

Border Operations

Introduction

3.1 Quarantine border operations fall within AFFA's Output 6 which aims:

To protect Australia's animal, plant and human health status and maintain market access through the delivery of quarantine and export services.¹

3.2 AQIS is responsible for the operational and service delivery aspects of quarantine which are organised into eight major programs:

- airports;
- import Clearance;
- seaports;
- international mail;
- detector dogs;
- Northern Australian Quarantine Strategy including East Timor;
- post-entry plant quarantine; and
- post-entry animal quarantine.²

1 AFFA, *Portfolio Budget Statements 2002-03, Budget Related Paper No. 1.1*, p. 63.

2 AFFA, *Submission No. 14*, p. 112.

- 3.3 A major focus of *Audit Report No. 47, 2000-01* which was tabled in June 2001, was the effectiveness of the border operations. The audit found that performance measures were of limited value and that most seizable material arriving by mail and with air passengers was passing through the border undetected.³
- 3.4 However, the findings revealed by the audit field work were overtaken by the announcement in the May 2001 Budget of an extra \$596.4 million over 4 years to strengthen the border largely in response to the February 2001 FMD outbreak in the UK. AFFA received \$281.4 million of this additional funding.
- 3.5 A major focus of the Committee's inquiry has been to determine whether the outcomes specified by the Government, in terms of increased intervention levels at the quarantine border, had been or were likely to be achieved. To this end the Committee has examined the relationship between AFFA and other agencies (both Commonwealth and State), and has sought evidence on and inspected a range of AQIS border operations.

Relations with other agencies

Relations with Commonwealth agencies

- 3.6 In fulfilling its quarantine role AQIS has contact with several Commonwealth agencies with varying degrees of closeness. The list includes:
- the Australian Customs Service (Customs);
 - the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA);
 - the Department of Health and Ageing;
 - the Department of Foreign Affairs and Trade;
 - the Department of Transport and Regional Services;
 - Environment Australia;
 - Department of Defence; and
 - Australia Post.

3 Mr Ian McPhee, *Transcript, 16 July 2002*, p. 2.

- 3.7 Relations with Customs, DIMIA, and Australia Post are particularly close as these agencies are directly involved with AQIS in coordinating and managing border policy and operations. The submission from AFFA advised there were regular meetings between the secretaries of DIMIA and AFFA, and the CEO of Customs to coordinate border policy and management. There were also 'close working relations between relevant staff in all three agencies' fostered by networks and committees at various levels and 'across the full range of activities and regions.'⁴

Relations with Customs

- 3.8 Customs is usually the first point of contact for passengers and cargo entering Australia. Customs told the Committee that there was a significant input from other agencies including AQIS, which provides Customs with alert lists and profiles. In return, AQIS made extensive use of Customs systems to report, target and manage movements of quarantine interest. During processing, Customs officers were alert to matters of quarantine interest and if the Customs system was triggered or if suspect items were detected, the matter would be referred to AQIS for specialist follow up.⁵
- 3.9 Customs also told the Committee that the two agencies tried to eliminate duplication when examining cargo by undertaking joint examinations where possible. To that end officers from each agency were trained in the procedures of the other agency.⁶
- 3.10 AFFA advised the Committee that at international airports Customs undertook prosecutions on behalf of AQIS for quarantine breaches. This was because passengers that breached quarantine legislation were also likely to have breached the Customs Act.⁷ Concurrent charges could be pursued and AQIS would monitor quarantine specific issues. Customs had formalised these arrangements via MOUs with the Australian Government Solicitor and the Commonwealth Director of Public Prosecutions.⁸

4 AFFA, *Submission No. 14*, p. 115.

5 Ms Gail Batman, *Transcript, 16 July 2002*, p. 32.

6 Mrs Marion Grant, *Transcript, 16 July 2002*, p. 37.

7 Importation of quarantinable material without a permit breaches the Quarantine Act, but also breaches the Customs Act because failing to accurately complete the incoming passenger card constitutes providing false or misleading statements to a Commonwealth officer.

8 AFFA, *Submission No. 47*, p. 535.

- 3.11 AFFA's submission noted that the relationship between AQIS and Customs was underpinned by a MOU which covers border quarantine operations.⁹
- 3.12 The close working relationship between AQIS and Customs at the border has raised the question whether they should be merged to form a single border agency. This issue is discussed later in this Chapter.

Relations with Australia Post

- 3.13 Under the quarantine and customs legislation Australia Post is required to make all inbound international mail available for screening by AQIS and Customs. Australia Post's Border Agency Program is carried out in a tripartite consultation with Australia Post, AQIS and Customs.¹⁰
- 3.14 Australia Post told the Committee that an MOU with AQIS and Customs was being drafted. The focus of the MOU was to define Australia Post's responsibilities and obligations to AQIS and Customs, as well as their reciprocal responsibilities to facilitate Australia Post's goal of delivering mail on time and to acceptable standards.¹¹ AFFA has confirmed that the MOU was signed on 23 August 2002.¹²

Relations with the Department of Immigration and Multicultural and Indigenous Affairs

- 3.15 DIMIA's submission stated that there was:
- ... a very positive cooperative relationship between [DIMIA] and AQIS. This relationship ensures that practical issues or concerns to one or both agencies are addressed promptly. It also means that, to the extent possible and appropriate, the resources of both agencies are able to be used efficiently to serve the goals of both agencies.¹³
- 3.16 The submission added that for the 14 inhabited islands in the Torres Strait there was an MOU between AQIS and DIMIA which enabled 24-hour coverage. There was also an MOU with all border agencies and Federal State and Territory police regarding illegal landings.¹⁴ DIMIA noted that the cooperative relationship with AQIS in the Torres Strait resulted in a much broader coverage than if it acted alone.¹⁵

9 AFFA, *Submission No. 14*, p. 115.

10 Australia Post, *Submission No. 3*, pp. 26, 28.

11 Mr Chris Grosser, *Transcript, 16 July 2002*, p. 45.

12 AFFA, *Correspondence, 29 October 2002*.

13 DIMIA, *Submission No. 23*, p. 319.

14 DIMIA, *Submission No. 23*, p. 317.

15 Ms Christine Sykes, *Transcript, 17 July 2002*, p. 70.

Relationship with the Department of Health and Ageing

3.17 AFFA's submission advised there was an MOU between the Department of Health and Ageing which provides a link between policy, determined by the department, and operations undertaken by AQIS.¹⁶

Committee Comment

3.18 The Committee considers that AQIS is working cooperatively and productively with other Commonwealth agencies. An issue, raised above, is whether outcomes could be made more cost/effective by merging one or more agencies into a single border agency. This is discussed below.

Should there be a single Commonwealth border agency?

