

The Senate

Rural and Regional Affairs
and Transport
References Committee

The possible impacts and consequences for
public health, trade and agriculture of the
Government's decision to relax import
restrictions on beef

First report

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TABLE OF CONTENTS

Membership of Committee	iii
Chapter 1	1
Introduction and background to the inquiry	
Introduction	1
Terms of reference	1
Conduct of the inquiry	1
The report	2
Acknowledgements	2
A note on references	2
Chapter 2	3
Background to the decision to review Australia's policy for the importation of beef and beef product	
Introduction	3
Proposal to change Australia's BSE food safety policy	5
Chapter 3	13
The policy review process and implementation of the revised policy	
Introduction	13
Scientific review – human health	13
Assessment of the risk to animal health	20
Consultation	26
Implementation of the policy	31
Country of origin labelling	42
Chapter 4	45
Conclusion and recommendations	
Consultation	45
Scientific review	47
Import risk analysis	48
The import protocols	49
Parliamentary scrutiny	51

Country of origin labelling	52
Ministerial request for import risk analysis for beef imports	52
Dissenting Report by Government Senators	55
1. Rationale for the policy change	55
2. Industry support	56
Economic consequences of the policy change	58
3. Human and animal health	59
Human health	59
Animal health	60
4. Implications of not changing the policy	61
5. Food labelling	62
6. Announcement of an Import Risk Analysis (IRA)	63
7. Recommendations and Conclusions	64
APPENDIX 1	69
Submissions Received	
APPENDIX 2	73
Public Hearings and Witnesses	
Monday, 14 December 2009	73
Friday, 5 February 2010	74
Monday, 22 February 2010	75
Thursday, 25 February 2010	76
APPENDIX 3	77
Food Standard 2.2.1 Meat and Meat Products	
APPENDIX 4	79
Letter from the Hon. Simon Crean MP, Minister for Trade to the Hon. John Cobb, Shadow Minister for Agriculture, Fisheries & Forestry, dated 25 February 2010.	79

Chapter 1

Introduction and background to the inquiry

Introduction

1.1 On 20 October 2009 the government announced that Australia was adjusting its imported food policy settings regarding bovine spongiform encephalopathy (BSE) for beef and beef products. The changes follow a review of current settings, including an update of the science of BSE and consideration of the risks associated with importing beef and beef products undertaken by Professor John Mathews. The new policy came into effect on 1 March 2010.

Terms of reference

1.2 On 27 October 2009 the Senate referred the following matters to the Rural and Regional Affairs and Transport References Committee for inquiry and report by 30 November 2009:

The possible impacts and consequences for public health, trade and agriculture of the Government's decision to relax import restrictions on beef, especially relating to the import of beef from countries previously affected by bovine spongiform encephalopathy, otherwise known as mad cow disease.

1.3 The committee subsequently resolved to extend the reporting date on a number of occasions to allow for a more detailed examination of the issues.

Conduct of the inquiry

1.4 The inquiry was advertised in *The Australian* newspaper and on the Internet. The Committee also invited submissions from Commonwealth, State and Territory governments and interested organisations and individuals.

1.5 The committee received 35 submissions (see Appendix 1). A number of individuals and organisations also provided additional information and correspondence that was authorised for publication. A list of these documents is also at Appendix 1.

1.6 The committee held public hearings in Canberra on 14 December 2009, 5 February 2010, 22 February 2010, and 25 February 2010. Witnesses who gave evidence at the hearings are listed in Appendix 2.

1.7 On 8 March 2010 the Minister for Agriculture, Fisheries and Forestry, the Hon. Tony Burke MP, announced that he had written to the Director of Quarantine requesting Biosecurity Australia do an Import Risk Analysis (IRA) for fresh beef (chilled or frozen) from countries other than New Zealand. The committee resolved to table an interim report on 18 March 2010. This interim report will detail the

committee's deliberations to date. The committee also resolved to hold a further public hearing before tabling a final report at a date to be fixed.

The report

1.8 Chapter 2 of the report outlines Australia's food safety policy in relation to BSE and the legislative and administrative framework under which the original ban on beef imports from countries reporting any BSE cases (and those countries exposed to high risk factors) was implemented. Chapter 3 considers the process through which the revised policy was developed and the procedures through which the policy will be implemented. Chapter 4 of the report sets out the committee's conclusions and recommendations in relation to this inquiry.

Acknowledgements

1.9 The committee appreciates the time and effort of all those who provided both written and oral submissions to the inquiry. Their work has assisted the committee considerably in its inquiry.

A note on references

1.10 References in this report are to individual submissions as received by the committee, not to a bound volume. References to the committee Hansard are to the proof Hansard: page numbers may vary between the proof and the official Hansard transcript.

Chapter 2

Background to the decision to review Australia's policy for the importation of beef and beef product

Introduction

Bovine Spongiform Encephalopathy

2.1 Bovine Spongiform Encephalopathy (BSE) is a progressive, fatal, central nervous system disorder of cattle. Consumption of certain tissues from BSE infected cattle has been linked to the rare fatal human disease variant Creutzfeldt-Jakob Disease (vCJD).¹ Since BSE was first identified as a major risk to human health, Australia has implemented arrangements to protect Australians from exposure to BSE via the human and animal food chains. There has been no instance of BSE infected cattle in Australia and no case of vCJD has yet been diagnosed in Australia.²

Previous BSE food safety policy

2.2 Since 2001 Australia has implemented a ban on beef imports from countries reporting any BSE cases and those countries exposed to high risk factors, together with a range of other measures to protect the Australian population from BSE contamination. Countries currently banned from exporting beef and beef products to Australia because of the identification of indigenous BSE in their territories include Canada, Japan, many European countries and the United States.³

2.3 Under the 2001 policy, countries that have never reported a BSE case in their cattle herd could apply to FSANZ for BSE risk assessment. The Australian BSE Country Classification Committee assigned countries a Category A, Category B or Category C status, depending on the level of assessed BSE risk, based on each country's technical submissions. Differing food safety measures were then applied to beef imports from each category. The Australian Quarantine Inspection Service (AQIS) conducted checks at the border to verify that the correct certification was provided for the country category for each consignment.⁴

2.4 The Department of Agriculture, Fisheries and Forestry (DAFF) told the committee that the assessment approach used in the 2001 policy had some inherent weaknesses because it did not include a mechanism for in-country inspections to

1 Department of Foreign Affairs and Trade, *Submission 3*, p.1.

2 Professor John Mathews, *Review of Scientific Evidence to Inform Australian Policy on Transmissible Spongiform Encephalopathies (TSEs)*, 9 October 2010, p. 20 and p. 22

3 Department of Foreign Affairs and Trade, *Submission 3*, p. 1.

4 Department of Agriculture, Fisheries and Forestry, *Submission 4*, p. 5.

verify information provided for desk audit and the methodology used is now outdated.⁵

2.5 DAFF advised the committee that when Australia announced its policy in 2001, "departments recognised that the policy was conservative and that scientific understanding and management of the risks of BSE were progressing"⁶. DAFF told the committee:

A verbal commitment was given to trading partners that the policy would be reviewed in 2003, two years after implementation. It is a matter of public record that a scientific review of the policy commenced in 2003 and that the previous government considered proposals to update the policy in 2005 and 2007, but the policy was not changed.⁷

Legislative and administrative framework within which the ban was implemented

Development of food standards

2.6 The Australian food safety policy on BSE is reflected in requirements set out in the Australian New Zealand Food Standards Code Standard 2.2.1.11 – Meat and Meat Products.⁸ The Code states:

Bovine meat and meat products must be derived from animals free from bovine spongiform encephalopathy.⁹

2.7 The standard applies equally to both domestic and imported meat and meat products.¹⁰ A copy of the standard is provided at Appendix 3.

2.8 Food Standards Australia New Zealand (FSANZ) is responsible for the development of food standards. Food standards have the force of law. Responsibility for enforcing and policing food standards rests with the States and Territories in Australia and with the New Zealand Government in New Zealand. The standards apply to both domestic and imported foods.

Determination of risk foods

2.9 The Commonwealth enforces the code in relation to food imported into Australia through the *Imported Food Control Act 1992*. FSANZ determines the risk

5 Department of Agriculture, Fisheries and Forestry, *Submission 4*, p. 5.

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

7 Department of Agriculture, Fisheries and Forestry, *Submission 4*, pp 4-5.

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

9 Australia New Zealand Food Standards Code, Issue 103, p. 6, available on Food Standards Australia New Zealand website:
http://www.foodstandards.gov.au/srcfiles/Standard_2_2_1_Meat_v103.pdf viewed 1 March 2010.

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

food poses to public health and safety following a food safety risk assessment. FSANZ categorises food as 'risk' if it has the potential to pose a medium to high risk to public health.¹¹ FSANZ advises AQIS of the risk category for food and this determines the frequency with which it will be inspected and the appropriate testing regime to be implemented under the Food Inspection Scheme.¹² Risk foods are listed in a schedule to the *Imported Food Control Order 2001*. Beef and beef products from all countries are classified as 'risk' food for the purposes of the Food Inspection Scheme. There has been no change to this categorisation as a result of the change in Australia's BSE food safety policy.

Other import requirements for beef and beef products

2.10 Biosecurity Australia is responsible for developing and reviewing animal quarantine measures for the importation of animals and animal products into Australia. The importation of beef and beef products must meet animal quarantine requirements for foot and mouth disease and rinderpest. Australia also enforces bans on feeding animal materials such as beef to cattle.¹³

Proposal to change Australia's BSE food safety policy

2.11 On 20 October 2009, the Minister for Trade, the Hon. Simon Crean, the Minister for Agriculture, Fisheries and Forestry, the Hon. Tony Burke, the Minister for Health, the Hon. Nicola Roxon and the Parliamentary Secretary for Health, the Hon. Mark Butler announced that Australia would be adjusting its imported food policy settings regarding BSE with effect from 1 March 2010. In announcing the change the Ministers stated that there would be no change to the Australian food standard requirement that beef and beef products are to be derived from animals free of BSE and that the current enforcement measures will continue to apply.¹⁴

2.12 The new policy would permit the importation and/or sale of certain beef and beef products under agreed conditions from countries that have reported cases of BSE. In its submission to the inquiry, the Department of Health and Ageing (DOHA) advised the committee that the policy had moved from an exclusion system to an assessment system whereby the human health risk from beef from all countries is

11 Risk foods are subject to a 'test and hold' direction and are not released for sale until test results are known. Consignments of risk food which fail inspection and therefore do not meet Australian standards cannot be imported. These foods must be brought into compliance otherwise the food will be re-exported or destroyed. Any consignments that fail result in a return to 100 per cent testing of that product until a history of compliance is re-established for the producer of the food. Refer: <http://www.daff.gov.au/aqis/import/food/inspection-scheme>

12 The Food Inspection Scheme is provided for in Division 2 of Part 2 of the *Imported Food Control Act 1992* and Part 3 of the *Imported Food Control Regulations 1993*.

