than doing a review of the scientific basis of the decision that has been made.

Mr Corboy—Yes. The way they can interpret things really gets up our noses, in the sense that we turned around and put up some very good information on orchards being infected after the inspection. The response we got back was, first off: 'The science you put up was only a single piece of science. We believe you need to put up more than one single piece of science. So you are out on that point.' The second point is this: 'The thing you put up on Michigan'—and it is Michigan State University et cetera—'is not peer reviewed science.' The third thing they say is that they did consider this, on page 99. If you look up page 99, it is on economic damage. It has nothing to do with that. They say that it was considered in the wider thing, but we cannot get a quote on where it is in the thing. 'So therefore we disallow your appeal.' Does that mean that Michigan did not happen?

Senator O'BRIEN—Are you saying your material was not considered and that it was only a review of whether the original decision makers had properly considered the evidence before them, or are you saying that they refused to accept additional scientific information on the grounds that they did not believe it had been substantiated by peer review or for other similar reasons?

Mr Corboy—We have been jumping around, so I can understand the confusion. What we said is: in this case you have missed a significant body of scientific evidence because you would not propose an inspection three months before harvest when fruit trees can be harvested after—that is the logic of the proposal that was put. We put that information up. We dug up the information in relation to it. But, as I said to you, they have come back with the three reasons and they are turning around and saying, 'That's not relevant because it's only one piece of evidence and the other isn't peer reviewed et cetera.' That is a predetermined outcome. In our view, if they wanted more information, we could have given them more. If they wanted more than one peer reviewed paper they could have found it themselves. If you want to question it because the thing we put on Michigan is not peer reviewed, what will they say—that it does not happen, when it does happen?

Senator O'BRIEN—In your comment on the appeal panel—I will not try and quote you—I took it that you were effectively saying that it was of the department or close to the department and therefore was not seen to be independent of the original assessors of the process.

Mr Corboy—The members of the panel—and they are in the paper we have presented to you—are encompassed within that; they are either associated with or directly employed by DAFF. BA is in exactly the same position.

CHAIR—This is the independent review?

Mr Corboy—No, the appeals panel.

Mr Russell—I will read out the members of that panel: firstly, the chair of the Quarantine and Exports Advisory Council; the second person was nominated to be the Commonwealth Chief Plant Protection Officer but in this instance that individual had a conflict of interest therefore that person was replaced with the executive director of the Forest and Wood Products R&D Corporation; the third person was an officer of the Department of Agriculture, Fisheries and Forestry; and the fourth member was another member of the Quarantine and Exports Advisory Council. So our submission is that they were all—

CHAIR—So, if you were in charge, who would you have?

Mr Corboy—Somebody removed from the apple and pear industry, which we think is needed, and somebody who is removed from BA and DAFF. Imagine going to court with something like that. You would get challenged for every jury you took up in a court case on that.

CHAIR—There is an old saying: you are only as independent as the person who pays you.

Mr Ranford—It is about whether you are looking at process or science. If you are looking at process—

CHAIR—This is process.

Mr Ranford—there are people—you would look outside of the industry. If you are looking at science, there are obviously scientists within the university structure or wherever that are outside of both industry and the bureaucratic process that you could use on those sorts of panels. I am

sure there are many eminent Australians that could play a role on one or another, whether it be policy or science, but in this case it is science.

CHAIR—Say they were totally independent—sorry, Senator O'Brien—can you see where they might have made a different decision?

Mr Ranford—It depends on what they were doing. The problem is that the panel is very much driven by two basic principles—that is, whether they deviated from the guidelines of the handbook or there was a quantity of science. It did not allow any sort of review, as did the eminent scientists panel, of the actual science, the conflict of science and the judgements that were made.

Senator O'BRIEN—I think your evidence is that under the new arrangements proposed there would be a differing approach.

Mr Ranford—Certainly for the eminent scientists panel, yes.

Mr Corboy—Not for the appeals panel but for the eminent scientists panel.

CHAIR—The handbook, or whatever you are talking about: that is the rule book, is it?

Mr Ranford—Yes.

CHAIR—How good is the rule book? The OIE rule book on foot and mouth disease was not too good. They did it by the book, and the book was, as they say—

Mr Ranford—As an industry, certainly at a state level and I am sure at a national level, we criticised the book when it was first put up, and nothing changed. That seems to be the process all the time, that you put up ideas and information into a process but nothing changes. So this last policy memorandum is probably the first time we have seen some change in the process of the guidelines.

CHAIR—Who wrote the rule book?

Senator O'BRIEN—Biosecurity Australia.

Mr Ranford—DAFF. The guidelines were written by the department before Biosecurity Australia was established.

CHAIR—But, since we were last here, fire blight has gone into Africa—is that right?

Mr Ranford—Yes.

CHAIR—And that rule book would not explain—

Mr Corboy—The rule book is about process and about steps. To give you an example, the rule book—

CHAIR—How different was their import set-up from what we propose?

Mr Corboy—We do not know.

CHAIR—So how many countries are left that have not copped fire blight?

Mr Ranford—There are 46 or 47 that have fire blight—

CHAIR—By that I mean those that are commercial apple growers.

Mr Corboy—South America and South Africa. China is purported not to have it, although there are mixed signals on that one. But Europe is pretty much blanketed with it. The Middle East—

CHAIR—They do not even know what people they have got in Europe, let alone what apples they have got in Europe.

Senator O'BRIEN—What are the fruit fly implications of importation of apples to Tasmania, and was that matter considered in this import risk assessment?

Mr Frankcomb—The implications of getting fruit fly into Tasmania are potentially very severe. If we had a confirmed outbreak of fruit fly in Tasmania, overnight we would lose market access to Taiwan, to Japan, to China and to—

Senator O'BRIEN—That is not just for apples, is it?

Mr Frankcomb—No, it is not just for apples; it is for all horticultural products out of Tasmania. Overnight we would lose access just like that. So it is a potentially very serious problem for us.

Senator O'BRIEN—The second part of the question was about what consideration was given in this import risk assessment to fruit fly and its implications for Tasmania?

Mr Corboy—Perhaps I can answer that question. New Zealand does not have fruit fly. It was not one of the designated pests. The first step of this is that they have to identify all the pests involved. Fruit fly was not one of the identified pests. My understanding is they do not have it.

Mr Hansen—That is right. The issue we mentioned is the possible cross-contamination when fruit is being trans-shipped through mainland Australia.

Senator O'BRIEN—And the San Jose scale issue?

Mr Frankcomb—San Jose scale has been discovered recently by the Tasmanian Biosecurity Working Group, which is looking into this process. It is a pest in New Zealand and in mainland Australia. There is a protocol for the importation of plant material into Tasmania that needs to be disinfested. It needs to be fumigated with methyl bromide to make sure that San Jose scale is not brought into Tasmania. The issue of bringing fruit into Tasmania that might have San Jose scale needs to be looked at by the Tasmanian government.

Mr Hansen—So again, there is no consideration of that in this IRA.

Senator MILNE—I would like to return to the protocols, Mr Corboy. You have indicated that the chlorine wash is ineffective. You have indicated that the inspection of the fruit is ineffective because you cannot identify the bacteria by sight. You have said that a single orchard inspection four months before harvest is no guarantee that you are not going to be having infected fruit.

Mr Corboy—Infected or infested—I know you mean the same thing but it can be either.

Senator MILNE—So it is either or both?

Mr Corboy—Yes.

Senator MILNE—You have also pointed out that the protocol for the export of apples from Tasmania requires three inspections, implying that three inspections would obviously be better than one. But the question I would like to ask is: given what has been said already about the risks associated with the import of this disease, is there any protocol that would protect Australian fruit growers?

Mr Corboy—We believe there are protocols that will lower the risk from where it is sitting at the moment, which is too high. I do not think anyone, BA included, can tell you that what they put in will do the risks. We suggested very strongly in our submission that in relation to insects we needed disinfestation or treatment with methyl bromide. We suggested very strongly that an inspection prior to flowering was needed and that possibly, depending on aberrant weather conditions, there be one in between if it happens to warrant it. So, yes, it can be made safer than it is. I do not think anybody will ever get it to a point where it will be acceptable. We come with different perceptions. We as an apple and pear industry say to people, 'We've had one outbreak of fire blight in Australia. Fortunately, we got it early and we controlled it.' If I asked the senators here what they considered to be the benchmark of it being at danger level, they would say, 'When we have an outbreak.' We have not much scope to go on this. In other words, under present conditions we have a serious risk of the introduction of fire blight.

Senator NASH—So what was the response to your suggestions of those protocols that were eminently sensible?

Mr Corboy—They were not accepted.

CHAIR—But let us get down to the bottom line: this process fails at the first hurdle. That is from where I sit, and you might have a different view. There is no way that anyone can tell an orchard that has had or has fire blight. You prune it all out and you do whatever you are going to do, but there is no science that understands how it comes back when it is not visible. How do you tell an orchard has not got it if it is not visible to the eye?

Mr Corboy—You cannot. You have to assume that all orchards have it.

CHAIR—But this is all about importing apples into Australia from orchards that have not got it.

Mr Corboy—No, you are not correct there, Chair. I do not want to answer the question for BA, but essentially what BA are saying is that they are reducing the level of fire blight bacterium down to an acceptable level to meet our wish.

CHAIR—So an orchard that has fire blight can still export apples?

Mr Corboy—Yes. Under this one, without the last inspection, I am telling you now: fruit will come out of New Zealand whereby you can see it.

CHAIR—Forget all that. Under what you understand is the protocol, if you have got fire blight there would be circumstances under which you could still export your apples—is that right?

Mr Corboy—Yes, as long as it is not visible and the fruit is not showing symptoms.

Senator McGAURAN—So a cleared fire blight orchard in New Zealand can still export apples to Australia?

Mr Corboy—Yes.

CHAIR—So on that basis the science says that apples could come out of an orchard that has got fire blight, you put them in the box without the leaves and without all the rest of it and when they get here the fire blight will not spread if you chuck it into something.

Senator JOYCE—How do you determine if it would actually spread? How do you see in your experience fire blight actually spreading? What is the process?

Mr Corboy—The science tells us clearly that there are a lot of ways by which it has been confirmed that it is spreading. Insects are a primary consideration in spreading.

Senator JOYCE—Insects that come with the apple or other insects?

Mr Corboy—Any insects. In Australia we have a lot of plants in the rosacea species. Those are the plants that fire blight attacks—roses, hawthorns et cetera. If there is a heavy infestation of fire blight—or even a light one—it will be in the shade at the bottom end of the apple because fire blight does not like the light. If the infestation is there, an insect can wander in to have a look around, pick up the infestation on its feet, go for a wander and brush over one of those trees that either happen to be in flower or have a wound. Bacteria end up in the plant, and it will have blight.

Senator MILNE—To return to your previous answer, what I understood you to say was that you cannot eliminate any risk, but you can reduce the risk if you improve the protocols. You made suggestions to increase the number of inspections and so on, but nobody took any notice of that—or it was not deemed to be appropriate when you put it into the system for consideration. In relation to that, you also say that the eminent scientists considered only whether or not the concerns were taken into account—they did not deliberate on the science of whether it was correct or not. Have the protocols you have suggested been analysed by the eminent scientists?

Mr Corboy—No. It is a bit like you and I having a debate.

Senator MILNE—I understand that.

Mr Corboy—You put your point; I consider it, but I disagree with it.

Senator MILNE—At this point, the protocols that the industry has determined would reduce the risk have not been given adequate scientific assessment, and that is a significant part of the basis of your questioning of this protocol as it currently stands.

Mr Corboy—Yes. Our big problem is that the science is very mixed, and we cannot get a finite answer. We believe that the science that has been adopted on this is some of the softer science rather than some of the more aggressive science. That is our view. BA has the reverse view, and our problem is that when you have an impasse like that there is no umpire.

Senator MILNE—What is the protocol that New Zealand has to go through to export apples to China? How many inspections do they have for China?

Mr Corboy—We do not know, and they will not tell us.

Senator MILNE—Do you know if BA knows?

Mr Corboy—I do not know.

CHAIR—If I went over there and put a wig and a dress on, wouldn't I be able to go into a packing house and find out what the protocol was? You could find out.

Mr Corboy—You could find that out.

CHAIR—Do they allege that that is commercial-in-confidence?

Mr Corboy—As I understand it—and I think BA explained it to you—we are not always privy to government-to-government arrangements. The issue of what New Zealand does when it goes into China is probably irrelevant to us—it does not come onto the radar.