3.19 The Committee received two submissions calling for the creation of a single border protection agency.¹⁷

3.20 Mr Peter Bennett, a serving Customs officer, criticised the efficiency and effectiveness of AQIS:

- AQIS was a single purpose border protection agency with no legislative, administrative or operational responsibility or interest in any other threat to Australia;
- the various export, certifying, licensing and trade services for importers and exporters are ancillary to the core function of AQIS;
- the current border protection strategy perpetuates single and narrow purpose agencies that work independently and often in competition with other agencies;
- outbreaks of fire ants, the Cape York fruit fly, anthrax, Newcastle disease, wine vine rust, starfish in ballast were examples of AQIS's problems;
- there were serious effectiveness and efficiency problems with having several border agencies (these were listed);¹⁸ and
- the current recruitment system was aimed at recruiting public service generalists, not border protection/enforcement specialists.¹⁹

16 AFFA, *Submission No. 14*, p. 114.

17 Border Watch Australia, *Submission No. 12*, pp. 87–92; Mr Peter Bennett, *Submission No. 21*, pp. 289–301.

18 Mr Peter Bennett, *Submission No. 21*, pp. 290–1, 294, 298–301.

19 Mr Peter Bennett, *Transcript, 17 July 2002*, p. 111.

3.21 To overcome the alleged inefficiencies, Mr Bennett proposed the creation of a single border protection agency to include the border control and enforcement functions of existing border agencies such as AQIS and Customs. Mr Bennett outlined the key features of a single border protection agency in his submission;

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.²⁰

3.22 The Committee raised the issue of a single border protection agency with AFFA and Customs.

3.23 AFFA responded that there were quite different cultures in the two organisations and they operated in different places and in different ways. Where there were similarities, for example at airports, both agencies worked very closely so that the processes were as seamless as possible. It was considered both organisations were operating at peak performance and taking advantage of the synergies of any similarities.²¹

3.24 In a supplementary submission, AFFA described the impact that a single border agency would have on AFFA operations. Assuming AFFA's border control functions were lost to the new proposed single agency, the impact on AFFA could include:

- dislocation of current alignment between quarantine policy and operations;
- loss of responsibility and accountability to relevant Ministers;
- more complex administrative environment;
- a breakdown in the elements of the quarantine continuum (pre-border, border, and post-border);

20 Mr Peter Bennett, *Submission No. 21*, p. 293.

21 Ms Meryl Stanton, *Transcript, 16 July 2002*, p. 25.

- less responsiveness to changes in the pest and disease status of other countries;
- less focus on the management of quarantine risks generally and specialist quarantine resources to manage these risks compared with the performance of other community protection activities;
- loss of efficiencies from staff presently required to undertake both import and export certification functions, especially in smaller locations; and
- higher costs.²²

3.25 The Committee asked Customs to respond to the proposition that AQIS and Customs be merged. Customs agreed with AFFA's comments at the public hearing, and added:

... when you are working on a range of complex functions, what you need to do is get your coordination, cooperation and priority setting working together. It does not matter whether you are in one agency or several agencies ... we work well together. We can share resources, we can cooperate with each other and we can help each other. ... I do not think it would change greatly being in one agency or several.²³

Committee Comment

- 3.26 Any change to the existing administrative arrangements for Australia's border protection risks disturbing existing synergies.
- 3.27 If Australia was creating agencies from scratch, the Committee believes the starting point would probably be a single border agency. However, border control is broad and complex. A modern single border agency will be large and by necessity have different programs to cover various aspects of border control. Inefficiencies will arise because they are inherent in any large agency. The Committee agrees with Customs that coordination is the key, not the number of agencies involved.
- 3.28 The Committee finds the disadvantages of a single agency outlined by AFFA compelling. In particular the Nairn Quarantine Review introduced in 1995 the concept of the quarantine continuum—that there should be a continuous transfer of quarantine risk management from pre-border, through border to post-border. To dismantle this concept by excising border operations with no detailed evidence regarding cost and scant evidence regarding the net gain in efficiency and effectiveness, would in the Committee's view be foolhardy.

22 AFFA, *Submission No. 47*, pp. 520–1.

23 Ms Gail Batman, *Transcript, 16 July 2002*, p. 33.

- 3.29 To argue that the fact that incursions occur invariably demonstrates 'an AQIS problem' is to misunderstand the nature of quarantine management. It is not possible for Australia to adopt a zero risk quarantine policy and remain a member of the world's trading community, the WTO. There will always be exotic pest and disease incursions, some of which will have arrived by natural species dispersal mechanisms and some through 'an AQIS problem'.²⁴ The task is to predict incursion risks, minimise their chance of occurring, and prepare for all incursions by having an appropriate response mechanism in place. Quarantine preparedness is discussed further in Chapter 4.

Relations with State and Territory governments

- 3.30 AQIS has direct management responsibility for quarantine services in all States and Territories except Western Australia, Northern Territory and Tasmania. In these jurisdictions AQIS funds State/Territory agriculture departments to deliver Commonwealth quarantine services on behalf of the Commonwealth.
- 3.31 The Committee asked representatives from the Tasmanian Government whether the State was satisfied with the level of transparency and involvement in Commonwealth quarantine matters. The Tasmanian Government responded that although there had been a very adversarial approach between Tasmania and the Commonwealth in particular during the salmon inquiry, currently:
- There is much closer consultation ... there is a much better understanding as to why decisions are being made ...[and there is] greater opportunity to be involved in the analysis and discussion.²⁵
- 3.32 The Committee asked a similar question of the Queensland Department of Primary Industries (DPI) which was representing the Queensland Government. DPI told the Committee that there had been a decline in communication and collaboration between the two agencies after the separation of the quarantine function from state departmental delivery to Commonwealth-only delivery in 1995. However, there was now a good basis for collaboration between the agencies.²⁶
- 3.33 Nevertheless, DPI commented that more could be done particularly in the area of surveillance. DPI believed that the fire ant and the papaya fruit fly incursions provided good examples of failed surveillance:
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24 Indeed, outbreaks of Newcastle disease in poultry results from an Australian strain of the virus, and is not as Mr Bennett suggests the result of the disease **entering** Australia. See Dr Jeffery Fairbrother, *Transcript*, 5 August 2002, p. 190.

25 Mr John Pauley, *Transcript*, 3 September 2002, p. 232.

26 Mr Kevin Dunn, *Transcript*, 29 July 2002, p. 133.

... where an incursion which does breach the quarantine border can perhaps be found and detected a very little distance beyond the quarantine border but with incomplete surveillance systems in place to look for pest entries ... some considerable time can elapse, in which case pests can establish and spread.²⁷

- 3.34 DPI believed the fire ant was present for between two to four years on Fisherman Island in the Port of Brisbane and the south west suburbs before it was detected. It was presumed the movement of cargo or container bearing soil had introduced the fire ants and spread the infestation from the port.^{28,29}
- 3.35 The Queensland Minister for Primary Industries announced in November 2002 that the eradication campaign was achieving success—Fisherman Island had been free of fire ants for over a year, and in the south west suburbs the ant had been eradicated in 72% of the 900 properties where it had been identified. There were over 500 people involved in the campaign which was scheduled to run for another 2 years.³⁰

Contracting out of the quarantine function

- 3.36 In its submission, IWGQ was critical of current arrangements where a number of State and Territory agencies were contracted to provide AQIS services. It suggested that all export and quarantine services should be carried out directly by AQIS.³¹
- 3.37 IWGQ told the Committee that its main concern was in WA. Here AQIS services were subcontracted out to the Department of Agriculture. The issue concerned the washing of containers for interstate movement. This technically was a primary industry function as it was maintaining standards within WA. However, it was falling within the quarantine function even though it did not involve importation of goods. Payment of the service was coming from federal quarantine budget funds and not from WA. IWGQ concluded:

27 Mr Kevin Dunn, *Transcript*, 29 July 2002, p. 133.

28 Mr Kevin Dunn, *Transcript*, 29 July 2002, p. 133.

29 The Committee has inspected the fire ant eradication campaign. The Committee was advised that there had been two separate fire ant incursions, one from South America, the other from the US. Coincidentally, both incursions were discovered and reported on the same day.

30 AAP Wire Service, *Fire ant eradication seems a success, says experts*, 22 November 2002; *Queensland winning battle against fire ants*, 24 November 2002.

