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The Secretary
Joint Committee of Public Accounts and Audit
Parliament House
CANBERRA ACT 2600

Review of Australia's Quarantine Functions

Thank you for the opportunity to provide a submission to this review.
I appreciate the opportunity to comment about Australia's Quarantine functions.

I am the Federal President of the Customs Officers Association and have participated in many formal reviews of Customs related matters over 25 years. Unfortunately the Customs Service has a history of using the complex status of the Association as a means to divert attention from any public comment that I make on behalf of the Association.

Consequently I am obliged to make this submission in my capacity as a serving Customs Officer with more than 30 years of corporate knowledge and border control experience.

Though this submission is critical of the efficiency and effectiveness of the Australian Quarantine Inspection Service (AQIS), the criticism is not directed specifically against the agency per se.

Rather the criticism is directed against AQIS because it and other border control agencies have narrow self serving border protection functions many of which are duplicated or paralleled in other agencies. The inefficiency of this arrangement is not in the nation's interest.

AQIS and other notable agencies play a significant role in perpetuating the inefficiency and ineffectiveness of Australia's current overall border protection strategy.

I would be pleased to have the opportunity to speak to the submission or otherwise to respond to any questions the Committee may have.

Yours faithfully

Peter Bennett
Customs Officer

REVIEW OF AUSTRALIA'S QUARANTINE FUNCTION:

THE JOINT COMMITTEE OF PUBLIC ACCOUNTS AND AUDIT

Submission by;

PETER BENNETT – Customs Officer

The Australian Quarantine and Inspection Service (AQIS) is not efficient nor is it effective in terms of its role as part of the Australian border protection strategy. But AQIS is not alone. Under the current national border protection strategy it is not possible for agencies with border functions to be efficient. Moreover, the current multi border agency arrangements actually undermine the effectiveness of each border agency as well as the whole national border protection strategy.

Agencies with specific border control functions (eg Quarantine, Environment Australia - Wildlife) can appear to be effective and efficient at least in respect of their specific agency functions. This is because those specific functions are not duplicated in, nor do they overlap with the functions of other agencies. But the fundamental function of all border protection agencies is the same. Their aim is to control the ingress of an unwanted commodity into Australia. All border agencies require similar resources, legislation, facilities, functions and procedures. That means that all of these attributes are paralleled and/or duplicated in each border agency. This is inefficient and ineffective.

This submission is concerned with the efficiency and effectiveness of AQIS but only in respect of the role AQIS has as an Australian border protection agency.

The submission applies to and directly addresses most of the dot points in the terms of reference, the exception being the reference to trade negotiations.

AQIS is the agency established to protect Australia from the introduction of exotic animal or plant diseases or pests. Though AQIS carries out various export, certifying, licensing and trade services for importers and exporters these services are simply ancillary services to the core function of protecting Australia against diseases and pests. This submission addresses only that core function issue and does not address any of the support services provided by AQIS.

AQIS is the sole agency with administrative and operational responsibility to protect Australia from the introduction of exotic animal or plant diseases or pests. By definition, that makes **AQIS, a single purpose border protection agency**.

Australia cannot afford any single purpose border protection agency. Each risk to Australia cannot be serviced by its own single purpose agency. But that is what is now developing. The growth in single purpose border agencies is increasing rapidly and the costs are burgeoning.

As a single purpose agency, AQIS polices the national borders. It has extensive facilities and resources and it seeks to intercept every person and item entering Australia with one single purpose – to detect any quarantine risk to the nation. In effect this means that AQIS has no legislative, administrative or operational responsibility or interest in any other threat to Australia. In terms of Australia's protection of its borders, it is not efficient or effective to have a substantial border agency only concerned about one threat to the nation.

Quarantine risks are part of the problem. Drug risks are part of the problem. Weapons risks are part of the problem. Child pornography, illegal entrants, smuggled goods, dangerous consumer goods and hazardous materials are all parts of the problem. And there are another 100 other examples, all of which are all parts of the problem.