13 Dr Andrew Carroll, Chief Veterinary Officer, Department of Agriculture, Fisheries and Forestry, *Committee Hansard*, 14 December 2009, p. 104; 25 February 2010, pp 33-35.

14 Joint media release, 20 October 2009, *Australia refines its food safety rules for imported beef and beef products*, DAFF09/341BJ.

evaluated.¹⁵ Under the new policy a country wishing to export beef to Australia is able to apply to FSANZ and undergo an assessment to determine whether the country has in place, and appropriately monitors, controls necessary to ensure that beef and beef products exported to Australia are derived from animals free of BSE. The new policy is set out in Australia's *Bovine Spongiform Encephalopathy (BSE): Requirements for the importation of Beef and Beef Products for Human Consumption – Effective March 2010*.¹⁶

Beef industry request for change to BSE policy

2.13 The committee heard that the review of Australia's current BSE policy was initiated, at least in part, by a request from the Red Meat Advisory Council (RMAC).¹⁷ Mr Timothy Yeend, First Assistant Secretary of the Office of Trade Negotiations, Department of Foreign Affairs and Trade (DFAT), told the committee that:

In the discussions we have had when we have spoken to industry, given the huge reliance they have on maintaining export markets et cetera, the prospect of some kind of action by a trading partner to challenge Australia and the consequences of that for our industry, both domestically and in terms of its export markets, were a major concern. Certainly as they came to government this was registered very clearly and was one of the key considerations in the government deciding to look at the policy again.¹⁸

2.14 In a letter to Minister Burke on 9 August 2009 RMAC stated:

Red Meat Advisory Council Ltd (RMAC) believes it imperative for the Federal Government to amend the current standard such that it is made consistent with the standard set by the World Organisation for Animal Health (OIE) and current ambiguity is removed.¹⁹

2.15 RMAC advised the Minister that at its board meeting on 6 March 2009, RMAC had "again endorsed its opposition to the BSE certification rules currently

15 Department of Health and Ageing, *Submission 2*, p. 3.

16 Food Standards Australia New Zealand, *The Australian assessment process to assess BSE risk*, <http://www.foodstandards.gov.au/consumerinformation/bovinespongiformencephalopathybse/> viewed 23 February 2010.

17 Department of Foreign Affairs and Trade, *Submission 3*, p. 6.

18 Mr Timothy Yeend, First Assistant Secretary, Office of Trade Negotiations, Department of Foreign Affairs and Trade, *Committee Hansard*, p. 107.

19 Letter from Mr Ian McIvor, AM, Chairman, Red Meat Advisory Council Limited to the Hon Tony Burke, MP, Minister for Agriculture, Fisheries and Forestry, 9 August 2009, *Answer to question taken on notice*, Public hearing 5 February 2010.

operating in Australia".²⁰ RMAC wrote a second letter to the Minister, in similar terms, on 18 September 2009.²¹

2.16 DFAT provided the committee with a summary of the sequence of events that led to the decision to amend the policy:

It is noted that the timing of this specific request from RMAC was related to a discussion, on 28 July 2009 within a Red Meat Market Access Committee (RedMMAC) meeting, in which DFAT advised of the recent stepping up of pressure from trading partners for a review of Australia's BSE policy. Within that meeting DFAT requested industry to advise government regarding its position on the issue. Industry members of the Committee present at the meeting included 8 representatives of the Australian Meat Industry Council (AMIC), 1 representative of Meat and Livestock Australia (MLA) and 2 representatives of the Cattle Council of Australia. It was agreed that AMIC would write to RMAC seeking consideration of the issue with a view to getting consistent industry policy put back to Government for consideration. RMAC, on behalf of its members, subsequently wrote to the Minister for Agriculture, Fisheries and Forestry, the Hon Tony Burke MP, on 9 August 2009 seeking an urgent update of the 2001 policy on BSE. On 18 September 2009 RMAC sent a further letter to Minister Burke reiterating its request for an update of the 2001 policy on BSE, to reflect, among other things, increased understanding of the risks posed by BSE, increased confidence in measures to minimise the risks of BSE and recommendations and principles of the World Organisation for Animal Health (OIE).²²

2.17 RMAC's concerns with the policy centre on two perceived risks to the Australian beef industry: the risk that all beef, both domestic and imported, would be removed from retail shelves in the event of a BSE outbreak in Australia; and the risk of action through the World Trade Organisation (WTO) by Australia's trading partners.

Risk of removal of beef from retail sale

2.18 In its submission to the inquiry DFAT told the committee that RMAC has long been concerned about the negative impact Australia's 2001 BSE policy could have on the local industry should Australia experience an indigenous case of BSE.

20 Letter from Mr Ian McIvor, AM, Chairman, Red Meat Advisory Council Limited to the Hon Tony Burke, MP, Minister for Agriculture, Fisheries and Forestry, 9 August 2009, *Answer to question taken on notice*, Public hearing 5 February 2010.

21 Letter from Mr Ian McIvor, AM, Chairman, Red Meat Advisory Council Limited to the Hon Tony Burke, MP, Minister for Agriculture, Fisheries and Forestry, 18 September 2009, *Answer to question taken on notice*, Public hearing 5 February 2010.

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

DFAT told the committee that such an occurrence was 'unlikely but a real possibility despite measures currently in place'²³. DFAT described the following outcome:

In the unlikely event of a case of BSE in Australian cattle, Australia would be obliged to ban Australian produced beef from sale in Australia because the 2001 policy on beef imports indefinitely bans the import of beef from countries which have had a case of BSE in their cattle. Failure to implement such a ban would leave Australia exposed to a WTO challenge.²⁴

2.19 In its submission RMAC told the committee that if beef were removed from shelves the cost to the Australian beef industry would be significant.²⁵ In its letters to Minister Burke, RMAC stated that Clause 11 of Standard 2.2.1 of the Food Standards Code is ambiguous. RMAC advised the Minister:

Australia's legal requirement relating to BSE and the safety of domestic beef for human consumption is ambiguous: it is stated in Clause 11, Standard 2.2.1 of the FSANZ Food Standards Code that, "Bovine meat and meat products must be derived from animals free from bovine spongiform encephalopathy". This ambiguity must be clarified through the provision of a domestic-food-safety-response policy that is developed and agreed to by relevant Federal, State and Territory human-health and food-safety authorities in consultation with the industry.²⁶

2.20 The committee notes that there appears to be widespread agreement that the risk of a BSE outbreak in Australia is unlikely.²⁷ For example, the committee notes the comments of Mr Gary Burridge, representing the Australian Meat Industry Council when asked his view on the likelihood of a case of BSE in Australia under the current import arrangements that are in place. Mr Burridge said:

I would say that it is very limited, based on the science that we have been provided with and that has been provided by international and domestic experts.²⁸

2.21 Nevertheless, the committee notes that such an outcome has been described in quite alarming terms, both within the context of the inquiry and more widely in the

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

24 Department of Foreign Affairs and Trade, *Submission 3*, p. 5.

25 Red meat Advisory Council Limited, *Submission 5*, p. 6.

26 Letter from Mr Ian McIvor, AM, Chairman, Red Meat Advisory Council Limited to the Hon Tony Burke, MP, Minister for Agriculture, Fisheries and Forestry, 9 August 2009, *Answer to question taken on notice*, Public hearing 5 February 2010.

27 See for example, Mr Justin Toohey, *Committee Hansard*, 14 December 2009, p. 32, Mr Robert Steel, *Committee Hansard*, 14 December 2009, p. 72, and Dr Andrew Carroll, *Committee Hansard*, 14 December 2009, p. 103.

28 Mr Gary Burridge, Processor Council, Australian Meat Industry Council, *Committee Hansard*, 14 December 2010, p. 18.

media. The committee notes Minister Burke's comments during a radio interview shortly after the announcement of the new policy that:

If, for example, there were an outbreak of BSE in Tasmania, all Australian beef no matter where it came from would have to be taken off the shelves in Australia. Because we have a policy at the moment that says for any country, including our own, you can't take a regional approach; you can't take a science-based or a health-based approach. The approach has to be nationwide and immediate and its all off the shelves.²⁹

2.22 The Australian Beef Association (ABA) told the committee that they regard the issue of the potential for removal of beef off supermarket shelves in the event of a case of BSE as a farce and a completely separate issue to the decision to relax import requirements for beef. Mr Carter told the committee:

No government in the world would put 300,000 people out of work by taking all the beef off the shelves. It has not happened anywhere. We believe that what has been going on is a complete fabrication. It has been said that the WTO obligations would necessitate it. We would like to see that paper, and we ask that it be tabled.³⁰

2.23 The committee received confirmation from DOHA that any decision to remove beef from retail shelves would be taken by individual state health ministers.³¹

2.24 The committee notes that FSANZ has procedures in place to recall any food products that pose a health risk.³² The procedures followed are set out in Food Code Standard 3.2.2.

2.25 The power to recall contaminated meat products is contained in both the *Food Standards Australia New Zealand Act 1991* (FSANZ Act) and the *Trade Practices Act 1974*. Section 13 of the FSANZ Act says the functions of FSANZ include:

(j) in co-operation with the Department administering Division 1A of Part V of the Trade Practices Act 1974, to coordinate the recall of food under that division; and

(k) at the request of the States and Territories, to co-ordinate action by the States and Territories to recall food under State and Territory laws.³³

29 The Hon Tony Burke MP, Minister for Agriculture Fisheries and Forestry, Interview with Leon Byer, 5AA Adelaide 1395 AM, 21 October 2009.

30 Mr John Carter, Director, Australian Beef Association, *Committee Hansard*, 14 December 2009, p. 2.

31 *Committee Hansard*, 5 February 2010, p. 95.

32 Food Standards Australia and New Zealand, Food recalls, <http://www.foodstandards.gov.au/foodmatters/foodrecalls/> viewed 2 March 2010.

33 *Food Standards Australia New Zealand Act 2001*, p. 10.

Australia's international trade obligations

2.26 In its submission DFAT advised the committee that Australia's 2001 BSE policy has been strongly criticised over a long period of time by a number of Australia's key trading partners, including Canada, the US, Japan and Europe, as being inconsistent with current science and the relevant international standard. DFAT also told the committee that because of this, some of these countries have indicated that they consider the policy to be in breach of Australia's WTO obligations.³⁴

2.27 More specifically, DFAT drew the committee's attention to Canada's initiation of a WTO dispute against the Republic of Korea's BSE-related restrictions on imported beef which are similar to Australia's requirements.³⁵ DAFF also told the committee that the policy change is consistent with the approach being taken by Australia's key trading partners:

The BSE-related import requirements for a number of countries have been progressively relaxed in recent years, particularly in North Asian markets, from a position of blanket bans on imports from countries with reported BSE cases. Japan, Taiwan, the Republic of Korea, New Zealand, Canada, the United States and European Union member States are examples of the many countries that now permit beef imports from countries that have reported BSE cases.³⁶

Australia's WTO obligations

2.28 DFAT advised the committee that the major trade obligations invoked by Australia's policy on BSE and imported food safety are its obligations under the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (WTO SPS Agreement). This Agreement provides a multilateral framework of rules governing the use of measures to protect the life and health of humans, animals and plants, with the aim of minimising any negative impact on international trade.

