

Chapter 3

The policy review process and implementation of the revised policy

Introduction

3.1 Consultation on the proposal to relax Australia's import requirements for beef and beef product began on 28 July 2009 at a regular meeting of the Red Meat Market Access Committee (RedMMAC).¹ Further meetings with other beef industry organisations were held throughout August, September and October 2009. A round table discussion with health and medical bodies was held on 28 September 2009. On 29 August 2009, the Department of Health and Ageing (DOHA) commissioned Professor John Mathews to review the current scientific evidence on BSE particularly in relation to food and the flow on implications to human blood, human blood products and other human therapeutic goods.² Professor Mathews submitted a draft of his report to DOHA on 15 September 2009. The final report *Review of Scientific Evidence to Inform Australian Policy on Transmissible Spongiform Encephalopathies (TSEs)* (the Review) was released on 9 October 2009.

Scientific review – human health

3.2 Professor Mathews was charged with updating and re-examining the scientific evidence used to inform Australia's BSE policy since the last review in 2006.³

3.3 The Review made the following conclusions:

- over the last five years the evidence for more effective control of the global BSE epidemic has strengthened. Passive and active surveillance, carried out in accordance with World Organisation for Animal Health (OIE) guidelines and European Community legislation, has shown that numbers of BSE-affected cattle are falling year by year in all affected countries;

1 The Red Meat Market Access Committee was established in 2007 as an across-department and industry forum regarding market access and trade. It is chaired by industry and includes representation from DFAT, DAFF, AQIS and Biosecurity Australia. The role of RedMMAC is to guide the direction of decision-making in relation to market access for red meat products in international markets and "to deliver more optimal outcomes on all forums of market access in the red meat industry". RedMMAC meets every six months or whenever market access issues normally handled through traditional avenues and organisations/departments, prove unable to achieve an acceptable result in isolation. Red Meat Industry, *Submission to Productivity Commission Review of Regulatory Burdens*, March 2008, p. 24 and p. 34.

2 Department of Health and Ageing, *Submission 2*, p. 1.

3 Professor John Mathews, *Review of Scientific Evidence to Inform Australian Policy on Transmissible Spongiform Encephalopathies (TSEs)*, Terms of Reference, October 2009, p. 4.

- the amount of BSE-infected material entering the human food chain in 'controlled BSE risk' countries such as the United Kingdom (UK) is now very small because of the decline in BSE, the removal of brain and other specified risk material (SRMs) from carcasses, and the detection and destruction of infected animals;
- the risk of future food-borne transmissions leading to human vCJD is very small, if not negligible, even in the UK, where previously the risk was greatest; and
- the risk to Australians from UK beef imports, if this were allowed, is found to be a 0.002 per cent chance of a case of vCJD occurring in the next 50 years.⁴

3.4 The review also noted a number of new understandings and questions arising from laboratory science, including the possibility of 'carriers' and advances in risk mitigation methods.

BSE and vCJD carriers

3.5 Experimental models for prion disease have identified circumstances where BSE infectivity can be 'carried' in an animal for long periods, and transmitted to others, without the 'carrier' animal ever developing the disease within the normal life span of the species. The Review observes that such findings have raised the possibility that there may be a large number of as yet undetected 'carriers' of vCJD who might transmit the prion to others without themselves becoming infected with the disease within the usual incubation period. The Review suggests that as we have not yet seen a secondary peak in vCJD beginning to emerge in the UK any theoretical risk of disease in 'carriers' could only emerge after a very much longer incubation period, if at all.⁵

Risk mitigation methods

3.6 The Review refers to animal experiments that suggest it may be possible, in some circumstances, to partly prevent or delay the onset of prion disease through immunisation or administering anti-prion antibodies. The Review notes that there is still some work to be done before trials of such approaches are justified.⁶ The Review also notes recent scientific advances which allow for more effective sterilisation of

4 Professor John Mathews, *Review of Scientific Evidence to Inform Australian Policy on Transmissible Spongiform Encephalopathies (TSEs)*, 9 October 2010, p. 5.

5 Professor John Mathews, *Review of Scientific Evidence to Inform Australian Policy on Transmissible Spongiform Encephalopathies (TSEs)*, 9 October 2010, p. 6.

6 Professor John Mathews, *Review of Scientific Evidence to Inform Australian Policy on Transmissible Spongiform Encephalopathies (TSEs)*, 9 October 2010, p. 6.

medical and surgical instruments and devices that need to be re-used after the possibility of contamination with vCJD-infected material.⁷

Risk to Australia from other animal transmissible spongiform encephalopathies (TSEs)

3.7 The committee received evidence with regard to a range of questions arising from current scientific research. The following sources of potential risk were among those drawn to the committee's attention:

- the possible risk to human health posed by other animal TSEs such as scrapie and chronic wasting disease (CWD);
- the ability for BSE to be passed from cattle into other species;
- the apparent spread of BSE into the UK sheep flock;
- the long incubation period for BSE and the fact that the disease usually presents after the common age at which cattle are slaughtered for human consumption,
- that there is no effective live test for BSE, tests are only accurate in the final stages of the disease or post-mortem, and that tests can easily produce false negatives in both animals and humans and are rarely performed; and
- the risk of prions adhering to abattoir or butchering equipment and being spread accordingly.

3.8 The committee notes the Review concludes that the risk to Australians from scrapie or for BSE to be transmitted to humans via other pathways is remote. The Review also states that there is no evidence of CWD in Australian deer herds and no evidence of transmission to humans in contact with CWD-infected herds.⁸ Nevertheless, the committee notes the views of submitters that our understanding of the infection pathways for other TSEs is limited and the risks are therefore unknown.⁹ The committee notes Professor Mathews' statement that:

In terms of risk analysis—whether we are talking about scrapie, BSE or variant CJD—coming from the epidemiological tradition, it is the magnitude and the quantification of risk that is important. I understand the philosophical principle that, if one can avoid risk entirely, one should. But there is another philosophical question that says: well, is the risk in

7 Professor John Mathews, *Review of Scientific Evidence to Inform Australian Policy on Transmissible Spongiform Encephalopathies (TSEs)*, 9 October 2010, p. 7.

8 Professor John Mathews, *Review of Scientific Evidence to Inform Australian Policy on Transmissible Spongiform Encephalopathies (TSEs)*, 9 October 2010, pp 21 -22.

9 Mr Robert Steel, *Submission 7*, Dr Allan Fahey, *Email correspondence*, 2 March 2010.

Australia totally zero at the moment? And I do not think we need to talk about that today.¹⁰

Level of risk of BSE entering Australia

3.9 The committee notes that some of the evidence received in relation to the level of risk of BSE entering Australia was somewhat contradictory. Both Mr Stephen McCutcheon, the Chief Executive Officer of Food Standards Australia New Zealand (FSANZ) and the Minister for Trade, the Hon Simon Crean MP were prepared to state that Australian consumers could be 100 percent certain that imported beef products would be BSE free.¹¹ In answer to a written question posed by a journalist from *The Australian* newspaper, Mr McCutcheon provided the following written response:

6. Will consumers be able to be 100 per cent certain that imported beef products are BSE free?

Yes. Consumers can be confident that the new policy arrangements will be underpinned by a rigorous scientific risk assessment process and robust risk mitigation measures to prevent BSE from entering the human food chain.¹²

3.10 The committee notes that others appearing before it were prepared to concede that there is not a zero risk. Mr Greg Brown of the Cattle Council of Australia told the committee:

Absolutely there is a risk, and we all accept that; that is the business of trade. But there is an appropriate level of protection. It is not a zero risk but we are moving towards OIE standards in terms of risk.¹³

3.11 Professor Mathews was also not prepared to claim a zero risk of BSE entering Australia through imported beef. In his Review report, he stated that:

If Australia were to permit the importation of beef products from BSE-affected countries such as the UK, there would be a theoretical but negligible increase in risk of vCJD.¹⁴

3.12 Professor Mathews explained that 'negligible risk' does not imply zero risk. He stated:

It simply implies that the risk in question is very small in comparison with the other risks that people assume in everyday life. An estimate of the

10 *Committee Hansard*, 5 February 2010, p. 28.

11 The Hon Simon Crean MP, Minister for Trade, *Interview – Doorstop at Parliament House*, 24 February 2010, http://www.trademinister.gov.au/transcripts/2010/100224_ds.html, viewed 7 March 2010.