The problem is not whether Australia has the capacity to detect or stop a particular threat from entering the nation; - rather, the problem is whether Australia has the capacity to efficiently and effectively detect or stop ANY threat from entering the nation. In the dramatic sense, it is futile to strenuously protect the nation against one threat if another threat can enter and cause the collapse of the nation. Therefore the problem to be addressed is the adequacy of the overall border protection strategy.

The National Border Protection Strategy

Considering the national border protection strategy, any border protection agency with a single or narrow purpose cannot be efficient or effective. More importantly, any border agency with a single purpose undoubtedly hinders the overall effectiveness of the nation's border protection strategy.

Australia faces a multitude of threats from goods or people breaching the national border. The AQIS function is only one facet of the national border protection strategy. The other facets (agencies) of this strategy include Customs, Coastwatch, Immigration, the Australian Federal Police, the Therapeutic Goods Administration, Health, National Registration Authority, Wildlife, Heritage, Attorney General's and so on and on.

Each of these agencies is involved with border protection functions. Each is variously effective and efficient in carrying out its specific border function by comparison with other government agencies. Each is a part of the national border protection strategy. But the border protection strategy as a whole, is weakened by the number of competing and overlapping parts. This is an instance where the whole is much less than the sum of its parts. The more parts, the more inefficient and ineffective is the whole border protection strategy.

This situation developed from the mid 1970's, when Customs was the principle border protection agency carrying out most border protections functions. It was a substantial multi-purpose agency and through its Prohibited Import Regulations administered and was responsible for primary interception of Health, Immigration, Quarantine, Customs

and Environment (Wildlife) issues, as well as dangerous goods, whale products, offensive material, hazardous waste, fireworks and thousands of other goods. Customs had authority to deal with these issues unless there was some particular or unique problem. Customs was 'assisted' by 'client' agencies which provided specialised advice and final administrative decisions. The client agencies provided a skeleton staff to assist Customs with technical and administrative decisions. At that time client agencies has little or no 'operational enforcement' capability or functionality.

Then Customs changed tack – caused mostly by a fear of accountability. Customs abandoned as many border protection functions as it could, handing them over to any other agency that seemed relevant. Client agencies gladly took over the responsibilities dumped by Customs. They saw this situation as an opportunity to create whole new empires. So began the creation of single border protection agencies, with full operational enforcement functions, capabilities and resources.

In 1995-6 Customs all but abandoned its border protection functions. It purged staff that had a history of involvement in border protection. Officers with border protection experience were advised that they no longer fitted the Customs culture and were urged to quit. Legislative changes were introduced which stopped Customs from having effective 'control' at the border in all but specific circumstances. Words such as Border "Control" and "Enforcement" were literally banned from the Customs dictionary. The 'client' agencies then established their own infrastructures, legislation and resources and Customs had effectively divested itself of most operational responsibilities which it had previously carried out on behalf of those other agencies.

Customs still remains a multi-purpose border protection agency but its areas of authority and responsibility have substantially diminished. Now the 'border protection strategy' is carried out by Customs and a multitude of single purpose border agencies all competing for resources and political advantage.

The whole border protection arrangement becomes farcical at the point when agencies with specific functions compete for resources and curry political favours. Political interests tend to skew the national border protection strategy in favour of narrow interests without regard for how that process adversely effects the overall border protection arrangements. The result is the agency with the squeakiest 'single interest' wheel, gets attention and resources while other agencies struggle to maintain existing functions.

No agency is responsible or accountable.

It is incredible that Australia, given its limited resources and vast expanse of the border, doesn't have one agency responsible or accountable for border protection. Rather we have a gaggle of various agencies with duplicated and overlapping functions and resources, contradictory legislative arrangements and inconsistent standards and procedures. This ensures that no agency can be held to account for breaches of border integrity. Is this just an administrative oversight or was it planned, and if so by whom? Simply trying to find out who is responsible for a particular border function can be daunting – for example, consider the "children overboard" issue.

Each agency has its vested interests and each is eager to take credit where they can and shift blame to another agency whenever there's a problem. Between agencies there is little care for the overall border protection strategy.