Mr Ashton—This is from the report by the chairman of the Eminent Scientists Group. It said:

> This report by the ESG is made in accordance with its Terms of Reference, which are to:
>
> review the draft final IRA report prepared by the IRA team to ensure that the IRA team has adequately considered all technical submissions received from stakeholders during the formal consultation period of the draft IRA ...

There is no adjudication or conflicting science.

I have one other comment on inspections. You may or may not know that New Zealand is in a spot of bother now in the apple industry because coddling moth larvae have been detected in exports to Taiwan, so they have lost that market. One of the inspections is a visual inspection at

packing. My view is that if you cannot pick up a coddling moth hole, which is this big, there is no way in the world that you are going to pick up something that you cannot see. New Zealand was exporting apples to Japan. From evidence presented to this committee some years ago, when the inspections were being done by the New Zealand inspectors there was a percentage of knockouts; however, the Japanese MAFF sent their own inspectors down and rejections jumped by 70 per cent. They had a different interpretation. We are very mindful of these sorts of things as these protocols are being developed.

CHAIR—That is what we are up against in the Philippines with bananas.

Senator MILNE—Finally, you also said in your original statement that the stakeholders had not been given the information they needed in a time frame to respond. What information were you talking about? What information did BA have that they have not made available to you?

Mr Corboy—We are marking there that what BA does is put out a document and we respond to it. It is the last part. It is the drop-dead part. If you are not successful there, you go through the rest of the process. They said to us there, 'We recommend three protocols here: inspection, chlorine, et cetera,' but they did not give any detail on the inspection. That is the information we did not have. How can you comment on—

Senator MILNE—On a regime if you do not know what the regime is, yes.

Mr Corboy—whether that is going to be effective?

Senator MILNE—Okay, thank you.

CHAIR—That is the logic, because they do not have that detail of what—

Mr Corboy—No, I know why they did not give it to us.

CHAIR—But why would you reckon we would leave it to them? I have the greatest respect for these people—they are in the room—from Biosecurity et cetera. They do a wonderful job, and it is a thankless job. And the scientists all do a wonderful job. But the whole process fails the common-sense test, in my book. That is why all those trees got ripped out in Emerald—and that is why Canberra got burnt out, for God's sake. They did not apply any common sense. And this is failing the common-sense test. The thing that distresses me is that, if we go ahead with all of this and it somehow does come in—and we will probably never know how it got in if it does come in, because we do not even know if an orchard is truly fire blight free, because you cannot tell if it is truly fire blight free by looking at it, so I do not know how you are supposed to.

It is like the BSE. We had this BSE proposition. I am sorry to go on about this, Senator O'Brien and the rest of the panel, but there was a proposition that we would bring in products from BSE-free herds, because it was an OIE—that is, an international—standard that you could bring it in from a country that had a BSE-free herd. But they forgot to think that the only tests for BSE are when the cow is dead, so there is no such thing as a live test. This fails the common-sense test, in my book.

Senator JOYCE—I would like to go back to your example—was it a codling moth or a cotton moth?

Senator MILNE—Codling moth. You would know it if you had seen it.

CHAIR—Codling moth, mate.

Senator JOYCE—And the effects of Taiwan now knocking out the New Zealand import. What is their process of assessment for codling moth in New Zealand? What was their assessment process at that time?

Mr Ashton—I would imagine that it is a visual inspection. We have tabled a copy of the press article about it, where they are saying that it could happen to anyone. We really do not believe it should happen to anyone, if they were vigilant, because it is something that you can see. It is not as if it is going to disappear. It is there.

Senator JOYCE—An inspection carried out by a government department?

Mr Ashton—It would be under the protocols which MAF would have devised, I believe. It would have been with the grower, and I would imagine that there would have been a MAF inspector there somewhere.

Mr Hansen—I imagine a lot of the packing sheds have a certification scheme where they are allowed to carry out their own inspections, and then that system would be audited by New Zealand MAF. So most likely it has been inspected by someone from the packing organisation.

Senator JOYCE—Is that the same anticipated process which would be used for fire blight?

Mr Corboy—We do not know.

Mr Ashton—We do not know. No-one has told us.

Mr Hansen—That is part of the problem.

Senator JOYCE—Just going back through the proposition of vectors between the apple and the spread of the disease, if an apple turns up and there is fire blight in the calyx of the apple, can it go by an interim entity to infect a tree? For example, can it go from the apple to a rosebush and from the rosebush to the tree?

Mr Corboy—There are two obvious ways that it can be spread relatively quickly. One is by insect. And, if it is established, it appears that one of the most common ways that it gets transferred is then by birds, because they perch on a branch—and it is a sticky disease when it is in full bloom—and then go and land on another tree. So it is relatively easy for it to move itself around. The most likely view of how it spread to Holland is on wind currents from the UK. She's a fairly persistent little thing when she gets going. That is 400 kilometres.

Senator JOYCE—Would it be able to remain undetected in a sort of dormant fashion in suburban Australia and then at a later time break out into your orchards?

Mr Corboy—That is our biggest concern. Our concern is that this will break out in the middle of the metropolitan area, through somebody who looks out and says, 'My tree looks a bit crook, but oh, well, I don't know much about it,' and then it spreads to the neighbours' trees and the neighbours' trees et cetera. That is most likely how it will happen. Fruit fly, for example, nearly always emanates out of a backyard orchard. And that is our fear—that it will literally get into a backyard garden in a metropolitan area and be picked up by a bird. I am 180 kilometres from Melbourne—big deal for a bird!

Senator JOYCE—And the issue obviously is that if we presume that every orchard has fire blight—or that is the presumption that they start with—then ultimately just probability itself will say that, if you keep going long enough, it obviously has to come in.

Mr Corboy—As a fruit grower I can tell you, and it is pretty much proven, that, if a pest or disease is present, sooner or later it finds a way of replicating itself. A bacterium does not need a mate. So our view very clearly is that anything coming in that has the risk of it—and BA says it is a very low risk and it will be low numbers. We disagree with that, and we have put science up clearly showing it being found in orchards without showing symptoms. But, that disagreement aside, it only takes one to create an outbreak.

Senator JOYCE—But even just probability itself says that, on a statistical model, a low probability on a one-off instance is a low probability, but a low probability in repetition over a number of times becomes an addition. It becomes a certainty. A one per cent probability becomes a certainty in a statistical model if you do it 1,000 times.

Mr Corboy—You would be aware that this whole model is based on the risks in one year. It is not extrapolated out. But we agree totally. One thing we know when we grow fruit: pests are a lot smarter than we are. They will find a way of keeping going.

Senator NASH—I just want to go to the eminent scientists—indeed, the definition of 'eminent' might be interesting. I just want to make sure I have this clear. The role of the scientists was really just to review whether BA had considered the information properly, not to impose their scientific knowledge on whether or not their assessment was good, bad or indifferent?

Mr Corboy—That is definitely the case. As Darral has read out to you, those are their terms of reference. It is a predetermined outcome.

Senator NASH—So if those are their terms of reference, what is the point of having a scientist to do what seems to be in essence just some type of audit role?

Mr Ashton—It has changed to say that—after our IRA and, I understand, the banana IRA—the role of the eminent scientists is that they can address the issues of conflicting science. Unfortunately, for us, they cannot. If it conflicts, it conflicts. All they have to consider is whether it has been adequately considered.

Mr Corboy—We have been on about this for several years. When you asked where it is, it might sound like a nasty response, but I would say that you had the view that the eminent scientists were considering the science. It stops a few questions.

Senator NASH—If you see the phrase 'eminent scientists', you assume they are applying their scientific knowledge.

Mr Corboy—I know. It is like the comment in the last recording, where John Cahill quite rightly said, 'These are very eminent scientists.' They are, but they are not playing the scientific game.

Senator NASH—If, in your case—and I appreciate it has changed now—that is all they were doing and, in your view, your scientific assessment is not being considered properly by BA, who or what has some kind of scientific overview of the decisions based on science?

Mr Corboy—Nobody. The rules are that if you disagree with BA on science, BA is right. I am a bit envious of that sort of position, but that is the reality. As a stakeholder, if you disagree on science with BA, BA is right. That is what we are looking at this committee to do: we want to see you bring this thing back into line. That is not due process; it is not the checks and balances that we need to preserve our country from pest and disease.

Senator NASH—I go back to the chair's point about common sense. I appreciate there is science and BA can assess science, but at any time has what I would call—not necessarily a farmer view—a practical application view of how this would work been taken into account in the system? That is probably a bit of a simplistic question. I know there is science, but I am talking from the position of a farmer and the knowledge that is acquired by farmers around issues such as this. Has that had an appropriate mechanism to be fed in?

Mr Corboy—Not really. There is one thing that people need to understand: the thing about common sense is that it is not necessarily common. You can fall for the trap—

Senator NASH—You are in the right place for that.

Mr Corboy—of working for that. There was a grower on the risk assessment panel. You would have to ask his views on that. He was one off from there. We have specifically kept out of that as an industry. We do not want to lobby that person or anything else. We have given BA the benefit of our wisdom on several occasions. We have not been backwards in being forward on the issue. We put in a 400-plus page submission outlining our concerns with it. So, yes, there has been input. It has not been adopted.

Mr Ranford—The industry has done two submissions in the last two years on this exercise. Grower opinion and grower comment were a part of those sorts of submissions. In the early stages BA travelled the country and looked at what was happening in orchards and tried to get a feeling of it, but we do not believe that a lot of those particular aspects and the practicalities of what occurs on the ground have been take account in this whole process.

Senator NASH—One final question, and again it is simplistic but this is for the record: if fire blight does come into the Australia, what are the impacts?

Mr Corboy—The conclusion is—it is in BA's own report—that there will be $1 billion worth of damage over a period of five years. We believe that is a conservative estimate, because when that was done the plantings were a bit different to where they are now. Twenty-five per cent of

Australia's apples are now Pink Ladies, and they are one of the most susceptible. If you are a pear grower like me and it comes into your backyard, find another career. Goulburn Valley, SPC Ardmona and all of the service industries beside them just will not survive in our climate with fire blight. And BA does not necessarily disagree with this.

Mr Ranford—The other thing you have got to look at is whether it will affect the honey industry, because bees transmit it. In the alleged outbreaks in Adelaide and the alleged outbreak in Melbourne in 1997, all of the bee hives were destroyed, so that would happen in the commercial area, and we rely on bees for pollination. In South Australia, most people have apples and pears growing in their backyard. That effectively will be damaged. The nursery industry will be affected on the basis of the rosacea varieties that it supplies. It has wide ramifications for not only the apple and pear industry but a range of ornamentals and the community at large.

Mr Ashton—If I could comment one step further. There are not just the horticultural implications but the social implications. Where I come from, the small town of Batlow, the whole town revolves around apples. If we lost half of our industry, there would be no reason for the community to exist.

Senator FIELDING—This bit of commonsense is probably a good topic to stop on. We have just heard of devastation costing, say, a billion dollars and there is a social cost and communities are affected by that risk. There is an attitude of, 'Trust us.' The eminent scientists say, 'Trust us.' I think you also mentioned that there are 48 countries with fire blight and the eminent scientists can find reasons for nine of those 48 countries.

Mr Corboy—It was not the eminent scientists in that case. It was that scientists could only confirm how nine cases happened.

Senator FIELDING—So you have nine out of 48 confirmed. I think that is too big a risk. Are there any reasons why we as senators should take that risk of a billion dollars? What is in the national interest of Australia in allowing the importing of apples? How is that in the national interest of Australia? Is there something that you know that I do not know?

Mr Corboy—No, we do not. We keep being told that this is about science and that we have to argue it on science. We believe the science shows that the risk is too great. To us, that is where the argument stops.

CHAIR—I can remember the department in Western Australia brought in something for wheat or canola and it did not fail the scientific test; it failed the human failure or common-sense test. Dopey things happen if you have a protocol that allows a scientific version of life to be led. People get out of bed on the wrong side occasionally and things go wrong.

Mr Corboy—Let me give you an example of what happens when this protocol gets developed. I will bet you, and give you very good odds, that, if we apply this protocol and get a whole heap of different sets of people to replicate it, we will come out with different results because of exactly what you are talking about—the human element. You cannot exclude that.

CHAIR—The difficulty that I have with this is that you cannot categorically state through a field inspection that an orchard has not got fire blight—can you?

Mr Corboy—No.

CHAIR—Doesn't that mean that the whole bloody thing is stupid? Everyone in the background is nodding.