12 Email from Mr Steven McCutcheon, CEO FSANZ, to Natasha Bitu, Journalist, the *Australian*, 23 February 2010, tabled 25 February 2010.

13 Mr Greg Brown, Cattle Council of Australia, Director, Red Meat Advisory Council.

14 Professor John Mathews, *Review of Scientific Evidence to Inform Australian Policy on Transmissible Spongiform Encephalopathies (TSEs)*, 9 October 2010, p. 21.

absolute risk to Australia from UK beef imports is quantified in Table 4 [of the Review report], and found to be 40 million times less than the risk from road accidents.¹⁵

3.13 In assessing the potential risk to Australian consumers from beef imports Professor Mathews based his assumptions and parameters on those used in recent assessments of risk to the UK food supply. In particular, Professor Mathews assumes that:

- the quality control on exports would be at least as good as the beef products for home consumption;
- Australia would import not more than 10% of its annual supply of beef products from a "controlled" risk country such as UK;
- per capita Australian consumption of beef products could be up to twice as high as in the UK.¹⁶

3.14 The committee makes the following observations in relation to these assumptions.

3.15 The committee considers that the question of BSE control measures in the exporting country is key to the level of risk posed to the Australian consumer. The mechanisms through which Australia will satisfy itself that appropriate control procedures are in place prior to import approval being granted is discussed at paragraph 3.68. The committee notes Professor Mathews' discussion of the measures implemented in the UK which have led "UK authorities to believe that BSE has been substantially excluded from the human food chain in the UK and from meat products that the UK exports to other countries."¹⁷ Professor Mathews also states that there is now sufficient evidence, according to OIE criteria, that BSE is either absent or well-controlled in most developed countries. Professor Mathews notes that there is insufficient evidence to exclude the presence of BSE in a number of developing countries.¹⁸ The committee considers that notwithstanding any assessments to date by the OIE, Australia must satisfy itself first hand of the systems and procedures in place in any country seeking to export to Australia before it draws any conclusions on the potential risk to Australian consumers flowing from the importation of beef from that country.

3.16 The committee notes that in its submission, the Department of Agriculture, Fisheries and Forestry (DAFF) discusses the quantities of beef imported by Australia

15 Professor John Mathews, *Review of Scientific Evidence to Inform Australian Policy on Transmissible Spongiform Encephalopathies (TSEs)*, 9 October 2010, p. 7, Footnote 7.

16 Professor John Mathews, *Review of Scientific Evidence to Inform Australian Policy on Transmissible Spongiform Encephalopathies (TSEs)*, 9 October 2010, p. 31.

17 Professor John Mathews, *Review of Scientific Evidence to Inform Australian Policy on Transmissible Spongiform Encephalopathies (TSEs)*, 9 October 2010, pp 17-18.

18 Professor John Mathews, *Review of Scientific Evidence to Inform Australian Policy on Transmissible Spongiform Encephalopathies (TSEs)*, 9 October 2010, p. 18.

from Europe and Japan in 2001 when beef imports from 30 European countries and Japan were suspended. DAFF concludes that the quantity of beef imported is expected to remain relatively small given Australia's status as a very competitive and significant global beef exporter and the small quantities of imported beef and beef products, both historically and currently.¹⁹

Committee comment

3.17 The committee notes the evidence presented by Professor Mathews that BSE has been excluded from the human food chain in the UK and is either absent or well-controlled in other developed countries. However, the committee is mindful of the fact that our knowledge of the extent to which BSE can be claimed to have been eliminated from the food chain in any given country is severely limited by the fact that there is currently no effective live test for BSE and no effective post-mortem test. The committee notes the evidence of Australia's Chief Veterinary Officer, Dr Andrew Carroll, that:

It is correct that there is no live test for BSE. The test with regard to dead animals has an extremely low level of accuracy until animals are of more advanced years because of the way that BSE behaves—²⁰

3.18 Therefore the committee considers that before it can accept the risk projections of either Mr McCutcheon or Professor Mathews it would need to see a more thorough risk analysis undertaken to consider in detail the quality control systems in place in countries who may seek to export beef to Australia as, in the absence of effective tests or the requirement to administer them, such procedures and systems will be critical to the level of risk posed to Australian consumers.

Timeline of scientific review

3.19 The committee noted that in the Review report Professor Mathews acknowledged the limitations imposed by the timeline in the Review by saying:

The Executive Summary with Conclusions is supported by a short Scientific Review, and by risk estimates and essential references dealing with evidence that may have changed since the earlier reviews. It has been impossible to access all potentially relevant references in the time available.²¹

3.20 The committee therefore sought clarification from Professor Mathews and DOHA regarding the timeline for the review. Professor Mathews provided the committee with the following timeline:

19 August – Telephone call from Health and Ageing (Mary McDonald).

19 Department of Agriculture, Fisheries and Forestry, *Submission 4*, p. 12.

20 *Committee Hansard*, 25 February 2010, p. 41.

21 Professor John Mathews, *Review of Scientific Evidence to Inform Australian Policy on Transmissible Spongiform Encephalopathies (TSEs)*, 9 October 2010, p. 2

20 August – E-mail confirmation of a request.

29 August – Contract signed. The final terms of reference are in the report.

15 September – Draft report submitted and circulated to NHMRC.²²

17 September – Received secretariat comments from NHMRC following the TSEAC discussion of the draft report; verbal comments were also received from the Chair of TSEAC (Prof Colin Masters).²³

20 September – Final report submitted to Health and Ageing and to NHMRC *NHMRC Subsequently wrote to Health and Ageing about my report, but I have no record of having received a copy of that letter.

8 October – Minor amendment – posted on government web-site.

3.21 Professor Mathews provided clarification of the extent to which he was able to apprise himself of recent published and unpublished work that may have been significant within the terms of the review. Professor Mathews advised the committee that:

I am personally acquainted with some of the overseas experts who have modelled and studied the epidemiology of BSE and variant CJD (eg Neil Ferguson, Christl Donnelly and Azra Ghani and others), as well as with local experts such as Colin Masters, Michael Alpers, John Kaldor, Albert Farrugia, Steve Collins and Anthony Keller.

Accordingly in updating my knowledge of the science for the review, I drew upon the published work, both in the scientific (refereed) literature, and in the grey literature (eg government and other sources found through Google). I also had access to records of the Transmissible Spongiform Encephalopathies Advisory Committee of NHMRC, of which I was a member until 2006.

I also contacted Australian experts and persons overseas to see if they were aware of any other recent unpublished work that might be of major significance for my review.²⁴

3.22 Professor Mathews provided the committee with a complete list of the contacts he used both overseas and locally. Professor Mathews advised the committee that he received no personal feedback, either locally or from overseas, that provided information of substance that he was not otherwise aware of. Professor Mathews told the committee that he found these 'negative' contacts reassuring.²⁵

22 National Health and Medical Research Council.

23 Transmissible Spongiform Encephalopathies Advisory Committee.

24 Professor John Mathews, *Answers to Questions taken on notice*, Public hearing 5 February 2010, available at http://www.aph.gov.au/Senate/committee/rrat_ctte/inquiries.htm.

25 Professor John Mathews, *Answers to Questions taken on notice*, Public hearing 5 February 2010, available at http://www.aph.gov.au/Senate/committee/rrat_ctte/inquiries.htm.

3.23 The committee was provided with a copy of the comments provided by the NHMRC, which reviewed a draft of Professor Mathews' Review report. The committee notes that the NHMRC raised a number of issues including the need for caution in discussing the extent to which the risks associated with BSE and vCJD might have diminished. Professor Mathews advised the committee that he addressed these concerns in the subsequent drafts of his report.²⁶

Committee comment

3.24 The committee is concerned that Professor Mathews completed the scientific review which underpinned this significant change in Australia's food safety policy in two and a half weeks. The committee notes that Professor Mathews is a highly respected epidemiological researcher with more than 40 years of experience.²⁷ The committee also notes Professor Mathews assurance that:

... the inquiries that I was able to undertake and the literature that I was able to read in that time was supported by, as I mentioned before, many years of work in epidemiology and a very longstanding interest in the transmissible encephalopathy question.²⁸

3.25 However, the committee remains concerned that, given the significance of Professor Mathews' scientific review in this policy development process, the time allocated for the Review was unduly short and not appropriate for a comprehensive scientific review. The committee makes particular note of the NHRMC's observation that there is so much about this disease that is still unknown.²⁹ The committee does not accept that two and a half weeks offered sufficient time to ensure that the government knew everything it could before the decision to relax the import requirements for beef and beef product was taken.

