

Chapter 3

Prawn imports into Australia

3.1 This chapter considers the importation of prawns and prawn products into Australia. It explores Australia's biosecurity obligations and the measures undertaken following the outbreak of WSD to suspend prawn imports.

Biosecurity obligations

Appropriate Level of Protection

3.2 To protect against biosecurity risks, the Biosecurity Act provides for an Appropriate Level of Protection (ALOP) for Australia. In accordance with Australia's risk-based approach, this requires a high level of sanitary (animal) and phytosanitary (plant) (SPS) protection aimed at reducing biosecurity risks to a very low level, but not to zero.¹

3.3 The ALOP accords with WTO agreements such as the SPS Agreement, which requires WTO members to maintain a level of protection appropriate to protect life or health within their territory.²

3.4 The SPS Agreement provides that biosecurity measures must be based on either a risk assessment appropriate to the circumstances or drawn from standards developed by the World Organisation for Animal Health (OIE). Such measures can only be applied to the extent necessary to protect human, animal or plant life or health. Additionally, the measures must be based on science, and must not arbitrarily or unjustifiably discriminate between WTO members or be a disguised restriction on trade.³

ALOP and impacts on international trade

3.5 Risk assessments are used to determine what SPS measures should be applied to an import, to achieve Australia's ALOP. Each WTO member has the right to determine its ALOP. However, the ALOP should aim to minimise negative trade effects, and should not be more trade-restrictive than required to achieve the ALOP's objective:

Under the SPS Agreement, risk management measures must not be more trade-restrictive than required to achieve ALOP, taking into account technical and economic feasibility. In addition, WTO members are required

1 *Biosecurity Act 2015*, s. 5. While the ALOP is a broad objective, SPS measures are established to meet that objective.

2 Department of Agriculture and Water Resources, *Appropriate Level of Protection*, 20 June 2016, <http://www.agriculture.gov.au/biosecurity/risk-analysis/conducting/appropriate-level-of-protection> (accessed 2 May 2017).

3 Department of Agriculture and Water Resources, *Australia's international biosecurity obligations*, 20 June 2016, <http://www.agriculture.gov.au/biosecurity/risk-analysis/conducting/international-obligations> (accessed 4 May 2017).

to apply the concept of ALOP consistently; that is they must 'avoid arbitrary or unjustifiable distinctions' that 'result in discrimination or a disguised restriction on international trade'.

Consistency in the application of ALOP means that the Australia [sic] cannot, for example, be less restrictive to risk where imports are desired, or more restrictive than necessary to manage the risk where trade would create competitive pressure on a domestic industry.⁴

3.6 The Aquatic Animal Health Code, produced by the OIE, details the standards and processes required to ensure the safe international trade of aquatic animals, including prawns and other seafood products, while avoiding unnecessary trade impediments.⁵

3.7 Risks to Australia's trading agreements were highlighted following the outbreak of WSD in Australia, and the decision to suspend the import of raw prawns and prawn products. The Vietnamese Government claimed that the suspension breached Australia's WTO responsibilities and exceeded necessary SPS measures. The Seafood Importers Association of Australia argued that the suspension damaged Australia's trade reputation.⁶

3.8 DAWR has publicly acknowledged the impacts that the suspension may have on trade and on international exporters. However, it argued that the suspension complied with WTO agreements which allow member states to temporarily suspend imports, in certain circumstances, and that the suspension would not be in place any longer than necessary.⁷

3.9 As the committee continues its investigation into the potential biosecurity risks arising from imported seafood products, it will consider Australia's international trade obligations, alongside the importance of measures to maintain the desired ALOP in Australia. The committee recognises the importance of finding the right balance between open and fair trade, and protecting Australia's biosecurity, and will consider the implications of the WSD outbreak on future trade responsibilities.

Import Risk Analysis (IRA)

3.10 In 2009, Biosecurity Australia (BA) released the *Generic Import Risk Analysis Report for Prawns and Prawn Products* (the IRA). The IRA determined that:

4 Department of Agriculture and Water Resources, *Appropriate Level of Protection*, 20 June 2016.

5 World Organisation for Animal Health (OIE), *Aquatic Animal Health Code*, June 2016, <http://www.oie.int/en/international-standard-setting/aquatic-code/> (accessed 4 May 2017).

6 It was argued that a number of Vietnamese exporters were at risk of bankruptcy as a result of the suspension. Marty McCarthy, 'Vietnamese Government says Australia's prawn import ban is 'causing serious damage' to its producers', *ABC Rural News*, 10 March 2017, <http://www.abc.net.au/news/rural/2017-03-10/vietnam-frustrated-australia-prawn-import-ban/8344002> (accessed 11 May 2017).