2.29 Under the WTO SPS Agreement, WTO member countries are encouraged to harmonise their measures with international standards developed by 'relevant' international organisations, including the OIE.³⁷ Measures may differ from an international standard but WTO members must not use SPS measures that are: unnecessary, not science-based, arbitrary, or which constitute a disguised restriction on trade.³⁸ Article 2.3 of the WTO SPS Agreement requires that Australia must not

34 Department of Foreign Affairs and Trade, *Submission 3*, p. 1.

35 Department of Foreign Affairs and Trade, *Submission 3*, p. 4.

36 Department of Agriculture, Fisheries and Forestry, *Submission 4*, p. 6.

37 Department of Foreign Affairs and Trade, *Submission 3*, p. 4.

38 Department of Agriculture, Fisheries and Forestry and Austrade, *The WTO Sanitary and Phytosanitary (SPS) Agreement Why you need to know ...* p. 3. <http://www.daff.gov.au/animal-plant-health/plant/publications/sps> viewed 3 March 2010.

place more onerous conditions on imports from other countries than it applies domestically.³⁹

2.30 The SPS Agreement requires WTO members to base their SPS measures on a risk assessment and to take into account risk assessment techniques developed by relevant international organisations.⁴⁰ DFAT explained that:

The World Organisation for Animal Health (OIE) has implemented a standard, significantly updated in 2005, that provides for the safe trade in beef from countries that have experienced BSE.⁴¹

2.31 DFAT advised the committee that while Australia's new BSE policy does not adopt the OIE standard or the categorisation of countries by the OIE, it will take into account the OIE risk assessment methodology to undertake its own risk assessments.⁴²

Australia's Free Trade Agreement with the United States

2.32 The ABA told the committee that it believed that the change in Australia's BSE policy is directly linked to a side letter to the Australia – United States Free Trade Agreement.⁴³ In the side letter the then Minister for Trade, the Hon Mark Vaile, confirmed the following understanding between the governments of Australia and the United States:

Australia and the United States recognize the importance of addressing both food safety and animal health issues regarding Bovine Spongiform Encephalopathy (BSE) in a science-based, comprehensive, and cohesive manner.

Science-based responses to address BSE concerns help to ensure food safety and protect animal health while avoiding unnecessary barriers to international trade. Australia and the United States recognize the central roles of the World Health Organization and Food and Agriculture Organization of the United Nations' Codex Alimentarius Commission (Codex) and the International Organization for Epizootic (OIE) in establishing international standards and guidelines, and will participate actively as these organizations address BSE-related issues.

39 Department of Foreign Affairs and Trade, *Submission 3*, p. 4.

40 Department of Agriculture, Fisheries and Forestry and Austrade, *The WTO Sanitary and Phytosanitary (SPS) Agreement Why you need to know ...* p. 13 .
<http://www.daff.gov.au/animal-plant-health/plant/publications/sps> viewed 3 March 2010.

41 Department of Foreign Affairs and Trade, *Submission 3*, p. 1. The submission goes on to state that the OIE (which has 175 members) is referenced in Article 3.4 of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (WTO SPS Agreement) as an international standard setting body and is recognised as the major international standard setting authority on animal health and animal diseases impacting on human health.

42 Department of Foreign Affairs and Trade, *Submission 3*, p. 4.

43 Mr Bradley Bellinger, Chairman and Mr John Carter, Director, Australian Beef Association, *Committee Hansard*, 14 December 2009, p. 2, p. 5 and p. 13.

Australia and the United States note that the OIE is presently reviewing BSE standards as they relate to animal and public health. Australia and the United States will work cooperatively in the OIE, Codex, and other fora as appropriate, with the objective of securing science-based standards and guidelines that address risks to food safety and animal health from BSE.⁴⁴

Committee comment

2.33 The committee does not accept that a blanket recall of Australian beef and beef product would ever be implemented on an Australia wide basis in the event of an Australian case of BSE.

2.34 As indicated previously in this chapter, the committee was advised during this inquiry that no amendments to the Food Code or to the FSANZ Act are proposed as a result of the policy announced on 20 October 2009.⁴⁵ The committee also notes that under the new policy the requirement within the Food Standards that bovine meat and meat products must be derived from animals free from BSE remains unchanged.

2.35 The committee also notes that in the event of a new case of BSE, a country that has been given either a Category 1 or Category 2 BSE risk status is required to provide a report on the epidemiological investigation into the BSE case(s) and provide any other information to justify the continuation of its current Australian BSE status. FSANZ reserves the right to suspend a country's status at any time, including before the information is provided, until it is satisfied with the submitted information.⁴⁶

2.36 While the new policy may ease the pressure on Australian State and Territory governments if they were to be faced with a reported case of BSE, it is not clear to the committee that the concerns regarding the ambiguity of how Australia's policy for the removal of beef and beef products from sale would be implemented in the event of an Australian case of BSE have been specifically addressed. The committee considers that these concerns are justified. The committee considers that a clear policy for Australia's domestic response in the case of a BSE related food safety event should be developed and agreed to by the relevant Federal, State and Territory human-health and food-safety authorities in consultation with the industry.

44 Letter from The Hon Mark Vaile, Minister for Trade to the Honourable Robert B. Zoellick, United States Trade Representative dated 18 May 2004 and Letter from the Honourable Robert B. Zoellick, United States Trade Representative to The Hon Mark Vaile, Minister for Trade dated 18 May 2004, tabled 14 December 2009.

45 Joint media release, 20 October 2009, *Australia refines its food safety rules for imported beef and beef products*, DAFF09/341BJ.

46 Food Standards Australia New Zealand, *Australian Questionnaire to Assess BSE Risk*, p. 13, <http://www.foodstandards.gov.au/srcfiles/Questionnaire%20to%20Assess%20BSE%20Risk%2023%20Feb%2020101.pdf>, viewed 23 February 2010.

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 Bitá, 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

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.

from those assessed. The Handbook states that a risk analysis which 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/hebseriskassessment4748.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.apf.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.

Chapter 4

Conclusion and recommendations

Considering the pre-emptive action we have taken in this country with regard to the beef industry and establishing standards that are unequalled around the world, why would we put our industry here in Australia at risk by lowering standards for importation?¹

4.1 Australia is one of the few countries in the world that can claim to be BSE free. More broadly, Australia's beef industry has a disease free reputation that is the envy of its trading partners. This reputation has earned Australia entry into some of the toughest export markets in the world. Yet even with Australia's disease free status, Australia's beef producers continue to be expected to meet exacting standards and costly requirements to export their product.

4.2 In this context, this committee cannot comprehend why Australia should put its most significant export market at risk by embracing a hastily conceived policy based on inadequate and secretive consultation, and partial analysis of the risks involved, and implement it through a set of procedures that contain no clear criteria and for which there is no ministerial or parliamentary scrutiny.

4.3 Witnesses before the committee have raised the likely trade motivations and implications associated with this policy change. The committee notes that the side letter to the Australia- U.S. Free Trade Agreement marked a significant turning point in Australia's ability to maintain its BSE free status through a ban on imports from countries who do not enjoy such status. Other witnesses have argued that the policy and protocols developed and implemented on 23 February 2010 are supported by current science and are consistent with OIE guidelines.

4.4 However, after four hearings and 35 submissions, the committee continues to hold fundamental concerns about Australia's recently introduced policy for the importation of beef and beef product and the protocols through which it will be implemented.

Consultation

4.5 Departmental representatives advised the committee that this policy change was underpinned by an extensive process of consultation and provided the committee with a list of the organisations that had been consulted. The committee does not accept that the consultation process was extensive. The committee notes that the consultation with the beef industry was conducted via confidential meetings with peak industry

¹ Mr Greg Brown, Cattle Council of Australia, *Committee Hansard*, 14 December 2009.

bodies and that no attempt was made to engage individual beef producers in these consultations.

4.6 The committee fails to understand why there was a need for secrecy regarding the Departments' consultation with the beef industry. The committee also fails to understand why those industry bodies involved in the consultation process agreed to keep the matters discussed at these meetings from the wider rank and file membership of their organisations. The committee has repeatedly heard that this change in policy is the product of rigorous consultation undertaken over a number of years. The committee was told that there were no surprises in this for the beef industry and that this was a change that the industry has actively sought for some time. However, it is obvious to the committee that this is far from the case. The strong responses against the policy from individual beef producers once news of the change became public clearly demonstrate that individual beef producers were indeed surprised by this policy change and angry that they had not been consulted in its development.

4.7 The committee was roundly criticised by the Cattle Council of Australia for drawing this policy change to the attention of the wider public. Mr Greg Brown told the committee that he considered that by raising the issue of BSE in the public arena the committee's inquiry had been detrimental to the beef industry. The committee takes issue with Mr Brown's assertion. The committee considers that this Senate committee process has been entirely appropriate, particularly as it has provided an opportunity for those who were not privileged to be included in the closed circle of industry representatives with which the government consulted to have their voices heard. More importantly though, as there was no avenue for formal accountability to Ministers or the Parliament because no legislative change was required to implement the new policy, this committee's examination of the policy has played a very significant scrutiny role. Without the benefit of this inquiry, the beef industry may have realised too late that they needed to be directly involved in the development of the protocols through which beef will be imported into Australia.

4.8 At the committee's hearing on 14 December 2009, Mr Justin Toohey, Secretary to the Red Meat Advisory Council, told the committee that the industry was confident that the Government would develop protocols which met industry's expectations.² However, as that hearing progressed it became apparent that the protocols may fall seriously short of industry expectations. It was clear that they would not necessarily require an in-country inspection prior to import approval being given, that assessments would be on a whole of country basis and not a regional or zonal basis, that it was not clear whether equivalent traceability systems would be required or whether questions of border control would be effectively dealt with.