31 IWGQ, *Submission No. 5*, p. 44.

It is difficult for people to understand why they must pay \$295 for a container to be washed when it has been moved between Melbourne and Fremantle.³²

3.38 In its supplementary submission, AFFA explained the reason for the three jurisdictions retaining management responsibilities when the Commonwealth resumed the direct responsibility for quarantine services during 1995–97. The three jurisdictions had argued that there was a:

... synergy of providing interstate and international quarantine functions simultaneously. These three areas have major differences in their pest and disease status compared with the rest of Australia and have strong interstate quarantine regimes.³³

3.39 AFFA continued that the recent increased resources for quarantine had increased the number of Commonwealth funded staff, significantly altering the balance of State funded versus Commonwealth funded staff in WA and NT. Much greater attention was now spent on Commonwealth border functions compared with those of the State or Territory. While the present arrangements were working, there could be advantages in the Commonwealth resuming full responsibility for national quarantine arrangements. Resumption would recognise:

- increased threats to quarantine integrity at the international border;
- the potential for reduced management effort and for reduced dependence on State hierarchies and public sector processes;
- a likely shortening of the chain of command;
- improved capacity for uniformity in service delivery; and
- greater flexibility in relation to full national service delivery responsibilities.³⁴

Committee Comment

3.40 The Committee has not received enough evidence to come to a firm view on this matter. Retaining the present arrangements would reflect a recognition of the 'regionality' concept recently confirmed by the Primary Industries Ministerial Council. However, if the Commonwealth resumed the border quarantine function it would reflect the increased importance of the function, and recent increases in Commonwealth funding.

32 Mr Stephen Morris, *Transcript*, 5 August 2002, p. 178.

33 AFFA, *Submission No. 47*, p. 532.

34 AFFA, *Submission No. 47*, p. 532.

Offshore Operations

- 3.41 Pre-border operations are an important part of the quarantine continuum as they attempt to keep risks offshore. Current pre-border operations focus on:
- pre-inspection of goods before export;
 - assessment and certification by AFFA of off-shore production and supply systems; and
 - overseas certification indicating either that products comply with Australia's requirements or that products have undergone appropriate quarantine treatment.³⁵
- 3.42 The audit found that 'pre-border operations ... were not supported by clear directions, targets and criteria, and in some areas offshore arrangements were not reliable'.³⁶
- 3.43 The Auditor-General recommended that AFFA strengthen its management of pre-border cargo activities by clearly articulating government policy directions and where pre-border strategies are found to be unreliable, AFFA act promptly to ensure quarantine risks are effectively managed.³⁷
- 3.44 Since the audit report, AQIS has prepared a policy paper on *Pre-Border Cargo Quarantine Arrangements*, which describes offshore and pre-border cargo schemes and provides guidelines on various matters including policy and scheme criteria; operational targets; performance indicators; monitoring and reporting to stakeholders; and models for sanction policies. Industry groups have been provided with a draft copy for consultation.³⁸
- 3.45 AFFA's submission provided specific examples of its pre-border operations:
- offshore AQIS inspections of used machinery, mining and earthmoving equipment;
 - offshore AQIS inspections of military equipment and personnel;
 - East Timor area pest and disease surveys (in the context of Australia's United Nations involvement);

35 Auditor-General, *Audit Report No. 47, 2000-01*, p. 69.

36 Mr Ian McPhee, *Transcript, 16 July 2002*, p. 2.

37 Auditor-General, *Audit Report No. 47, 2000-01*, p. 74.

38 AFFA, *Submission No. 14*, p. 134.

- fertiliser port assessments (“reduced” risk classification where acceptable risk mitigation strategies are in place);
- imported food certification (acceptance of certification for food safety testing from recognised overseas government agencies); and
- the Canadian Timber Accreditation Scheme (recognition of exporting mills with acceptable quality assurance systems).³⁹

Clearance of fertiliser imports

3.46 The submission from the Fertilizer Industry Federation of Australia Inc (FIFA) raised two issues:

- the use of offshore clearance for fertiliser imports; and
- the lack of consistent application of clearance procedures in Australia.⁴⁰

Offshore clearance

3.47 FIFA cited an incident involving a shipment of fertiliser which was rejected when it reached Australia in March 2002 because of exotic grain contamination of the ship superstructure. FIFA estimated that the cost associated with the rejected shipment was US\$8 million. FIFA told the Committee that had the contamination been discovered at the overseas port prior to loading, considerable savings would have resulted because the ship could have been cleaned.⁴¹

3.48 FIFA advised that the industry had imported some 36 million tonnes into Australia in the last five years and cargo contamination had never occurred—the only problem had been ship contamination. The loading port involved in the recent incident was an AQIS certified offshore supply system which was regarded as a worldwide benchmark system. An arrangement where AQIS cleared fertiliser destined for Australia at this overseas port would provide:

... the full benefit of the work that has been done in making those offshore ports low risk. The contamination from then on is either stuff that is in the ship, which would be dealt with by AQIS inspecting the ship prior to loading, or local contamination, in which case, once you sort it out, it is not actually a quarantine concern.⁴²

39 AFFA, *Submission No. 14*, p. 135.

40 FIFA, *Submission No. 7*, p. 65.

41 Captain Michael Pritchard, Mr Nicholas Drew, *Transcript, 17 July 2002*, pp. 99–102.

42 Mr John Lewis, Mr Nicholas Drew, *Transcript, 17 July 2002*, pp. 104–5.

- 3.49 AFFA responded to the suggestion noting that in 1999 there had been discussions with the fertiliser industry on the feasibility of conducting off-shore inspections of fertiliser shipments. While FIFA had offered to meet AQIS's direct costs, the proposal had involved 'high opportunity costs ... that could not be satisfactorily met'. This was because more qualified and experienced staff would have had to travel and remain overseas for extended periods.
- 3.50 Moreover, fertiliser imports represented a high risk and permits required zero contamination. The proposal would not have addressed en route contamination risks either at ports en route, or from contamination dislodged from the vessel. Consequently, inspections on arrival in Australia would still be needed.
- 3.51 AFFA also noted that the *Quarantine Act 1908* did not extend beyond Australia and therefore AQIS officers had no legislative authority to conduct offshore inspections or to direct vessel operators or fertiliser exporters to remove the quarantine risk from ships prior to departure.⁴³

Consistent application of procedures

- 3.52 Regarding inconsistencies of clearance procedures, FIFA gave the Committee two examples. However, FIFA added it was working with AQIS to produce a set of procedures and a handbook so that both the inspectors and the importers understood their roles and definitions used in the procedures. FIFA concluded that it appeared that 'real progress' was being made.

Committee Comment

- 3.53 The Committee does not support the offshore clearance of bulk commodities. This is not to say that the offshore risk minimisation procedures developed by FIFA are not world's best practice. For example, any weed seeds contaminating a fertiliser shipment, which survived downstream processing, would be given a 'running start' if they made it to Australian soil. The Committee believes therefore that this represents high risk and necessitates AQIS inspection of shipments arriving in Australia.
- 3.54 The Committee notes that the need to achieve consistency in the application of quarantine protocols was noted in the audit report,⁴⁴ and is pleased that FIFA and AQIS are working cooperatively to clarify quarantine clearance procedures.

43 AFFA, *Submission No. 47*, p. 530.

44 Auditor-General, *Audit Report No. 47 2000-01*, pp. 95-6.

Australia's quarantine gateways

3.55 A condition of the additional funding to the border operations announced in the 2001 Budget was an increase in quarantine intervention and effectiveness levels.⁴⁵ Additional resources were provided for infrastructure upgrades at airports and mail centres to assist the meeting of increased intervention and effectiveness levels.

International air passengers

3.56 At airports, the Government set the intervention target at a minimum of 81% (100% during non-peak periods), and the effectiveness target for high risk quarantine items at a minimum of 87% (and a minimum of 50% for standard risk items). This represented an increase from the 35% intervention rate and 39% effectiveness rate.