7 Marty McCarthy, 'Vietnamese Government says Australia's prawn import ban is 'causing serious damage' to its producers', *ABC Rural News*, 10 March 2017.

The unrestricted risk associated with WSSV is...*high*. The unrestricted risk exceeds Australia's ALOP and, therefore, risk management is deemed necessary.⁸

3.11 The IRA therefore considered the import of prawns and prawn products into Australia, excluding live prawns. The IRA identified a number of acceptable risk management measures, including sourcing all uncooked prawn product from a country considered free of WSSV; removing the prawn head and shell and testing all imported batches, and importing highly processed product (like marinated or battered prawns).⁹

3.12 The IRA also found that the likelihood of release of WSSV 'via the unrestricted importation of non-viable, farm-sourced, frozen, uncooked whole prawns intended for human consumption is estimated to be high'.¹⁰

3.13 The IRA provided a tolerance for the presence of WSSV in Australia, but at a low level, of no greater than five per cent. According to DAWR, this level was not considered a risk, as it did not provide a sufficient viral load for the disease to spread through susceptible hosts, and then into prawn farms.¹¹

Import conditions

3.14 An importer must obtain a permit to import all uncooked prawns and prawn products for human consumption. The permit application must include clear, labelled photographs, details of manufacturing steps and a complete ingredients list totalling 100 per cent of product weight.¹²

3.15 Under the IRA, if an importing country is free from pathogens, and Australia has recognised that country as being free from pathogens, batch testing is not required.¹³

3.16 In terms of the importation of uncooked prawns or prawn product, there are three possible options:

- the uncooked prawns must be from a country or zone free from WSSV, yellowhead virus (YHV) and Taura syndrome virus. In addition, the

8 Biosecurity Australia, *Generic Import Risk Analysis Report for Prawns and Prawn Products*, October 2009, p. 119.

9 Biosecurity Australia, *Generic Import Risk Analysis Report for Prawns and Prawn Products*, October 2009, pp. 11-12.

10 Biosecurity Australia, *Generic Import Risk Analysis Report for Prawns and Prawn Products*, October 2009, p. 112.

11 Mr Tim Chapman, Department of Agriculture and Water Resources, *Committee Hansard*, 28 March 2017, p. 6.

12 Biosecurity Australia, *Generic Import Risk Analysis Report for Prawns and Prawn Products*, October 2009, pp. 190, 263.

13 Biosecurity Australia, *Generic Import Risk Analysis Report for Prawns and Prawn Products*, October 2009, p. 191.

prawns must be free of Necrotising hepatopancreatitis bacterium if the product is not frozen (i.e. the product is chilled);¹⁴ or

- the uncooked prawns must have their heads and shells removed, be frozen and each batch tested on arrival in Australia, and found to be free of WSSV and YHV; or
- the uncooked prawns should be highly processed, with the head and shell removed, and coated in crumb or batter, wet or dry marinade, or processed into products like dumplings or spring rolls.¹⁵

3.17 The exporting country is required to certify that the uncooked prawns or prawn products, including those that are highly processed, are fit for human consumption, have been processed, inspected and graded in approved premises, and are free from visible signs of infectious disease.

3.18 Packages of uncooked imported prawns that are not highly processed must be labelled 'for human consumption only' and 'not to be used as bait or feed for aquatic animals'. However, the IRA also noted that as this labelling would not necessarily apply at the point of retail sale, the general public could be unaware of these requirements.¹⁶

3.19 The IRA stipulates that all prawn imports are to be held in quarantine control for sample testing, where they remain until the test results are known. Batches returning any positive results for disease will be re-exported, destroyed or cooked in an approved facility.¹⁷

3.20 The IRA does note, however, that the efficacy of testing depends on the availability of effective tests, the capacity of overseas authorities to conduct testing off-shore, and the maintenance of product integrity throughout the chain of custody. Testing alone was not considered to reduce the overall risk of disease.¹⁸

Approved arrangements

3.21 Some importers can enter into an approved arrangement with DAWR, allowing them to manage and operate cold storage facilities in accordance with

14 Biosecurity Australia, *Generic Import Risk Analysis Report for Prawns and Prawn Products*, October 2009, pp. 190-191.

15 Biosecurity Australia, *Generic Import Risk Analysis Report for Prawns and Prawn Products*, October 2009, pp. 190-191.

16 Biosecurity Australia, *Generic Import Risk Analysis Report for Prawns and Prawn Products*, October 2009, pp. 182, 192.