4.9 Following that hearing the beef industry peak bodies sought urgent discussions with the relevant Ministers and demanded to be consulted on the development of the protocols. This type of industry involvement in the development

2 Mr Justin Toohey, *Committee Hansard*, 14 December 2009, p. 36.

of import protocols is something that this committee has advocated over successive inquiries into biosecurity issues. The committee considers that it is vital that the development of import requirements is informed by those with a practical understanding of the industry and the risks posed to it. Without this committee inquiry it is unlikely that the beef industry would have had a seat at the table while those protocols were being developed. Following the release of the protocols on 23 February 2010, the Red Meat Advisory Council advised the committee that they had looked at the protocols and were satisfied with them.³

Scientific review

4.10 Throughout this inquiry the committee has expressed concern that a decision as significant as this ought to have been made after a comprehensive process of review. A comprehensive review of the science is fundamental to any decision to relax import requirements where food safety is concerned. The committee has expressed concern about the amount of time allocated to Professor Mathews to undertake a review of the current scientific evidence on BSE in relation to food and the flow on implications to human health. The committee does not doubt that Professor Mathews furnished the Department of Health and Ageing with as comprehensive a review as his considerable experience and extensive range of research contacts would allow in the time available. However, the committee cannot accept that a review completed in two and a half weeks can be claimed to represent a comprehensive reconsideration of the scientific knowledge around BSE. Evidence to the committee suggests that at least some of the current clinical work being undertaken in relation to transmissible spongiform encephalopathies is contested to some degree.⁴

4.11 The committee notes the observation of the National Health and Medical Research Committee (NHMRC) that there is so much about this disease that is still unknown.⁵ The committee has also heard evidence from those with a practical understanding of the disease that even a small risk in an environment of incomplete knowledge is too great a risk for Australia to take.⁶ Ms Suzanne Solvyns, the National Coordinator of the CJD Support Group Network, told the committee:

Prion disease has a history of slapping in the face those who make decisions based on arrogant assumption that this will not happen to them. In 1985 those of us who received human pituitary hormones were not told of our

3 Mr Ian McIvor, Chairman, Red Meat Advisory Council, *Committee Hansard*, p. 25.

4 Professor John Mathews, *Committee Hansard*, 5 February 2010, p. 34.

5 Notes of National health and Medical Research Council Teleconference, 17 September 2009, Answer to question taken on notice, Public Hearing 5 February 2010.

6 Ms Suzanne Solvyns, National Coordinator, CJD Support Group Network, *Committee Hansard*, 22 February 2010, pp. 12 -13. Ms Solvyns was the recipient of human pituitary hormones from a contaminated batch while on a fertility program in the seventies.

risk as the decision makers decided that nobody was at risk—until four women died.⁷

4.12 The committee is also not at all persuaded that our current understanding of the risk to animal health is as complete as has been argued during this inquiry. Nor does the committee accept that an examination of the human health risks obviates the need for an examination of animal health risks. The committee does not doubt the expertise of Australia's Chief Veterinary Officer or of the other officers of the Department of Agriculture, Fisheries and Forestry who have informed this policy process. However, it is the committee's view that there should have been a greater attempt to confirm that our current understanding of the animal health risks posed by BSE within the current global regulatory environment is accurate. The committee considers that there would have been less of an angry backlash from the wider beef industry if a thorough, open and transparent consultation process had been undertaken.

Import risk analysis

4.13 The committee believes that the decision to relax the import requirements for beef and beef products should have been preceded by a formal analysis of the import risk attached to such products. The committee has stated earlier that a formal risk analysis, consistent with the model provided by an expanded Import Risk Analysis (IRA), would address a number of the concerns the committee has with the process through which Australia's BSE policy has been reviewed. As well as providing a formal, open and transparent mechanism for all stakeholders to be consulted, such a model provides a means for all stakeholders to gain access to the scientific reviews conducted as part of the risk analysis and to provide comment on them. The committee considers that the statutory timeframes provided within such a model are also more consistent with the significance of the issue at hand.

4.14 The committee notes that the expanded IRA model also provides for a thorough consideration of all likely consequences of an incursion, particularly the economic consequences. The committee has noted elsewhere in this report the concerns raised regarding the need for clarity in relation to implementation of Australia's policy for the removal of Australian beef and beef products from sale in the event of an Australian case of BSE. The committee has heard that the costs to the industry of such action would be significant and far reaching. The committee has also heard varying interpretations of how the policy would be implemented. The committee notes that there is agreement that the risk of such an occurrence is negligible, however, with the decision to relax Australia's import requirements the committee concludes that this risk might be amplified to some extent. The committee considers that this is one risk that necessitates a thorough risk analysis that takes account of the economic implications for the beef industry.

7 Ms Suzanne Solvyns, National Coordinator, CJD Support Group Network, *Committee Hansard*, 22 February 2010, p. 11.

Recommendation 1

4.15 The committee recommends that a clear policy through which Australia's provisions for the recall of beef and beef product will be exercised in the event of an Australian case of BSE should be developed in consultation with the Australian beef industry. The committee also recommends that a process is initiated through COAG to seek the input and agreement of the relevant Federal, State and Territory human health and food safety Ministers.

4.16 Similarly, Australia's strong position as a beef exporter is underpinned by its unique disease free status. A decision to relax import restrictions on beef to potentially allow importation of beef from countries which have had cases of BSE has the potential to affect Australia's standing in key export markets. The committee has noted the assurances provided during this inquiry that Australia's international standing as a producer of quality disease free beef will not be diminished through the implementation of this policy. However the committee is not satisfied that these assurances are based on any analysis of the likely impact of the policy.

4.17 The committee has noted Biosecurity Australia's Advice 2010/02, released on 24 February 2010, which advises that Biosecurity Australia will conduct an analysis in line with the Import Risk Analysis Handbook to address animal quarantine issues. This advice states that these IRA's will be conducted 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. The committee does not consider that this process of individual IRA's, which will be conducted separately to the risk assessment undertaken by FSANZ, satisfies the committee's concerns regarding the lack of import risk analysis prior to the decision to relax Australia's policy for the importation of beef.

Recommendation 2

4.18 The committee recommends that Australia's *Bovine Spongiform Encephalopathy (BSE): requirements for the importation of Beef and Beef Products for Human Consumption – effective March 2010* and all administrative processes for the assessment of applications from countries seeking to import beef and/or beef product be suspended pending the outcome of a formal import risk analysis modelled on the expanded import risk analysis process provided for in the Import Risk Analysis Handbook 2007 (updated 2009).

The import protocols

4.19 In the committee's view, the development of effective import protocols is fundamental to this policy process. The committee has expressed concern on numerous occasions throughout this inquiry that the protocols have been developed in relative isolation. The committee considers that it is essential that the development of import protocols is undertaken in close consultation with the relevant Australian industry sector to ensure that all concerns are considered and appropriately addressed.

4.20 The committee notes that representatives of the Australian beef industry did seek input into the development of the import protocols and the committee was advised at its hearing on 25 February 2010 that these industry representatives were satisfied with the protocols.

4.21 However, the committee is concerned that the questionnaire which forms the basis for the import protocols that will apply under the new policy lacks a clear statement of the criteria against which applicant countries will be assessed. In particular, while the committee has been assured that applicant countries will be required to demonstrate equivalence with the requirements currently applying to Australia's own beef industry, the committee notes that there is no statement to this effect in the questionnaire. The committee believes that this is a reasonable expectation. The Australian beef industry routinely satisfies onerous and costly requirements, including SRM removal and in-country inspections of plant and systems, in order to export its product. It is only reasonable that countries seeking to export to Australia should face the same level of requirement as Australian beef producers.

4.22 However, the committee is concerned that there is no clear statement regarding how these requirements will be determined to be equivalent. The committee considers that greater clarity needs to be provided in the questionnaire itself as to how FSANZ will be guided in its assessment of applications. The committee considers that as a minimum requirement all countries wishing to export beef or beef product to Australia must be able to demonstrate that they have in place a national animal identification scheme with the same physical ability to trace an individual animal from birth to point of retail sale as Australia's National Livestock Identification System.

Recommendation 3

4.23 The committee recommends that FSANZ revise the Australian process to assess BSE risk, including the Australian Questionnaire to Assess BSE Risk, to include a clear requirement that applicant countries must demonstrate that they have in place a national animal identification scheme with the same physical ability to trace an individual animal from birth to point of retail sale as Australia's National Livestock Identification System.

4.24 The committee is also concerned that the assessments by FSANZ and those undertaken by Biosecurity Australia do not mandatorily include in-country inspections. The committee considers that a desk top analysis is no substitute for first hand assessment of the competencies and systems that underpin the management of livestock prior to slaughter and export. The committee has noted the criteria that may trigger an in-country inspection, but is still concerned that these require a subjective judgement on the part of FSANZ. The committee believes that the extent to which Australia's food and animal safety relies on subjective judgement should be limited and that in-country inspections must be undertaken as a matter of course as part of the assessment of each import application.

Recommendation 4

4.25 The committee recommends that FSANZ revise the Australian process to assess BSE risk, including the Australian Questionnaire to Assess BSE Risk, to include a mandatory requirement for an in-country inspection to be undertaken as part of the assessment of each application to import beef and/or beef product to Australia.

Parliamentary scrutiny

4.26 One of the committee's key concerns in this inquiry is the reality that a policy change as significant as this could be developed and implemented without any effective scrutiny. The committee has noted that the policy change does not require any change to primary or delegated legislation and as a result would not normally come before the Parliament. The committee has also noted that responsibility for the development of the policy rests primarily with FSANZ, with some input from DAFF, Biosecurity Australia and AQIS.

4.27 The categorisation of applicant countries will be undertaken by FSANZ on behalf of the Australian BSE Food Safety Committee (ABFSC) and approved by the Chief Executive Officer of FSANZ. Similarly, the committee notes that any reviews of country classifications will be considered by ABFSA and any subsequent review of the policy or the questionnaire through which it is primarily administered will be undertaken at the discretion of FSANZ. The committee has expressed concern in previous inquiries about questions of biosecurity not being subject to appropriate scrutiny.⁸ The committee accepts that FSANZ and its officers are accountable in a broad sense to the FSANZ board and ultimately to the Minister. However, this is not the same as Ministerial sign off on policy decisions, or parliamentary scrutiny of significant changes in policy.

Recommendation 5

4.28 The committee recommends that the Government review the administrative framework through which policy relating to implications for food safety and plant and animal health arising from import applications is developed. The committee recommends that final responsibility for the development and administration of such policy should rest with the Minister and that such policy and administrative procedures should be reflected in legislative instruments to ensure that they are subject to appropriate parliamentary scrutiny.

8 See for example: Rural Regional Affairs and Transport Committee, *Administration of the Department of Agriculture, Fisheries and Forestry, Biosecurity Australia and Australian Quarantine and Inspection Service in relation to the final import risk analysis report for apples from New Zealand*, June 2007; Rural Regional Affairs and Transport Committee, *Import risk analysis (IRA) for the importation of Cavendish bananas from the Philippines*, June 2009.

Country of origin labelling

4.29 The committee notes that, while country of origin labelling requirements apply to unpackaged fresh pork and seafood, there is no such requirement for unpackaged fresh beef. The committee also notes that responsibility for developing standards in relation to food labelling rests with FSANZ and that Australia's food labelling law and policy is currently under review.

4.30 The committee considers that country of origin labelling is a significant related issue in the context of any decision to relax beef import requirements. Ultimately the decision to consume beef or beef product from other countries should rest with the consumer. The committee considers that consumers are entitled to make such choices on the basis of clear and accurate country of origin labelling.