Assessment of the risk to animal health

3.26 The committee was also concerned that the implications for animal health were not thoroughly considered as part of the policy review. The committee was

26 Professor John Mathews, *Answers to Questions taken on notice*, Public hearing 5 February 2010, available at http://www.aph.gov.au/Senate/committee/rrat_ctte/inquiries.htm.

27 Professor Mathews is a professorial fellow at the University of Melbourne. He undertook this review in his capacity as a public health consultant. Professor Mathews has published on kuru (a fatal disease of the nervous system affecting the Fore people in Papua and New Guinea) in 1965-76 and again in 2008. As Deputy Chief Medical Officer he advised government on transmissible spongiform encephalopathy policy from 1999-2004, and he represented the Chief Medical Officer on Transmissible Spongiform Encephalopathy Advisory Committee from 2004-2006.

28 *Committee Hansard*, 5 February 2010, p. 30.

29 Professor John Mathews, *Answers to Questions taken on notice*, Public hearing 5 February 2010, available at http://www.aph.gov.au/Senate/committee/rrat_ctte/inquiries.htm.

advised that the risk assessment undertaken prior to the decision to change the policy was an assessment of risk to human health. As risk to human health requires a more conservative assessment than that required for the assessment of risk to animal health, the assessment of risk to human health was considered sufficient to address both categories of risk.³⁰

3.27 The committee heard that the biggest risk to animal health from the importation of beef and beef products would be the risk of importation of specified risk materials (SRMs) and the subsequent feeding of such material to cattle. In its submission to the inquiry, DAFF told the committee that:

There is no plausible route by which this non-contagious disease could be transmitted to Australian cattle via safe, imported beef. Australian governments have existing BSE-related regulatory controls that *inter alia* prohibit feeding cattle and other ruminants with meat and bone meal and which serve to protect Australia's internationally recognised 'negligible BSE risk' status.³¹

3.28 Dr Andrew Carroll, Chief Veterinary Officer with DAFF explained that there are a series of measures to help control the risk of importation of SRMs. Dr Carroll said:

One is that, for countries that have BSE or risk factors, the best they can hope for is category 2. SRMs are not allowed to be imported from category 2 countries. In addition to that, we have measures within Australia as well, such as the ruminant feed ban, which is there to address the risk of BSE. So, completing the circuit so as to speak of the material getting to Australia, it is not allowed in and, if it were here or arose from a spontaneous case or in any other way, the ruminant feed bans are meant to address that. That is part of the basis on which we maintain to other countries that we are of negligible risk: we have an effective ruminant feed ban in place.³²

3.29 The committee notes that a key part of Australia's defence against the entry of BSE rests on its ability to be confident that countries exporting beef to Australia also implement a ruminant feed ban and that meat meal is not used at all in the lot feeding or the final preparation of animals for slaughter. Dr Carroll explained to the committee that countries wanting to export beef to Australia would need to go through a rigorous assessment process equivalent to that which Australia has had to meet in exporting its beef. He said:

That would be based on the assessments that we have had to undergo for overseas countries. I would surmise that that would be a key element of FSANZ's risk assessment because we [Australia] have to go through a

30 Dr Andrew Carroll, Chief Veterinary Officer, Department of Agriculture, Fisheries and Forestry, *Committee Hansard*, 14 December 2009, p. 102.

31 Department of Agriculture, Fisheries and Forestry, *Submission 4*, p. 3.

32 *Committee Hansard*, 14 December 2009, p. 103.

relatively rigorous process identifying how we make sure that ruminant material is not fed to ruminants.³³

3.30 Ms Narelle Clegg outlined the certification requirements in the new policy:

The requirements in the new policy for certification are that the beef and the beef food product is derived from animals that have been born, raised and slaughtered in a category 1 or category 2 country; that they have passed antemortem and post-mortem inspection under official veterinary supervision; that they were not subjected to a stunning process prior to slaughter with a device injecting compressed air or gas into the cranial cavity, or to a pithing process; and that they were produced and handled in a manner under official veterinary supervision which ensures that they do not contain and are not contaminated with BSE risk materials. The policy gives you a summary, on page 4, of what BSE risk materials are:

BSE risk materials are tonsils and distal ileum from bovine animals of any age; brains, eyes, spinal cord, skull and vertebral column of bovine animals over 30 months of age.

Also, it is a requirement that mechanically separated meat from the skull and vertebral column from cattle over 30 months of age are not included in the product. Official veterinary certification is required.³⁴

The need for an import risk analysis

3.31 The committee was concerned to note that no risk analysis appeared to have been undertaken specifically in relation to the level of risk to animal health as a result of the new policy.

3.32 The committee was told that risk assessments have been conducted in the past for meat and meat products and they have also been conducted internationally through the OIE.³⁵ The committee was also told that the current situation does not meet the requirements for having an Import Risk Analysis (IRA).³⁶

3.33 The IRA Handbook (the Handbook) states that an IRA will be undertaken when:

- relevant risk management measures have not been established; or
- relevant risk management measures for a similar good and pest/disease combination do exist, but the likelihood and/or consequences of entry, establishment or spread of pests and diseases could differ significantly from those assessed. The Handbook states that a risk analysis which

33 *Committee Hansard*, 14 December 2009, p. 103.

34 Ms Narelle Clegg, General Manager, Residues and Food Safety Branch, Department of Agriculture, Fisheries and Forestry, *Committee Hansard*, 14 December 2009, p. 104.

35 Dr Mike Nunn, Principal Scientist, Animal Biosecurity, Department of Agriculture Fisheries and Forestry, *Committee Hansard*, 22 February 2010, p. 79.

36 Dr Andrew Carroll, Chief Veterinary Officer, Department of Agriculture, Fisheries and Forestry. *Committee Hansard*, 22 February 2010, p. 75.

does not meet these criteria will be undertaken as a non-regulated analysis of existing policy.³⁷

3.34 Dr Carroll explained to the committee that the discretion to choose the regulated approach of a full import risk analysis approach was available to Biosecurity Australia and would be considered in circumstances where an application to import beef was received from a country for which Biosecurity Australia (BA) did not already have an analysis for a country with a similar animal health situation. Dr Carroll said:

It says an IRA would be conducted for a country with a different disease situation. So, if we turned around and said, 'We will now import beef from Kenya,' where they have foot-and-mouth disease, we would have to do an IRA to see how we would safely import meat from a foot-and-mouth disease infected area. That would be a new country situation. If we said we were going to import beef from Fiji, which essentially has a similar health situation to the United States—there are no great differences with regard to foot-and-mouth disease between Fiji and the US—that would be an equivalent country situation from an animal health perspective. It is different from the FSANZ set-up.³⁸

3.35 Dr Carroll explained that of the 32 countries that may seek to apply to export beef to Australia, New Zealand, Vanuatu, Canada and the United States were unlikely to undergo a full risk assessment as conditions for importing beef from these countries are already in place. Dr Carroll explained that in the case of Canada and the United States these pre-existing conditions had become non-operational when the imports from these countries had stopped following the detection of cases of BSE in each country.³⁹

3.36 The committee notes the explanation of the decision not to proceed with an IRA provided by Minister Crean to the Shadow Minister for Agriculture and Food Security, the Hon John Cobb. Minister Crean explains that Australia has a long history of importing beef and has assessed all of the diseases that can be carried by beef and developed systems for ensuring these diseases do not enter. The Minister's letter is at Appendix 4 to this report.

3.37 The Minister states that in relation to BSE:

We have knowledge about the disease, we know how it's transmitted, we know how to managed (sic) the risks. Most importantly we know how to prevent entry of the disease into the human and animal health populations.

...

37 Biosecurity Australia, *Import Risk Analysis Handbook*, 2007 (update 2009), p. 14.

38 *Committee Hansard*, 25 February 2010, p. 33.

39 *Committee Hansard*, 14 December 2009, p. 92.