17 Biosecurity Australia, *Generic Import Risk Analysis Report for Prawns and Prawn Products*, October 2009, p. 191.

18 Biosecurity Australia, *Generic Import Risk Analysis Report for Prawns and Prawn Products*, October 2009, p. 181.

biosecurity requirements. All importers, regardless of having an approved arrangement, must undergo an inspection of their product by biosecurity officers.¹⁹

3.22 While DAWR does not allow self-assessment of product, there are other arrangements in place whereby some importers do not need to present their product, with what is known as 'seals intact'. This process means that:

upon export from an exporting country there is a seal applied to the outside of a container which is intended to ensure that the contents of the container are not tampered with.²⁰

WSD outbreak and import suspensions

3.23 While full investigations were underway in relation to the WSD outbreak and its cause, the import suspension was triggered by three factors:

- the actual outbreak of WSD in farms in the Logan River;
- evidence that imported prawns intended for human consumption which had tested positive to WSSV were being used as bait by fishers in the Logan River;²¹ and
- the high incidence of infected prawns available for sale in retail outlets in the Logan River area.²² On 4 January 2017, 14 out of 19 retail samples returned positive results for WSD.²³

3.24 DAWR explained that consideration of these three incidents led to the conclusion that the biosecurity risk had elevated to a point sufficient for trade to be suspended.²⁴ DAWR officials clarified that its awareness that some importers were acting in a non-compliant way was not sufficient to impose the suspension. As Mr Tim Chapman, First Assistant Secretary, Biosecurity Animals Division, DAWR, explained, prior to the suspension:

when there was information that had come out of Operation Cattai that there were white-spot-positive prawns that had evaded our border controls

19 Mr Wayne Terpstra, Department of Agriculture and Water Resources, *Estimates Hansard*, 28 February 2017, pp. 145-146.

20 Mr Wayne Terpstra, Department of Agriculture and Water Resources, *Estimates Hansard*, 28 February 2017, p. 146.

21 The Biosecurity (Suspended Goods – Uncooked Prawns) Determination 2017 noted that the use of imported uncooked prawns as bait in recreational fishing carries a 'likelihood of infecting crustaceans, including farmed prawns, in Australian river systems'. See further Compilation 1 of the Determination, dated 6 February 2017, <https://www.legislation.gov.au/Series/F2017/L00034>

22 Mr Tim Chapman, Department of Agriculture and Water Resources, *Estimates Hansard*, 28 February 2017, p. 142.

23 Ms Lyn O'Connell, Department of Agriculture and Water Resources, *Estimates Hansard*, 28 February 2017, p. 120.

24 Mr Tim Chapman, Department of Agriculture and Water Resources, *Estimates Hansard* 28 February 2017, p. 142.

and were for sale, that was an important issue for us. But knowing that there are some prawns available for sale and knowing that some importers appeared to be acting in a deliberately noncompliant way, that, in itself, is not sufficient justification to say that the risk has changed and we would not be able to suspend trade consistent with our SPS obligations.²⁵

Import suspension

3.25 From 9 January 2017, and for a period of six months, all uncooked prawns and prawn meat (including that used for bait), and uncooked prawns and prawn meat marinated for human consumption, were suspended from import.

3.26 In making the determination to suspend prawn imports, the Director of Biosecurity noted that uncooked imported prawns (including prawn meat) represent an 'unacceptable level of biosecurity risk'.²⁶

3.27 Certain prawn products were excluded from the suspension, namely uncooked prawns and prawn meat sourced from New Caledonia;²⁷ highly processed prawn products (like dumplings and samosas), and breaded, crumbed or battered prawns intended for human consumption.²⁸

3.28 Whether uncooked prawns could be distributed once reaching Australia depended on a number of factors, including the date the product left the country of origin or the date the product arrived in Australia:

- if the product arrived in Australia **on or before 8 January 2017**, the goods were subject to new and enhanced inspections, including 'secure-seals intact direction, 100 per cent inspection of the consignment and sampling inspection and testing of all consignments'. Importers could export the product if they did not wish to have it inspected
- if the product arrived **9 January 2017** or later, it could not be imported and was exported or destroyed at the importers expense. All import permits for the suspended product were suspended as of 9 January 2017, until further notice.²⁹

3.29 The committee was advised that approximately 780 tonnes of prawns were 'on the water' and in transit to Australia when the initial suspension was implemented in January 2017. This product was subject to enhanced testing and as of 28 March 2017,

25 Mr Tim Chapman, Department of Agriculture and Water Resources, *Estimates Hansard* 28 February 2017, p. 142.

26 Biosecurity (Suspended Goods – Uncooked Prawns) Determination 2017 (No 1).

27 At this time, only New Caledonia is recognised by Australia as being free from WSSV.

28 Department of Agriculture and Water Resources, *02-2017 – Suspension of uncooked prawns and uncooked prawn meat imports*, 7 January 2017, <http://www.agriculture.gov.au/import/industry-advice/2017/02-2017> (accessed 21 March 2017).