Recommendation 6

4.31 The committee recommends that Australia's current labelling requirements are amended to reflect the country of origin for all food products including unpackaged fresh beef.

Ministerial request for import risk analysis for beef imports

4.32 On 8 March 2010 the Minister for Agriculture, Fisheries and Forestry, the Hon Tony Burke MP, announced that he had written to the Director of Quarantine requesting Biosecurity Australia do an IRA for fresh beef (chilled or frozen) from countries other than New Zealand. The Minister stated that:

I have formed a view that conducting an Import Risk Analysis is the best way of reassuring the Australian community that effective protocols will be put in place to provide for the safety of imports.

...

This is a formal review process with specified timelines, guaranteed opportunities for community engagement and consultation as well as the added assurance of review by the Eminent Scientists Group.⁹

4.33 The Minister also stated that the policy previously announced would remain in place, but that the assessment of the risk of such imports will now have a higher level of formality.¹⁰

4.34 The committee welcomes this announcement as a belated victory for commonsense. However, the committee proposes to examine the implications of the

9 Minister for Agriculture, Fisheries and Forestry, the Hon Tony Burke, *Import Risk Analysis for beef imports*, DAFF10/389B, 8 March 2010.

10 Minister for Agriculture, Fisheries and Forestry, the Hon Tony Burke, *Import Risk Analysis for beef imports*, DAFF10/389B, 8 March 2010.

Minister's announcement at a further public hearing in order to gain a complete understanding of how the import policy will now be implemented, and the extent to which this implementation process will be subject to appropriate ministerial scrutiny.

4.35 The committee notes that under the expanded IRA provided for in the Import Risk Analysis Handbook 2007 (update 2009), there is no express requirement for an in-country inspection to be undertaken as part of an IRA. The committee also notes that the implementation of risk management measures, or protocols, is undertaken once the formal IRA process has been completed and a determination has been made by the Director of Animal and Plant Quarantine. The committee proposes to examine the extent to which both the assessment of risk and the assessment of claims made in import applications from importing countries will be verified through in-country inspections. The committee will also examine the extent to which provision will be made for consultation in the development of the import protocols under the IRA process proposed by the Minister.

Senator Fiona Nash
Chair

Dissenting Report by Government Senators

1. Rationale for the policy change

In 2001, the Australian Government introduced a blanket ban on the domestic sale of beef and beef products from any country that had a confirmed case of BSE. It was implemented to protect the Australian population from BSE contamination in the food supply, because of the link made between the consumption of certain tissues from BSE infected cattle and the rare fatal human disease Creutzfeldt-Jakob Disease (vCJD).

At the time of the outbreak, the ban on the importation of beef into Australia was based on the best scientific knowledge available. It was acknowledged that this science was conservative, and that it would be subject to review.

The science has since been reviewed as a result of the now vast body of international scientific evidence that supports a relaxation of this approach.

Throughout the Inquiry, Government Senators have become aware of a number of key reasons as to why a change in policy was required:

1. The science has developed significantly since the ban on imported beef was introduced in 2001.
 - It is now scientifically evident that BSE cannot be introduced by the safe importation of beef (i.e. there is no viable pathway for BSE to enter Australia).
2. The risk to human and animal health can no longer be the reason to prevent imports of beef.
3. The vast majority of the Australian beef industry strongly support the change in policy
 - The peak body for the Australian beef industry (the Red Meat Advisory Council Ltd) sought these changes, noting that it had been an outstanding issue for more than two years.
 - The beef industry sought confirmation that they will be consulted in the development of the import protocols. FSANZ consulted with the peak industry body in the development of the policy.
4. The trade implications of not changing the policy are significant.

- Key to Australia's trade policy is our commitment to abide by the international trade rules. The former policy is inconsistent with current science and the relevant international standard.
5. Beef off the shelf
- The policy of 'beef off the shelves' is gone with the introduction of the new policy. For our domestic industry, this means we no longer have the ridiculous situation where if there was an outbreak in one corner of Tasmania, all Australian beef would have to be removed from all Australian shelves. That policy is finished with.

The change in policy was announced on 20 October 2009. The Department of Foreign Affairs and Trade (DFAT) in their Submission explained that the change in policy followed a Government Review that considered a range of issues, including the current international standard, international practice in BSE management, the latest scientific information on BSE and vCJD and international trade rules and trade implications.

The Committee has been told that the Government Review included extensive consultation with a wide range of health and beef industry stakeholders. No concerns were raised by those that were consulted. This has satisfied Government Senators that appropriate consultation took place. Indeed Government Senators acknowledge that the Department of Agriculture, Fisheries and Forestry's role in developing the new policy was to conduct consultations during policy development with peak beef industry bodies i.e. the Red Meat Advisory Council Limited (including its members the Cattle Council of Australia and the Australian Meat Industry Council), Meat and Livestock Australia and the National Farmers' Federation and the state and territory animal health officials.

2. Industry support

Government Senators note the strong support from the vast majority of the Australian beef industry for this change in policy.

The Red Meat Advisory Council Limited (RMAC) is the peak body for the Australian beef industry. RMAC has as its members Australian Meat Industry Council, Cattle Council of Australia, Sheepmeat Council of Australia, Australian Lot Feeders' Association and Australian Livestock Exporters' Council.

RMAC's Submission to the Inquiry noted that "BSE is not a contagious disease, and its only significant route of transmission is through feeding cattle meat and bonemeal produced from BSE-infected cattle." (SAFEMEAT).

RMAC has clearly expressed their support for the policy change in their Submission to the Inquiry:

“The Federal Government’s decision to modernise Australia’s import policy as it relates to beef and beef products is scientifically justifiable and supported by industry. Until this change, Australia stood out from the international trading community as having an outdated policy developed at a time when scientific knowledge was significantly less than it is today. With the rigorous application of the new rules Australia will continue being recognised as a Negligible BSE Risk country and enjoying the level of trade this has traditionally brought” (RMAC Submission, 26 November 2009, p.7)

RMAC’s members include representatives from industry groups along the supply chain – from beef producers to processors to retailers. Government Senators feel confident that these views are therefore representative of the Australian beef industry.

The Committee heard that a key factor in the Government’s decision was the correspondence from RMAC urging a policy change. That is, that **a change in Australia’s BSE policy was sought by the Australian beef industry.**

The Cattle Council of Australia (CCA) is the peak national lobby group for beef cattle producers. CCA represents over 20,000 beef cattle producers and more than 50 per cent of the Australian beef cattle herd. In its submission to the inquiry, CCA explains that it:

“supports the policy being adjusted to better align with international standards and trading policies, provided that such a change is underpinned and justified by science.”

This view is also shared by the Australian Meat Industry Council, the Peak Council that represents retailers, processors, exporters and smallgoods manufacturers in the post-farm-gate meat industry. AMIC has noted they:

“support Australian food safety legislation coming into line with international standards so beef is not removed from sale if a BSE case is detected in Australia”.

In their Submission, CCA notes that it understands that it was intended that the policy be reviewed two years after it was instigated. It notes that the review commenced in 2003 but stalled sometime after. **Government Senators question why the previous government, with knowledge of the science, did not change this policy.**

Economic consequences of the policy change

It is also evident to the Committee that **the Australian beef industry does not feel threatened by the economic consequences of this change in policy.** That is, the threat of imports ‘taking over’ is not real.

Prior to the ban, imports as a percentage of Australian beef consumption have historically been very low — mostly well under one per cent.

The highest ever beef imports into Australia were in 2004-2005, when Australia imported just over 8 thousand tonnes. That equates to 1.14% of Australia’s total beef consumption. Importantly, this was before the ban on US beef (i.e. before they had a BSE outbreak) and includes periods of time when the Australian dollar was strong against the US dollar. This means that even in the year of the greatest ever amount of imported beef, it was only a tiny proportion of our overall beef consumption.

Also, the Committee heard that the Australian beef industry is very competitive. It is the second largest exporter of beef in the world, producing 4 per cent of the world’s beef supply. It is a \$7.1 billion industry that exports more than 60 per cent of its production. Australian beef producers are clearly able to compete on the world stage. Therefore, the threat of product substitution is not real.

There has been specific concern that meat from the United States will flood the Australian market. Meat and Livestock Australia have indicated that the US consumes approximately 95 per cent of its production with the majority of its exports being forequarter cuts to Asia, tongues to Mexico and livers to Egypt. They further note that these cuts are unlikely to find a large consumer base in Australia.

This is backed up by ABARE in their most recent publication *Australian Commodities*, March quarter 2010:

"It is likely that the potential quantity of beef or beef imported under these changed conditions [the new BSE policy] will be small given the competitiveness of the Australian beef industry and the small quantities of imported beef, both historically and currently. The combined effect of the medium-term projections of saleyard prices and production, allowing Australia to remain a significant global beef exporter, and transport costs suggests that any potential imports would have to focus on small niche markets to be competitive. Prior to the decision in 2001 to stop imports from countries that had one or more cases of BSE in its cattle herd, Australia only imported small quantities of beef and beef products."

DFAT explained in their Submission that a change in policy may actually open up markets in the event of an indigenous case of BSE:

“Continuation of the 2001 policy may have resulted in our major markets treating Australia in similar terms to its treatment of them (i.e. banning our beef), leading to the closing of markets and very lengthy delays in reopening these markets. This would severely exacerbate the damage of any requirement to remove Australian beef from domestic butcher and

supermarket shelves. The new policy will put Australia in a stronger position to argue that it should not be excluded from its beef export markets should a BSE event occur in Australia”.

3. Human and animal health

The Committee received Submissions and heard evidence relating to both the risks and risk mitigation strategies for both human and animal health under the new policy.

Human health

The Department of Health and Ageing (DoHA) commissioned Professor John Mathews in 2009 to review the current scientific evidence on BSE. Professor Mathews is an eminent scientist with 40 years experience as an epidemiological researcher and is well equipped to consider the implications of a change in policy for human blood, human blood products and other human therapeutic goods.

The scientific evidence since the ban in 2001 has improved significantly. In developing his Report in 2009, Professor Mathews built on two earlier reviews, conducted in 2005 and 2006. In recognition of the greater knowledge of BSE, the World Organization for Animal Health (the OIE) agreed to amend the standard in 2005 and adopt a three category country classification system assessing countries as either ‘negligible’, ‘controlled’ or ‘undetermined’ BSE risk.

The final report ‘Review of Scientific Evidence to Inform Australia’s Policy on

Transmissible Spongiform Encephalopathies (TSEs)’ (Mathews Report) concluded that the overseas epidemic of variant Creutzfeldt-Jacob Disease (vCJD) is declining, and that beef imports from “controlled risk” or “negligible risk” countries, with appropriate certification, would lead to only a negligible increase in risk for vCJD in Australia.