3.57 AFFA advised the Committee that national intervention and effectiveness levels had reached over 80% and 70% respectively within 12 months of these targets having been set.⁴⁶ AFFA noted that intervention levels might not be sustainable in peak periods ahead of projected infrastructure spending.⁴⁷

3.58 Seizures of items of quarantine concern at international airports had also risen significantly—up by 84%, since the March quarter 2001, with about 38,000 items being seized per month. The number of quarantine on-the-spot fines had also increased during the same period—up by almost 60% with approximately 1100 fines issued per month.⁴⁸

3.59 During the inquiry, the Committee inspected AQIS operations at Sydney International Airport.⁴⁹ Besides the quarantine clearance of passengers, quarantine operations involve a number of other activities including:

- surveillance and profiling for leakage of goods of quarantine concern;
- assessment of the quarantine risk associated with international aircraft;

45 Intervention refers to the application of quarantine measures to identify and manage items of quarantine interest (eg. screening by dogs or x-rays; visual examination of opened passenger bags) while effectiveness refers to the likelihood that these measures will intercept items of quarantine interest.

46 AFFA, *Submission No. 14*, p. 126.

47 AFFA, *Submission No. 14*, p. 236.

48 AFFA, *Submission No. 14*, p. 127.

49 For a description of passenger processing procedures, see AFFA, *Submission No. 47*, pp. 557–9.

- auditing and surveillance of aircraft waste disposal arrangements and disinfection treatments; and
 - development and delivery of quarantine awareness publicity.⁵⁰
- 3.60 During its inspection, the Committee noted the use of quarantine detector dogs to patrol the baggage carousel areas. (The performance of quarantine detector dogs is discussed below when the Committee reviews activities at international mail centres.)
- 3.61 After collecting their baggage and presenting their incoming passenger card to Customs, international passengers were able to clearly see the bank of x-ray machines and AQIS personnel awaiting them. The Committee was told that the use of the amnesty bins had increased after the x-ray machines had been made more visible. (On one occasion AQIS officers had retrieved a live turtle from an amnesty bin!) As well, passengers were often observed to pause before proceeding towards the x-ray machines in apparent reflection on the contents of their baggage.
- 3.62 A supplementary submission from AFFA detailed the increase in x-ray intervention of passengers and crew. For passengers with nothing to declare, 94% now had their baggage x-rayed (up from 4% prior to the increased funding), whereas for those with items to declare, 15% now had their baggage x-rayed and 85% had their baggage examined (previously only the baggage was inspected).⁵¹
- 3.63 Whilst at the airport the Committee observed the detection by the x-ray machine of a jar of pelletised prawn food in the baggage of a passenger with 'nothing to declare.' The Committee was also present when an AQIS officer 'acting on intuition' discovered egg material in the centre of packaged food described as 'rice cakes'. These had been declared by the passenger.
- 3.64 AFFA's supplementary submission noted that:
- Approximately 75% of all undeclared seizures at airports are detected through x-ray inspection. Recent seizures detected through the x-rays include live plant material, various food items, animal products such as raw meat and bee pollen, wooden articles, seeds and biological products.⁵²
- 3.65 AFFA's supplementary submission advised that during a six month period ending in June 2002, there was a total of 166 146 seizures in the 'something to declare' channel of which 145 273 were declared and 20 873

50 AFFA, *Submission No. 14*, p. 142.

51 AFFA, *Submission No. 47*, pp. 558–9.

52 AFFA, *Submission No. 47*, pp. 535.

were undeclared, while the 'nothing to declare' channel captured 48 074 items of which the majority were undeclared.⁵³ (The issue of quarantine prosecutions is discussed in Chapter 5.)

Shipping and ship-borne passengers

- 3.66 At seaports, the Government set intervention levels at 100% for both vessels and disembarking passengers. Effectiveness levels were set at 96% for both risks.⁵⁴
- 3.67 For the March 2002 quarter, intervention for disembarking passengers had been achieved and vessel intervention was at 98%. The effectiveness level for vessels was 87% and methodology for collecting passenger effectiveness data was to be trialed in mid-2002.⁵⁵
- 3.68 An exhibit from AFFA advised that vessel inspection involved:
- an assessment of the hygiene and food preparation and storage areas;
 - bonding of any quarantine risk material;
 - ensuring that the vessel is free of rodents, vermin, exotic insects ... or diseases;
 - waste disposal systems check and supervision;
 - inspection and monitoring of any animals on board; and
 - verification of ballast water management arrangements.
- 3.69 Passengers were cleared using a combination of questioning and bag searches, the use of detector dogs and x-ray units at some ports and the provision of amnesty bins for quarantinable material.⁵⁶
- 3.70 It appeared to the Committee that AQIS ship inspection and passenger clearance procedures were sufficient up to a point. The concern of the Committee was raised by a comment in the submission from Environment Australia that the most common modes of marine pest introduction included ballast water and hull fouling.⁵⁷ Both modes are of quarantine concern.

53 AFFA, *Submission No. 47*, p. 557.

54 AFFA, *Submission No. 14*, p. 236.

55 AFFA, *Submission No. 14*, p. 236.

56 Exhibit No. 8, AFFA, *AQIS Powerpoint presentations: AQIS Airports Program; AQIS Seaports Program; AQIS Mail Program*, p. 30.

57 EA, *Submission No. 20*, p. 285.

Ballast water

- 3.71 Environment Australia advised the Committee that although ballast water only accounted for 15-20% of introduced marine pests in Australia, 'it is becoming the major threatening vector over the last two decades.'⁵⁸
- 3.72 Fortunately, ballast water management for international shipping has been covered by voluntary guidelines for ballast water management since 1990. In 1 July 2001 these had been replaced by mandatory reporting and management requirements. A decision support system is now used to assess each ballast water tank as either high or low risk. High risk international vessels can only discharge ballast water outside Australian territorial waters (the 12 nautical mile limit) unless AQIS approved on-board treatment such as heating or the use of chemicals.⁵⁹
- 3.73 A further risk is posed by the ballast water carried by Australian vessels which could transfer introduced marine pests from port to port.
- 3.74 In 1999 the National Taskforce on the Prevention and Management of Marine Pest Incursions recommended that AQIS 'develop and manage a single national management regime for preventing the introduction and translocation of introduced marine pests from vessels in Australian waters.' In 2000 the National Introduced Marine Pests Co-ordination Group (NIMPCG) was established to implement the recommendations of the National Taskforce.⁶⁰ NIMPCG comprises a national consultative body of government, scientific, environmental and industry stakeholders.⁶¹
- 3.75 Environment Australia advised that NIMPCG was currently examining legislative options and had concluded that 'a single management regime covering ballast water is likely to be feasible'. However, the regime would likely need to rely on a combination of State/Territory and Commonwealth legislation including the Quarantine Act.⁶²
- 3.76 Currently, Environment Australia advised, there was an ongoing trial of administrative arrangements for a single ballast water regime at the Port of Hastings Victoria, but:

No agreement has yet been reached among Commonwealth agencies, the States and NT, and the shipping and ports industries, on the form a single ballast water regime, or a regime for regulating other shipping related vectors, should take.⁶³

58 EA, *Submission No. 20*, p. 285.

59 Environment Australia, *Submission No. 20*, p. 285.

60 Environment Australia, *Submission No. 20*, p. 286.

61 AFFA, *Submission No. 47*, p. 542.

62 Environment Australia, *Submission No. 20*, pp. 287-8.

63 Environment Australia, *Submission No. 20*, p. 287.

- 3.77 AFFA has provided more information on the issue. It advised that there had been 'substantial progress in implementing the recommendations of the National Taskforce report' and that it will set the approach for a National System. NIMPCG had also developed an Australian Strategic Plan 2002-2006 providing a framework for developing a proposed policy document which defined the responsibilities for the National System. The Strategic Plan was being considered by the Natural Resource Management Ministerial Council and the Australian Transport Ministerial Council.⁶⁴
- 3.78 The Committee accepts that progress, albeit slow, is being made to address the risks posed by ballast water. Momentum on this important issue needs to be maintained.