29 Department of Agriculture and Water Resources, *02-2017 – Suspension of uncooked prawns and uncooked prawn meat imports*, 7 January 2017.

62 per cent of product had passed testing and was released for sale; approximately 30 per cent had failed testing and eight per cent was still to undergo testing.³⁰

3.30 All uncooked prawns and prawn product that was at the border or on the water at the time of the suspension 'remains under biosecurity control until it has been inspected, tested or exported'. Further:

The department has increased border inspections of some permitted goods, such as breaded, battered and crumbed uncooked prawns to a 100 per cent inspection rate, and enhanced monitoring of other permitted products, like uncooked prawns and prawn meat processed into dumplings, spring rolls, samosas and other similar products.³¹

3.31 DAWR explained that while the importation of certain products had been suspended, there was already a considerable amount of seafood product, potentially including infected prawns, still moving through distribution channels across the country.³²

3.32 On 5 May 2017 DAWR advised stakeholders that the 'enhanced inspection and testing regime for product that was in transit to Australia or had not cleared biosecurity control when the suspension took effect is now complete'.³³

Exemptions from suspension

3.33 In making the original suspension determination, the Director of Biosecurity noted that:

I am satisfied that existing import conditions are insufficient to provide the high level of sanitary protection needed to reduce the biosecurity risk presented by WSSV on imported uncooked prawns to a very low level, in accordance with the ALOP for Australia. A temporary suspension of the importation of uncooked prawns will allow for a review of risk management conditions and compliance arrangements and for the results of that review to be implemented.³⁴

3.34 A number of amendments have been made to the original import suspension of January 2017, to exempt certain prawn products from the suspension. DAWR argued that the exemptions have resulted 'because stringent measures have been

30 Ms Raelene Vivian, Department of Agriculture and Water Resources, *Committee Hansard*, 28 March 2017, p. 2.

31 Department of Agriculture and Water Resources, *Department's action on imported prawns – update April 2017*, 20 April 2017, <http://www.agriculture.gov.au/about/media-centre/media-releases/dept-action-white-spot-april> (accessed 1 May 2017).

32 Ms Raelene Vivian and Ms Lyn O'Connell, Department of Agriculture and Water Resources, *Committee Hansard*, 28 March 2017, p. 10.

33 Department of Agriculture and Water Resources, *Weekly Imported Prawn Suspension Update*, 5 May 2017.

34 Biosecurity (Suspended Goods – Uncooked Prawns) Determination 2017, p. 2.

applied to the importation of these prawn products including strict on-arrival testing and mandatory notification by trading partners of positive offshore test results'.³⁵

February 2017

3.35 On 3 and 27 February 2017, the Director of Biosecurity amended the suspension order and listed a number of products to be exempt from import suspension, due to low or negligible biosecurity risks in line with Australia's ALOP.

3.36 Products exempted from the import suspension included uncooked prawns and prawn meat harvested within specific areas of Australia, exported to a specific, approved processing plant in Thailand, and re-exported to Australia; imported for use in a laboratory or food sample analysis; and irradiated bait for aquatic use, pet fish food and aquaculture feed.³⁶

3.37 The department confirmed to the committee that all prawns wild-caught in Australia and sent to Thailand for processing, were tested for WSD upon re-entry into Australia. The processing plant in Thailand was decontaminated prior to processing Australian prawns, and as of 28 March 2017, all consignments returning from Thailand had tested negative for WSD.³⁷

April 2017

3.38 On 3 April 2017 the Director of Biosecurity made a third amendment to the suspension order, to exempt from the import suspension any wild-caught Australian prawns processed overseas and re-exported to Australia.³⁸

3.39 The third amendment determined that 'uncooked Australian wild-caught prawns exported overseas for processing, and re-exported to Australia, represent an acceptable level of biosecurity risk that meets Australia's ALOP'.³⁹

35 Department of Agriculture and Water Resources, *Department's action on imported prawns – update April 2017*, 20 April 2017, <http://www.agriculture.gov.au/about/media-centre/media-releases/dept-action-white-spot-april> (accessed 1 May 2017).

36 Biosecurity (Suspended Goods – Uncooked Prawns) Amendment (Exceptions) Determination 2017, Schedule 1, s. 6; Biosecurity (Suspended Goods – Uncooked Prawns) Amendment (Exceptions) Determination 2017 (No. 2), Schedule 1, s. 6.