The Submission by DoHA to the Inquiry listed the key findings from the Mathews Report:

“The Mathews’ Report concluded that:

- 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 OIE guidelines and European Community legislation, has shown that numbers of BSE-affected cattle are falling year by year in virtually all affected countries;
- The amount of BSE-infected material entering the human food chain in “controlled BSE risk” countries such as the UK is now very small because of the decline in BSE, the removal of brain and other specified risk materials (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
- An estimate of the absolute risk to Australians from UK beef imports, if this was to be allowed, is found to be 40 million times less than the risk from road accidents.”

The Committee was told that the Mathews Report was not only written by an expert, but it was also peer reviewed by expert scientists under the National Health and Medical Research Council’s Transmissible Spongiform Encephalopathies Advisory Committee. Australia’s Chief Medical Officer, Professor Jim Bishop, was also consulted.

The Australian Red Cross and their Blood Service are also satisfied that the change in policy will not impact on Australian blood supply. In a media release, the Red Cross has rejected claims that blood donations could be hindered by the Federal Government's decision to allow imports of beef from countries previously affected by mad cow disease.

Government Senators are therefore satisfied with all the available scientific and medical evidence that the risk to human health is not a reason to avoid the policy change.

Animal health

Government Senators understand that BSE can only be transmitted by feeding cattle meat and bonemeal produced from BSE-infected cattle.

In its Submission to the Inquiry, the Department of Agriculture, Fisheries and Forestry (DAFF) explained that BSE is not a contagious disease and has a very different route of transmission from viral diseases of livestock such as foot and mouth disease. It does not spread directly between cattle.

“The only important route of transmission is by feeding cattle with meat and bone meal by rendering BSE risk materials, such as brain and spinal cord, from cattle that are infected with BSE... Australia has in place comprehensive regulatory controls which prohibit the feeding of meat and bone meal to cattle and other ruminant animals. Therefore, there is no plausible route by which this non-contagious disease could be transmitted to Australian cattle via safe, imported beef which, in the case of Category 2 countries has already had BSE risk materials removed in the country of origin” (DAFF Submission to the Inquiry, p. 11)

Government officials consistently explained that countries that want to export beef to Australia will need to meet Australia’s strict quarantine conditions. This includes undergoing a rigorous risk assessment for food safety led by Food Standards Australia New Zealand (FSANZ). An IRA conducted by Biosecurity Australia will examine the animal quarantine issues. The new import conditions will require exporting countries to prove they have acceptable controls in place, even if a country has not reported

BSE, and demonstrate that those controls are monitored. This will include controls on food safety, animal health, surveillance, feeding and slaughtering practices.

In their Submission, DAFF explains that countries do not need to have exactly the same arrangements in place as those in Australia.

“It means that the measures that they do have in place provide a safe supply of beef and beef products at or above Australia’s appropriate level of protection. Australian officials may also conduct in-country audits if considered necessary”.

Government Senators also understand that the new policy takes into account the requirements of the OIE Terrestrial Animal Health Code. DAFF has explained that Australia’s new policy is more conservative than this Code in some aspects because it is tailored to Australia’s specific needs.

They note “the risk assessment will include a desk audit of technical submissions from applicant countries against the OIE’s criteria and using the OIE’s methodology. Additionally, an in-country inspection by Australian officials to verify this information will be undertaken if necessary. This is not part of the OIE’s methodology.”

From all the scientific evidence available, Government Senators are confident that the risk to animal health of importing beef is not a reason to avoid a change in policy.

4. Implications of not changing the policy

Government Senators consider the Committee heard a number of compelling reasons for changing the existing BSE policy relating to international trade rules.

First, the policy change is needed to bring Australia into line with our obligations as a Member of the World Trade Organisation. In particular, the Committee heard Australia is bound by the WTO Sanitary and Phytosanitary Measures Agreement (the SPS Agreement). This means we are entitled to implement rules to protect human, animal or plant life, but must ensure these rules are based on international standards.

Second, Australia would have to ban the sale of Australian beef in the event of an outbreak of BSE in Australia. The Committee heard that this relates to WTO rules on ‘national treatment’ which mean we cannot discriminate between locally and foreign produced goods. In short, if we ban the sale of beef from countries that have had a BSE outbreak, and Australia has an outbreak, we have to ban our own beef. The Committee heard that the States and Territories enforce Australian food standards, not the Commonwealth. However, Government Senators agree that this does not change Australia’s international obligations; it does not matter what level of government makes a decision that breaches international trade rules. Australia would still be in

breach of international trade rules if the States did not ban Australian beef from the shelves if there was a BSE finding in Australia.

Third, Australia's current BSE policy exposed Australia to a WTO dispute. The Committee heard that for the reasons outlined above, a number of countries, including Canada and the US, had made representations on this policy and suggested it was inconsistent with our WTO obligations. In particular, we heard from DFAT that there was a strong risk of a WTO dispute challenge because:

“A number of trading partners have complained over a long period that Australia's 2001 policy was no longer consistent with the science, the relevant international standard or Australia's WTO obligations”.

The Committee also heard that Canada had already initiated a WTO dispute against Korea and that the issues in that case were very similar to the ones we would face. In fact, the Committee heard that Australia's current policy is even stricter than Korea's on BSE.

Fourth, the Committee heard there were commercial imperatives to compliance with international trade rules. The Committee heard that the beef industry is very important to Australia in terms of both its domestic and export value – more than 60% of the total \$7.1B of beef produced in Australia each year is exported. The Committee heard there would therefore be adverse ramifications for our beef export trade if the policy remained unchanged or a WTO dispute was brought against Australia. In particular, DFAT told the Committee that continuation of the 2001 policy may have resulted in retaliation, with major markets closing down trade in response to our ban on beef from those markets. Equally, the committee heard there would likely be significant damage to Australia's beef trade – both in domestic and foreign markets – if Australian beef was withdrawn from sale due to a BSE outbreak.

Fifth, there was little evidence to suggest there would be any significant change to the imports levels of beef into Australia following the change in BSE policy. The committee was told that the Australian beef industry is very competitive, being the second largest exporter of beef in the world, producing 4% of the world's beef supply, producing \$7.1B of beef annually and exporting around 60% of that production. Moreover, the Committee was told that historically Australia has imported very little beef, and that this trend was evident even before the BSE ban was in place and even during times when the Australian dollar was strong against the US dollar.

5. Food labelling

Government Senators recognise that labelling has been raised as part of this debate.

Government Senators note that:

- Our quarantine standards protect consumer safety, whereas our food labelling laws are aimed at consumer information and choice
- Government Senators note, therefore, that it is our import standards on human and animal health that protect against the importation of unsafe beef, not country of origin labelling which serves to inform consumer choice
- There are anomalies in some of our labelling laws as a result of conflicting and contradictory rules developed under the previous government
- Therefore the Council of Australian Governments and the Australia and New Zealand Food Regulation Ministerial Council have agreed to undertake a comprehensive review of food labelling law and policy.
- Government Senators acknowledge that the Primary Industries Ministerial Council has noted the need for further consideration of country of origin labelling of red meat at its November 2009 meeting.

In response to consumer concerns, Government Senators note that the important issue of labelling is being addressed. In a press release of 9 March 2010, the Parliamentary Secretary for Health, the Hon. Mark Butler MP, stated:

“We have taken expert advice and implemented strict risk management procedures to ensure that our food safety standards will not be compromised by these changes. In addition, the Government is taking action to respond to consumer concern about labelling of beef products.

Australians can be confident that there will be clear labelling in place before any imports under the new rules occur so that consumers can easily choose to buy only Australian beef or beef products should they wish to do so”.

6. Announcement of an Import Risk Analysis (IRA)

The Minister for Agriculture, Fisheries and Forestry has written to the Director of Quarantine requesting that IRA for the importation of beef from countries other than New Zealand be commenced.

Government Senators note the media release, issued by the Minister for Agriculture, Fisheries and Forestry, the Hon. Tony Burke MP, on 8 March 2010 explained:

“There has been significant community concern raised questioning whether or not the protocols which were to be put in place, adequately engaged the community and the extent to which they were different from a legislated Import Risk Analysis.

“These community concerns have been brought to me directly through Labor backbench colleagues and through the media. I have formed a view that conducting an Import Risk Analysis is the best way of reassuring the

Australian community that effective protocols will be put in place to provide for the safety of imports”.

Minister Burke also explained that “There are three differences between the decision I have taken today and the process which has been available since the first of March; this is a formal process with statutory time lines, guaranteed opportunities for community engagement and consultation, and involvement of the eminent scientists group”.

The IRA process will consider the animal biosecurity risks. Government Senators note that the IRA will provide additional reassurance and certainty to the Australian community. They also note that the IRA process will include the involvement of the Eminent Scientists Group.

7. Recommendations and Conclusions

Government Senators are concerned about some of the statements and recommendations made in the Committee’s report. In relation to the specific recommendations, Government Senators make the following remarks:

Recommendation 1

The Committee recommends that the provisions for the recall of beef, in the event of an Australian case of BSE, should be developed in consultation with the Australian beef industry.

Government Senators heard throughout the Inquiry that this is the approach that the Government took in developing the policy. This was reiterated by key industry representatives during the Inquiry, who explained the consultation process. Industry representatives also expressed their satisfaction with the consultation process.

The Committee heard that a key factor in the Government’s decision was the correspondence from RMAC urging a policy change because of this concern.

The change in policy means for our domestic industry that we no longer have the ridiculous situation where if there was an outbreak in one corner of Tasmania, all Australian beef would have to be removed from all Australian shelves. This is sensible policy, and the change in policy has been appreciated by the Australian beef industry.

As mentioned earlier in this Report, Government Senators cannot understand why the previous Government, with the knowledge of how much damage this could cause, did not address this issue earlier, particularly because it had been raised with them by the Australian beef industry.

The Committee also recommends a COAG process to seek input and agreement from the relevant Federal, State and Territory human health and food safety Ministers.

Government Senators recognise the importance of discussions between Commonwealth and state/territory governments. It is not, however, the role of this Committee to determine whether a discussion at COAG is necessary. Government Senators believe that this issue could be discussed via another means, such as the Primary Industries Standing Committee (PISC) and Primary Industries Ministerial Council (PIMC).

Recommendation 2

Government Senators do not believe that all administrative process for the assessment of applications from countries seeking to import beef need to be suspended pending the outcome of a formal IRA. This does not add value to the process, nor make it more rigorous. Government Senators heard consistently from trade experts that this process should not be drawn out for longer than necessary.

The Government has made it clear that the necessary technical assessments – both protocols and the IRA - will be undertaken in a timely manner.

Recommendation 3

The Committee recommends that the Questionnaire to assess BSE risk must demonstrate that applicant countries must demonstrate that they have in place a national animal identification scheme with the same physical ability to trace an individual animal from birth to point of retail sale.

Government Senators are confident that the traceability requirements under the new policy are stringent.