It is my submission that this border protection strategy is inefficient and ineffective because it lacks co-ordination, integration and consistency and there is no border protection accountability but mostly because the strategy is based on a plethora of competing, narrow interest border agencies.

A Single Border Protection Agency

A more efficient and effective strategy would be to have a **single border protection agency**. Such an agency would consolidate border control resources. The agency would be tasked to intercept and stop ANY and ALL threats to Australia's border integrity. Most importantly, there would be a common purpose and each and every member of the agency would have the responsibility and authority to carry out that function. There would be a higher standard of professionalism and accountability. And there would be the ready exchange of intelligence, shared facilities, equipment and resources, and consistency in recruitment, training and operational standards. And to the advantage of staff, there would be a more professional and expanded career path.

There would be no lines of demarcation, no legislation restricted to particular officers, no need for memorandums of understanding, no procedural or operational distinctions, no information caveats between officers in different offices, and there would be no separate purchase of equipment, offices or uniforms.

The single border protection agency would be created using resources and funds from the disparate, overlapping, duplicated, un-coordinated, competing and burgeoning agencies currently falling over and getting in each other's way round the nation's borders.

The proposal was to take the border control and enforcement functions from the existing border agencies and create a new Border Protection Agency at cabinet level. The aim was to remove bottlenecks, eliminate agency competition, free up intelligence exchanges and establish the means to have a consolidated border strategy. What remained of the original agencies were to be consolidated into 'service and administrative' agencies – dealing with information service, revenue, licensing, permit issuing, statistics, policy and the like.

This proposal was promoted by me since 1995 but in 1998 it was harshly criticised and denounced by Customs management. Penalties were imposed on me in a way that stopped any promotion of the proposal. Threats have been made that hinder further attempts to publicly promote the proposal.

On 6 June 2002, President Bush (USA) established a cabinet level, Department of Homeland Security. This will entail moving seven entire agencies and offices from several others into a new cabinet-level Department. The Department will include the Federal Emergency Management Agency, Coast Guard, Transportation Security

Administration, Customs Service, Immigration and Naturalization Service (including the Border Patrol), Animal and Plant Health Inspection Service, and Secret Service and will have nearly 175,000 staff and a budget of A\$70 billion. Offices of some other 'Protection' type agencies will also be absorbed. Specifically Customs, Coast Guard, Animal and Plant Health Inspection Service and Immigration (INS) will be integrated.

President Bush has said in effect, that his reason for this move is to remove bottlenecks, eliminate agency competition, free up intelligence exchanges and establish the means to have a consolidated border strategy.

Perhaps our proposal for a single border protection agency is now more acceptable and timely.

Is a question about AQIS efficiency, the right question?

Whether AQIS is efficient or effective under the current border protection strategy is academic. The problem is that the current border protection strategy is gravely flawed. It perpetuates single or narrow purpose agencies which work independently and often in competition with each other .

The outbreaks of Fire-ants, the Cape York fruit fly, anthrax, Newcastle disease, wine vine rust, starfish in ballast are examples of AQIS problems. But it is impossible to gauge what quarantine harm has been prevented or deterred from entering Australia by the very existence of AQIS. The 'preventive or deterrent' role is undoubtedly a significant AQIS attribute, but unfortunately it is impossible to quantify.

The greatest risk for those who would deliberately or through indifference, harm this nation is the threat of being caught and punished. The greater the risk of detection, the more likely the prospective offender will be dissuaded from attempting to cause harm. However prospective offenders are less threatened by a fragmented, piecemeal gaggle of border agencies than a holistic, consolidated, professional, and focussed national border protection agency. The 'preventive and deterrent' role of such an organisation would be a very significant preventive and deterrent asset to any overall border protection strategy.

The island continent.

As an island continent, Australia has an enormous tactical advantage over other countries that share common borders with other nations. We have an enormous moat protecting our borders. This makes Australia fairly unique in the world. Of course, there is the disadvantage of our enormous coastline. But again that is balanced by our geographic isolation, the clustering of cities and the vast areas that are easily monitored because of remote access.