See also Department of Agriculture and Water Resources, *11-2017 – Update on temporary suspension of uncooked prawns and uncooked prawn products*, 6 February 2017, <http://www.agriculture.gov.au/import/industry-advice/2017/11-2017> (accessed 22 March 2017);

Department of Agriculture and Water Resources, *20-2017 – Update on temporary suspension of uncooked prawns and uncooked prawn products*, 1 March 2017, <http://www.agriculture.gov.au/import/industry-advice/2017/20-2017> (accessed 22 March 2017).

37 Mr Tim Chapman, Department of Agriculture and Water Resources, *Committee Hansard*, 28 March 2017, pp. 3-4.

38 Biosecurity (Suspended Goods – Uncooked Prawns) Amendment (Exceptions) Determination 2017 (No. 3), Schedule 1.

39 Explanatory Statement, Biosecurity (Suspended Goods – Uncooked Prawns) Amendment (Exceptions) Determination 2017 (No. 3), p. 1.

3.40 A number of other measures were implemented to limit biosecurity risks for re-imported prawns, such as:

- conditions on import permits, including declarations from the overseas authority as to the Australian origin of the prawns, and that the prawns were segregated from non-Australian prawns and other contamination sources throughout transport, processing and storage;
- exporting countries certifying that all batches of processed uncooked prawns are free from WSSV and YHV, based on OIE testing methods;
- overseas authorities notifying the department if positive test results for WSSV or YHV arise from Australian prawn consignments, processed in approved establishments;
- increased on-arrival inspections and testing for WSSV and YHV, and holding the product pending testing and inspection outcomes; and
- for positive test results, ordering the product to be exported, destroyed or treated, or, at the importer's request and expense, conduct a retest at AAHL.⁴⁰

3.41 DAWR advised that it had contacted major trading partners including China, Indonesia, Malaysia and Vietnam and confirmed with these exporting countries that they could re-commence trade with Australia, provided updated health certification requirements could be met.⁴¹

May 2017

3.42 On 15 May 2017 the Director of Biosecurity amended the suspension orders for a fourth time to allow the import of uncooked prawns and prawn meat, which has been marinated for human consumption. Imports of such product will be allowed to commence eight weeks after the amendment is registered (mid-July 2017).⁴²

3.43 The explanatory statement to the amendment notes that further assessment was made as to the biosecurity risks of these products. The resulting assessment showed:

that those goods, where accompanied by a foreign country health certificate and subject to inspection and testing on-arrival, represent an acceptable level of biosecurity that meets Australia's Appropriate Level of Protection (ALOP).⁴³

40 Biosecurity (Suspended Goods – Uncooked Prawns) Amendment (Exceptions) Determination 2017 (No. 3), Schedule 4.

41 Department of Agriculture and Water Resources, *Weekly Imported Prawn Suspension Update*, 5 May 2017.

42 Biosecurity (Suspended Goods – Uncooked Prawns) Amendment (Exceptions) Determination 2017 (No. 4), s. 2.

43 Explanatory Statement, Biosecurity (Suspended Goods – Uncooked Prawns) Amendment (Exceptions) Determination 2017 (No. 4), p. 1.

3.44 The amendment states that uncooked marinated prawns, released from biosecurity, will have an acceptably low prevalence of WSSV and YHV. Additionally, the product will be sufficiently modified through processing to 'reduce their likelihood of diversion to unintended end-uses (bait, burley or aquatic animal feed) to an acceptably low level'.⁴⁴

3.45 Other measures at the border, further to the foreign country health certificate, will include increased on-arrival inspections; 100 per cent seals intact inspections, and an 'appropriate level' of on-arrival testing (being all batches tested with a sampling that provides 95 per cent confidence at 5 per cent prevalence).⁴⁵

Timeliness of suspension

3.46 DAWR has stated that it implemented the import suspension due to 'an unacceptable level of [WSSV] in imported uncooked prawns in retail outlets'. It was argued that these levels indicated that compliance with biosecurity risk management conditions was not managing the risk to a level consistent with the ALOP.⁴⁶

3.47 On 4 January 2017, DAWR formed the view that trade in uncooked prawns and prawn product should be suspended, due to the increased retail prevalence of WSD. The Minister for Agriculture, the Hon Barnaby Joyce MP, was briefed on the issue on the afternoon of 5 January 2017, with the formal determination to suspend trade made on 6 January 2017.⁴⁷

3.48 The Minister acknowledged that the department had failed to advise him of the increasing detection of WSD for approximately six months.⁴⁸ A number of other stakeholders have argued that the import suspension was implemented too late, and after WSD had taken hold in a number of Australian prawn farms.