Mr Corboy—We want to put before you the case as we see it. It is not for me to put BA's case. I know that BA has an answer to that. They are big people—let them look after themselves. This incidence is bringing that number of pests down to a level of risk that is acceptable in this country. We believe that what is in place now does not achieve that. We are talking to you because parliament has to be the custodian of quarantine. It is a national asset.

Senator JOYCE—What Senator Fielding is leading to is: what would be the repercussions at the WTO from not allowing—

Mr Corboy—New Zealand keeps bringing this up. In the very early stages of the round robin trip we had the trade department come along as well. There was a bit of confusion as to whether this was about trade or science. The reality is that, yes, New Zealand could take us to the WTO over this, but our argument is that it should not start on that premise. It should start on the premise of putting something up that works and we will defend it. Our personal belief and the advice we have taken is that if New Zealand took us to the WTO they would not roll us. The WTO recognises Australia as one of the few countries that has that exceptional position of being relatively pest free. They have made comments in the public arena on that issue. What people have not come to grips with is that appropriate level of protection is to be set by the country in practice. The WTO does not say whether the appropriate level of protection is good enough or not; it just says it is nil risk.

CHAIR—Senator Milne has a hole burning in her heart to ask a question, but do you think the reason that no-one has put up what the inspection protocol might be is because someone could poke a hole in it?

Mr Corboy—Yes, because—

CHAIR—I would be happy to provide the whole thing and put it up.

Mr Corboy—But, Senator, that is our greatest concern. Look at how this thing has gone to date. New Zealand puts a protocol to AQIS. AQIS in all good faith signs off on it, and we have business. We reckon there are massive holes in that. The horse has bolted.

CHAIR—I must be as thick as two planks. Isn't the protocol that you can do this from an orchard that has not got fire blight?

Mr Corboy—No, it is an orchard that does not have visible symptoms of five blight. There is a big difference.

CHAIR—So you can have five blight as long as you can hide it.

Mr Corboy—As long as it is not showing.

CHAIR—That is right; you can have it as long as you can hide it. That sounds like a real good, commonsense test to me. I cannot see how we can get over that. We will look forward to the challenge of arguing about it.

Mr Corboy—I understand your dilemma.

CHAIR—It is a bad set of language, I know. But isn't it the fact that you can import apples into Australia from an orchard as long as the orchard can hide the fact that they might have fire blight? That is a quaint way of putting it.

Mr Corboy—Yes.

Senator MILNE—I have a question in relation to the WTO arrangements. The perception I am getting from all of this is that there is a clear indication that Biosecurity Australia want to argue negligible risk for Australian exports of apples elsewhere and do not want to go to the WTO on the basis of a different position, as they would perceive it, on negligible risk in this situation. Are you just the pawns in this game of a lack of courage in taking on the WTO rules on negligible risk? Is that how you see it?

Mr Corboy—To be honest, it is not for us to have a view on that because that is trying to read what BA is thinking on this issue. We know the WTO issue continues to be raised—that we cannot afford to go to the WTO and lose. The problem with this from BA's perspective is that they have agreed upfront that with unrestricted risk the bacteria will be on apples. So they are going to have to fight it anyhow if we are taken there. Our belief is that Australia has a very clearly defined appropriate level of protection—we do not believe it is always adhered to—and that that is at a low or very low risk. It defies our belief that the WTO is going to roll us on this. To us it is not a consideration. It is a great bogeyman.

Mr Ashton—The concern for us, of course, as we mentioned earlier, is the protocol from Tasmania to China. It talks about three inspections.

Senator MILNE—Exactly. That is why I asked about New Zealand and China.

Mr Corboy—One of the key things in the WTO determining whether you are too harsh or not is the litmus test of what you apply within your own country. So whatever rules Australia has to live by are a great litmus test. What we have in this case is one set of rules that Australia has to live by—which is three rules—and another set that we are going to let somebody else live by, which is one rule. So we are a lot harder on ourselves than we are on anybody else. That is one of the considerations the WTO takes into account in determining whether it is too severe or not.

Senator McGAURAN—You mentioned the pear industry. Victoria is a major producer. You said that if it gets into the pear industry then those growers may as well find another industry. I just want to get this on the record, and I know you will probably love this question. Is it true that the pear industry is more susceptible than the apple industry, which we all seem to be focusing on; that it is at greater risk of infection; and that in New Zealand itself New Zealanders freely admit that they cannot and have not eradicated fire blight from their own pear industry? So is it

more susceptible and is it true that fire blight is still very much present in the industry in New Zealand? In reality is the pear industry more vulnerable than the apple industry in Australia?

Mr Corboy—Answer to point 1: yes, the pear industry is more vulnerable. It is like all different diseases: some hosts are more severely affected. It is a quantum of many Xs. In other words, it is not just a little bit worse. Pear industries in certain areas where it has got in—in California, and in Italy where we are starting to see it now—become unviable. You keep knocking out enough branches and enough trees until you get to the point where you cannot do anything. It cannot be eradicated, so once you have got it that is the path you are going down.

The Goulburn Valley in particular has perfect weather conditions for this—more perfect than New Zealand's. New Zealand has a pear industry; we are not trying to say that they do not. They just do not have, in our view, a viable pear industry. If they did they would be growing a heck of a lot more pears. And when you talk to New Zealand's pear growers, fire blight is their No. 1 issue. They have enormous problems. And they do not have what we would call ideal conditions for it. So you can imagine what it is going to be like when it comes over here.

It is a much more serious problem on pears. The anomaly in this is that it is the apple IRA but we are both pome fruits; we are both part of the rosacea family. If it comes in here and gets on our pears it will be serious. And that is why you saw, in an area like Shepparton for example, 10,000 people get out in the street and protest about this. And country people do not do that.

CHAIR—So if it happened that it got in, would we have to go through this business of 'You can export as long as you can hide it' as well?

Mr Corboy—If they keep knocking off countries that do not have fire blight it is going to be pretty irrelevant, because everybody is going to have it so we can all export wherever we like.

CHAIR—So do you think that is the plan?

Mr Corboy—I do not know; I do not think anybody is that—

CHAIR—Don't answer that—you might get in more trouble than me! Thanks very much, gentlemen.

[5.46 pm]

GORDON, Ms Jennifer, Executive Manager, Quarantine, Australian Quarantine and Inspection Service, Department of Agriculture, Fisheries and Forestry

HUNTER, Mr Stephen, Deputy Secretary/Executive Director, Australian Quarantine and Inspection Service, Department of Agriculture, Fisheries and Forestry

LIEHNE, Mr Peter, National Manager, Animal and Plant Quarantine, Australian Quarantine and Inspection Service, Department of Agriculture, Fisheries and Forestry

CAHILL, Mr John, Chief Executive, Biosecurity Australia, Department of Agriculture, Fisheries and Forestry

ROBERTS, Dr William, Principal Scientist, Biosecurity Australia, Department of Agriculture, Fisheries and Forestry

VAN MEURS, Ms Louise, General Manager, Plant Biosecurity, Biosecurity Australia, Department of Agriculture, Fisheries and Forestry

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

BURNS, Mr Craig Stuart, Executive Manager, International Division, Department of Agriculture, Fisheries and Forestry

GRANT, Mr Allen, Executive Manager, Corporate Policy Division, Department of Agriculture, Fisheries and Forestry

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

CHAIR—I sincerely welcome you here today. I realise that you have to be very patient with us at times because sometimes we are a bit uncharitable, but it is all meant in good spirit.

I remind senators that the Senate has resolved that an officer of a department of the Commonwealth or a state shall not be asked to give opinions on matters of policy and shall be given reasonable opportunity to refer questions asked to a superior officer or a minister. This resolution prohibits only questions asking for opinions on matters of policy and does not preclude questions asking for an explanation of policies or factual questions on when and how policies were adopted. Officers of the department are also reminded that any claim that it would be contrary to the public interest to answer a question must be made by a minister and should be accompanied by a statement setting out the basis. If you would like to make an opening statement it would be appropriate that you do so.

Mr Quinlivan—I think this territory has been well trawled over, so I do not think we need to make an opening statement. We are happy to move straight to questions.

CHAIR—Thanks very much. Mr Quinlivan, if you were an apple grower in Australia, could you understand the anguish that this is causing?

Mr Quinlivan—Well, I am not an apple grower so it is an entirely hypothetical question. I am not being asked, and none of us at this table is being asked, to confront the technical questions that are at issue here as apple growers.

CHAIR—Yes, but the difficulty in the national interest is that you have a job to do and your officers have a job to do and they do a good job. But there is no real allowance for the sort of commonsense side of all of this. You are driven by science, and that is fair enough, but if it all turns to pudding as they say, the people that are affected go through this serious trauma, probably family distress, family breakdown and God knows what else, and the people that made the decision—and I do not even know who the eminent scientists are on the panel or the rest of them—just get on with life. They say, 'Shivers! That was a mistake.' Can you understand that for this committee this is a serious dilemma?

Mr Quinlivan—What I can say is that this process is based on science, logic and rigour—

CHAIR—Yes, and our job is to interpret that into—

Mr Quinlivan——and I do not see how that can be incompatible with commonsense. Science is based on logic and rigour.

CHAIR—We will go to the commonsense; you said it, not me. Just confirm to me that this is about importing apples from New Zealand that can come from an orchard that has had fire blight.

Mr Quinlivan—That is really a question for Biosecurity Australia and the basis on which they have made a recommendation to the Director of Quarantine.

CHAIR—Welcome, Dr Roberts.

Dr Roberts—Thank you. That is correct. The analysis that Biosecurity Australia has put out states upfront that all orchards in New Zealand are assumed to have the fire blight organism. It is a bacteria called Erwinia amylovora. So the organism is assumed to be present in every orchard.

CHAIR—So when I asked the gentleman earlier about it having to be fire blight free, that was not correct; it was where there is no evidence of fire blight that you can physically determine.

Dr Roberts—Yes, no symptoms. At the inspection that happens at four to seven weeks after flowering, the requirement is that there be no symptoms of fire blight disease. That is an inspection for symptoms of fire blight disease.

CHAIR—That is fair enough, but at no point could you categorically put your life on it that the orchard did not have fire blight, because we had evidence earlier—as everyone has said, this

has been going on for years—that in the States fire blight lives under the snow for God knows how long. There is no real way of determining, is there? You could go by what is visible but you cannot tell categorically that an orchard hasn't got it.

Dr Roberts—You cannot categorically, by visual inspection, state that the organism isn't present. You need to distinguish between the organism being present—and the assumption is that it is always present in every orchard—and symptoms being present; or in other words, the disease being active on the trees, reproducing, growing, and causing damage.

CHAIR—How do you get around that with one inspection?

Dr Roberts—Because of the logic. There were two risks that were identified in terms of apple fruit. Don't forget we are importing apple fruit—not trees, not leaves; it is apple fruit.

CHAIR—There are always a few passengers though.

Dr Roberts—Well, there are provisions in the protocol that address those other issues. The risk management measures address two risks: one, which is most likely to happen around flowering, is that you get a flower infected with the disease organism. It starts to grow, but you get a normal fruit development. Normally when flowers get infected, fruit development ceases and you do not get a mature fruit but we have acknowledged there may be some chance that that apple will continue to develop and the result is a maturing apple that has got the fire blight bacteria—not symptoms—deep in the calyx of the apple.

That is one issue that the risk management needs to address. That issue is addressed by the inspection four to seven weeks after flowering that can look back at that flowering period and say, 'Okay, according to the inspection'—and we have set a standard for the inspection which I have no doubt we will get to—'there was no detectable fire blight activity in that orchard at the key time for getting the calyx infected with the bacteria. Therefore, we have passed that hurdle.'

CHAIR—Is that the—

Dr Roberts—I am getting to that one. The next issue is what happens after the apple matures up to final harvest. Again, the report says very clearly that it acknowledges that you may get later-season activity of fire blight. Sometime between that flowering inspection and final harvest you could get some disease activity. It is less likely, but it could happen when particular weather events come together. That is acknowledged explicitly in the report, so it is not swept under the carpet. It is there in black and white. Any activity that happens could potentially contaminate the surface of the apple with the fire blight bacteria. That is dealt with by the chlorine dip in the packing house. The chlorine dip also deals with the issue of: 'Okay, I've got a team of contract pickers. They're working in Joe Bloggs's orchard down the road that is heavily fire blighted. He doesn't control the disease very well. And then they come this afternoon to pick in my orchard, which is for Australia.' There is a risk of course that they will come with picking bags, contaminated hands, gloves, implements, and picking boxes perhaps. That, again, is a surface contamination issue. That is why the chlorine treatment happens in the packing house, because it happens after all of those contamination events could have occurred.