Recommendation 6

- 3.79 **The Department of Agriculture, Fisheries and Forestry—Australia should report to the Committee on progress with the single ballast water regime and provide a timetable for its introduction in Australia.**

Biofouling

- 3.80 In its submission, Environment Australia stated that hull fouling may account for up to 60% of past introduced marine pest introductions into Australia.⁶⁵ Despite this, biofouling was not covered by the Quarantine Act and 'there is no national system of border protection from organisms that foul hulls and other shipping and boating equipment.'⁶⁶
- 3.81 The Queensland Environmental Protection Agency also raised concern about biofouling and cited two examples of incursions at Trinity Inlet near Cairns. The first organism was discovered by the Royal Australian Navy when it had to remove some two to three tonnes of Caribbean tube worm from three vessels which had been moored at the inlet for only five months. The second organism was the Asian green mussel. The source of the pests appeared to have been a vessel detained by DIMIA and the Australian Fisheries Management Authority. The detained vessel had been moored up stream from the naval vessels.⁶⁷

64 AFFA, *Submission No. 45*, pp. 542–3.

65 EA provided a supplementary submission listing over 40 species thought to have been introduced via biofouling, over half of which were considered to have a serious impact. Environment Australia, *Submission No. 40*, pp. 444–7.

66 Environment Australia, *Submission No. 20*, p. 285.

67 Mrs Pauline Semple, *Transcript, 29 July 2002*, p. 169.

- 3.82 A supplementary submission from DIMIA advised that AFMA had not been involved with the seizure, and that the tubeworm had in fact been detected in Cairns some 18 months earlier. DIMIA had also repurchased the vessel, which had been sold for scrap, to enable its hull to be scraped to remove the infestation.⁶⁸
- 3.83 AFFA advised the Committee that the hull fouling issue presented:
- ... practical and operational challenges that have not yet been fully analysed on a national or international basis. There is currently no practical or cost effective means of inspecting or treating the hulls of large commercial vessels. ...
- Responsibility for domestic hull fouling issues rests with the States/NT—hull fouling is currently only regulated in very specific circumstances.
- in the NT illegal entry vessels (fishing and immigration) and some private yachts entering enclosed marinas are subject to inspection and management protocols administered under NT jurisdiction.
 - in Western Australia some illegal entry vessels (fishing and immigration) are subject to inspection and management protocols administered under State jurisdiction, at Willie Creek.
 - Queensland recently circulated a draft of a proposed State protocol for the management of illegal entry vessels.⁶⁹
- 3.84 AFFA expanded on the reasons for a lack of a national approach commenting that:
- The key gap in progress is a policy level agreement on what might constitute the components of a *National System* and how they should be implemented, managed and funded. Most work has focused on the ballast water component of the vessel regime, with little consideration of non-vessel elements.⁷⁰
- 3.85 More information on the protocols operated by the NT Government was provided to the Senate Legal and Constitutional References Committee (SLCRC) during its inquiry into the Migration Legislation Amendment (Further Border Protection Measures) Bill 2002.
- 3.86 The NT Department of Industry, Resource and Development told the Senate committee that risk assessments had identified two classes of high risk vessels—recreational vessels destined for Darwin marinas, and apprehended vessels. These were subject to two separate protocols. Some

68 DIMIA, *Submission No 55*, pp. 623–4.

69 AFFA, *Submission No. 47*, p. 546.

70 AFFA, *Submission No. 47*, p. 546.

536 visiting international vessels had been inspected and 7% had been quarantined with marine pests. Apprehended vessels were met by divers at a prearranged location outside the port limits and inspected.⁷¹

Committee comment

3.87 The Committee considers that biofouling on international vessels arriving in Australian waters is clearly a quarantine issue. Section 78A of the *Quarantine Act 1908* refers to the 'treatment of vessels and installations that are believed to be in an unsanitary condition or to be likely to be carrying disease or pests.' Under the definitions within the act:

treatment means any process for controlling or eliminating a disease or pest and:

(a) in relation to a vessel, installation or premises, includes examination, spraying, fumigation, disinfection, denaturing and cleaning ...

3.88 However, unlike ballast water, biofouling is not covered by Section 78A and this may have contributed to lack of attention paid to the biofouling problem.

3.89 While AFFA has advised that large commercial vessels pose an inspection and treatment problem, the evidence to the Senate committee suggests that it is international recreation vessels and apprehended vessels that pose the major risk. The increase in illegal fishing vessels seized in northern waters will only increase exposure to the risk.⁷² (The Committee can see why large commercial vessels are less of a risk—they spend as little time in port as possible and travel at speeds which are not conducive to the establishment of biofouling organism colonies.)

3.90 The Committee notes that the issue seems to have been addressed in Darwin and WA through protocols for inspections. Coincidentally, it is in these two jurisdictions that State/Territory agencies undertake quarantine operations for the Commonwealth.

3.91 The gap therefore is Queensland. The Committee considers that NAQS is the organisation 'on the ground' in northern Queensland which could be the lead Commonwealth organisation required to tackle what is, in the Committee's view, primarily a Commonwealth responsibility.

3.92 Unfortunately, during the Committee's inspection of quarantine operations in Northern Australia, NAQS officers advised the Committee

71 Ms Andria Marshall, *SLCRC, Transcript, 11 September 2002*, pp. 227–8.

72 A media release from the Minister for Fisheries and Conservation on 23 January 2003 indicated that a total of 111 foreign fishing vessels had been apprehended in calendar year 2002,—the most since 1997.

that it did not have the resources to undertake below the water line inspections. The Committee believes this should be rectified.

- 3.93 During the Committee's review of Coastwatch operations, it observed several foreign fishing vessels outside the 200 mile limit. These 'type three' boats together with smaller 'type two' boats are the foreign fishing vessels most likely to be the ones apprehended. The Committee notes that the procedure for suspect illegal entry vessels (which are often type three boats) intercepted near Ashmore Reef bringing non-citizens to Australia was to sink them off Ashmore Reef.
- 3.94 It occurred to the Committee that one way to reduce the quarantine risk posed by type two and type three boats caught illegally fishing in Australian waters would be to sink them in deep water without bringing them to shore. This would reduce the risks of biofouling organism incursions,⁷³ and alleviate pressure on inspection personnel.
- 3.95 Section 185B (3) of the *Customs Act 1901* provides for the destruction of a ship if it 'poses a serious risk to navigation, quarantine, safety or public health' or 'a serious risk of damage to property or the environment.' However, there is no cross reference to the Quarantine Act or similar provisions in the Quarantine Act.
- 3.96 It appears therefore that under the legislation Customs can decide to destroy a ship without seeking advice from quarantine authorities, but if the quarantine authorities want to quickly destroy a ship they must enlist Customs to undertake the task.
- 3.97 The Committee can see the benefits of the current arrangement—in the event of a ship posing a quarantine risk **and** containing evidence of interest to Customs, it is important that Customs's evidence is not destroyed by a unilateral decision from Quarantine.
- 3.98 For vessels posing a quarantine risk through biofouling, time is critical in eradicating the threat before the biofouling organisms can spread into vulnerable environments. The Committee considers, therefore, that the Customs legislation needs amendment to include the element of urgency if a boat is discovered to pose a serious quarantine risk.
- 3.99 Unfortunately, the shallowness of some areas of northern waters, the Torres Strait in particular, mitigates against speedy disposal of vessels in environmentally safe areas. Consequently, readily accessible disposal areas need to be identified and procedures put in place to facilitate expeditious destruction. This means that Environment Australia as well as

73 The Committee understands that biofouling organisms disposed of in deep water will not survive.

the Australian Fisheries Management Authority and State/Territory agencies need be involved in the planning process.