In these circumstances risk assessment and targeted science are the best response to manage any animal quarantine risk – not an IRA that tells us what we know.⁴⁰

3.38 Minister Crean provided the following table to illustrate how the decision not to proceed with an IRA had been reached:

IRA Criteria	Relevant here?
Relevant risk management measures have not been established	<p>No</p> <ul style="list-style-type: none"> - We already have import conditions for beef imports - Protocols address BSE - Risk assessments address other disease risk (eg FMD, rinderpest)
Needed to assess the likelihood of spread of diseases	<p>No</p> <ul style="list-style-type: none"> - Minute risk - BSE is not a contagious disease. It is spread only through cattle eating contaminated meat products and since 1997 Australia has banned feeding meat products to cattle
Needed to assess the level of probability of entry	<p>No</p> <ul style="list-style-type: none"> - Overall risk is profoundly low. As quantified in the Mathews' report (0.002% over the next 50 years) - Human health – FSANZ has said consumers can be 100% certain that all imported beef would be BSE free - Animal Health – finding no viable pathway for transmission of BSE to Australian cattle (ie no live imports and no bone meal feed). A review of existing policy will address any animal quarantine risk⁴¹

40 Correspondence from the Hon Simon Crean MP, Minister for Trade, to The Hon John Cobb, Shadow Minister for Agriculture and Food Security, 25 February 2010.

41 Correspondence from the Hon Simon Crean MP, Minister for Trade, to The Hon John Cobb, Shadow Minister for Agriculture and Food Security, 25 February 2010.

3.39 Minister Crean stated that countries wishing to export fresh beef to Australia will not only need to pass a rigorous assessment with regard to BSE risk, they will also need to "abide by stringent import conditions for other animal health diseases".⁴²

3.40 Minister Crean also stated that:

In addition to the protocols (developed by FSANZ to deal with the food safety issue), we are also undertaking a quarantine risk assessment for each country wanting to export beef to Australia. This assesses each country on a case-by-case basis and will ensure our animal quarantine requirements are met. This risk process includes a public consultation.⁴³

3.41 The committee notes Biosecurity Australia Advice 2010/02 (the Advice), published on 24 February 2010, which informs stakeholders of the standard procedures that Biosecurity Australia will follow in processing market access requests and the implementation of quarantine requirements for beef and beef products for human consumption.

3.42 The Advice outlines the need for countries to apply to the BSE Food Safety Assessment committee for individual country risk assessment to address human health and food safety issues. The Advice then states:

Separately, Biosecurity Australia will, under its normal procedures for market access requests for the importation of beef and beef products for human consumption (except for retorted/shelf stable beef products and casing – the retorting process addresses animal diseases of quarantine concern), conduct an analysis in line with the Import Risk Analysis Handbook 2007 (update 2009) to address animal quarantine issues. This analysis will be on a country-by country basis in response to specific market access requests. It will be conducted outside the regulated IRA process as a non-regulated analysis of existing policy.⁴⁴

Committee comment

3.43 The committee fails to understand why a thorough analysis of the animal health and economic implications of this policy decision have not been considered during the risk analysis process. The arguments advanced in support of a relaxation of the import requirements for beef, which have been in place for nine years, suggest a

42 Correspondence from the Hon Simon Crean MP, Minister for Trade, to The Hon John Cobb, Shadow Minister for Agriculture and Food Security, 25 February 2010.

43 Correspondence from the Hon Simon Crean MP, Minister for Trade, to The Hon John Cobb, Shadow Minister for Agriculture and Food Security, 25 February 2010.

44 Department of Agriculture, Fisheries and Forestry, Biosecurity Australia Advice 2010/02, *Handling of market access requests and quarantine requirements for beef and beef products for human consumption*, http://www.daff.gov.au/data/assets/pdf_file/0006/1531473/2010_02_BAA_BSE_Beef_for_human_consumption.pdf, viewed 25 February 2010.

strong belief that the likelihood and/or consequences of entry, establishment or spread of BSE have changed. The extent of this change should have been thoroughly explored. The committee was told that the pre-2001 import requirements for beef and beef products pre-date the introduction of the IRA framework. The committee considers that this suggests that the pre-existing import policy also pre-dates the BSE epidemic. The committee notes that some important risk management measures have been established in relation to beef imports both in Australia and overseas in this time. However, the committee considers that the effectiveness of these measures should have been considered through a formal risk assessment process.

3.44 The committee is also mindful that an expanded IRA process provides for the proper consideration of the likely economic consequences of a pest or disease incursion. The committee notes that concerns were raised during this inquiry regarding the implications of a case of BSE in Australia and the implications of a change in import policy. The committee considers that these concerns have been given limited consideration and analysis. For example, the committee has heard various claims that the removal of beef and beef products from domestic sale would have extensive and costly ramifications for the Australian beef industry, yet no attempt has been made to quantify this impact during this policy review and measures do not appear to have been developed to specifically address this concern.

3.45 Similarly, the committee has heard conflicting views as to whether the new policy will affect Australia's most favourable animal health status as a 'negligible BSE risk' country.⁴⁵

3.46 The committee has already noted that Professor Mathews' finding of 'negligible risk' is based on an assumed 10 percent importation of beef from any given country that has had a reported case of BSE and considers this to be a flawed proposition.

3.47 The committee firmly believes that each of these implications should have been given thorough consideration through a formal overarching risk analysis process, modelled on the expanded IRA process provided for in the IRA handbook, before the decision was taken to relax Australia's import requirements. The committee is not persuaded that we know all we need to know about BSE and its implications for Australian animal health and the Australian beef industry.

Consultation

3.48 As noted in paragraph 3.1, consultation on the policy proposal commenced in July 2009. The committee was advised that a wide range of health and industry stakeholders were consulted. In answer to a question on notice, DFAT advised that DAFF had coordinated consultations with meat industry bodies on the proposed

45 Department of Agriculture, Fisheries and Forestry, *Submission 4*, p. 3.

changes and DOHA had consulted with health bodies. DFAT told the committee that no concerns were raised by those consulted.⁴⁶

Consultation with meat industry groups

3.49 DFAT provided the following list of meat industry groups who were consulted and the dates on which they were consulted:

- Red Meat Market Access Committee (28 July 2009).
- Red Meat Advisory Council (31 August, 14 September and 16 and 19 October 2009).
- Meat and Livestock Australia (13 September and 16 October 2009).
- The Cattle Council of Australia (16 September and 19 October 2009).
- The Australian Meat Industry Council (31 August, 14 September, 16 and 19 October 2009).
- The Australian Lot Feeders' Association (19 October 2009).
- National Farmers Federation (31 August and 16 October 2009).
- Australian Dairy Farmers (18 October 2009).⁴⁷

3.50 The committee was advised that these groups provide comprehensive representation of the Australian beef industry.⁴⁸

3.51 Organisations such as the Australian Meat Industry Council (AMIC) – who were involved in the initial consultation – spoke positively about the process:

From our perspective it was more than adequate. All of our members were engaged across the years. As far as other sectors are concerned, I believe the Cattle Council, ALPA through RMAC were all engaged, and they are the peak producer representative bodies. I can only suggest from my perspective that the consultation process appeared adequate; in fact, more than adequate.⁴⁹

46 Department of Foreign Affairs and Trade, *Submission 3*, p. 2.

47 Department of Foreign Affairs and Trade, Answers to questions taken on notice, Public hearing 5 February 2010, , available at http://www.aph.gov.au/Senate/committee/rrat_ctte/inquiries.htm.

48 See for example: Mr Timothy Yeend, First Assistant Secretary, Office of Trade Negotiations, Department of Foreign Affairs and Trade, *Committee Hansard*, 5 February 2010, p. 105, Mr Gary Burridge, Chairman, Processor Council of Australia and Director Red Meat Advisory Council, *Committee Hansard*, 14 December 2010, p. 22 and Mr Justin Toohey, Secretary, Red Meat Advisory Council, *Committee Hansard*, 14 December 2010, pp 33-34.