The traceability requirements on countries wanting to export beef to Australia have been discussed at length by Government officials, who explained that the ability to trace both backwards and forwards is necessary.

The rigorous nature of the traceability requirements was reinforced by the Chief Veterinary Officer, Dr Andy Carroll who said during the Inquiry that “we can be absolutely convinced that the traceability system meets our requirements”.

The CEO of FSANZ also remarked “that what we want to see, in doing our assessment of the risks for food safety, is the ability of a country to track animals from their property of birth through to the slaughterhouse and back, and, similarly, to trace the birth or cohorts of that animal from that same property, where they may have been exposed to contaminated meat and bone meal, through the system as well. The concept is quite simple”.

This has been reinforced in a paper provided to the Shadow Minister for Agriculture, the Hon. John Cobb MP, by the Minister for Trade, the Hon. Simon Crean MP. The Government’s approach to traceability has been clearly outlined:

“We will demand the same traceability standards of foreign beef producers as we demand of Australian beef producers”.

After listening to the technical experts, Government Senators feel confident that the traceability requirements for imported cattle under the new policy are adequate.

Recommendation 4

The Committee has recommended a mandatory in-country inspection be undertaken as part of the assessment for each import application.

Committee members heard repeatedly through the hearings that in-country inspections would be undertaken if necessary. It is unnecessary for this Committee to mandate such a requirement. Government officials are undertaking a science-based process. It is for the relevant food safety and quarantine authorities to determine if an in-country inspection is warranted.

Recommendation 5

The Committee has recommended a review of the administrative framework through which the policy relating to import applications is developed. It also recommends that the final responsibility for the development and administration of such policy should rest with the Minister, and should be subject to appropriate parliamentary scrutiny.

Government Senators make two points in relation to this recommendation.

First, Government officials – whether in FSANZ, Biosecurity Australia or elsewhere – are accountable. There has been no dilution or change to the normal accountability levels of officials for this process. It is irresponsible for the Committee to suggest otherwise.

Second, the final decision relating to Australia’s quarantine import arrangements is made by Government officials with the technical ability to make such decisions. Government Senators understand that this process has been deliberately kept at arms length from Ministers. The Committee has been pleased to see the remarks from both the Ministers for Trade and Agriculture that this is a science-based process.

Recommendation 6

The Committee has recommended that Australia’s current labelling requirements are amended to reflect the country of origin for all food products, including unpackaged fresh beef.

Government Senators make the following points:

- As noted above, food labelling concerns have been raised in this debate

- Australia's rigorous import standards on human and animal health protect against the importation of unsafe food, including beef, whereas country of origin labelling serves to inform consumer choice
- There are anomalies in food labelling laws inherited from the previous government
- Parliamentary Secretary Mark Butler has announced that Australians can be confident that there will be clear labelling in place before any beef imports under the new rules occur and that Australians will be able to choose to buy Australian beef
- The Committee has not been tasked to review food labelling for all food products. Nevertheless, Government Senators note that the Government has also launched the Blewett Review into food labelling laws, to address anomalies on labelling for food products

Senator Glenn Sterle
Deputy Chair

Senator Kerry O'Brien

APPENDIX 1

Submissions Received

Submission Number	Submitter
1	Mr & Ms LM & PC Webb
2	Department of Health & Aging (DOHA)
3	Department of Foreign Affairs & Trade (DFAT)
4	Department of Agriculture, Fisheries & Forestry (DAFF)
5	Red Meat Advisory Council Ltd (RMAC)
6	Australian Beef Association (ABA)
7	Mr Robert Steel
8	Mr Paul & Ms Anne Jones
9	Ms Jillian Moverley
10	Alex Hodges & Ray Linkevics
11	Mr Angelo Saccon
12	Ms Anne Thomson
13	Mr Michael Delahunty
14	Mr Tony Wade
15	Delcie McCoy
16	Mr James Ayliffe
17	Mr Peter Hall
18	Hon Bob Katter MP
19	Harlie Smith
20	Mr Ron Moore
21	Ms Kirrily Smith
22	Mr Gordon Moore
23	Ms Gwen Moore
24	Mr Marshall Fittler
25	Ms Tegan Smith
26	Mr Josh Smith
27	Mr Ron & Ms Colleen Dean
28	Name Withheld
29	Mr Darryl Smith
30	Mr Jim O'Neill
31	Ms Karen Smith
32	Mr Simon Emmott
33	Devon Cattle Breeders Society of Australia (DCBSA)

- 34 Mr Newman Patmore
35 Dr Alan Fahey

Additional Information Received

- Received on 22 January 2010, from Red Meat Advisory Council (RMAC). Answers to Questions taken on Notice on 14 December 2009;
- Received on 22 January 2010, from Department of Foreign Affairs & Trade (DFAT). Answers to Questions taken on Notice on 14 December 2009;
- Received on 27 January 2010, from Australian Meat Industry Council (AMIC). Answers to Questions taken on Notice on 14 December 2009;
- Received on 4 February 2010, from Department of Agriculture, Fisheries & Forestry (DAFF). Answers to Questions taken on Notice on 14 December 2009;
- Received on 15 February 2010, from the Australian Beef Association (ABA). Answers to Questions taken on Notice on 5 February 2010;
- Received on 22 February 2010, from Department of Agriculture, Fisheries & Forestry (DAFF). Answers to Questions taken on Notice on 5 February 2010;
- Received on 22 February 2010, from Professor John Mathews. Answers to Questions taken on Notice on 5 February 2010;
- Received on 22 February 2010 & 26 February 2010, from Ms Suzanne Solvyns, CJD Support Network. Answers to Questions taken on Notice on 22 February 2010;
- Received on 22 February 2010, from Food Standards Australia New Zealand (FSANZ), Department of Health & Aging (DOHA). Answers to Questions taken on Notice on 22 February 2010;
- Received on 25 February 2010, from Department of Foreign Affairs & Trade (DFAT). Answers to Questions taken on Notice on 5 February 2010;
- Received on 1 March 2010, from Dr Roger Dunlop. Answers to Questions taken on Notice on 22 February 2010;
- Received on 5 March 2010, from Cattle Council of Australia (CCA). Answers to Questions taken on Notice on 22 February 2010;
- Received on 5 March 2010, from Department of Agriculture, Fisheries & Forestry (DAFF). Answers to Questions taken on Notice on 22 February 2010;
- Received on 5 March 2010, from Department of Agriculture, Fisheries & Forestry (DAFF). Answers to Questions taken on Notice on 25 February 2010;
- Received on 9 March 2010, from Meat and Livestock Australia (MLA). Answers to Questions taken on Notice on 22 February 2010.

TABLED DOCUMENTS**• 14 December 2009, Canberra ACT:**

- Mr John Carter, Australian Beef Association. Correspondence between Mr Mark Vaile, Minister for Trade and the Hon. Robert Zoellick, United States Trade Representative, dated 18 May 2004;
- Mr Brad Bellinger, Australian Beef Association. Email from Mr B Bellinger to Mr J Carter, dated 12 December 2009;
- Dr Robert Steel. Article: '*We'd be mad not to*', *The Land*, by Mr Tony Burke, Minister for Agriculture, Fisheries and Forestry;
- Dr Robert Steel. Letter: '*The Equine Influenza Outbreak from Eastern Creek Quarantine Station in Sydney*', by Mr Robert Steel published in *Sydney Morning Herald* Newspaper and *Director's Circular and PDF Team 2007 Bulletin*, p.3;
- Dr Robert Steel. Extract from article: '*Methodological Soundness of Literature Reviews*', *Table 3: Scope of 132 review articles on three potential zoonotic public health issues published between January 2000 and August 2006*;
- Professor John Matthews. Presentation: '*Scientific Review of TSE Risks for Australia*', John Matthews, Health Explanations Pty Ltd.;
- Dr Narelle Clegg, Department of Agriculture, Fisheries & Forestry (DAFF). '*Bovine Spongiform Encephalopathy (BSE): Requirements for the Importation of Beef and Beef products for the Human Consumption – Effective 1 March 2010*' document.

• 5 February 2010, Canberra ACT:

- Mr John Carter, Australian Beef Association. Email: '*ARCBS Donor Policy Fact Sheet*'.

• 22 February 2010, Canberra ACT:

- Ms Suzanne Solvyns, CJD Support Group Network. Information Pack – CJD Support Group Network;
- Dr Andy Carroll, Department of Agriculture, Fisheries & Forestry (DAFF). Opening Statement for hearing;
- Mr Greg Brown, Cattle Council of Australia. Opening Statement for hearing;
- Mr Greg Brown, Cattle Council of Australia. Media Release, '*Cattle Council set the record straight on BSE side letter*', May 2, 2007;'
- Mr Steve McCutcheon, Department of Health & Aging (DOHA). Statement to the Senate Rural & Regional Affairs & Transport References Committee.

- **25 February 2010, Canberra ACT:**
 - Senator Glenn Sterle. Email from Steve McCutcheon, FSANZ, to Natasha Bitá, Journalist, *The Australia*, dated 23 February 2010.

APPENDIX 2

Public Hearings and Witnesses

MONDAY, 14 DECEMBER 2009

- BARWELL, Mr Robert, Vice President,
Cattle Council of Australia
- BELLINGER, Mr Bradley Robert, Chairman,
Australian Beef Association
- BISHOP, Professor James Frank, Chief Medical Officer,
Department of Health and Ageing
- BROWN, Mr Greg, Cattle Council of Australia, Director,
Red Meat Advisory Council
- BURRIDGE, Mr Gary, Chairman, Processor Council,
Australian Meat Industry Council
- CARROLL, Dr Andy, Chief Veterinary Officer,
Department of Agriculture, Fisheries and Forestry
- CARTER, Mr John Edward, Director,
Australian Beef Association
- CLEGG, Ms Narelle, General Manager,
Residues and Food Safety Branch, Department of Agriculture, Fisheries and
Forestry
- CUDMORE, Mr Jim, President,
Australian Lot Feeders Association, and Director, Red Meat Advisory Council
- DORIAN, Mr John, Veterinary Counsel,
Australian Meat Industry Council
- GORDON, Mr Dougal, Executive Director,
Australian Lot Feeders Association
- JONASSON, Ms Kylie, Assistant Secretary,
Research, Regulation and Food Branch, Department of Health and Ageing
- MARTYN, Mr Stephen, National Director, Processor Council,
Australian Meat Industry Council
- MATHEWS, Professor John, Consultant,
Department of Health and Ageing
- McCARTHY, Ms Caroline Ann, Director,
Food Trade and Quarantine Section, Office of Trade Negotiations, Department
of Foreign Affairs and Trade