CHAIR—So when you put the pallet on the truck and take it down to the wharf, how do you know that—

Dr Roberts—Sorry?

CHAIR—How do you know that the truck is clean?

Dr Roberts—There are provisions about the pallets, and so on, having to be clean and that they have to be free of soil and other contaminants et cetera. That is part of the normal operational requirements for all exports that ultimately come to Australia.

Senator NASH—Who checks that?

Dr Roberts——AQIS, on arrival, and also there will be pre-clearance.

Senator NASH—Every single crate?

Dr Roberts—That is operational detail, but there are standing procedures that are applied to things like contamination of pallets, contamination of packing materials, cleanliness of containers and segregation of product destined for export. They are all standard quarantine issues. They are embedded in the quarantine procedures for every product.

Senator NASH—When you have got to that point, after it has been washed with chlorine—if we take that example—as the chair said, you have then got the situation of it going on a truck to perhaps a port or wherever. There is a possibility with that crate and whatever soil contaminant. It is not absolutely certain that every single one of those will be checked. No matter what you do until that point, there is a possibility—it is not 100 per cent guaranteed—that they will not be checked before they get shipped off.

Dr Roberts—We would have to probably ask AQIS to—

Senator NASH—Yes or no?

Dr Roberts—We would have to ask AQIS to outline the normal operational requirements. This is not apple-specific business; it is all import-specific business.

Senator NASH—But we are talking apple-specific and the things that are relating to that.

Dr Roberts—The IRA says in the operational requirements that the normal procedures about cleanliness of pallets, segregation of product, packing materials, containers et cetera, will follow the normal AQIS operational requirements for that. That is specified and that is the same that is applied to all imports coming from New Zealand.

Senator JOYCE—That is like every night before I go to bed I am supposed to brush my teeth, but sometimes I do not.

CHAIR—Yes, and you can tell. The WTO has determined that fire blight cannot be transmitted by mature apples. That is contested, isn't it?

Dr Roberts—It is contested by us in this risk analysis—otherwise we would not put risk management procedures in place. There are a lot of countries of course that import apples without any provision for fire blight management and there are a number of countries that import it with a lower level—

Senator NASH—Are they countries that are fire blight free?

Dr Roberts—Yes.

Senator NASH—Which ones?

Dr Roberts—We can probably come back with some—for example, apples move around European countries, some of which are still free—

Senator NASH—If you could come back with an example, that would be good, because it is quite different importing into a fire blight free country from importing into a country that already has it. It is entirely different.

Dr Roberts—For example, we cannot track down specific requirements for New Zealand apples going to China, but we understand there is some volume that does move and has been moving for many years. As far as we are aware, it does not involve any specific fire blight provisions.

CHAIR—Why won't they tell us what the protocol is?

Dr Roberts—It is country-to-country business; it involves commercial interests and trade advantage.

CHAIR—So they are less than frank about it. If we can be squeezed to a lighter protocol than someone else—a bit like the CIA. That is hardly fair.

Senator JOYCE—You know the animal and plant quarantine protocols for Tasmanian apples going to China, don't you?

Dr Roberts—We know what China requested, yes.

Senator JOYCE—Do you think they might request something different of other countries?

Dr Roberts—As far as we are aware, they do not request anything like that with New Zealand—as far as we are aware. We have requested that detail. It has not been given to us.

CHAIR—In relation to the WTO dispute—and I would love to have a blue with the WTO—between the US and Japan, the WTO panel, and I am sure they are eminent people, concluded two things: Japan did not provide sufficient evidence to support the claim that fire blight could exist on mature apples and have a viable pathway for establishment and spread. But they did not disprove it either, did they?

Dr Roberts—We did our own risk analysis based on the science. I do not think it is appropriate. We did not have a WTO case looking over our shoulder. You will see there are a couple of very light references, with regard to some specific science, that we make to the WTO case in our IRA, but I do not think it is appropriate that we analyse and dissect what Japan and the US did in a WTO case or indeed what the WTO panel determined. The reality is we have gone through the science, as you can see in the risk analysis here; you can look at the great long list of references and so on. So we have done it from scratch, taking into account Australia's position and Australia's status.

CHAIR—Why wouldn't you want to know what the protocol for inspection was going to be before you agreed to it?

Dr Roberts—Because what we have said in the risk analysis is a performance standard that has to be met. So the lower level detail of meeting that, in a sense, is a secondary issue, because the overriding issue is that Australia has to be convinced before and as—

CHAIR—What will be the process of convincing us Australians that it is a fair process? Will half-a-dozen people have a smoke in the lounge somewhere and say, 'She'll be right, mate,' or will you come back here and say, 'What do you think about this?' It was a catastrophic failure in Emerald.

Dr Roberts—The process is that we are expecting New Zealand to come to us with a comprehensive, scientifically based analysis—not just unsupported claims—that says, 'This is the way we're going to do the inspection and this is why we're saying that it meets the required performance standard.' That has to come to us. We will look at it. We have already seen a little bit of material about the statistical bit, but the reality is the statistical bit is very straightforward. You can look up standard statistical tables. The thing that is less straightforward is deciding how effective an individual inspection is going to be.

CHAIR—Whether it is humanly achievable.

Dr Roberts—It is the human element.

CHAIR—Right. That is where this is all going to fall over, because you will never convince me—this is like Bathurst burr. As I said, Canberra got burnt. Jon Stanhope said to me: 'Bill, but we are all public servants. We did not know it was going to happen like that.' I said, 'Why didn't you get in a plane and go and have a look?' When you go Bathurst burr cutting, which I have done for years—you may not have done—you actually go Bathurst burr blind after a while; you walk past them. As long as this comes back to some people that have got a bit of knockabout experience, I will welcome the contest on whether or not the protocol fails the human and commonsense tests.

Dr Roberts—Yes, and the way to address that, ultimately, is to make a very conservative assumption about how effective an individual inspector can be. If you say they are 100 per cent effective, then all you have to do is pick up the statistical tables and use a random-number generator and send them out to say, 'I want you to inspect x number of trees and the trees that you have to inspect are these numbered in these rows.' It is a very simple process at that end to meet the required standard. But no-one in BA or AQIS would accept that an inspector is going to

be 100 per cent effective 100 per cent of the time. What we are seeking and what New Zealand has to provide is an analysis that sets out what they think an inspector can achieve. We will also separately look at that, and that is an area where we would seek industry expertise in Australia to tell us what they think: if we put an inspector into your orchard looking for these sorts of things, how do you think they would go about it and how effective do you think they would be, in a consistent manner? That is the sort of discussion we expect to have with industry expertise.

CHAIR—If they say it is not good enough, do they have the power of veto?

Dr Roberts—If it is not good enough, the impact of that is they have to inspect more trees to reach the performance standard.

CHAIR—Why wouldn't you have to inspect every tree from top to bottom?

Dr Roberts—Because the performance standard we have set is that you have to be 95 per cent confident—

CHAIR—That is rubbish.

Dr Roberts—Well, that is the performance standard based on the analysis.

CHAIR—That is rubbish. That is scientific gobbledygook.

Dr Roberts—I didn't finish, though—

CHAIR—For God's sake, if I miss one plant when I am going down the firebreak looking for those Bathurst burrs—that plant spews a whole lot of seed, and sheep come along and get it on their wool and it goes all over the place—statistically I still would have passed the test. The boss cannot sack me. 'Mate, I missed that one.' What we are talking about here is people's livelihoods.

Dr Roberts—Yes, but the analysis is based on the assumption that there will still be a low number of apples coming in from New Zealand carrying fire blight.

CHAIR—I appreciate that, and that is your job, but our job is to protect Australia's wellbeing and our clean, green and fire blight free status. We might have a bit of—

Mr Cahill—Senator, if I can add to that. That is our objective at Biosecurity Australia. That is our mission and that is why we bring the analysis to—

CHAIR—That is why we will have a robust contest. We will let Senator Milne go first.

Senator MILNE—To follow up some of the evidence that we heard earlier—and which you also heard, so I will not go into a great deal of detail, and I think you alluded to it a minute ago—it was said by some of the stakeholders that they heard that there have been meetings of Biosecurity Australia with New Zealand counterparts to discuss this matter and that the stakeholders have not been participating, have not been informed, do not know about it. Could

anyone elaborate for me the level of contact and the nature of what you are actually discussing in relation to this protocol, according to the evidence that we heard earlier?

Mr Cahill—I might answer that in the first instance, if I may. In the course of this import risk analysis, Biosecurity Australia has had extensive meetings with a range of stakeholders. So that has occurred throughout the process. There have been standing opportunities for stakeholders who want to talk with us to do so. It is not exclusive to New Zealand. It has also applied to Australian industry representatives, and we met frequently with their representatives throughout the process also.

Senator NASH—Is there a list of those available?

Mr Cahill—We can provide you with a list of consultations that we have had with stakeholders through the process, yes.

Senator MILNE—Just to follow that up, there seems to be a complete disconnect between the evidence we have heard and the statement you have just made about the opportunities for the stakeholders to engage in this. What level of invitation has been offered to the stakeholders to participate in the formulation of agendas and/or questions, negotiations or whatever with New Zealand?

Mr Cahill—What I am talking about is the opportunity for all stakeholders to meet and discuss the issues with Biosecurity Australia. We have met bilaterally with stakeholders. We have not had them all in the room at the same time, but we have met with stakeholders at every opportunity. We have published everything that we have done and put it out there for public comment, and stakeholders have had opportunities to make submissions about those matters.

Senator MILNE—Why didn't they know you have been meeting with New Zealand?

Mr Cahill—The meeting that was referred to by Mr Ashton occurred with New Zealand Biosecurity representatives on 31 January. That was to discuss technical issues associated with the IRA. It was in response to that standing invitation that I referred to, for all stakeholders to discuss issues with us. It was without prejudice to anything. It was part of the process of explaining the content of the IRA and what it meant. Mr Ashton's comment, I note, was over a cup of coffee that he had with his counterpart, and I am not aware that either of them were at that meeting. So the discussions were government to government and they were about technical issues associated with the IRA. That is quite proper and legitimate.

Senator MILNE—I do not dispute that it is proper and legitimate for government to government meetings to occur, but I am concerned that—since it is to discuss technical issues about which the stakeholders have firsthand and tremendous knowledge—there seems to be a complete disconnect with their involvement. I would like to be told now how these organisational representatives can engage the process as it goes down the line in discussing this protocol with New Zealand.

Mr Cahill—As I said, we gave opportunities to all stakeholders to meet and talk with us about any of the issues that they were concerned about. We met on numerous occasions with apple and pear industry representatives, so they have had those opportunities as well. As Dr

Roberts has made clear, in developing the protocol—which I might add, is principally a matter for AQIS in consultation with Biosecurity Australia—that industry expertise will be sought in relation to those issues.

Mr Quinlivan—I think that is the point. Your question is moving on beyond the role of Biosecurity Australia to the role that AQIS is now playing in the development of the detail.

Senator MILNE—Can you tell me how they are going to be involved with AQIS in developing the detail?

Ms Gordon—The process that we are going through now with the New Zealand government—and we had discussions this morning with the Apple and Pear Australia Ltd—is that basically the New Zealand Biosecurity and agricultural people have to provide us with a set of statements, a set of standards, that demonstrate that they are actually going to meet the criteria set out in the IRA. We are assessing whether the documents that they are providing us are sufficient to assure us that they are actually going to meet the performance standards set in the IRA. At varying points in our assessment of that, we are seeking advice from Biosecurity Australia as to whether they think we need further detail, whether we need to consult with experts in the Australian industry to say whether these particular approaches that New Zealand is proposing will actually meet those standards. We are in the middle of that process. We have not come to the conclusion of that. We have explained that process to the members of the Australian industry who saw us this morning and my understanding is that they accepted that the process we were going through was one that they well understood. It is very much the same sort of process that we would go through if we were seeking to develop a protocol with a country that we wanted to export our own produce to.

Senator MILNE—At what stage will they be able to engage once you have done your deliberations about whether what New Zealand has provided will meet the standards that you have set out in the IRA? At what point will the growers actually get involved and comment on whether they think that is an accurate reflection of what may or may not happen?

Ms Gordon—It will depend very much on whether the information that is provided to us by New Zealand gives us the degree of satisfaction that we believe that we need that those standards will be met. We will not necessarily provide the information directly to the Australian industry. We will seek its advice on particular aspects of it that we need. It is important to understand that the documents and the discussions that we are having with the New Zealand industry are government-to-government documents and government-to-government discussions, and that they are provided to us in confidence so that we will not necessarily provide the information directly to industry for their comment. There are comments set out quite clearly in the IRA, but it would not be usual for us to consult stakeholders at large on this. The stakeholders have already been consulted on the standards, and there may be elements of that where we need further expert advice and that is what we would seek with assistance from Biosecurity Australia.