3.49 DAWR argued that it would not have been possible to suspend trade any earlier. As of 1 December 2016, the department was:

aware of non-compliant activity but there was not sufficient information at that stage to say that the level of risk had changed sufficient for us to suspend trade. The key bit of information...was the confirmatory test from

44 Biosecurity (Suspended Goods – Uncooked Prawns) Amendment (Exceptions) Determination 2017 (No. 4), Schedule 2.

45 Biosecurity (Suspended Goods – Uncooked Prawns) Amendment (Exceptions) Determination 2017 (No. 4), Schedule 2.

46 Department of Agriculture and Water Resources, *Questions and answers – Import Related Questions*, www.agriculture.gov.au/import/goods/uncooked-prawns/questions-and-answers (accessed 21 March 2017).

47 Ms Lyn O'Connell, Department of Agriculture and Water Resources, *Estimates Hansard*, 28 February 2017, p. 120.

48 Hedley Thomas, 'Silence was 'to protect prawn virus probe'', *The Australian*, 11 February 2017, <http://www.theaustralian.com.au/national-affairs/state-politics/silence-was-to-protect-prawn-virus-probe/news-story/860ab119e63eaf3528f8a1383504a69c> (accessed 22 March 2017).

AAHL which was received on 4 January that there were white spot positive prawns available for sale in supermarkets in the Logan River region.⁴⁹

3.50 The committee will continue to consider the efficacy and timeliness of the import suspension, and the variations made to that suspension, as it progresses its inquiry.

3.51 The committee is also interested to ascertain whether the chain of communication between government officials and key industry stakeholders, regarding information about the increased prevalence of WSD, was effective, consistent and timely.

3.52 In addition, the committee will consider whether the import conditions in place prior to the outbreak were adequate to address the risk of WSSV entering Australia.

Import biosecurity breaches

Assessing prawn imports

3.53 The IRA provides that industry or government employees physically inspect imported prawns, using touch, smell and visual assessments. Prawns with visible lesions or physical damage are rejected or diverted for further processing. However, 'prawn processing lines usually operate at high speed, allowing little time for detailed inspection'.⁵⁰

3.54 The IRA acknowledges that the prevalence and expression of prawn infection can vary greatly between various countries or regions. Not all prawn-producing countries have active surveillance measures to look for prawn disease, and may lack appropriate facilities and trained staff.⁵¹

3.55 Additionally, the focus on prawn aesthetics and suitability for human consumption means that quarantine risks from imported prawns may not be addressed:

Not all infected animals would be removed as infection may not result in visible disease signs; and where obvious signs of clinical disease are present, not all such prawns would be detected and removed. Even those animals detected with lesions indicative of a pest or an infectious disease may not be rejected if the pest or disease is not of concern to human health and does not result in visible lesions that affect marketability.⁵²

49 Mr Tim Chapman, Department of Agriculture and Water Resources, *Estimates Hansard*, 28 February 2017, p. 152.

50 Biosecurity Australia, *Generic Import Risk Analysis Report for Prawns and Prawn Products*, October 2009, p. 81.

51 Biosecurity Australia, *Generic Import Risk Analysis Report for Prawns and Prawn Products*, October 2009, p. 80.

52 Biosecurity Australia, *Generic Import Risk Analysis Report for Prawns and Prawn Products*, October 2009, p. 82.

3.56 DAWR has noted that 'inspectors we have at the border would not have specialist knowledge in prawn diseases' but would select random samples from each consignment to complete the border testing for WSSV and YHV.⁵³

3.57 Following the outbreak of WSD, DAWR appointed a group of biosecurity officers to undertake inspections of prawn products, namely those products that are crumbed, battered or breaded. The appointed officers have 'specific knowledge and experience, which will assist with the provision of efficient inspection activity and consistent assessment against the import conditions'.⁵⁴

Departmental investigations

3.58 DAWR detailed to the legislation committee its investigations into seafood importers, for potential breaches of biosecurity regulations. It advised that since the IRA, it has performed a number of investigations into single incidents of non-compliant behaviour.⁵⁵ DAWR informed the committee that in 2013, it became aware of:

independent testing which detected white spot disease in prawns for sale at retail outlets in Australia which then resulted in an investigation into possible washing or mislabelling of marinated prawns. As a result, a number of marinated prawn consignments were rejected and re-exported and the conditions around importing marinated prawns were clarified with importers.⁵⁶