- McCUTCHEON, Mr Steve, Chief Executive Officer, Food Standards Australia New Zealand
- McIVOR, Mr Ian, Chairman, Red Meat Advisory Council
- MORRIS, Mr Paul Charles, Trade and Market Access Division, Department of Agriculture, Fisheries and Forestry
- PALMER, Mr David, Managing Director, Meat and Livestock Australia
- STEEL, Dr Robert John
- TOOHEY, Mr John Justin, Secretary, Red Meat Advisory Council
- YEEND, Mr Timothy John, First Assistant Secretary, Office of Trade Negotiations, Department of Foreign Affairs and Trade

FRIDAY, 5 FEBRUARY 2010

- BARTHOLOMAEUS, Mr Andrew, General Manager, Risk Management, Food Standards Australia New Zealand
- BELLINGER, Mr Brad, Chairman, Australian Beef Association
- BIDDLE, Dr Bob, General Manager, Animal Health Programs, Department of Agriculture, Fisheries and Forestry
- BISHOP, Professor James Frank, Chief Medical Officer, Department of Health and Ageing
- CARROLL, Dr Andy, Chief Veterinary Officer, Department of Agriculture, Fisheries and Forestry
- CARTER, Mr John Edward, Director, Australian Beef Association
- CUPIT, Dr Andrew Allan, Senior Manager, Biosecurity Australia, Department of Agriculture, Fisheries and Forestry
- HILL, Ms Amanda, Manager, Food Safety, Food Standards Australia New Zealand
- LAVENDER, Dr Andrew John,
- MATHEWS, Professor John Duncan, Consultant, Department of Health and Ageing

- McCARTHY, Ms Caroline Ann, Director,
Food Trade and Quarantine Section, Office of Trade Negotiations, Department
of Foreign Affairs and Trade
- McCUTCHEON, Mr Steve, Chief Executive Officer,
Food Standards Australia New Zealand
- McDONALD, Ms Mary, First Assistant Secretary,
Regulatory Policy and Governance Division, Department of Health and Ageing
- MORRIS, Mr Paul, Executive Manager,
Trade and Market Access, Department of Agriculture, Fisheries and Forestry
- O'BRIEN, Ms Julia Catherine, Executive Officer,
WTO Trade Law Branch, Office for Trade Negotiations, Department of
Foreign Affairs and Trade
- READ, Mr Greg, Executive Manager,
Biosecurity Services Group Food, Department of Agriculture, Fisheries and
Forestry
- STEEL, Dr Robert, Veterinary Surgeon
- YEEND, Mr Timothy John, First Assistant Secretary,
Office of Trade Negotiations, Department of Foreign Affairs and Trade

MONDAY, 22 FEBRUARY 2010

- BISHOP, Professor James Frank, Chief Medical Officer,
Department of Health and Ageing
- BROWN, Mr Greg, President,
Cattle Council of Australia
- CARROLL, Dr Andrew Gerard, Chief Veterinary Officer,
Department of Agriculture, Fisheries and Forestry
- DUNLOP, Dr Roger John Massie
- HALL, Mr Peter John, Executive Councillor,
Cattle Council of Australia
- JONASSON, Ms Kylie, Assistant Secretary, Research,
Regulation and Food Branch, Department of Health and Ageing
- McCARTHY, Ms Caroline Ann, Director,
Food Trade and Quarantine Section, Office of Trade Negotiations, Department
of Foreign Affairs and Trade
- McCUTCHEON, Mr Stephen Donald, Chief Executive Officer,
Food Standards Australia New Zealand

- McDONALD, Ms Mary, First Assistant Secretary, Regulatory Policy and Governance Division, Department of Health and Ageing
- MORRIS, Mr Paul Charles, Executive Manager, Trade and Market Access Division, Department of Agriculture, Fisheries and Forestry
- NUNN, Dr Mike, Principal Scientist, Animal Biosecurity, Department of Agriculture, Fisheries and Forestry
- PALMER, Mr David, Managing Director, Meat and Livestock Australia
- SOLVYNS, Mrs Suzanne Lesley, National Coordinator, CJD Support Group Network
- YEEND, Mr Tim, First Assistant Secretary, Office of Trade Negotiations, Department of Foreign Affairs and Trade

THURSDAY, 25 FEBRUARY 2010

- BISHOP, Professor James Frank, Chief Medical Officer, Department of Health and Ageing
- CARROLL, Dr Andrew Gerard, Chief Veterinary Officer, Department of Agriculture, Fisheries and Forestry
- JONASSON, Ms Kylie, Assistant Secretary, Research, Regulation and Food Branch, Department of Health and Ageing
- McCARTHY, Ms Caroline Ann, Director, Food Trade and Quarantine Section, Office of Trade Negotiations, Department of Foreign Affairs and Trade
- McCUTCHEON, Mr Stephen Donald, Chief Executive Officer, Food Standards Australia New Zealand
- McDONALD, Ms Mary, First Assistant Secretary, Regulatory Policy and Governance Division, Department of Health and Ageing
- McIVOR, Mr Ian Kemball, Chairman, Red Meat Advisory Council Ltd
- MORRIS, Mr Paul Charles, Deputy Executive Director, Australian Bureau of Agricultural and Resource Economics
- YEEND, Mr Tim, First Assistant Secretary, Office of Trade Negotiations, Department of Foreign Affairs and Trade

APPENDIX 3

Food Standard 2.2.1 Meat and Meat Products

11 Bovine meat and meat products must be derived from animals free from bovine spongiform encephalopathy

- (1) In this clause – **minor ingredient** means an ingredient that comprises no more than 300 g/kg of the food.
- (2) Subject to subclause (3), bovine meat and food ingredients derived from bovines must be derived from animals free from bovine spongiform encephalopathy.
- (3) Subclause (2) does not apply to –
 - (a) collagen from bovine skins and hides (including sausage casings produced from this type of collagen); and
 - (b) a minor ingredient of a processed product, where that ingredient comprises –
 - (i) bovine fat; and/or
 - (ii) bovine tallow; and
 - (c) gelatine sourced from bovine skins and hides; and
 - (d) dairy products sourced from bovines.

Editorial note:

Clause 11 applies to Australia only. Bovine products imported for sale in New Zealand are regulated by the New Zealand Food (*Prescribed Foods*) Standard 2007 and associated import requirements. ¹

1 Australia New Zealand Food Standards Code, Issue 103, p. 6, available on Food Standards Australia New Zealand website:
http://www.foodstandards.gov.au/srcfiles/Standard_2_2_1_Meat_v103.pdf viewed 1 March 2010.

APPENDIX 4

Letter from the Hon. Simon Crean MP, Minister for Trade to the Hon. John Cobb, Shadow Minister for Agriculture, Fisheries & Forestry, dated 25 February 2010.



THE HON SIMON CREAN MP
Minister for Trade

25 FEB 2010

The Hon John Cobb
Shadow Minister for Agriculture, Fisheries and Forestry
Suite RG 57
Parliament House
CANBERRA


Dear Mr Cobb

Thanks for taking the time to meet with me yesterday to discuss the policy change for the importation of beef and beef products.

As discussed, the Government is confident that this new policy satisfactorily meets Australia's human and animal health requirements.

Please find following the additional information you requested. I am hopeful that this information will help clarify the issues relating to traceability, IRAs and the protocols for Coalition members.

Please contact me if you require any additional information.

Kind Regards,


SIMON CREAN

1. Question: We have a world class NLIS. Will we be requiring equivalent traceability and use just as rigorous tests?

Answer: Yes. We will demand the same traceability standards of foreign beef producers as we demand of Australian beef producers. See below

Australian producer requirements	Importer requirements
1. Trace animal to origin/birth	Same Alternatives accepted: No
2. Trace animal forwards (ie destinations after production)	Same Alternatives accepted: No
3. Complete 1 and 2 within 48 hours	Same Alternatives accepted: No <i>(Note: although explicit in the protocol, this will be deemed a requirement by FSANZ)</i>
4. Electronic ear tags	Same Alternative method accepted: Yes - (i) plastic ear tags or (ii) 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)
5. National vendor declaration	Same Alternatives method accepted: Yes, equivalent method, but only where Australia has verified that the alternative method ensures the same outcome ie proper records/attestations about on-farm risk management measures
6. Livestock production assurance	Same Alternative method accepted: Yes, equivalent method, but only where Australia has verified that the alternative methods ensures the same outcome ie on-farm risks are managed (eg chemical treatments, no use of bone meal, veterinary drug use etc)

2. Why no IRA –is assessment as good as analysis?

Answer:

1. Australia has long imported beef. We have assessed all the diseases that can be carried by beef and have developed the best systems for ensuring these diseases don't enter – eg for FMD, rinderpest
2. We are doing exactly the same for BSE. We have the knowledge about the disease, we know how it's transmitted, we know how to managed the risks. Most importantly we know how to prevent entry of the disease into the human and animal health populations
3. 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.
4. So not only will countries wishing to export their fresh beef to Australia have to pass a rigorous assessment regarding their BSE risk, they will also need to abide by stringent import conditions for other animal health diseases
5. In summary: We are adapting the rigour of our current quarantine regime to those wanting to export to Australia. 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.

Note: Import Risk Analyses are appropriate in specific circumstances, as follows:

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 asses 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 Australian 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 that 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 risk

Needed to assess the probable extent of the harm	No Fully analysed. Minute risk (see above) plus timely traceability
Needed to identify pest/disease carried by beef	Yes But BSE addressed by human health protocols/assessment. Any other animal disease risk (eg FMD) dealt with through the assessment process.

3. Question: Please explain the protocols – how do they fit with the overall system?

Answer:

Steps	Requirements
Step 1	Country applies to the Australian BSE Food Safety Assessment Committee (chaired by FSANZ – includes DAFF representative)
Step 2	Country separately applies to DAFF to have Biosecurity Australia assess their animal quarantine risks – this is a separate process applying to fresh and frozen product
Step 3	<p>FSANZ assesses the risk category for <u>BSE</u></p> <p><u>Risk Category:</u></p> <ul style="list-style-type: none"> • Category 1 – negligible 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 <p><u>Criteria for judging risk category</u></p> <ul style="list-style-type: none"> (i) Assess completed <u>protocol questionnaire</u> (ii) If previous BSE outbreak, in-country assessment including on traceability, identification, diagnostic capability, slaughter and processing etc (iii) If previous BSE outbreak, ensure verifiable system to prevent export of risk material (eg brain, spinal cord etc) (iv) If previous BSE outbreak, ensure verifiable system of no cross contamination from risk material (v) If any criteria not met then category 3 (no imports)
Step 3	<p>If category 1 or 2 on BSE, then Biosecurity Australia/AQIS begins 8 steps to assess <u>overall quarantine risks:</u></p> <ul style="list-style-type: none"> (i) Assess animal health status in the exporting country (ii) Draft quarantine requirements (iii) Further in-country assessment may be required (iv) Draft quarantine requirements on website (v) Stakeholder comments considered (public, industry etc) (vi) Recommendation for a policy determination on quarantine requirements – eg on FMD, Rinderpest (vii) Determination provided to AQIS for applications for beef products

	(viii) AQIS implements certifications
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