- 3.100 The Committee believes there is merit in any arrangement covering the whole of Northern Australia.

Recommendation 7

- 3.101 **Section 78A of the *Quarantine Act 1908* should be amended so as to make reference to biofouling organisms.**

Recommendation 8

- 3.102 **The Northern Australia Quarantine Strategy should include activities to address the risks posed by organisms biofouling international recreational vessels and foreign vessels apprehended by the Commonwealth.**

The Government should provide additional resources to the Northern Australia Quarantine Strategy to enable it to undertake this additional role.

Recommendation 9

- 3.103 **Section 185B of the *Customs Act 1901* should be amended so it:**

- **includes the need to consult the Australian Quarantine and Inspection Service if a ship is considered by Customs to pose a quarantine risk; and**
- **specifies that ships posing an identified quarantine risk are dealt with in an appropriate manner and timeframe (to be specified in the Act).**

Recommendation 10

- 3.104 **The Department of Agriculture, Fisheries and Forestry—Australia, the Australian Fisheries Management Authority, and Environment Australia, (in consultation with State and Territory counterparts) should identify areas and introduce procedures whereby vessels posing a quarantine risk can be routinely, expeditiously, and safely disposed of.**

International cargo

- 3.105 International cargo arrives at two gateways in Australia—at international airports and at seaports.
- 3.106 The Government has set cargo intervention rates at 100%. Sea containers, air containers and high volume low value (HVLV) airfreight documents were achieving intervention rates of 100%, 98% and 82% respectively in the March quarter 2002 (up from 5%, 2% and less than 2% respectively in February 2001). Intervention rates were not specified by the Government for personal effects and non-containerised cargo. However rates achieved in the March quarter 2002 were 91% and 93% respectively (up from 30% and 35%).⁷⁴
- 3.107 For effectiveness, the Government set a rate of 96% for the three cargo categories. In the March quarter 2002, effectiveness rates for sea containers, air containers and HVLV were 82%, 98% and 92% respectively. Effectiveness targets for personal effects and non-containerised cargo were not specified and no data was available from AFFA.⁷⁵

Containers

- 3.108 Procedures for containers can involve:
- examination of the container contents;
 - physical inspection of the outside of the container; and
 - washing of the container.
- 3.109 The ANAO told the Committee that containers posed a major challenge for quarantine operations. Although the target for intervention was 100%, the ANAO was concerned about the quality and depth of quarantine inspections.⁷⁶

Internal inspections

- 3.110 While the majority of containers carry cargo, the Committee was told during its inspections that there was a significant movement of empty containers around the world—approximately 180 000 are unloaded in Australia annually.⁷⁷ ‘Empty’ containers can in fact contain used

74 AFFA, *Submission No. 14*, p. 236.

75 AFFA, *Submission No. 14*, p. 236.

76 Mr Alan Greenslade, *Transcript, 16 July 2002*, p. 5.

77 Exhibit No. 8, p. 35.

packaging material some of which may pose a quarantine risk because of the pests and diseases they may harbour.⁷⁸

3.111 The empty containers from highest risk countries were targeted by AQIS, especially those from countries with infestations of the giant African snail and from high risk African ports.⁷⁹

3.112 When challenged by the Committee, AFFA acknowledged that while a majority of sea containers were inspected on the outside, only 10% of sea containers were actually opened and checked. AFFA added:

... intervention takes various forms ... it is important to look at the system as a whole ... [it] includes processes of electronic and physical screening as well as physical intervention of opening containers.⁸⁰

3.113 The Committee notes, however, that facilities have recently opened in Sydney and Melbourne (with 2 more projected for Brisbane and Fremantle) which allow the x-raying by Customs of complete cargo containers. A 12-metre container can be x-rayed in about 10 minutes and items such as illegal handguns, drugs, and plant material can be detected. It is expected that the facility in Sydney will be able to inspect 100 containers each day, some 25 000 per year.⁸¹ Data obtained from the Sydney Ports' web site indicates this number represents about 5% based on 2001-02 figures for container movements.⁸² (The Committee has inspected the Melbourne facility.)

External inspection

3.114 The Committee has observed the external inspection of containers at Port Botany. Material that had been recently removed included encrusted soil, pebbles, and a dead bird. The Committee was told that a nest with eggs had also been removed from the top of one container.

3.115 The primary purpose of such inspections was to prevent the arrival of seeds. The Committee was concerned that exotic plants could become established in the inspection area itself. AFFA subsequently advised the Committee that while AQIS regularly conducted wharf surveillance patrols, plant establishment in the area would be difficult as wharf areas are constructed from bitumen and/or concrete. Despite this, if a situation occurred where a plant of quarantine concern had established itself in the

78 The Committee was told by AQIS officers during an inspection that sometimes live cats are enticed into containers destined for Australia, 'for a bit of a joke'.

79 Exhibit No. 8, p. 35.

80 Mr John Cahill, *Transcript, 16 July 2002*, p. 22.

81 Customs, *Minister's Media Release, Boost for border protection in Sydney*, 9 June 2002.

82 <http://www.sydneyports.com.au/TradeLogistics/>

immediate wharf area, the matter would be referred to AQIS plant scientists for evaluation and advice on treatment options.⁸³

Container washing

- 3.116 The Committee has also inspected container washing facilities in Port Botany and at Cairns.
- 3.117 At the public hearing in Melbourne, the Independent Paper Group (IPG) raised concerns about inconsistencies in container inspection and cleaning practices between Sydney and Melbourne ports:
- interpretations of contamination levels differed between Melbourne and Sydney;
 - a higher proportion of IPG containers were sent for washing in Melbourne compared to Sydney irrespective of country of origin;
 - the cost of cleaning was approximately \$470 in Melbourne compared to \$260 in Sydney; and
 - the turn around time was between 3 and 11 days in Melbourne compared to 30 minutes to 2 hours in Sydney.⁸⁴
- 3.118 AFFA responded that during May and June 2002, AQIS had undertaken an extensive review of container inspection practices in various cities including Melbourne and Sydney. The review had found minor variations in practices between the various cities and had resulted in the revision of work instructions and training materials provided to container inspectors. As well, during the May–July 2002 quarter the proportion of containers sent for washing was 2% for Sydney and 3.5% for Melbourne. It was believed the difference was attributable to the different types of imports arriving at the ports.⁸⁵
- 3.119 Regarding the variation in cleaning costs and turn around time between the ports, AFFA advised that washing facilities were privately owned and operated by industry and that AQIS had no control over costs or time. However, as only one company provided cleaning facilities in Melbourne, AQIS would review whether other cleaning facilities could be approved.⁸⁶
- 3.120 The Committee notes that there are 2 container washing depots in Sydney, compared to 3 in Fremantle and 4 in Brisbane,⁸⁷ and is surprised there is only one washing facility at a major port such as Melbourne. The

83 AFFA, *Submission No. 47*, p. 533.

84 IPG, *Transcript, 3 September 2002*, pp. 282, 284, 286.

85 AFFA, *Submission No. 47*, p. 563.

86 AFFA, *Submission No. 47*, p. 564.

87 IPG, *Transcript, 3 September 2002*, p. 283.

Committee believes that the introduction of additional facilities in Melbourne would introduce competition, with subsequent downward pressure on the costs charged, and reduce the delays associated with cleaning. The Committee is reassured that AQIS is reviewing the issue.

Recommendation 11

- 3.121 The Department of Agriculture, Fisheries and Forestry—Australia should facilitate the provision of sufficient additional container washing facilities in the port of Melbourne to ensure there is competitive pressure on charges, and that the timeliness of container washing is improved.**

Consistency of container handling

- 3.122 The Auditor-General found that methods of external container inspection varied markedly in the three States audited, and these were generally related to the operating environment of the particular port.⁸⁸ Notwithstanding the evidence provided by AFFA that AQIS had reviewed container inspection practices, the Committee believes that more rigor could be introduced to container handling processes.