3.59 DAWR launched further investigations in mid-2016, following evidence that some importers were 'allegedly circumventing inspection and testing processes at the border'. These investigations aimed to stop illegal activity and therefore prevent the spread of infectious disease into Australia, but were not specifically related to the WSD outbreak.⁵⁷

3.60 DAWR detailed some of the methods believed to be used by importers to evade biosecurity and quarantine controls. These include:

53 Mr Tim Chapman, Department of Agriculture and Water Resources, *Estimates Hansard*, 28 February 2017, p. 127.

54 Department of Agriculture and Water Resources, *Weekly Imported Prawn Suspension Update*, 5 May 2017.

55 Mr Tim Chapman, Department of Agriculture and Water Resources, *Estimates Hansard*, 28 February 2017, p. 126.

56 Ms Lyn O'Connell, Department of Agriculture and Water Resources, *Estimates Hansard*, 28 February 2017, p. 119.

57 Ms Lyn O'Connell, Department of Agriculture and Water Resources, *Estimates Hansard*, 28 February 2017, pp. 119-120.

- knowingly submitting clean product for testing and hiding product that may be infected (as was done by the Sino seafood company⁵⁸);
- providing empty consignments on shipments, including bags and containers, to allow for product substitution;
- deliberately mislabelling product so it does not require testing; and
- colluding with foreign prawn suppliers.⁵⁹

3.61 DAWR confirmed it was aware of instances where non-compliant importers were changing imported product from vannamei prawns to banana prawns, and avoiding the seals intact requirements. Other efforts to avoid border controls included importers using colour-coded and other markings on cartons to help avoid disease testing of certain stock, by providing biosecurity officers with 'good' prawns.⁶⁰

3.62 It was also claimed by DAWR that importers would:

pack empty boxes from the exporter coming into Australia. They have got a big container full of prawns but there would be a few empty boxes in there. Normally the prawns are in some sort of plastic bag so they would put in a few empty plastic bags. Then at this end, the importer, before our inspectors got there, was taking those empty boxes out with the plastic bags and filling them with effectively prawns that did not have white spot virus.⁶¹

3.63 DAWR noted that one of the biggest challenges in dealing with the WSD disease outbreak was:

the deliberate activities by some importers to substitute prawns and to evade the controls. Much like other smuggled goods, it is very difficult to detect deliberate smuggling, deliberate attempts to evade controls, and that is where our concern is.⁶²

Operation Cattai

3.64 In March 2016, as part of its investigations, DAWR commenced Operation Cattai. Operation Cattai was a result of information from various sources and

58 Michael Wray, 'Prawn white spot outbreak: Probe finds prawns meant for human consumption being used as bait', *The Courier-Mail*, 12 January 2017, <http://www.couriermail.com.au/news/queensland/prawn-white-spot-outbreak-probe-finds-prawns-meant-for-human-consumption-being-used-as-bait/news-story/f7fe3e500ae6507ced36ace7934ba7ab> (accessed 22 March 2017).

59 Michael Atkin, 'Importers 'swapping prawns' so white spot disease is not detected, Barnaby Joyce fears', *ABC News*, 17 January 2017, <http://www.abc.net.au/news/2017-01-17/importers-swapping-prawns-barnaby-joyce-fears/8185274> (accessed 11 May 2017).

60 Ms Raelene Vivian, Department of Agriculture and Water Resources, *Estimates Hansard*, 28 February 2017, pp. 128, 132-133.

61 Ms Raelene Vivian, Department of Agriculture and Water Resources, *Estimates Hansard*, 28 February 2017, p. 133.

62 Mr Tim Chapman, Department of Agriculture and Water Resources, *Committee Hansard*, 28 March 2017, p. 8.

intelligence work. The operation sought to determine if importers were acting in a non-compliant way and thereafter collect evidence for prosecution.⁶³

3.65 Mr Wayne Terpstra, Assistant Secretary in the Compliance Division of DAWR detailed to the committee the phases of Operation Cattai and what these involved:

Phase 1 of Operation Cattai involved the purchase of a number of prawn samples at retail levels. Those results came in and were confirmed on 24 June 2016... Phase 2 of Cattai was commenced on 1 August 2016. As new consignments arrived in Australia, there were a number of targeted inspections and, for those consignments that were not specifically targeted for an enhanced Cattai-type enforcement response, we had our regular testing of product as it passed through the border to determine whether there were white-spot-positive prawns being presented for importation. There was no further retail testing undertaken until the outbreak itself, but there was ongoing testing at the border as product was being cleared.⁶⁴

3.66 As part of the investigation, prawns were purchased for testing from retail outlets in Brisbane, Sydney and Melbourne, in order to best determine where non-compliant importers may be distributing their product.⁶⁵