Senator MILNE—That is my problem because you are saying you—AQIS and Biosecurity Australia—have a better understanding than the people who actually grow the fruit.

Ms Gordon—No, we are not claiming that we have a better understanding.

Senator MILNE—But that is what you said: 'If we are not satisfied, then we will go out and ask the stakeholders.' The obvious inference is if you are satisfied, then you will not, which means that those people do not get an opportunity to comment on the adequacy, which is again—this is one of the resentments I heard earlier in the evidence—that the growers did not feel like their concerns were adequately assessed by the scientists and so on, that there was an audit process rather than a scientific assessment process. Why wouldn't you involve them? Especially when I accept what you are saying about government-to-government negotiations, but governments take industry group representatives on delegations all over the place all of the time. You only have to go to a single climate negotiation and find the coal industry at every meeting the government is at. Let us be realistic about government to government and who goes on delegations and who negotiates. I cannot see why the growers ought not be intimately involved with that negotiation of the protocol.

Ms Gordon—I think you have misunderstood what I said. Our responsibility is to assess the proposals that New Zealand puts to us about whether the standards that are set out in the IRA are likely to be met by the approach they are taking. The industry this morning, in our discussions, agreed that we have very competent officers in AQIS, who are often very experienced in assessing systems, processes and procedures and that they were comfortable that we would be able to carry out that part of the process. The actual involvement of the Australian industry in assessing or not assessing whether the proposals from New Zealand meet the requirements is not something that would normally involve an industry discussion. The industry has been involved in commenting on whether the standards themselves are acceptable. But there are aspects of the proposals that New Zealand has or is likely to put to us that would require expertise that exists in the Australian industry and we would, at those points in time, seek advice from Biosecurity Australia about who might be able to assist us to come to the conclusions that we need to come to in order to satisfy ourselves that the processes will meet the standards set. That is the normal process. It would be the normal process in terms of the development of protocol for produce that we would be exporting to another country.

Senator MILNE—The concern I have—I just reiterate—is it is discretionary from your point of view and what I would like to see is mandatory consultation rather than discretionary consultation because then that does involve the stakeholders at every level. That is something that we might well want to discuss as a committee later. The final question I have got is in relation to the WTO processes, so I presume there is somebody who can answer this. In the event that we made a decision that there was no such thing as negligible risk in relation to fire blight and importation into Australia and made a decision that we were not going to accept New Zealand apples based on the science, based on what we have said, what are the ramifications?

Mr Quinlivan—I will ask Craig Burns to come to the table. He is our trade policy expert. While he is doing that, I will just mention that our appropriate level of protection is very low, not negligible.

Mr Burns—The guidelines under which we operate are that we impose the least trade restrictive measures that we can. So we do not have a zero risk; we have a very low risk. That is the guiding principle and that is what we have to do.

CHAIR—Who gets the sack if you cock it up?

Senator MILNE—The government. It is their policy.

CHAIR—Who gets into trouble under that protocol if you get it wrong?

Mr Burns—I could not comment on the protocol.

CHAIR—No-one.

Senator MILNE—But I understand from what you are saying that, because there is a policy setting which says that Australia does not operate internationally in a free trade regime on the basis of zero risk—we operate on the basis of a government policy which says we operate on low risk—then you operate within the rules of low risk, and low risk is what you are all dealing with.

Mr Burns—Correct.

Senator MILNE—That is essentially policy.

Mr Burns—We deal with a very low risk. We actually benefit from that policy because, as I am sure you have heard many times, we export two-thirds of what we produce in agriculture and it is in our interests to support that system, which ensures that countries impose the least trade restrictive measures. We have to play by those rules.

Senator MILNE—So China has imposed three inspections on Australia. Why can't we impose three inspections on New Zealand?

Mr Burns—I could not comment on that. We deal with each case as it—

CHAIR—Who could comment on it?

Dr Roberts—We can comment on the status of those three inspections. As far as we understand it, nothing has moved from Tasmania.

Senator O'BRIEN—To China?

Dr Roberts—Sorry. Nothing has moved from Tasmania to China under that protocol. There was some early work done I think in 1997 or 1998 that initiated some of the required inspections, but as far as we understand it, it was not carried through. Secondly, our understanding is that the Australian apple industry has opposed those inspections from the start and, indeed, has requested and been working actively with Biosecurity Australia to have those inspection requirements lifted at least on the basis that Tasmania is fire blight free and therefore it is inappropriate to ask for three inspections. So that is our understanding of the status.

CHAIR—So we are not supposed to interpret that there is some sort of artificial barrier.

Dr Roberts—You can interpret how you like. But if the question is, 'Why don't we do a tit for tat? You do three and we will do three,' I am suggesting that we start from scratch with the science. We do not get into that business.

CHAIR—And that is the way it should be; there is no question about that.

Mr Cahill—So we also do not believe that there is a scientific basis, as Dr Roberts has suggested—

CHAIR—In the Chinese protocol?

Mr Cahill—in the Chinese protocol. We have made strong representations and continue to do so to have that protocol changed to allow meaningful trade to commence.

CHAIR—And what, they are just going—

Mr Cahill—We continue to work through the process.

Senator NASH—What has been the WTO view then of the requirement for the three from New Zealand to China? If we are being asked to play on a level playing field and we have to do the right thing about low risk, has there been any view from around the WTO criteria of the requirement for three from China?

Ms van Meurs—The exports from New Zealand to China requirements are not known, so we do not know—

Senator NASH—Didn't you say Tasmania?

Mr Cahill—We are talking about Tasmania and you said New Zealand.

Ms van Meurs—You are saying New Zealand to China.

Senator NASH—I am sorry; I meant to say Tasmania.

Mr Cahill—As I said, we make strong representations to China to change that protocol to make it, in our view, consistent with our judgements about the science. The test that you are asking about really requires Australia to take that to the WTO to be adjudicated or, if some other country were subjected to similar unacceptable protocols, for that to be taken to the WTO to be adjudicated. That point has not been reached yet. It is not unusual in country-to-country dialogue about technical issues to do with trade that representations are made on both sides and both ways to have those protocols meet what we would regard as being a satisfactory scientific test. Those debates go on all the time, and they are continuing with China.

CHAIR—So why haven't we taken China to the WTO?

Mr Cahill—That would be a question for somebody other than me.

CHAIR—If it is good enough for the goose it is good enough for the gander: if the New Zealanders are going to stand over us, and they have got fire blight and we have not—China hasn't got fire blight?

Mr Cahill—I suppose it rests in part on the extent to which we believe we can persuade other countries to have the same view we have about the science.

CHAIR—You have the bigger sledgehammer.

Mr Cahill—No. Protocols do change all the time on the basis of representations and more scientific information that becomes available.

CHAIR—China does not have fire blight?

Mr Cahill—As far as we are aware, that is right.

CHAIR—How do you confirm that?

Mr Cahill—We will go through that process when we commence an IRA on China's access request to Australia.

CHAIR—Do China, who may not have fire blight, export to other countries that we know about?

Dr Roberts—Yes.

CHAIR—Do they expect to countries that do not have fire blight?

Dr Roberts—I think we provided some data in the last hearing.

CHAIR—You might like to provide the answer to that to the committee.

Dr Roberts—We will track down again the trade data that we have from China and to China where apples and fire blight may or may not be an issue and reprovide it. I think we have provided some in the previous set of questions on notice, but we will try again. It is our understanding at least that there are a number of countries with fire blight that trade with China, that send apples to China, as far as we are aware. New Zealand does. The trade stats show that there are some apples moved from New Zealand to China—they are publicly available trade stats—and, as far as we are aware, there is no requirement related to fire blight. But, as I say, we do not have that detail.

CHAIR—In the import protocol into China?

Dr Roberts—Yes. New Zealand is not asked to do anything for exports to China about fire blight.

CHAIR—So they are saying that they are not worried if you bring protocol in on that to China—otherwise you would be taking precautions, wouldn't you?

Dr Roberts—Yes. I do not quite know where we are going with this. I thought we were talking about New Zealand apples into Australia.

CHAIR—Neither do I.

Dr Roberts—All we can say is that BA believes and has believed for a long time—and we understand industry are of the same opinion—that three inspections for fire blight for apples going from Tasmania to China are not scientifically justified. We have been working hard to have that changed. We really cannot say much more than that.

Senator NASH—Just on the point you made before that you are not aware of any requirement from China on New Zealand—

Dr Roberts—Yes, for fire blight.

Senator NASH—Isn't it just as easy to say, though, that you are not aware that there is not?

Dr Roberts—The anecdotal information we have is that there are no provisions related to fire blight, but we cannot put our finger on a document and we cannot get official confirmation of that, so we cannot say for sure that that is the case.

Senator NASH—But you cannot say for sure that it is not.

Dr Roberts—From what we have been told, we believe that there are no requirements for fire blight.

Senator NASH—Have we ever officially asked?

Dr Roberts—At the official to official level we have asked for that detail, but it has never been provided.

Senator NASH—But ministerial to ministerial, have we ever asked?

Dr Roberts—Not that I am aware of. I suppose my point is: how relevant is that? We are talking about imports of apples from New Zealand to Australia.

Senator NASH—It is very relevant in terms of the protocol.

Dr Roberts—Ours is based on science that pertains to our conditions: our ALOP. If we base ours on just what other countries do to each other then we have totally lost the game.

Senator O'BRIEN—We had some evidence from Biosecurity Australia on 22 March about the eminent scientists. Firstly, what role has the Eminent Scientists Group had in relation to this import risk assessment?

Mr Cahill—The job of the ESG under the current arrangements that apply to the apple IRA is that they are tasked with ensuring that stakeholder comments have been taken properly into account.

Mr Quinlivan—Perhaps I can add to that. The previous Director of Quarantine—who, as you know, left the Australian Public Service last Friday—has repeatedly said to the leader of the Eminent Scientists Group that she would welcome any additional advice they might want to provide. So it is additional to the formal role that John has just described.

Senator O'BRIEN—What is their statutory job?

Mr Quinlivan—It is not a statutory job. It is an administrative role.

Mr Cahill—It is not a statutorily based role.

Senator O'BRIEN—So it is an administratively based position. What is their charter, who signs it off and what is the status of the additional charter that you refer to, Mr Quinlivan? Is it written or is it oral? Is it an administrative instruction?

Mr Quinlivan—I am not aware that it was written, but it was certainly conveyed orally by the Director of Quarantine. I think she made it clear to Dr Radcliffe that, in carrying out her statutory function, she would be very happy to take into account any additional advice he might have as a result of his review process.

Senator O'BRIEN—What does that mean? What sort of additional advice?

Mr Quinlivan—It was an invitation to him that, if he had views that the group wished to convey in addition to their limited administrative role, she was happy to take those into account in exercising her powers.

Mr Cahill—I might also clarify in relation to earlier evidence that it is not simply a matter, in making a judgement about whether stakeholder comments have been taken properly into account, that because Biosecurity Australia says they have been, the Eminent Scientists Group would conclude that. They are an independent group. They come to a view independently. As I have said on a number of occasions, they are eminent. As Mr Quinlivan has said, the Director of Quarantine gave them an invitation to raise any issues with her that they might have been concerned about.

Senator O'BRIEN—Is it a fact that the eminent scientists were specifically still forming any view or making any comment on the scientific merit of Biosecurity Australia's work?

Mr Quinlivan—No, I do not believe it is, for the reason we have just given.

Senator O'BRIEN—Is there any written instruction which makes that clear that could be provided to the committee?

Mr Quinlivan—I think I have answered that question as best I can. I am not aware that that invitation was conveyed in writing, but we will check that to see if there is anything in writing.

Senator O'BRIEN—Are you relying on that oral communication to extend the role of the eminent scientists beyond a written charter? That is what I am trying to find out. Is there a

written charter and was this oral communication an extension or did it purport to be an extension of that written charter?

Mr Quinlivan—Yes.

Senator O'BRIEN—So there is a written charter. Does the written charter exclude the eminent scientists from forming any view or making any comment on the scientific merit of Biosecurity Australia's work?

Mr Cahill—I can answer that. No, it does not. There is a terms of reference. As I said, their role is to look at whether stakeholder comments have been taken properly into account. If a stakeholder raises an issue of science with them, they are quite entitled to form a judgement about that and provide independent advice accordingly to the Director of Quarantine, and that is what they do.