Nonetheless, by virtue of the fact that we are an island and that we don't share common borders, it should be possible for our nation to protect its border to a degree and in a way not available to almost any other nation. We should be able to control with a high degree of certainty, all goods (and people) crossing Australia's borders.

But Australia is not maximizing this advantage. Our advantage is not being utilised in the most efficient and effective manner. There is no inter-agency organisation of border controls. Each agency conducts its operations in terms of its own legislation, interests, priorities and charter. The legislative frameworks and organisational resources of these agencies is not inter-connected. Without any national co-ordination of border agencies and with each agency working independently there are both legislative and structural gaps in the national border integrity. In some places there are officers from various agencies queued up to deal with people or goods at the border. In other places there have been no border officers looking at anything or anyone for decades. There are holes in the border arrangements. The island advantage is being wasted and what is worse is that there is no one agency to blame or to take responsibility or to be held to account.

Competing Agencies

Each agency vies for resources, finances, legislation and human resources. Each agency works independently - and there is no oversight organ of Government ensuring that this independence is not harming the overall border protection arrangements. As the political pendulum swings in favour of particular interest groups some agencies benefit, while others lose. Patch protection is practiced as an art form by all agencies. This is reflected in the lack of intelligence exchanges between agencies.

A contemporary example of the mess created by insular, competing agencies is the farce in the USA at present concerning intelligence about the September terrorists. The CIA didn't tell the FBI about information they had. The information held by the FBI didn't permeate a gaggle of middle managers who were more interested in career enhancement than in the agency's law enforcement efficiency or effectiveness. The FBI whistleblower, Ms Rowley complained that the FBI could have 'gotten lucky' if there wasn't a climate of (staff) fear, and if only the agencies weren't in competition, didn't hog mutually vital information, weren't playing patch protection and weren't staffed with career focussed managers, many of whom were failures as [front line] agents who simply wanted to keep their heads down.

Intelligence breakdowns

This situation is happening between Australia's border protection agencies daily. The situation is endemic and systemic. The current border agency arrangements foster this situation. Agencies have information which would be most useful to other border agencies – but the information may never be communicated. Certainly, at present, the consequences aren't a terrorist attack or the destruction of the Opera House, but undoubtedly the consequences are that another exotic pest, or a drug or weapons shipment, or a few illegal entrants or (whatever)..... is getting into Australia. Information available to one agency that would help detect an offence against another agency is not communicated. Often a risk to one agency is not recognised as such by another agency because each agency is so insular.

One agency cannot recognise the indicators of an offence against another agency. Because of complex systems developed to protect each agency, even if an agency identifies a threat to another agency, often they cannot legally pass on that information, or the process is so complex that it isn't worth the effort.

Customs, which has a modestly good intelligence data system (NIS) has issued a directive that information about quarantine matters is not to be recorded on the Customs system. A known Quarantine offender or offence is, or should be, of interest to Customs. The information may assist Customs to detect another quarantine offence or the information may suggest a modus operandi that may relate to a Customs offender or offence. This is but one example of problems created by having separate agencies responsible for particular border risks.

At present the threat is drugs, weapons and quarantine issues. At some future time it is likely that the issue will be a terrorist threat – and it well may be that information vital to detect that threat will be sitting in one agency which then fails pass that information to another agency that could act on the information.

Border agencies only pass information on an ad hoc basis. None of the intelligence holdings or systems are readily accessible by other border agencies. There is virtually no capacity for inter-agency exchange of intelligence holdings. Operational procedures are often incompatible. Communications between agencies is either formal and complex or informal and ad hoc. Determining who is authorised for various functions in each agency is fraught with typically bureaucratic complications. A more comprehensive list of the problems facing the current border protections strategy is provided as an attachment.

A Comparative Assessment

It is possible to assess the current border protection arrangements using a comparable reference point; – i.e. the Australian Defence Force (ADF) . Both the ADF and the existing border protection agencies have a border function.