3.67 Prawns available for retail sale and infected with white spot were detected between Melbourne and Brisbane. The white spot was detected 'either at the point of sale through a purchasing assessment or through controls at the border, where there appeared to be some subversion of departmental controls taking place'. DAWR acknowledged that the Logan River may therefore be only one of many locations where infected prawns were available for sale, and potentially used as bait.⁶⁶

3.68 As part of its investigations into non-compliant importers, the department also surveyed recreational fishers in the Logan River area, over the 2016-17 summer period. It was found that fishers were using imported prawns meant for human consumption as bait. When tested by the DAWR, two of the prawns tested positive for WSD. Prawns obtained from retail outlets in the same area also tested positive for WSD. These results contributed to the decision to implement the import suspension.⁶⁷

63 Ms Raelene Vivian, Department of Agriculture and Water Resources, *Estimates Hansard*, 28 February 2017, pp. 136, 143.

64 Mr Wayne Terpstra, Department of Agriculture and Water Resources, *Committee Hansard*, 28 March 2017, p. 11.

65 Ms Raelene Vivian, Department of Agriculture and Water Resources, *Estimates Hansard*, 28 February 2017, p 131.

66 Mr Wayne Terpstra, Department of Agriculture and Water Resources, *Estimates Hansard*, 28 February 2017, p. 143.

67 Department of Agriculture and Water Resources, *Media Statement*, 'Department's action on imported prawns', 10 February 2017, <http://www.agriculture.gov.au/about/media-centre/media-releases/dept-action-white-spot> (accessed 23 March 2017).

3.69 Departmental investigators became aware of the presence of infected product in retail outlets, following positive tests results received on 24 June 2016. The positive WSD retail results obtained as part of Operation Cattai helped to identify and actively target 25 out of 40 importers, as part of the second phase of the operation, with 13 of those 25 importers attracting a higher level of scrutiny and concern.⁶⁸

3.70 Operation Cattai has led the department to submit a brief of evidence to the Department of Public Prosecutions, in relation to Chinese seafood importer Sino. Action has also been taken against six importers whose approved arrangements, permits and ability to import prawns has been removed.⁶⁹ At the time of their suspension, the six importers were responsible for an estimated 30 per cent of the entire volume of prawn imports into Australia.⁷⁰

3.71 As part of its investigations, DAWR also examined the activity of biosecurity officers at the border, and determined that some officers were not following 'their work procedures'.⁷¹ In particular, staff were being handed prawn cartons by importers from which to select product for WSSV testing, rather than randomly choosing the carton from a consignment. Thereafter, DAWR argued that it reiterated the proper procedures to staff and implemented further training in areas such as prawn identification, although no staff were dismissed.⁷²

Import suspension breaches

3.72 Soon after the implementation of the import suspension, the Minister for Agriculture and Water Resources stated that some importers were knowingly selling prawns infected with WSD. The importers were providing healthy prawns for biosecurity inspection, while importing infected prawns that were not tested.⁷³

3.73 Media reports have suggested that some importers into Western Australia have been 'using technicalities' to circumvent the suspension conditions, and are washing coatings, such as bread, crumb or batter, off the prawns after importation.

68 Mr Wayne Terpstra, Department of Agriculture and Water Resources, *Estimates Hansard*, 28 February 2017, pp. 144-145.

69 Ms Lyn O'Connell, Department of Agriculture and Water Resources, *Estimates Hansard*, 24 May 2017, p. 27.

70 Mr Tim Chapman, Department of Agriculture and Water Resources, *Estimates Hansard*, 24 May 2017, p. 29.

71 Ms Raelene Vivian, Department of Agriculture and Water Resources, *Estimates Hansard*, 28 February 2017, p. 128.

72 Ms Raelene Vivian, Department of Agriculture and Water Resources, *Estimates Hansard*, 28 February 2017, pp. 128-129.

73 Michael Atkin, 'Importers 'swapping prawns' so white spot disease is not detected, Barnaby Joyce fears', *ABC News*, 17 January 2017, <http://www.abc.net.au/news/2017-01-17/importers-swapping-prawns-barnaby-joyce-fears/8185274> (accessed 11 May 2017).

This allows importers to avoid the suspension, and to 'target the bigger and more lucrative raw prawn market'.⁷⁴

74 Daniel Mercer, 'Loophole exposes prawn industry to lethal virus', *The West Australian*, 10 May 2017, <https://thewest.com.au/news/wa/loophole-exposes-prawn-industry-to-lethal-virus-ng-b88469113z> (accessed 10 May 2017).