Senator O'BRIEN—So if the eminent scientists receive material about another aspect of the science that may not have been considered or that may have been already considered, I should say, by Biosecurity Australia, they are entitled to make their own assessment of that science?

Mr Cahill—They are an independent group. They form their own judgement about these matters.

Senator O'BRIEN—How do they communicate their determination on that matter?

Mr Cahill—They communicate it in writing to the Director of Quarantine.

Senator O'BRIEN—Is that published?

Mr Cahill—Yes, I think it is.

CHAIR—So you will provide that?

Mr Cahill—Yes. It is on the website.

Dr Roberts—We can provide it.

Senator O'BRIEN—Would whatever material appellants have provided in this process automatically have been considered by that Eminent Scientists Group?

Mr Cahill—You have moved from the Eminent Scientists Group to the risk assessment panel.

Senator O'BRIEN—I know. I am asking whether, if it went to the appeal panel with new material, it would mean that it was not considered by the Eminent Scientists Group?

Dr Roberts—It must depend on timing. Those two processes are separated in time. If material was provided after the Eminent Scientists Group completed their work then clearly they cannot consider it.

Mr Quinlivan—Senator, could you just repeat how you described the material?

Senator O'BRIEN—If the appeal panel receives some additional scientific material, is that material referred to the Eminent Scientists Group for their consideration or is its consideration limited to the appeal process and the appeal panel?

Mr Quinlivan—That would be a judgement for the appeal panel. As you know, one of the grounds for appeal is that a significant body of scientific information was not properly dealt with in the IRA. So the appeal panel would have to make that judgement.

Senator O'BRIEN—It does not give any indication that that judgement would be made on the flow chart that you provided to us. It seems from your flow chart that the Eminent Scientists Group has a role at least between the draft report being reviewed and finalised. Then it goes to the Eminent Scientists Group. They do not seem to have a role in the process after that. Is that a correct understanding of the process?

Mr Quinlivan—It is a correct reading of that document but not a correct understanding of the current situation.

Senator O'BRIEN—Is there a new document?

Mr Quinlivan—The flow chart that you have in front of you shows the arrangements that will apply when the recently announced IRA changes come into force. They have not done so and they are not the basis on which the current IRA and appeal were conducted. That is what they will be in the future, but that process is not the one applying to the apples IRA.

Senator O'BRIEN—So, in the future, if there is new scientific material produced in an appeal process, it will not be reviewed by the eminent scientific group.

Mr Quinlivan—No. In that process the desire was to try to strengthen and make more formal the broader remit of the Eminent Scientists Group. The idea is that the Eminent Scientists Group will have a roving commission, if you like, on scientific matters. They will be able to accept any new submissions or consider anything they wish to in the science that has been used or has not been used in the IRA.

CHAIR—So if some of the scientists disagree—do they ever disagree with one another?

Mr Quinlivan—Economists always disagree, so I imagine scientists do too.

CHAIR—Was there any disagreement on this one?

Senator O'BRIEN—Economics is not a science, so that is not a good comparison.

Mr Quinlivan—You might be in dispute there, Senator.

Senator O'BRIEN—I do not think there is a dispute about that one.

CHAIR—Was there any disagreement?

Mr Cahill—No, there was not—not on the remit as to whether stakeholder comments had been taken properly into account.

CHAIR—Did anyone say—

Mr Cahill—And they did not draw any other matters—

CHAIR—We are now learning in Australia that scientists have been wrong for all time on water because they have been making some mistakes between aquifers and rivers. No-one disagreed with the science on this?

Mr Cahill—No, not in the Eminent Scientists Group. That is publicly available information.

Senator O'BRIEN—The material that was produced to the review panel—just let us be clear—including, I think, new material about fire blight in Southwest Michigan, went to the Eminent Scientists Group?

Mr Quinlivan—I am not sure whether it went to the Eminent Scientists Group. Yes, certainly that was included in one of the grounds for appeal for the appeal panel's work.

Senator O'BRIEN—Yes, it went to the appeal panel, or yes, it went to the Eminent Scientists Group?

Mr Quinlivan—It was raised in the grounds for appeal and the appeal panel considered it. As best I recall, the judgement was firstly that it was not a significant body of science because it did not pass the criteria that the group agreed on, which was that it was peer reviewed, more than one piece of work and so on. But, perhaps more importantly, the particular piece of work in question had been taken into account by the IRA panel, so it had been actually used in developing the IRA. As I recall, the particular point in it, which was about timeliness and so on, had been addressed by the IRA team as well. So not only had the article been considered by the IRA team but the actual point behind the article—

CHAIR—The eminent scientists did not look at the science?

Mr Quinlivan—They did not need to because there were no particular—

CHAIR—Was that because it had not been peer reviewed?

Mr Quinlivan—I assume it was because they were not asked to. If they were asked to, they would have looked at it and considered that the IRA team had dealt with it adequately.

Senator O'BRIEN—I am a bit confused by the evidence. I thought you were saying that the eminent scientists group did look at the material that was raised on appeal but apparently they did not look at this material.

Mr Quinlivan—No, what I am saying is that the appeal panel certainly did because we were asked to.

Senator O'BRIEN—I am not asking about the appeal panel.

Mr Quinlivan—The IRA team did.

CHAIR—But not eminent scientists?

Mr Quinlivan—I do not know if the eminent scientists group did, but, if they did, they did not find a problem.

CHAIR—Who does know?

Dr Roberts—We can check whether the eminent scientists looked at that particular piece of work. If comments were provided in the stakeholder comments then the eminent scientists did look at it.

CHAIR—Wouldn't you want to test the science of it though?

Dr Roberts—I come back to the science of it, if you like, and the photograph that was provided to you earlier today. The issue about that piece of work in Michigan was that you can get late-season fire blight activity in the orchids with symptoms. If you look at the report—I cannot quite find the page number offhand—that is explicitly discussed in this report. So, irrespective of who considered it after the risk analysis reached its final draft, it was considered by the panel and that particular issue is dealt with explicitly. I cannot quite see what the point of it is.

CHAIR—But the review panel are not scientists, are they?

Mr Quinlivan—You are talking about the appeals panel now?

Senator O'BRIEN—Yes, the appeals panel.

Mr Quinlivan—Certainly some of them were. Glen Kile is, to use that term, an eminent scientist.

CHAIR—I asked last time how you become eminent. You never really answered that.

Mr Quinlivan—I think our best effort was that it was the perception of your peers.

Dr Roberts—I am sorry to come back to it, but what I was looking for has been pointed out to me. It is on page 113. There is a section entitled 'Responding to comments from stakeholders on risk management for fire blight'. A paragraph there says:

If fire blight was active later in the season perhaps due to the presence of false blooms—

which is the sort of issue you have there—

and/or favourable weather conditions there is a possibility that the surface of some fruit may be contaminated with E. amylovora. However, this is addressed by the disinfection treatment.

So, from the IRA panel's point of view, I would say that that particular piece of work plus the photograph you have now have been addressed in the IRA.

Senator O'BRIEN—It does not sound as though it went to the eminent scientists group after it went to the appeal panel.

Dr Roberts—If it is in the stakeholders comments that were received, all of that material was provided to the eminent scientists group. We can double-check and answer that in a more specific way for you.

Senator O'BRIEN—Thank you for that. In terms of the current state of play, what is happening? Where is the process at now? The import risk assessment has gone through its processes. Where are we at in relation to the decision on any import applications?

Mr Quinlivan—That is in the hands of AQIS at present.

Ms Gordon—We are in the process of assessing material that has been provided to us by the New Zealand authorities to see whether in fact on all of the criteria set out in the IRA there is sufficient information on the papers for us to be satisfied that, if this system were then looked at in practice on the ground, we would have a system that is capable of meeting the standards set out. We have not reached finalisation on those discussions yet.

CHAIR—So you are giving consideration to the inspection regime?

Ms Gordon—We are giving consideration to more than the inspection regime.

CHAIR—But you are giving consideration to the inspection regime?

Ms Gordon—Yes, we are giving consideration to the inspection regime—

CHAIR—You would not care to show us the inspection regime, would you—that is, the draft?

Senator O'BRIEN—The proposed inspection regime.

Ms Gordon—I would have to take that question on notice because, as I indicated earlier, the material being provided to us by the New Zealand government has been marked government-to-government in-confidence. So we would have to come back to you on that one.

Senator JOYCE—So you do have government-to-government discussions about protocols?

Ms Gordon—This is all under a government-to-government discussion about the standards based on which trade will take place between the two countries. In the process we are going through at the moment—and Senator O'Brien's question was about where we are up to—we are

up to asking New Zealand to provide us with details, and they are currently doing that, of how they propose to meet the standards set out in the IRA.

CHAIR—But you are giving consideration to the inspection regime?

Ms Gordon—Among the—

CHAIR—Tell me who is giving consideration to the inspection regime.

Ms Gordon—AQIS is giving consideration—

CHAIR—But who? I would like to meet them.

Ms Gordon—Then I think you are talking about the people who are actually assessing the papers in conjunction with a number of experts and—

CHAIR—Well, are they here? Are the people who know when you can walk past the Bathurst burr here? Who are the people who are going to make the determination that it is physically reasonable to do what is proposed? Who are the people; are they here?

Senator O'BRIEN—Who is the decision maker?

Ms Gordon—We have not determined who the actual decision maker will be. It could quite possibly—

CHAIR—Is there someone who has been out in the bush?

Ms Gordon—It could quite possibly be Mr Liehne or me, but what we need to do before we even get to that point is ensure that we have all the material that we require from the New Zealanders.

CHAIR—Don't worry about that. How do you, Ms Gordon, know what a reasonable thing for an orchard inspection is?

Ms Gordon—Senator, as I indicated—

CHAIR—Or you, Mr Liehne; have you had field experience?

Mr Liehne—Peter Liehne, National Manager for Animal and Plant Quarantine—

CHAIR—No, that's not what I am asking you, mate.

Senator SIEWERT—He is just introducing himself, Chair.

Mr Liehne—I have worked in orchards, yes.

CHAIR—Could you give me your name, rank and serial number?

Senator O'BRIEN—He just did!

Ms Gordon—I might say that, earlier, when Senator Milne was asking questions, we said that, as New Zealand provides us with material, we are going through very carefully, line by line—

CHAIR—Yeah, yeah.

Ms Gordon—to see whether in fact the information that they are providing us—

CHAIR—But what—

Ms Gordon—Senator, if I might just finish—to see whether the information they are providing us to satisfy us, to a fairly tough standard, a fairly rigorous standard, will actually meet the requirements of the standards set out in the IRA. There will be points in that when we decide that we need to consult other experts who are very familiar with whether in fact a particular approach will meet that standard—

CHAIR—So who are you going to consult?

Ms Gordon—What we are doing at the moment is having discussions with Biosecurity Australia about who might be available to assist us with various elements of the proposals that have been put to us by New Zealand, but we have not yet come to any conclusions as to whether the total system is going to meet the standards that are set out. We are still in the middle of that process—which was the question that Senator O'Brien asked.

Senator O'BRIEN—Yes, it was the question. The follow-up question—because I think I would like to be able to ask the questions, Chair, and hear the answers—is: I presume that will entail inspection of the proposed packing houses and the systems to get an understanding of how the actual supply chain and systems will work; is that right?

Ms Gordon—Ultimately, it would. What is required is that we actually agree the work program and the standard operating procedures on paper. What we would want to see is all the documentation for all elements or stages of the inspection and certification regime. As you would appreciate, there are a series of stages, including in-field inspections, packing houses, inspections before the apples leave New Zealand et cetera. So we are at the point at the moment of going through and developing that total package and then, if we agree with New Zealand that the system as they have described it on paper looks like it would meet the requirements, we can sign off on that. Then at varying stages throughout the production process there would be inspections required, at least four—and there are inspections required in the later stage of the process of producing the apples. Certainly, in terms of the packing processes, we would have AQIS officers over there auditing, inspecting, certifying and verifying that the procedures that we had agreed on paper would meet the requirements, are in effect on the ground and are actually meeting the standards that have been set out.

Senator O'BRIEN—What tests are available to allow AQIS to ascertain, when the fruit arrives in Australia, that it has been chlorine-dipped?

Ms Gordon—The work plan itself and the standard operating procedures will specify when and how that process is to be undertaken and who is supervising it. We will be agreeing with the New Zealanders through that process—an audit inspection and verification process—so that we are satisfied that all those requirements, including that particular requirement, have been met to the standards that have been specified. AQIS is actively involved at the moment in agreeing what the actual work process is, and then we will be active.