49 Mr Gary Burridge, Australian Meat Industry Council, *Committee Hansard*, 14 December 2009, p. 21.

3.52 Representatives of each of the member organisations that make up RMAC told the committee that the need for a revision of the policy has been an ongoing subject of discussion within the beef industry and between the beef industry and government over a number of years. Mr John Dorian, Veterinary Counsel with the Australian Meat Industry Council (AMIC) told the committee that this was not a new policy position for AMIC. He said:

This is not a new position from AMIC's point of view. This has been a position held for a very long time and discussed with other governments for a very long time.⁵⁰

3.53 Similarly, Mr Palmer, the Managing Director of Meat and Livestock Australia (MLA) confirmed that this was an issue of longstanding within the industry. He told the committee that:

During a routine discussion with the secretary of the department at a board meeting of the company [MLA], where all the matters before the board are confidential anyway, a discussion was held around a whole range of issues. This issue came into play. I do not think anyone around the board table heard anything that they had not heard already. It has been a topic of some discussion around industry and government—on both sides of the House—since 2005, so there was nothing new or illuminating from our point of view.⁵¹

3.54 During the inquiry the committee expressed concern that not all sections of the beef industry were invited to be involved in the consultation process. The committee notes the comments of Mr Brad Bellinger, Chairman of the Australian Beef Association, who told the committee that while organisations such as RMAC had been formally consulted and informed about the Minister's decision several days prior to his announcement:

I received a phone call from the minister's office three hours prior to the announcement being made to the media. That was the only consultation the Australian Beef Association received on this matter.⁵²

3.55 The committee was also concerned to note that those industry organisations who were involved in the consultation process were asked to maintain confidentiality. In evidence, industry representatives indicated that whilst they were not required to sign anything, they "were asked to keep it confidential whilst government communicated with everyone."⁵³ Evidence provided during this inquiry indicates that these terms were acceptable to the organisations concerned:

50 *Committee Hansard*, 14 December 2009, p. 23.

51 *Committee Hansard*, 14 December 2009.

52 *Committee Hansard*, 14 December 2009, p. 4.

53 Mr Gary Burridge, Australian Meat Industry Council, *Committee Hansard*, 14 December 2009, p. 22.

Senator BACK—With regard to the consultations that you had with the government in this process leading up to the announcement, were you asked to sign or were you asked to indicate that you were prepared to enter into some form of confidentiality agreement that you would not discuss this outside that process?

Mr Burridge—Yes, we were. We did not sign anything. We were asked to keep it confidential whilst government communicated with everyone.

Senator BACK—And you found that acceptable?

Mr Burridge—I found it acceptable given that government undertook to communicate with various parties.

Senator BACK—Gentlemen in front of us, you found that acceptable as well?

Mr Dorian—Certainly.⁵⁴

3.56 RMAC members expressed confidence that FSANZ would develop a set of import requirements that would reflect the industry's expectations. However, the committee noted some disparity between the expectations of industry representatives and the commitments provided by departmental officials. For example, with regard to the question of livestock traceability, beef industry representatives appearing before the committee expressed a clear expectation that import protocols would require full livestock traceability. Mr Justin Toohey, Secretary of the Red Meat Advisory Council, told the committee:

I will not say it again. I said it quite clearly. Whatever beef comes into this country must be from cattle that can be proved to have full traceability for a whole of life and to its cohorts. Full stop.⁵⁵

3.57 Mr Toohey also expressed the view that if individual processors could demonstrate adequate traceability this would be acceptable to the industry. Mr Toohey said:

In the case of the US, where massive processing plants operate, they put out, in quantity terms, an enormous amount relative to some of our plants in this country. As an individual applicant, if they can secure a very good, tight system that can be inspected by us and can guarantee, to the extent possible, traceability forwards and backwards of all animals and their cohorts and a thorough system of SRM removal et cetera—the requirements that are being enunciated in this policy—then we would see that as the appropriate way forward.⁵⁶

54 *Committee Hansard*, 14 December 2009, pp 21-22.

55 *Committee Hansard*, 14 December 2009, p. 44.

56 Mr Justin Toohey, Secretary, Red Meat Advisory Council, *Committee Hansard*, 14 December 2009, p. 36.

3.58 The committee notes the following statements from Dr Carroll which clarified the traceability requirements:

The requirement is not that the animal comes from a BSE-free herd; the requirement is that the animal comes from a country of either category 1 or category 2—⁵⁷

...

It will depend on the circumstance. If it comes from a negligible-risk country and the country has applied for the whole country to come in then knowing that the animal came from Texas and was slaughtered in Utah is not necessarily relevant.⁵⁸

...

When we determine our traceability needs it will be based on, as I said, two elements. One will be what we need to do to best insure our market access for the countries we trade to, and some of the more stringent ones are for Europe; Japan also has stringent ones. In instances where that degree of precision is not required, then we will have fewer requirements, but our traceability, from my perspective of my responsibility, is one of the main things—to be able to trace where we have disease—⁵⁹.

Consultation with medical and health groups

3.59 The committee notes that consultation with medical and health groups centred on a round table discussion on 28 September 2009 at which Professor Mathews presented the findings of the Review. DFAT provided the committee with the following list of attendees at that meeting:

- Red Cross;
- College of Pathologists;
- Blood Transfusion Society;
- Haematology Society;
- Bone Marrow donor Registry;
- Cord Blood Bank Network; and
- The National Blood Authority.

3.60 However, the committee was concerned to learn that at least one interested stakeholder was unable to participate in the round table. The CJD Support Group

57 *Committee Hansard*, 14 December 2009, p. 81.

58 *Committee Hansard*, 14 December 2009, p. 82.

59 *Committee Hansard*, 14 December 2009, p. 87.

advised that it had been invited to the meeting, but due to the short notice provided was unable to arrange for a representative to attend.⁶⁰

Committee comment

3.61 The committee is not persuaded that this policy proposal was the subject of comprehensive consultation. The evidence presented to the committee suggests that the policy was developed within a closed circle and was deliberately kept secret from the wider beef industry and the Australian public.

3.62 The committee makes particular note of evidence from Mr David Palmer from MLA that the need for the policy change had been discussed at an industry level over a lengthy period of time.⁶¹ In this context the committee considers it extraordinary that an issue that has been under consideration for a number of years and that apparently has such widespread support with the Australian beef industry should be the subject of such a clandestine consultation process.

3.63 The committee also notes that since it commenced its inquiry many individual producers have written to the committee expressing dissatisfaction with the level of consultation with the beef industry and also with the extent to which their interests have been considered and represented as part of the policy review process.⁶²

3.64 The committee is also concerned that the protocols through which the policy will be implemented were also developed without consultation. The committee notes that after the committee's first hearing, industry representatives sought urgent discussions with the relevant departments in relation to the development of the import protocols and in particular, the traceability requirements that would apply. The committee is surprised that there could have been such a disparity of views between the industry and those formulating the protocol after an apparently comprehensive consultation process.

Implementation of the policy

3.65 The process and protocols through which this policy will be implemented were published on the FSANZ website on 23 February 2010. The committee was told that the development of the risk assessment process for determining the food safety assessments in relation to beef imports from particular countries was largely progressed by FSANZ.⁶³

60 Ms Suzanne Solvyns, *Committee Hansard*, 22 February 2010, p. 13.

61 *Committee Hansard*, 14 December 2009, p. 39.

62 The committee has received 23 letters and submissions from individual producers. The committee also notes coverage of producer rallies in the media.

63 Mr Paul Morris, Trade and Market Access Division, Department of Agriculture, Fisheries and Forestry, *Committee Hansard*, 14 December 2009, p. 85; Mr Stephen McCutcheon, CEO Food Standards Australia New Zealand, *Committee Hansard*, 14 December 2009, p. 85.

The assessment process

3.66 Under the new policy, countries will apply to the Australian BSE Food Safety Assessment Committee (ABFSAC), for a country assessment.⁶⁴ The application must be accompanied by a completed *Australian Questionnaire to Assess BSE Risk* completed by the competent national government authority. FSANZ will undertake a risk assessment of each country's BSE risk and assign one of three categories:

- Category 1 – minimal risk that there could be BSE in their cattle.
- Category 2 – previous BSE outbreak or risk of an outbreak, but verified risk mitigation.
- Category 3 – not an acceptable exporter to Australia.

3.67 In his letter to the Shadow Minister, Minister Crean advised that the following criteria would be applied for the purposes of the risk category assessment, following assessment of the completed questionnaire:

- if previous BSE outbreak, in-country assessment including on traceability, identification, diagnostic capability, slaughter and processing;
- if previous BSE outbreak, ensure verifiable system to prevent export of risk material (eg brain, spinal cord etc);
- if previous BSE outbreak, ensure verifiable system of no cross contamination of risk material.⁶⁵

3.68 In the event that any of the above criteria are not met that the country would be assessed as Category 3.⁶⁶

3.69 This risk assessment will be reviewed by the Australian BSE Food Safety Assessment Committee (ABFSAC), and a draft report including the interim BSE risk assessment category will be provided to the applicant country for a 60 day comment period. If required, a visit by Australian government officials will be undertaken to verify in-country control measures and the evidence obtained during such a visit will be considered prior to completion of the assessment. The final assessment report will be approved by the FSANZ CEO who will advise the Deputy Secretary of the Biosecurity Services Group of DAFF of the final BSE risk assessment category. The

64 The Australian BSE Food Safety Assessment committee is chaired by FSANZ and includes an animal health expert from DAFF and food safety and risk assessment experts from FSANZ. Refer: *The BSE Risk Assessment Process and Certification*, <http://www.foodstandards.gov.au/consumerinformation/bovinespongiformencephalopathybse/hebseriskassessment4748.cfm>, viewed 23 February 2010.