Recommendation 12

- 3.123 The Department of Agriculture, Fisheries and Forestry—Australia should develop standards and benchmarks for the external and internal inspections of containers which reflect the risk assessment for the container and its cargo.**

International Mail

- 3.124 The 194 million mail items entering Australia each year pose a significant risk for the quarantine border.⁸⁹ Under the Quarantine and Customs Acts, Australia Post is responsible for facilitating the screening of this international mail by AQIS and Customs.⁹⁰

88 Auditor-General, *Audit Report No. 47 2000–01*, p. 95.

89 Exhibit No. 8, p. 8.

90 Australia Post, *Submission No. 3*, p. 26.

- 3.125 In the May 2001 Budget the Government provided Australia Post with an additional \$49.4 million over 4 years to increase the screening of international mail. The intervention rate was set at 100%. Australia Post told the Committee that the target was achieved in March 2002 and has been maintained at that level.⁹¹
- 3.126 The effectiveness target was set at 96% for high risk items and at 50% for lower risk items. AFFA advised the Committee that effectiveness levels were at 91% for high risk items, up from the 11% identified in the audit report.⁹²
- 3.127 Despite its success in facilitating screening of international mail Australia Post advised the Committee that new facilities at the major gateways of Sydney and Melbourne will be needed to sustain performance. In Sydney the existing centre at Clyde will be upgraded, whereas a new international facility will be built at Melbourne airport. The facility is expected to open in mid-2003.⁹³
- 3.128 The Committee has inspected Australia Post's international mail centre in Sydney. The screening process is described in Australia Post's submission:
- Customs canines are used initially (primarily to detect narcotics);
 - Customs Target Officer determine if the mail article contains prohibited or restricted items ... (if so it is sent to the examination area, opened and examined);
 - mail is then x-rayed (and as a result some is also subject to opening and examination);
 - mail is then subject to AQIS canine inspection (primarily to detect animal or vegetable material); and
 - end point sampling by AQIS of screened articles to determine the effectiveness of screening (intervention), is then undertaken.⁹⁴
- 3.129 The Committee was advised that over 60% of all seizures at mail centres were detected by x-rays.⁹⁵ During the inspection the Committee was impressed with the way in which AQIS conduct their x-ray operations. AQIS x-ray operators who detect an item of quarantine concern are also responsible for opening and inspecting that item. The Committee saw this as an effective, efficient self-checking method of assessing and improving performance.

91 Mr Michael McCloskey, *Transcript, 16 July 2002*, p. 39.

92 Exhibit No. 8, p. 12; *Submission No. 14*, p. 236.

93 Mr Michael McCloskey, *Transcript, 16 July 2002*, p. 39.

94 Australia Post, *Submission No. 3*, pp. 27-8.

95 AFFA, *Submission No. 47*, p. 535.

3.130 In contrast, Customs x-ray operators forward items of interest to an examination officer to open and inspect the items. Customs advised the Committee that operators are encouraged to follow up results with the examination officers. The images of detected items are stored for later use as intelligence or for training.⁹⁶

3.131 The Committee believes there would be merit in Customs adopting the self-checking approach used in AQIS x-ray operations.

3.132 During the inspection the Committee also observed AQIS detector dogs in action. As a demonstration, a detector dog discovered dried plant material secreted in an airmail letter. However, later in the visit the dog detected a packet of vacuum-packed seeds, again in an airmail letter. A supplementary submission from AFFA provided more information about the items detected by the dogs:

Quarantine Detector Dogs are trained to detect:

- fresh fruit and vegetables;
- meat, both fresh and processed, including canned meats;
- plant material;
- eggs;
- birds;
- reptiles;
- bees;
- soil;
- seeds;
- cheese.

The dogs have extremely sensitive noses for odour detection, allowing them to alert to tiny items of quarantine concern that may not be distinguishable by x-ray. These include pressed flowers between book pages, seeds in letters and small quantities of soil particles. The dog teams are also an invaluable tool for alerting to items that are rigorously packaged to prevent detection, such as cryogenically packaged foodstuffs, which are still detectable by the dogs.⁹⁷

3.133 The Committee was told that during their working life the dogs were kept at a quarantine station so that they did not become fatigued by the smells they were trained to detect. However, in retirement the dogs often went to live with their handler.

96 Customs, *Submission No. 38*, p. 425.

97 AFFA, *Submission No. 47*, p. 534.

- 3.134 The Committee has explored with AFFA the use of gamma-radiation to destroy quarantine risks as an alternative to detection by dogs. AFFA responded that it had considered the possibility of irradiating mail items as an alternative to the current procedures of screening and inspection. However, it was difficult and costly. This was because different pests required different dosages and often incoming mail had full declarations. Irradiation at high doses could damage items such as electronics, plastics, therapeutic drugs and allowable seeds.⁹⁸
- 3.135 During the inspection of the Clyde Mail Centre, the Committee was surprised at the nature and volume of items of quarantine concern that are detected. Recent items that had been seized were displayed and included vacuum-packed fresh bratwurst sausages, dried salted fish, dried fungi, beef lollies, a snake, and soiled sports boots. The Committee also observed AQIS officers unpacking parcels of clothing and cleaning lightly soiled shoes before returning them to the repacked parcels.
- 3.136 In November 2002, two live boa constrictor snakes were discovered at the Melbourne international mail centre in a parcel sent from Greece. The parcel had been x-rayed and the 60 cm long snakes were found concealed in a one litre vacuum flask type container.⁹⁹
- 3.137 The Committee acknowledges the performance of Australia Post and AQIS at the mail centres, but notes that the systems have yet to be fully tested during the Christmas peak period. At that time approximately 30 000 mail items will arrive—more than double that received in March 2002 when 100% screening was first achieved.¹⁰⁰

Committee Comment

- 3.138 The Committee is satisfied with the improvements in intervention and effectiveness levels achieved by AFFA and AQIS. The Committee is confident that the Government's targets will be achieved.

Waste disposal

- 3.139 During the inspection of animal and plant quarantine facilities at Eastern Creek, the Committee noted that large amounts of animal and plant material needed to be disposed. Material seized at quarantine gateways will also need to be disposed of appropriately.

98 AFFA, *Submission No. 47*, p. 534.

99 Minister for Agriculture, Fisheries and Forestry, *Media Release, Quarantine puts the 'squeeze' on illegal boa constrictors*, 15 November 2002.

100 Exhibit No. 8, p. 7.

- 3.140 A submission from Mr John Hall outlined his concerns about current quarantine waste disposal practices. Mr Hall criticised the current methods of waste disposal such as deep burial, and advocated that AQIS develop a new facility treatment process. The facility 'could handle all sizes of quarantine waste generated from ships and aircrafts, hospital and infectious material, as well as high security material treatment of seizures from customs and police, etc.'¹⁰¹
- 3.141 The Committee sought comment from AFFA on the issue.
- 3.142 AFFA advised that currently, AQIS contracted out their waste disposal arrangements to the private sector. Current waste disposal methods included deep burial, high temperature incineration and heat treatment by autoclaving. Prior to approval, all proposed methods were submitted to Biosecurity Australia for assessment of the effectiveness of the proposed treatment. Contractors also had to comply with relevant State and Commonwealth environmental legislation and were subject to regular monitoring by AQIS under co-regulation arrangements.¹⁰²
- 3.143 Responding to the criticism of the deep burial method, AFFA stated:
- Deep burial is an internationally accepted method of disposing of animal and plant quarantine waste. The majority of organisms of quarantine concern do not survive for long periods of time in the anaerobic environment provided by deep burial. As the waste decomposes, soil microorganisms and changes to the chemical environment effectively destroy the viability of a wide range of bacteria and viruses. Seeds are also affected by changes to the chemical environment, decreasing their viability over time. This occurs in a controlled environment, buried under several metres of soil.¹⁰³
- 3.144 The Committee is satisfied that quarantine wastes are being appropriately disposed.