Senator O'BRIEN—I understand what you are saying: you are discussing putting in place the protocol with random inspections and the like. But I take it you are not saying that every packing shed and every dipping process will be constantly inspected. Given that you will not absolutely know that fruit is being dipped but the process will require it, is there some way you can ascertain, when fruit arrives in Australia, whether it has been chlorine dipped or not?

Mr Liehne—There is a pre-inspection process on fruit being packed for Australia which would entail having AQIS inspectors over there in the packing houses, monitoring the packing and doing some pre-inspecting of fruit before it departs New Zealand to come to Australia, so that the documentation and the labelling et cetera would in fact be identified, and that would be verified on arrival.

Senator O'BRIEN—So they would inspect every process? That is which I want to know: can you ascertain when the fruit gets here whether it has been dipped or not, other than by paperwork?

Mr Liehne—We would be verifying the process on the ground and doing inspections on the ground.

CHAIR—No, but can you chuck an apple in something and say 'Yep, it's been dipped'?

Mr Liehne—The methodology that will be used for the dipping has to satisfy us. The right amount of chlorine would be present, and we would be verifying that on the ground.

CHAIR—That is not the question.

Senator MILNE—The answer is no. He says it is not—

CHAIR—The question is, can you test an apple after it has been dipped to see if it has been dipped? Yes or no?

Mr Liehne—I cannot answer that.

Dr Roberts—I am prepared to buy in. I think the simple answer is no, although there could be some indicators. That is why—

CHAIR—You cannot pick up a smear—

Dr Roberts—No, because you have got no control over how long. Those apples could be packed for Australia and go into storage under secure conditions for some time. So it is almost certain there would be no residual chlorine left by that stage. That is why so much attention is

being placed on system assurance at the New Zealand end. Indeed, that is why there is a pre-clearance requirement and we will have AQIS presence in those areas.

Senator O'BRIEN—We are not seeing what the proposed protocol is and whether you can ultimately agree on one. The concern I am leading to is that normally there is a protocol, but it would not be normal that you would have an inspector watching every stage of it in every packing shed in New Zealand. I know there are a limited number and they are fairly large and automated and quite modern and efficient. But presumably the chlorine dip is diluted, which means it is a water base with chlorine added, if someone forgot to put the chlorine in before some apples went through, would it be picked up?

Dr Roberts—Do not forget there will be work procedures, for example, that will require recording chlorine concentrations through the day and top-up amounts.

Senator O'BRIEN—But, if they know that once the apples have gone into storage you would not know that they had blundered, are they going to tell us?

Ms Gordon—I understand the question you are asking, but I think this whole system is set up on the basis that it is a fairly rigorous standard, as I think everybody has acknowledged and the Australia industry acknowledges. The process we are going through with the New Zealanders at the moment requires them to provide to us quite a degree of detail about how they will assure themselves and us that that process does not have flaws in it in the way that you have suggested. We will have people over there auditing, verifying and directly observing that those processes that we have agreed have taken place.

Senator NASH—We heard earlier about the potential impacts of fire blight coming in and a potential $1 billion social and economic impact, and an impact on the industry. But, given that this industry is made up of people and families with businesses that local communities rely on, what is the process and how do you determine an acceptable level of risk?

Dr Roberts—It goes back to the procedures that Biosecurity Australia uses, which start with the expression of ALOP, which is very low risk. If you look at the procedures, which are publicly available, that BA follows there is a series of steps in the analysis that leads you to conclude that a particular proposal is or is not at very low risk. Risk in this context—in the context that Biosecurity uses—is a combination of the likelihood of an event occurring combined with the potential consequences of that event to give an overall risk, and it is that value, that estimate, that is compared with the policy of very low. There are a series of logical steps that look at how likely it is for fire blight to come in on apples from New Zealand, and an estimate of that likelihood is made. Separately, an estimate is made of the consequences if fire blight did come and establish in Australia. They are combined to give the overall risk rating and that is compared with the very low. If it is above very low then risk management measures—which is what has happened in this case—are looked at and evaluated to bring it down to at least very low.

Senator NASH—It seems that we have these great weather reports these days that say, 'There's a 90 per cent chance of rain' or 'There's a 10 per cent chance of rain.' One is really high and one is really low but either way you get rain—

CHAIR—No-one is ever wrong. Ms Gordon and Mr Liehne, were you the people who came up with the model for Emerald for the citrus canker inspections?

Ms Gordon—Mr Liehne was not with AQIS at the time.

CHAIR—Who actually came up with that inspection?

Ms Gordon—The scientists that work within AQIS came up with them.

CHAIR—They are a complete failure, a catastrophic failure, so why would we believe you on this?

Ms Gordon—I can only explain to you the process that we are going through to assure ourselves that the standards that are set out on the IRA—

CHAIR—But you have told me that Mr Liehne says he has had a lot of experience in the paddock—

Mr Liehne—In the orchard.

CHAIR—In the orchard—and, between you, you are going to make up your minds whether this works or not. Why would we believe you?

Ms Gordon—I have explained earlier that we are not making it; we are consulting scientists—

CHAIR—It was a catastrophic failure, and no-one wants to take the blame. All I get is a dumb stare.

Senator JOYCE—Hang on! I think we are on a different issue.

CHAIR—I withdraw that. The answer has got to be better than silence.

Ms Gordon—The answer is not silence. As I have explained earlier—

CHAIR—But it catastrophically failed—have you worked out why?

Ms Gordon—There is a set of standards set out in the IRA which is being discussed tonight and which I think everybody has access to. The process that we have to go through is to require the New Zealanders to provide us with assurances on paper in quite a degree of detail that they have systems in place that will meet those standards. We then need to be able to assure ourselves—

CHAIR—I understand that.

Ms Gordon—that, if we were to go and inspect and verify those processes on the ground, those standards would have been met.

CHAIR—But the buck is going to stop with you two.

Ms Gordon—The buck will stop with the person who makes the decision that we have satisfied ourselves that those decisions have been met and when somebody in New Zealand ultimately applies for an import permit—

CHAIR—And that is between you two?

Ms Gordon—I am responsible for that part of the work—

CHAIR—The buck stops with you.

Senator JOYCE—Are we going to get time after seven o'clock?

CHAIR—We are okay after 7 pm. We are obviously worried about this, and I realise you are too. I just do not know who to believe—we are worried about it.

Senator JOYCE—Thanks, chair. I want to go through a number of issues. First of all, on 22 March I asked a question which you took on notice. I asked about the process with regard to the New Zealand-China issue. Your answer was that the information on the phytosanitary procedure for apples from New Zealand and China was not available. Because we are talking about a billion dollar industry in Australia, I imagine that it would not be too hard to find out. You just have to send someone over to a pack house and ask the question, and I am sure you would be able to divulge that information quite readily—wouldn't you? The two questions I asked to start off with were: has anybody been over there to ask that question; and, if not, why not?

Dr Roberts—We have asked that question at officials-to-officials level and we have not got an answer, which is not to say we may not get an answer.

Senator JOYCE—You must have—

Dr Roberts—As government officials involved in government-to-government negotiations, we are in no position to go over behind a government official's back and ask for information that they are not prepared to provide to us. My guess is that there would be members of the Australian industry who know what the protocol is. At least some of the Australian industry have good contacts with New Zealand growers and could probably find that out.

Senator JOYCE—You would think so.

Dr Roberts—But we cannot act in that way, so we go officially to government officials and ask them for the information and that is all we can do.

Senator JOYCE—And no other information has found its way into your department from any other source that would be determined to be reliable on what those protocols are between China and New Zealand?

Dr Roberts—Not that I am aware of.

Senator JOYCE—I find that hard to believe but I will believe it. I will go through the statistical modelling and the probability of individual events. What is the probability in your modelling for the importation of fire blight in one year?

Dr Roberts—It depends on whether you want the fifth percentile, the median or the 95th percentile. I do not know whether you have a copy of the report. It depends on two possible entry establishment and spread scenarios as well. So there are actually six values to choose from, set out in the analysis. It ranges. I suppose the low point of it is 8.7 by 10^{-3} up to 0.18. I caution: that is on the total estimated volume.

Senator JOYCE—Let us just run on that: 0.18—as a random event, 0.18 in year 1. Obviously, over a number of years, the probability even on that analysis has to move over time to a scenario where it is more likely than not that you will have an importation of fire blight?

Dr Roberts—That is a misinterpretation of the methodology.

Senator JOYCE—Why?

Dr Roberts—Because the methodology has been set up in such a way that if you follow it through correctly, come out at the end and compare your estimates with ALOP—and, although we take a one-year estimated volume as an input value, it does not mean that you have only one year's protection—it is not appropriate to, say, take the one-year value and multiply it by 10, 100, 1,000 or a million years and reach the conclusion that we have failed.

Senator JOYCE—What you are saying to me—and I find this fascinating; I will take it to a mathematics department—that an event in one year is of the same probability as an event over 100 years?

Dr Roberts—No, I am not saying that. I am saying that our methodology, set up in the BA guidelines on risk analysis, is set up in such a way that if you follow it correctly, look at the answers and implement risk management according to the risk estimates et cetera, the result you obtain is consistent with Australia's policy on quarantine protection.

Senator JOYCE—You have set it up in a one-year model, so that would work on the premise that it is a mutually exclusive event.

Dr Roberts—It is not a one-year model. That is a problem that keeps coming up and it is an issue that we are trying to address in terms of understanding it. The methods we follow have been endorsed across all jurisdictions. What they do is provide you with an answer, if correctly followed, that is consistent with Australia's ongoing quarantine protection.

Senator JOYCE—Consistent between one year—

Dr Roberts—Not one year—ongoing.

Senator JOYCE—You have a constant number for one year that is also constant for 10 years that is also constant for 100 years. It works on the same—

Dr Roberts—And it is not appropriate to do that. For example, if you look at the consequences, you will find they are not limited to one year. They are open ended; they go on forever. That is one of the clues, if you like, to show that a simple multiplication of one year is not appropriate.

Senator JOYCE—Who has tested the veracity of your model? Which eminent mathematician has looked at the veracity of your model?

Dr Roberts—We are constantly getting advice from all sorts of mathematicians and statisticians.

Senator JOYCE—Can you name one?

Dr Roberts—That is not appropriate. You can see it in the comments. I think APAL, for example, commissioned a statistician to look at that. This issue has come up, and you will find in those comments the same issue that you are addressing.

Mr Cahill—I might add that the issues that you are discussing have also been the subject of other import risk analyses that have been challenged. Pig meat is an example of that, where statisticians, mathematicians and others argue their way all the way to the High Court.

Senator JOYCE—With respect to post-weaning multisystemic wasting syndrome?

Mr Cahill—That is correct.

Senator JOYCE—Any model is based on a combination of events and permutations of events of which you must have a premise of a belief of a probability. What is the probability of an employee being unreasonable and not doing their job?

Dr Roberts—If you are alluding to human failure, say, at the inspection in the field or in the packing house—

Senator JOYCE—I am exactly alluding to that.

Dr Roberts—We are seeking information from New Zealand on what they expect an inspector to do.

Senator JOYCE—I am fascinated to know how you determine the probability of that. It is like watching a pigeon walk around a yard. Do you use chaos theory or quantum physics?

Dr Roberts—We do it in statistical terms. If you say an inspector is 100 per cent effective 100 per cent of the time at a field inspection, I caution: I do not believe it, and I have said it before on record. But say you do believe that, then the requirement is that you inspect just over 300 trees—chosen at random and provided they are representative—in an export orchard. That is what the statistics tell you. That part is easy. If an inspector is 100 per cent effective and he inspects 300 trees properly chosen from the orchard and you find no symptoms, you have met the performance standard. But no-one believes that that is the correct situation.

Senator JOYCE—I will give you the probability of 100 per cent effectiveness: the probability is zero.

Dr Roberts—That is exactly what we have concluded. If you want to nominate a figure, we can recalculate the stats. The way we are going to go is to look at New Zealand's justification for that figure and then we will take a conservative view. So, if they say, for example, their inspectors are 80 per cent efficient—

Senator JOYCE—But the whole premise of your modelling is on arbitrary judgements of what the factors are—an arbitrary mechanism of: 'I believe a person will be reliable 95 per cent of the time.' 'Why?' 'I just thought of a number, doubled it, halved it and spun round in a circle and spat it out on paper.' There is no quantum of relevant information that stands behind your modelling to make it factual; therefore, it is just gobbledygook.