65 Correspondence from the Hon Simon Crean MP, Minister for Trade, to The Hon John Cobb, Shadow Minister for Agriculture and Food Security, 25 February 2010.

66 Correspondence from the Hon Simon Crean MP, Minister for Trade, to The Hon John Cobb, Shadow Minister for Agriculture and Food Security, 25 February 2010.

FSANZ CEO will also advise the applicant country and relevant departments, federal ministers and the industry.⁶⁷

3.70 Under a separate process countries will also apply to BA for assessment of their animal quarantine risks. BA will conduct an analysis in line with the Import Risk analysis Handbook 2007 to address animal quarantine issues. This analysis will be on a country-by-country basis in response to specific market access requests and will be conducted outside the regulated IRA process as a non-regulated analysis of existing policy.⁶⁸

Development of the import protocols

3.71 The governance and risk assessment processes were developed by FSANZ. The committee sought clarification from FSANZ of the 'checks and balances' that were applied in the development of the protocols to ensure that they meet the needs and expectations of the Australian beef industry and the Australian public. At the committee's hearing on 5 February 2010, Mr McCutcheon advised the committee that the protocols:

will be developed by FSANZ in accord with the various other scientific risk assessment documents that we have. Secondly, it will be based on OIE methodologies. This is a publicly available document. It will be reviewed by an expert from the OIE to ensure that Australia's risk assessment methodology is scientifically sound and consistent with what is acceptable in international terms.⁶⁹

3.72 Mr McCutcheon confirmed that FSANZ is under no legislative requirement to consult in the development of the protocols and there would be no parliamentary oversight to determine if the protocols were appropriate. There would also be no opportunity for the beef industry to determine if they considered the protocols were appropriate.⁷⁰ Mr McCutcheon told the committee that it is open to anyone to advise FSANZ of any concerns regarding the protocols once they have been published. He said:

67 FSANZ, *The BSE Risk Assessment Process and Certification*, <http://www.foodstandards.gov.au/consumerinformation/bovinespongiformencephalopathybse/hebriskassessment4748.cfm>, viewed 23 February 2010.

68 Biosecurity Australia Advice 2010/02, *Handling of market access requests and quarantine requirements for beef and beef products for human consumption*, 24 February 2010.

69 Mr Stephen McCutcheon, CEO, Food Standards Australia New Zealand, *Committee Hansard*, 5 February 2010, p. 68.

70 Mr Stephen McCutcheon, CEO, Food Standards Australia New Zealand, *Committee Hansard*, 5 February 2010, p. 68 and p. 73.

If there are particular issues on protocols that anyone in the Australian community, or international community for that matter, wants to comment on after they are published they are quite free and able to let us know.⁷¹

3.73 Mr McCutcheon advised that the protocols are always subject to refinement and that FSANZ would examine any information provided or concerns raised and make any changes that FSANZ deemed necessary.⁷² Mr McCutcheon explained that:

If, for example, suddenly there are some new risk factors, or new science emerges, then, clearly, FSANZ would be under an obligation to review those protocols to ensure that they were designed in a way that would address any new issues that came along.⁷³

3.74 Mr McCutcheon went on to explain that:

There is no mechanism to require FSANZ to do that. But again, operating under our legislation, we have an obligation in discharging our legislative functions to ensure that the protocols we have in place are the most appropriate.⁷⁴

3.75 The committee was concerned that FSANZ appeared to be able to make further changes to the protocols without input from industry and without parliamentary oversight. The committee sought clarification from FSANZ that this was correct:

CHAIR—I think this is quite important to know. If we make the decision, as it has been taken, that this goes ahead on 1 March without any parliamentary oversight whatsoever or any ability for input from industry, down the track, once that commences, FSANZ has the ability to change those protocols in any way they choose, without any accountability. Is that a yes or a no?

Mr McCutcheon—Yes, that is true.⁷⁵

Implementation of the import protocols

3.76 The import protocols for the importation of beef and beef product to Australia consist principally of the *Australian Questionnaire to Assess BSE Risk* (the questionnaire).

71 Mr Stephen McCutcheon, CEO, Food Standards Australia New Zealand, *Committee Hansard*, 5 February 2010, p. 73.

72 Mr Stephen McCutcheon, CEO, Food Standards Australia New Zealand, *Committee Hansard*, 5 February 2010, p. 73.

73 Mr Stephen McCutcheon, CEO, Food Standards Australia New Zealand, *Committee Hansard*, 5 February 2010, p. 74.

74 Mr Stephen McCutcheon, CEO, Food Standards Australia New Zealand, *Committee Hansard*, 5 February 2010, p. 74.

75 Mr Stephen McCutcheon, CEO, Food Standards Australia New Zealand, *Committee Hansard*, 5 February 2010, p. 74.

3.77 The questionnaire seeks data and supporting evidence from the Competent Authority of the country seeking to export to Australia over five areas;

- Risk assessment requirements regarding risk release and exposure;
- Other system requirements including:
 - ongoing BSE awareness program;
 - compulsory notification and investigation of BSE cases;
 - diagnostic capability;
 - animal traceability and identification systems; and
 - animal slaughter and processing systems.
- BSE surveillance and monitoring system ;
- BSE history of the country;
- Ongoing review of country BSE status and additional data.⁷⁶

3.78 The questionnaire states that these data requirements are consistent with *Chapter 11.6 – Bovine Spongiform Encephalopathy of the OIE Terrestrial Animal Health Code, 2009*. The questionnaire also states that verification of in-country control measures may be undertaken by in-country inspection and the results of any such inspections will be considered prior to completing the country assessment.⁷⁷

3.79 The committee notes that the level of data and supporting information required of applicant countries appears to be comprehensive. However the committee was concerned that the questionnaire gives no indication of the criteria against which the responses provided will be assessed. The committee explored this in the context of the questions relating to animal traceability and identification systems. The committee was told that the intention was to provide maximum flexibility to applicant countries to demonstrate their ability to satisfy Australia that appropriate systems are in place.⁷⁸ Dr Carroll explained to the committee that the questionnaire did not seek to pre-empt or prejudge how a country might satisfy particular requirements.⁷⁹ He said:

We have absolute 100 per cent ability to make sure that nothing can be ruled out from us and nothing is ruled in for us, so we can be absolutely convinced that the traceability system meets our requirements. They will

76 FSANZ, *Australian Questionnaire to assess BSE risk*, p.2.
<http://www.foodstandards.gov.au/srcfiles/Questionnaire%20to%20Assess%20BSE%20Risk%2023%20Feb%2020101.pdf>, viewed 23 February 2010.

77 FSANZ, *Australian Questionnaire to assess BSE risk*, p.2.
<http://www.foodstandards.gov.au/srcfiles/Questionnaire%20to%20Assess%20BSE%20Risk%2023%20Feb%2020101.pdf>, viewed 23 February 2010.

78 *Committee Hansard*, 25 February 2010, p. 38.

79 *Committee Hansard*, 25 February 2010, p. 42.

also be using lawyers to answer these documents, and the more you put in them the more the lawyers can sit and argue about the clauses.⁸⁰

3.80 The committee was particularly interested in whether countries would need to be able to demonstrate that they have full country traceability systems in place. The committee notes the following assurance that the assessment process is conducted on a country basis and not by region:

Senator BACK—Sure. But you can give us the comfort that nothing in this process is looking at dividing a country into regions or areas? Because of the ease of movement of animals, you are giving us that satisfaction that you would be looking at countries, not areas within countries?

Mr McCutcheon—These are country assessments, yes.

Senator BACK—So we cannot have ‘western something or other’ versus ‘eastern whatever’ because the disease is known to occur in one province or region and therefore we only look at that region. It is a countrywide assessment that is the whole basis.

Senator HEFFERNAN—It would follow, then, that it is whole of country traceability?