The ADF is a single border agency with responsibility and accountability for protecting the nation from a range of military threats. It is integrated, highly functional and focussed. On the other hand there is a cluster of insular, politicised, vested interest, civilian agencies, none of which is responsible or accountable for (peace time) border protection.

At present there is no imminent military threat to Australia. On the other hand, the nation is under constant attack from a multitude of 'criminal' interests (drug, quarantine, weapons, dangerous goods etc). Daily, these 'criminal' interests' are threatening or causing harm to this nation and its people.

If the current border protection strategy was applied to the ADF we would have an arrangement as follows. The ADF would be divided into units, each with a specialised function to protect Australia from different threats. For example, Unit 'One' would protect us from a Chinese threat, Unit 'Two' would protect us from an Indian threat, Unit 'Three' would protect us from a Korean threat and so on.

But if for example China attacked, then only Unit 'One' would be utilised in defence. Units 'Two and Three' could not be utilised because it was not their function and they did not have the appropriate authority.

A worse scenario would be if 'Unit One' had fallen from political favour prior to the attack and had not been kept up to strength while other units were properly maintained. Unit One would be unable to properly defend and the nation as a whole would suffer.

No one would consider that the ADF should be broken into units, each capable of only confronting one threat - but that is precisely what has been constructed in respect of this nations border protection arrangements. Unfortunately the bureaucrats seem content with this arrangement. No bureaucrats have suggested that the current arrangements are anything but fit and proper.

It is inconceivable that any bureaucrats will promote a single border protection agency. More likely the bureaucrats will stridently oppose any such proposal mostly because the creation of a single border protection agency will reduce the power and influence of current agencies. With the creation of a single border protection agency, most existing agencies with border functions could be significantly 'down sized'. By concentrating human (border enforcement) resources, intelligence systems, support resources, equipment and facilities into a single agency, it would be possible to significantly diminish existing agencies with border functions. There could be considerable economies of scale savings produced by a single border protection agency.

The incorporation of the AQIS border protection functions into the suggested single agency would ensure that every border officer could be brought to bear on any quarantine threat. That arrangement would significantly improve the efficiency and effectiveness of quarantine functions and it would substantially bolster the national border protection strategy.

PROBLEMS affecting the effectiveness and efficiencies of Border Protection Agencies.

CURRENT Agencies involved in Border Control functions

The most important federal agencies involved in border controls include Customs [including Coastwatch], AQIS/Fisheries, Immigration [DIMA], Therapeutic Goods, Environment Australia, Health, National Registration Authority, Attorney General, Defence, Trade, Hazardous Waste, and Australia Post. Other agencies have various peripheral interests in border controls.

The Australian Federal Police, the National Crimes Authority, the Australian Navy, the state police forces and various state health, agriculture and fisheries agencies, all deal with the aforementioned federal agencies about border operational concerns. The complexity of border controls and the systems used by each agency creates perpetual problems.

PROBLEMS affecting the effectiveness and efficiencies of Border Protection Agencies.

The following items are some issues affecting the lack of efficiencies and contributing to overall ineffectiveness:

Operational arrangements.

- Inter-Agency operational co-ordination if it is applied, is by agreement at both agency and workface levels. The process is cumbersome.
- No one agency is responsible for determining which agencies should be involved or the resources necessary or the standards required for each operation.
- Each agency determines the modes of interaction and liaison – Notwithstanding that there are a multitude of unwieldy and time consuming 'memorandums of understanding'.
- Liaison when it occurs is generally ad hoc.
- Agencies fall over each other trying to determine which agency has seniority carriage of each matter.

Intelligence impediments

- Effective and efficient border security is weakened by the separate and disparate systems of border control practiced by the various agencies.
- Each agency has costly and extensive intelligence systems (staff and computer database systems) yet there is no direct or automatic interaction and information sharing between agencies.
- Agency data holdings are incompatible.

- Agency data collection is invariably narrowly focussed on insular agency interests; often resulting in broader suspect intelligence being discarded or not used.
- Each agency limits intelligence dissemination.
- Information sharing only occurs if a mutual interest is identified.
- More often than not, relevant information held by one agency is not communicated to another agency.