Other border operations

Imported Alcohol Labelling

- 3.145 All imported food including alcohol must comply with the *Quarantine Act 1908* and the *Imported Food Controls Act 1992*. Under the legislation, AQIS
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101 Mr John Hall, *Submission No. 10*, pp. 81–4.

102 AFFA, *Submission No. 47*, p. 536.

103 AFFA, *Submission No. 47*, p. 537.

administers the *Imported Food Control Regulations 1993* and the *Imported Food Control Order 2001* on behalf of AFFA and Food Standards Australia New Zealand (FSANZ).¹⁰⁴

- 3.146 The submission from Diageo Australia Ltd, an importer and distributor of spirits and alcoholic beverages, raised the following concerns about the administration of the imported food legislation:
- the rate of inspections of consignments;
 - the labelling requirements for duty free goods; and
 - parallel imports of spirits and alcoholic beverages.

The rate of inspections of consignments

- 3.147 Alcohol is classified as a random surveillance food by FSANZ. Consequently, five per cent of all consignments (ie 1 in 20) are subject to inspection by AQIS. While inspection can range from either simply examining the label to opening the bottle to examine the contents for macrocontaminations, the majority of inspections involve simply examining the label.¹⁰⁵
- 3.148 Diageo argued that this surveillance regime discriminated against larger volume, reputable and compliant importers of alcohol. Diageo believed that the real risk for AQIS was from lower volume or one-off importers who would not be subject to the same actual level of inspection due to the random nature of selection.¹⁰⁶
- 3.149 As an example, Diageo noted that due to the high volume of alcohol it imported annually, approximately 1 in 30 of its consignments had been selected for inspection over the previous year. No single product had been identified by AQIS as failing inspection. In contrast, Diageo provided examples of products imported by small volume importers which did not comply with Australian domestic labelling requirements.¹⁰⁷
- 3.150 Responding to the issues raised by Diageo, AFFA advised the Committee that under the current legislation the random surveillance category was the lowest risk category of food. The other two categories were:
- risk category (eg cooked prawns, oysters, soft cheeses) which was inspected at a rate of 100%, 25% or 5% depending on performance history; and

104 AFFA, *Submission No. 14*, p. 139.

105 Mr Robert Preece, *Transcript, 5 August 2002*, p. 215.

106 Diageo Australia Ltd, *Submission No. 48*, p. 577.

107 Diageo Australia Ltd, *Submission No. 48*, p. 577.

- active surveillance (eg egg powder, vegetable sprouts, tofu) which was inspected at 10% by country of origin.
- 3.151 However, following a recommendation from the National Competition Policy Review of the legislation, AQIS and FSANZ were:
- ... developing a performance based inspection system for [random and active] surveillance category food. ... Under the new system, instead of the rigid 100%, 10% and 5% inspection regimes, food with intrinsic lower risk (such as spirits) and a strong compliance history could be subjected to a very low intensity inspection regime. However food with higher levels of intrinsic risk and/or poor compliance history will be subject to a higher inspection intensity.¹⁰⁸
- 3.152 The Committee believes that the proposed changes to the inspection regime for surveillance category foods will address the concerns of importers of intrinsically low risk foods.

The labelling requirements for duty free goods

- 3.153 The *Imported Food Controls Act 1992* and associated regulations outline labelling requirements for imported alcohol. These requirements aim to protect Australian consumers by identifying the name and address of the local importer, origin of the product, package size, spirit strength and the number of standard drinks.¹⁰⁹ Duty free alcoholic products in contrast have generic labelling providing details of the manufacturer, size, alcoholic strength and origin.¹¹⁰
- 3.154 Diageo advised the Committee that until recently AQIS had not applied Australia's domestic labelling requirements to alcohol sold in duty free outlets. However, from 1 August 2002 AQIS had decided to enforce labelling requirements.¹¹¹
- 3.155 Diageo argued that the duty-free market was distinctly separate from the domestic market and was structured along global lines. Duty free alcohol products had a single packaging and labelling standard that was applied to all duty free alcohol products for sale in any airport in the world or as ships' stores for consumption by crew and passengers on any international flight.¹¹²

108 AFFA, *Submission No. 54*, p. 619.

109 Diageo Australia Ltd, *Submission No. 25*, p. 345.

110 Diageo Australia Ltd, *Submission No. 25*, p. 346.

111 Diageo Australia Ltd, *Submission No. 25*, pp. 345-6.

112 Diageo Australia Ltd, *Submission No. 48*, p. 572.

- 3.156 Diageo told the Committee that such compliance with domestic labelling requirements would cost it approximately \$1 million. Also it would be irrelevant to approximately 65–70 per cent of purchases because they were by overseas customers returning to their home country. Labelling differed greatly between countries, especially regarding the number of standard drinks.¹¹³ The alternative, Diageo advised, was to source duty free supplies for Australia and New Zealand through its domestic business. This was estimated to cost in excess of US\$1.5 million per annum and also reduce the range of products which would be available.¹¹⁴
- 3.157 Diageo's submission noted that the industry had applied to FSANZ's predecessor the Australia New Zealand Food Authority (ANZFA) for an exemption for duty-free alcohol products from domestic labelling requirements, but this had been rejected.¹¹⁵
- 3.158 The Committee sought comment from FSANZ on this issue. FSANZ provided ANZFA's final assessment report on the issue. The report concluded that there was not 'a sufficiently persuasive case ... to interfere with the public health and safety provision of name and address requirements.'¹¹⁶
- 3.159 FSANZ's submission also advised that the decision to reject the exemption request was being challenged by industry interests in the Federal Court.¹¹⁷
- 3.160 In the light of the fact that the matter is before the Courts, the Committee has decided not to comment further.

Parallel imports

- 3.161 Parallel importing occurs when a product destined for another market is imported into Australia in parallel to imports by the main distributor of the product. The parallel import may have labelling which complies with the other market, but which does not meet Australia's requirements. Typically a parallel import comprises a 'one off' or small number of consignments.
- 3.162 Diageo has provided the Committee with several examples of parallel imports which allegedly did not comply with Australia's labelling requirements or had expired use by dates. Such imports posed a

113 Mr John Halmarick, *Transcript*, 5 August 2002, p. 220.

114 Diageo Australia Ltd, *Submission No. 48*, p. 576.

115 Diageo Australia Ltd, *Submission No. 25*, p. 346.

116 FSANZ, *Submission No. 45*, p. 495.

117 FSANZ, *Submission No. 45*, p. 487.

commercial risk to the regular importer because the importer might be seen by the consumer as responsible for the deficient product.¹¹⁸

3.163 AFFA advised the Committee that while regular importers were likely to be familiar with Australia's labelling laws, there were numerous low volume importers such as one-off or opportunistic importers with little or no familiarity with food safety requirements. When a surveillance category food failed inspection a holding order was invoked. The order 'applies to the food and the overseas producer so the impact is also on routine importers who have taken steps to ensure that their food complies with Australian standards.'

3.164 Under the new system that was proposed, AFFA added:

... the importers will be targeted for labelling non-compliances rather than the food itself. Thus it would be a more equitable system that would reward those importers who take measures to ensure their food is correctly labelled and otherwise in compliance with Australia's food safety standards.¹¹⁹

3.165 The Committee considers that the changes envisaged by AFFA should address the concerns raised by Diageo.

118 Diageo Australia Ltd, *Submission No. 25*, p. 348; *Submission No. 48*, p. 578.

119 AFFA, *Submission No. 54*, p. 619.