Dr Carroll—We can only repeat our answer.⁸¹

3.81 In his letter to the Shadow Minister, Minister Crean stated that Australia "will demand the same traceability standards of foreign beef producers as we demand of Australian beef producers". The Minister stated that Australia would require:

- animal traceability to origin/birth;
- forward animal traceability to destinations after production; and
- the ability to provide the above traceability within 48 hours.

3.82 The Minister stated that for each of these requirements no alternatives would be accepted.⁸²

3.83 In the case of electronic ear tags, the Minister stated that Australia would accept an equivalent tag to that used in Australia or an alternative method. The Minister indicated that plastic ear tags would be accepted or an "equivalent output", but only where Australia has verified that the alternative method ensures animals can be traced up and down the food chain within the specified timeframe (ie 48 hrs)."⁸³

80 *Committee Hansard*, 25 February 2010, p. 38.

81 *Committee Hansard*, 25 February 2010, p. 39.

82 Correspondence from the Hon Simon Crean MP, Minister for Trade, to The Hon John Cobb, Shadow Minister for Agriculture and Food Security, 25 February 2010.

83 Correspondence from the Hon Simon Crean MP, Minister for Trade, to The Hon John Cobb, Shadow Minister for Agriculture and Food Security, 25 February 2010.

3.84 With regard to national vendor declarations and livestock production assurances, the Minister advised that equivalent alternative methods would be accepted but only where Australia has verified that the alternative method ensures the same outcome. In the case of national vendor declarations, the Minister advised that proper records/attestations about on farm risk management would be accepted, and in the case of livestock production assurances, evidence would need to be provided that demonstrated on-farm risks are managed, "eg chemical treatments, no use of bone meal, veterinary drug use etc".⁸⁴

3.85 Recognising that the responsibility for final approval of the ABFSAC's assessment of applications rests with the CEO of FSANZ and not with the Minister for Trade, or indeed any other Minister, the committee sought confirmation that the Minister's advice, at least with regard to traceability, was consistent with the approach the ABFSAC would take in assessing applications. Mr McCutcheon, the CEO of FSANZ, told the committee:

I can certainly say that the minister's words are absolutely correct. I have said several times that essentially what we will be looking for is equivalency of outcomes. In other words, other countries will have to meet the same performance criteria we might set here—that is, very clearly be able to trace an animal right back through the food chain, from its slaughter right back to where it came from, and be able to trace birth cohorts from the same property and the same animal forward through the food chain to wherever it might be, whether it is to its final destination or another property.⁸⁵

3.86 Noting this answer, the committee sought further clarification of the approach ABFSAC would take in respect of an application from Canada or from the United States. In the case of Canada, the committee notes that the Canadian Food Inspection Agency is progressively implementing its animal identification system. As of 1 January 2010 all cattle must be tagged with a Canadian Cattle Identification Agency (CCIA) approved radio-frequency identification (RFID) tag. However, the CCIA is still working toward implementation of premises identification and systems for reporting animal movement.⁸⁶ In the case of the United States, the committee notes that animal disease traceability will only be required for animals moving interstate. Animal disease traceability will be administered by the States and Tribal Nations who

84 Correspondence from the Hon Simon Crean MP, Minister for Trade, to The Hon John Cobb, for Agriculture and Food Security, 25 February 2010.

85 *Committee Hansard*, 25 February 2010, p. 22.

86 Canadian Cattle Identification Agency, *CCIA News*, Winter 2009, http://www.canidaid.com/documents/ccia_winter_2009_newsletter.pdf viewed 23 February 2010.

will have the flexibility to determine the specific approaches and solutions they will use to achieve the minimum animal traceability.⁸⁷

3.87 Mr McCutcheon told the committee that in both cases the expectation is that countries must be able to convince the ABFSAC that they have the ability to track animals up and down the meat supply chain.⁸⁸

3.88 In the same vein, the committee expressed concern about the ability of countries to track stock across country borders. The committee sought clarification of how Australia could be satisfied that the origins of beef exported to Australia were known in such circumstances. Mr Yeend told the committee:

If that is happening, then all the information is requested of the country that is seeking to import into Australia, and then there is expert advice taken on whether or not the conditions are met.⁸⁹

3.89 The committee was concerned that the assessment process does not clearly place the same level of expectation on those countries who seek to export to Australia as is required of Australian beef producers who seek to export into these same countries.

In-country inspections

3.90 The committee was concerned that the assessment process described to it appeared to be largely a desk top process. The committee therefore sought clarification of the circumstances in which in-country inspections would be undertaken. Mr McCutcheon explained that where FSANZ was not satisfied with the information provided in the questionnaire a delegation of food safety and animal health experts would undertake an in-country inspection.⁹⁰ The committee asked why an in-country inspection would not be undertaken as a matter of course for each assessment. Mr McCutcheon explained to the committee:

We do have long-established relationships with many of our trading partners around the world.

...

87 United States Department of Agriculture, *USDA announces new framework for animal disease traceability*, News Release No. 0053.10, 5 February 2010, http://www.usda.gov/wps/portal/!ut/p/ s.7 0 A/7 0 1OB/.cmd/ad/.ar/sa.retrievecontent/c/6 2 1UH/ce/7 2 5JM/p/5 2 4TQ/d/1/ th/J 2 9D/ s.7 0 A/7 0 1OB?PC 7 2 5JM contentid=2010%2F02%2F0053.xml&PC 7 2 5JM parentnav=LATEST_RELEASES&PC 7 2 5JM navid=NEWS_RELEASE viewed 5 March 2010.

88 *Committee Hansard*, 25 February 2010, p. 22.

89 *Committee Hansard*, 25 February 2010, p. 11.

90 *Committee Hansard*, 25 February 2010, p. 31.

There is an element of judgment here. We expect countries in good faith to properly address the questions ... and come back to us with the information.

...

I am sure we will be able to work out whether a country is telling us the full story or not. Clearly, if we have any doubts at all about the veracity of the information that has been provided in response to the questionnaire then we will definitely be going over there to verify.⁹¹

3.91 Dr Carroll went on to explain that one of the reasons for conducting an in-country inspection is to assess the competency of the veterinary services within a country that underpin the import requirements. He said:

The in-country assessment is every bit as much about checking the veterinary service and how it works as about looking at the animal health situation in that country. We do not just say, 'Whatever the competent authority of country X says is correct'. We go across and determine whether or not they are in a position to offer the certification that is required. That same process happens frequently with Australia—other countries come across and check our veterinary services to ensure that we are competent to provide the certifications that we offer.⁹²

3.92 The committee concurs with Dr Carroll that in-country assessment of the competencies and systems is extremely important.

3.93 The committee notes that the Questionnaire advises that one or a number of the following criteria may trigger an in-country inspection:

- Incomplete information and data provided in the country submission;
- BSE cases reported from cattle born in the previous five years in the applicant country;
- The general history of trade and knowledge of infrastructure and food safety and veterinary services in the applicant country;
- Request by the applicant country for an in-country inspection to verify the effectiveness of controls; and
- Timely capacity to identify, trace and report on any animals, derived risk materials and cohorts with respect to positive BSE cases.

3.94 The committee notes that under the current policy and protocols a significant element in the management of Australia's risk of importing BSE rests on how FSANZ exercises its judgement with regard to these criteria.

91 *Committee Hansard*, 25 February 2010, p. 31.

92 *Committee Hansard*, 25 February 2010, p. 30.

The case for in-country inspections – 2004 importation of beef from Brazil

3.95 The committee expressed concern that the Australian public and the beef industry were being asked to rely on a set of protocols and systems that in turn relied on overseas jurisdictions providing accurate information and certifications and did not include mandatory in-country inspections. During the inquiry, the committee referred specifically to circumstances surrounding the importation of a consignment of beef from Brazil on 29 November 2004. The committee considers that this incident illustrates how quickly and easily a lack of stringent processes could compromise Australia's disease free status.