Dr Roberts—That is not correct. There is some literature on—

Senator JOYCE—Tell me the study you do to determine whether an employee is reasonable and show me the data that you have—the statistical analysis of a relevant data group to prove and disprove reliability of employees who will be working on this.

Mr Cahill—We talked earlier about the fact that the protocol is under development. How would you exercise those judgements?

Senator JOYCE—You would have to get a sample. You would have to actually do a study in motion of people and look at it over time and start presenting the results. That result would have to go before a panel of eminent mathematicians to determine—

CHAIR—This is garbage!

Senator JOYCE—It is not.

CHAIR—Senator, it is. Can I interrupt for a second?

Senator JOYCE—You always do.

CHAIR—I am the chair. When you become the chair, you can do it. I know the point and the goodwill that are behind Senator Joyce's questions, but a couple of questions should pre-empt those. I have a grave suspicion that there is probably a view around that the inspection is not as important as we would like to think it is—

Senator JOYCE—That the inspection is a load of rubbish.

CHAIR—and that if the apples that come from an orchard have fire blight, that is not a big deal, either. The assumption is that, if they come into Australia, there is very little likelihood that they will contaminate our orchards. Dr Roberts, do you believe that fire blight can travel on a mature apple?

Dr Roberts—If you are talking about the organism itself, yes. We said that in the report.

CHAIR—Senator Fielding wanted to ask this question, so I will ask this question on his behalf as he has had to leave. Does chlorine kill fire blight in the calyx?

Dr Roberts—No—and we said that in the report. It does not do it reliably. We have said that it will have some effect, but it is certainly nowhere near 100 per cent effective.

CHAIR—So there is a reasonable chance?

Dr Roberts—Not even a reasonable one.

CHAIR—So fire blight is going to come into Australia in the calyx after the chlorine treatment?

Dr Roberts—Our modelling suggests that a low proportion of apples could be carrying fire blight bacteria.

CHAIR—I am just bloody worn-out farmer. My take from that is that we are going to import fire blight but that we are not going to get infected.

Dr Roberts—We could.

Senator JOYCE—We are talking about the rigorousness of your monitoring mechanism in New Zealand. Are you going to have AQIS inspectors at every pack house every day checking fruit?

Dr Roberts—I will defer to AQIS on that one.

Ms Gordon—We are still working through the detail of what we will be doing with New Zealand, but it is very likely that in the first season of trade we will have AQIS inspectors at each packing house monitoring what is going on.

Senator JOYCE—Every day?

Ms Gordon—Yes.

Senator JOYCE—Every pack house, every day will be monitored. How long are you going to continue that process? Will it be for a year or something and then see how it is going? What I am worried about is that every time we get to a difficult question the answer is: 'We are still thinking about that.'

Ms Gordon—As I explained earlier, the actual processes and procedures that we are to agree on with the New Zealanders are still under discussion. There are some very specific standards set out in the IRA that we must meet, and New Zealand must be able to demonstrate to us that they will be able to meet them. One of them is the way in which they operate in their packing houses—the standards of cleanliness, the levels of competence of the people that work there, and the processes and procedures that they employ. There is a requirement that AQIS will supervise and assure ourselves that they are following the agreed upon processes and procedures. Given the seriousness of our concerns, as set out in the IRA, it is very likely that in the first season in

particular, if not in subsequent seasons, we would have AQIS officers supervising each of the pack houses where those apples that are destined for Australia are being packed.

Senator JOYCE—Would that be paid for by Australia? Are those inspecting officers on our tab? Is Australia paying for them?

Ms Gordon—If at that point in time the New Zealand exporters applied for an import permit to Australia, then the costs of our people inspecting and certifying that the requirements have been met will be borne by the exporters in New Zealand.

CHAIR—This is for leaf and witchetty grubs and things, but it is not for fire blight, is it?

Ms Gordon—The procedures for assuring ourselves that the apples are free of fire blight are much more complex than just—

CHAIR—But the apples are going to bring in fire blight in the calyx anyhow.

Ms Gordon—I think I have to defer—

CHAIR—You did not really answer that. Under this protocol, given that chlorine does not kill fire blight in the calyx, would you agree or disagree that we will more than likely import fire blight in apples?

Dr Roberts—It is possible that we will.

CHAIR—Thank you very much.

Dr Roberts—We say that quite clearly in the report. If the question is about inspection in the packing houses for fire blight, the answer is you cannot.

CHAIR—I have gone beyond that, because I can see that the brains trust of this set-up says, 'It doesn't really matter because we are going to import it anyhow, but it is not going to spread.'

Dr Roberts—It is a question of establishment as well. Do not forget that you are talking about—

CHAIR—We are actually going to import fire blight. That is more than likely.

Dr Roberts—Possibly.

Senator JOYCE—In all probability.

Dr Roberts—I can only suggest that you read the analysis in the report with estimates based on various conditions.

CHAIR—I do not think it matters if you do not inspect them because—

Senator JOYCE—These eminent scientists are becoming extremely important people. To quote you, 'You become an eminent scientist from a perception of your peers.' We have all these big statistical models and all this data and then we come up with a completely nefarious proposition to back it in. Who are the peers who determine that a scientist is eminent?

CHAIR—I asked that last time.

Senator JOYCE—Can I be one? I am pretty smart.

Dr Roberts—I think we spoke at the last hearing about who was on the eminent scientists group and what was eminent. I do not think we made an awful lot of progress, I must say.

Senator JOYCE—It is really dangerous because if I want a certain outcome then I select a panel of certain peers and if I want a different outcome then I select a panel of different peers.

Dr Roberts—If your question goes to the skills, experience and knowledge of the people doing the actual risk analysis then I would defend those people, quite clearly, because I am on the panel. We had a great deal of expertise on the risk analysis panel.

Senator JOYCE—Has that been independently assessed? Have you given that to your peak bodies? Have you given that to the pear and apple growers body, for example, and said, 'You go away and assess whether this is—

Mr Cahill—If I may, if I understand you correctly—

CHAIR—I will just interrupt for a second, as the chair, to be fair to everyone. Senator Joyce, we were given an answer that the word 'eminent' really comes from peer assessment; and I think that is fair enough. You are an eminent senator; I am a disgraced senator. It is a peer thing.

Senator JOYCE—You are an extraordinary senator.

CHAIR—That is fair enough, isn't it, Mr Cahill?

Mr Cahill—Yes, I believe that is fair. But I sense that behind the question is the notion that we are trying to seek different outcomes.

Senator JOYCE—I am trying to dispel the notion that it could be perceived that you stack panels for a certain outcome—that there is the veracity of the panel as judged by other people.

Mr Cahill—I understand your point, but the outcome we are all interested in is protecting Australia's pest- and disease-free status. That is the objective of the game.

Senator JOYCE—We all agree with that.

Mr Cahill—The question is: what are the processes that we build around the import risk analysis arrangements and the implementation of protocols that might govern our imports? What are the arrangements that sit around that? How transparent are they? How open is the process

and where are the opportunities for everyone to engage in it, have a say and make submissions? What are the processes of review?

Senator JOYCE—You missed some key words there: affect the outcome.

CHAIR—Senator Joyce, Senator Milne wants to ask a question.

Senator JOYCE—I think that is enough.

CHAIR—With your indulgence, Senator Milne, I just want to ask a question first. I think I have got it into my head that we have accepted that there is a reasonable chance we are going to import apples that have fire blight in their calyx. If I am Woolies or Coles then I am determined to get the best margin on my apples for the shareholders—in the same way that they import Chinese water for 38c and retail it for $2.50; don't ask me why. So I start importing apples from New Zealand. I might have an MIS or something involved with them. So I take my imported apples from New Zealand to Woolies at Tumut. If I am from Batlow and have six kids, I might look at those apples and think, 'Gee, these apples are cheap.' So I buy them. On the way home the kids get into them and out the window goes the core and the calyx. But you do not think the risk of that infection is very high? I do not know.

Dr Roberts—We have specifically looked at that. If you read the report you will see that that is one of the scenarios that we have considered where most of the imports get distributed, dealt with, sold and discarded out the window in areas where there are a lot of hosts present. We have looked at that specifically as an issue and we have looked at the other situation—

CHAIR—How do you determine, then, that the risks there are—

Dr Roberts—Can I pick you up, though, on the calyx issue. The inspection of course very early in the season is intended to very much reduce the chances that we do have bacteria. So we are talking about a very low number of apples at the worst, and we made worst-case assumptions.

CHAIR—I saw Mr Cahill blowing in your ear on this.

Senator JOYCE—What he is saying, though, is true. Some of the best apple trees that I have seen are growing on the side of the road near Stanthorpe. The only reason they are growing on the side of the road near Stanthorpe is that they have been hoicked out the window.

Dr Roberts—That is precisely right. They are some of the scenarios that we have considered. We have looked at those scenarios. One set of numbers that I gave you before represents the situation where most of the apples that come in are sent out to an orchard based pack house that repacks them, regrades them and deals with them. It discards material in its dump, which may well be quite close to host plants. It has workers that may be packing New Zealand apples this morning and doing operations in the orchard that afternoon. That is one of the scenarios we explicitly considered.

CHAIR—We are going to have to draw this to a conclusion.

Senator MILNE—I want to come back to some of the trade issues. In the absence of a WTO and free trade regime, we could establish from what we have heard here that there is a real risk of Australia getting fire blight from New Zealand. However, we do operate in the WTO regime. We operate in a regime in which we export on the basis of the protocols associated with low risk or very low risk; therefore, I am asking: has a deliberation simply been made that we cannot make a decision to exclude New Zealand apples on the basis of the risk analysis because we will be excluded from other markets on the same basis?

Mr Burns—The simple answer is no.

Senator MILNE—Can you explain to me the trade regime as it applies if we were to make a decision now that we will not accept New Zealand apples because we know from the evidence we have heard that we are going to get fire blight? Let us assume Australia made that decision.

CHAIR—There is a reasonable chance that we are going to import fire blight.

Senator MILNE—All right. So we make that decision and, therefore, as a parliament, we decide not to go ahead with it. What are the ramifications?

Mr Cahill—The conclusion of the IRA, as I think Dr Roberts has tried to explain, is that the risk of fire blight entering the country, establishing and spreading is within Australia's ALOP, which is set at very low. So the risk is very low. That is the conclusion.

CHAIR—The entry should be separated from the spread. The entry is a higher risk than the spread. Right?

Mr Cahill—Yes.

Dr Roberts—Once established, the spread is a very high probability.

CHAIR—Some apples are sure to come in with fire blight on them. That should be a different assessment to the chance of it then spreading.

Dr Roberts—Yes, it is separated.

CHAIR—Anyone listening to this today would have to form a view that it is going to come in.

Senator MILNE—Exactly.

CHAIR—What we are trying to define is what the risk is for the next process, which is the spread.

Dr Roberts—Which is the establishment.

CHAIR—I wish you all well. But I know what my view is, and it will be over my dead body.

Senator MILNE—That does not get us back to the level of proof required for the categories under the trade arrangements, does it?

Mr Burns—I am not sure exactly what you are getting at, but if you are suggesting that the request from New Zealand is considered in the context of trade policy, the answer is no. BA or Australia has requests from many countries to consider access, and those access requests are considered by BA, which is independent from DFAT and independent from the trade area of DAFF. There are lots of requests. BA works its way through them. It does not consult with us about how it fits in with the broader trade policy. If that was the point of the question, the very definite answer is no.

CHAIR—But there is no test, is there? You cannot test an apple and say, 'Golly. This has got fire blight?'

Dr Roberts—There are some reasonably sophisticated, expensive and fairly laborious molecular biology tests. You certainly cannot do it—and it is also destructive—

CHAIR—We are all worried about this. One of the edges we have in the market, despite our freight loadings and all the rest of it, is that we are clean, green and free. This is why the citrus canker thing was a pretty big disappointment. We will appreciate that.

Mr Quinlivan—That is why we also have an ALOP of very low.

CHAIR—I appreciate all that, too. The BSE thing is a similar issue.

Mr Quinlivan—I do not think we should start on BSEs.

CHAIR—I am happy to. Ann McDonald is down the back there. It is the same sort of pressure: we do not have it, and everyone wishes that we did have it so that we could equalise our global trading status. We are determined not to get it as much as we are determined not get fire blight. But we are being told that we are going to import fire blight; it is just that it is not going to spread.

Dr Roberts—It is not going to establish.

CHAIR—Sorry. It is not going to establish. On that note, I should graciously thank everyone for their attendance. I am damned if I know where we go from here.

Committee adjourned at 7.25 pm