Besides the cost of the actual intelligence staffing arrangements and data systems, each agency collects and analyses data. This results in the following types of inefficiencies;

Duplicated or parallel systems

- In many instances the collection process is duplicated in different agencies.
- Compounding this inefficiency is the situation where information is actually shared.
- Agencies spend time and resources collecting the same information; then on occasions they take up more time and resources sharing that same information.

An enormous amount of time and resources are expended on developing and maintaining protocols and systems for the exchange of intelligence between agencies. A significant amount of resources and time are expended on the process of information exchange.

These processes are costly, time consuming and they are also a direct impediment to the effective exchange of information. The timely exchange of information is the first causality of the current system.

Operational issues

At the operational level, where agency officers exercise the agency's authority there are similar inefficiencies, which then flow through to an overall reduction in effectiveness. The following are examples of such situations;

- When actual operations are planned, there is a proliferation of officers from various agencies called in to liaise and confer on the various interest of each agency.
- The requirement for collective planning and decision-making is laborious and extravagant.
- During operations each agency only divulges selective information to ensure that their respective agency is 'protected' and that their agency interests are served.

When operations are conducted there are often queues of officers from various agencies delving in the process.

- Each agency has its own accommodation, data holdings and computer systems, office facilities, cars, X-Ray equipment, search areas, radio equipment, test kits, travel arrangements, cameras and recording equipment.

- Respective agency reports are seldom exchanged but when they are, objectivity is quashed to accommodate the sensitivities of other agencies.
- Duplication of many operational facets is extensive.
- Each agency looks after its' interests and whenever failures occur in an operation there is a flurry of activity by every agency intent on blaming some other agency for any problems.

In the areas of passenger and cargo control there are regularly officers from up to four or five agencies working parallel to each other.

- There are conflicts about who has primary authority and responsibility.
- Processes and procedures about processing clients is often at variance between agencies.
- Officers from different agencies often have to juggle searches and examinations to minimise conflict.
- Complaints and disputes about clearance delays are bounced between agencies.

Differing standards

Each border agency has its own standards for recruitment, selection and training of border control officers. Yet the function is virtually the same in each agency. Standards and procedures for risk management, prosecution and offence processes is different in each agency. A single Government approach to prosecution and punishment for Border offences against the Commonwealth is simply impossible to maintain.

Legislative problems

In addition to the difficulties of agencies having to cope with each other's structures, policies and procedures, there is the issue of legislative conflict.

- Each of the federal agencies has its' own border control legislative base.
- Some of the legislation controls between agencies are in conflict or interdependent.
- Changes in the legislation in one agency can adversely effect the border control operations of another agency.

The issues raised above are by no means an exhaustive list of border agency inefficiencies.

New Customs Computer system has poor Border Control functionality.

The new Customs computer has virtually no proactive intuitive capability. It lacks broad control and enforcement data holding integration.

Over a protracted period Customs has (almost) created a new and expensive computer system designed to handle Cargo processing, called Cargo Management Re-engineering (CMR). The CMR system will manage trade transaction and revenue collection. Eventually when it is brought on line it should help trade processing and revenue collection.

The CMR system was originally supposed to be a 'complete integrated' Cargo Management system, dealing with the administrative process of trade transactions with an integrated compliance system to monitor and control the process. Despite the vast time and money spent on CMR, the integrated compliance system has not been created.

The CMR system lacks any proactive border protection or control capabilities. It cannot analyse transactions and identify suspect cargo. It cannot cross reference trade transactions with data holding on suspects. The system does not interface with existing Customs suspect databases nor can it interact with any other border agency intelligence systems.

After the CMR project is brought on line, Customs is planning a 'phase 2' where the compliance and control system will be developed. It is only a prospective project at this time.

It would be a better option for a new Border Agency to have custody and control of any new border control and security computer system. Even from a computer systems development perspective it would be a better option to isolate the general administrative processing system (CMR) from the proposed border control and security system.