3.96 In this particular case an import permit was issued for the import of approximately half a tonne of beef trimmings for quality testing in November 2004. This comprised 20 cartons of frozen beef, 13 of which were held at a cold store in Melbourne. Five were distributed to individual companies manufacturing small goods and two were sent to a processing plant in Wagga Wagga, New South Wales, for testing. These two cartons were opened, tested and discarded and buried at the local municipal tip under the conditions for industrial waste regulated by the New South Wales government.⁹³

3.97 Four weeks after the initial importation, Biosecurity Australia became aware of a suspected but unconfirmed report of foot-and-mouth disease (FMD) on a property in Brazil on the border with Paraguay and within the zone declared as free of FMD by the World Organisation for Animal Health (OIE). The permits that had been issued were immediately suspended and quarantine authorities placed into quarantine the 18 cartons of imported beef that were still in cold storage. The policy under which the import permits were issued was suspended pending a review. Precautionary measures were also put into place at the Wagga Wagga plant and at the municipal tip. On 7 January 2005, Biosecurity Australia received advice from the Brazilian authorities that the FMD test result had been confirmed as a false positive.⁹⁴

3.98 The committee considers that this incident is significant for three reasons. First, the import policy which underpinned the granting of permits for the importation of beef from Brazil was developed without an IRA process. The justification for this was that it was an amendment to an existing, long standing policy.⁹⁵ The committee was told at the time that the policy had been reviewed following comprehensive consultation with the industry.⁹⁶ However, the committee received copies of

93 Department of Agriculture, Fisheries and Forestry, *Answer to Question taken on notice*, Public Hearing, 25 February 2010, , available at http://www.aph.gov.au/Senate/committee/rrat_ctte/inquiries.htm.

94 Department of Agriculture, Fisheries and Forestry, *Answer to Question taken on notice*, Public Hearing, 25 February 2010, , available at http://www.aph.gov.au/Senate/committee/rrat_ctte/inquiries.htm.

95 Rural Regional Affairs and Transport, *Additional Estimates Hansard*, 15 February 2005, p. 54.

96 Rural Regional Affairs and Transport, *Additional Estimates Hansard*, 15 February 2005, p. 59.

statements by the Cattle Council expressing concern that the policy review had not included an assessment of the impact the importation of beef meat from Brazil would have on Australia's trading status.⁹⁷

3.99 Second, country assessments under the policy were based on desk top analysis undertaken by Australian bureaucrats drawing on OIE assessments of foot and mouth disease (FMD) free zones.⁹⁸ Neither of these processes included an in-country inspection. At the time, this committee expressed concern that Australia had decided to import fresh meat from a country without any understanding of the country's internal stock identification scheme, its internal controls in relation to the movement of stock prior to slaughter or its border. The Cattle Council also expressed concern that there had been "no on-ground assessment/audit by Australian authorities of the zoning systems in Brazil to ensure animals/product from non-FMD-free zones are not shipped to Australia."⁹⁹ An in-country inspection of these systems did not take place until some months after the incident.¹⁰⁰

3.100 Third, responsibility for the development and implementation of the policy rested with middle ranking officers within DAFF and AQIS and was not subject to ministerial or parliamentary oversight.¹⁰¹

3.101 During the 2005 Additional Estimates, the committee expressed grave concern that Australia could consider importing fresh meat from a country known to have such a highly contagious disease as FMD without an in-country inspection to satisfy itself that that the country had systems in place that were capable of preventing contaminated meat being imported into Australia.¹⁰²

3.102 In an answer to a question on notice during the current inquiry DAFF advised the committee that there were no quarantine risks to Australia involved in this case as the suspected case of FMD was subsequently confirmed to be false and the small quantity of uncooked product imported from Brazil was traced and accounted for.¹⁰³ The committee notes that this outcome owes more to luck and the cooperation of the Australian importer than good management by the agencies concerned who appear to

97 Rural Regional Affairs and Transport, *Additional Estimates Hansard*, 15 February 2005, p. 59.

98 Rural Regional Affairs and Transport, *Additional Estimates Hansard*, 15 February 2005, p. 45.

99 Correspondence from Cattle Council of Australia to Minister for Agriculture, Forestry and Fisheries, quoted in Rural Regional Affairs and Transport, *Additional Estimates Hansard*, 15 February 2005, p. 62.

100 Rural Regional Affairs and Transport, *Additional Estimates Hansard*, 15 February 2005, p. 63.

101 Rural Regional Affairs and Transport, *Additional Estimates Hansard*, 15 February 2005, pp. 55-57.

102 Rural Regional Affairs and Transport, *Additional Estimates Hansard*, 15 February 2005, p. 47.

103 Department of Agriculture, Fisheries and Forestry, *Answers to Questions taken on notice*, Public hearing 22 February 2010, available at http://www.aph.gov.au/Senate/committee/rrat_ctte/inquiries.htm.

have drawn few lasting lessons from the incident. The committee's view at that time was that beef should not have been imported from a country known to have had occurrences of such a significant disease without an IRA and an in-country inspection to ensure that adequate systems were in place to ensure that the disease could not be imported into Australia and that these processes should have been overseen at Ministerial level. This view has not changed.

Committee view

3.103 The committee considers that the protocol that has been implemented for the importation of beef and beef product is clearly intended to elicit comprehensive data from countries seeking to export to Australia. However, the committee has two fundamental concerns regarding the process through which completed questionnaires will be assessed. First it is unclear as to the extent FSANZ will insist on current comprehensive information and data or the extent to which such information and data will be verified through an in-country inspection. Second, it is not clear what criteria FSANZ will have regard to in the assessment of completed questionnaires.

3.104 Throughout this inquiry the committee has expressed concern that responsibility for the development and implementation of the protocols does not rest with a minister and is not open to scrutiny by the parliament. The committee has noted the assurances provided by the Minister for Trade, however, the committee also notes that neither FSANZ or Biosecurity Services Group report to the Minister for Trade.

3.105 The committee is concerned that the Australian public and the Australian beef industry are being expected to take a great deal on trust and that by the time the results of the assessments of each country are made public, it will be too late to raise concerns in relation to a particular country's claims or the assessment of them.

Country of origin labelling

3.106 During the inquiry the committee was advised that there is no country of origin labelling requirement for unpackaged fresh beef, however packaged fresh beef is required to be labelled.¹⁰⁴ The committee notes that country of origin labelling is required for fresh pork and seafood and fresh fruit and vegetables.¹⁰⁵

3.107 In its submission to the inquiry DAFF advised the committee that country of origin labelling is a separate issue to the new policy for the importation of beef and beef product. DAFF advised that country of origin labelling is not a requirement to ensure the safety of imported beef for consumers, but that it serves to inform consumer choice in making purchasing decisions. DAFF said that the Council of Australian Governments (COAG) and the Australia New Zealand Food Regulation

104 Mr Paul Morris, Trade and market Access Division, Department of Agriculture, Fisheries and Forestry, *Committee Hansard*, 25 February 2010, p. 45

105 Review of Food Labelling Law and Policy, *Issues Consultation Paper: Food Labelling Law and Policy Review*, 5 March 2010, p. 6.

Ministerial Council have agreed to undertake a comprehensive review of food labelling law and policy.¹⁰⁶

3.108 The committee notes a Panel led by Dr Neal Blewett AC will undertake the review and report to the Australia New Zealand Food Regulation Ministerial Council in December 2010 and to COAG in early 2011.¹⁰⁷ The review panel will be required to:

1. Examine the policy drivers impacting on demands for food labelling.
2. Consider what should be the role for government in the regulation of food labelling. What principles should guide decisions about government regulatory intervention?
3. Consider what policies and mechanisms are needed to ensure that government plays its optimum role.
4. Consider principles and approaches to achieve compliance with labelling requirements, and appropriate and consistent enforcement.
5. Evaluate current policies, standards and laws relevant to food labelling and existing work on health claims and front of pack labelling against terms of reference 1-4 above.
6. Make recommendations to improve food labelling law and policy.¹⁰⁸

3.109 The committee notes that this review will consider the question of country of origin labelling and specifically what criteria should determine which, if any, foods are required to have country of origin labelling.¹⁰⁹

3.110 The committee considers that all imported beef and beef product should have a country of origin label to provide consumers with a choice as to whether they wish to eat beef from countries that have had a BSE outbreak.

106 Department of Agriculture, Fisheries and Forestry, *Submission 4*, p. 12.

107 Review of food Labelling Law and Policy, <http://www.foodlabellingreview.gov.au/internet/foodlabelling/publishing.nsf/content/home>, viewed 8 March 2010.

108 Review of food Labelling Law and Policy, Terms of Reference, <http://www.foodlabellingreview.gov.au/internet/foodlabelling/publishing.nsf/Content/terms> viewed 8 March 2010.

109 Review of Food Labelling Law and Policy, *Issues Consultation Paper: Food Labelling Law and Policy Review*, 5 March 2010, p. 6.

