

**QEAC****QUARANTINE & EXPORTS ADVISORY COUNCIL**

The Honourable Ian Callinan QC AC
High Court Justice
PO Box 72
Queen Victoria Building
SYDNEY NSW 1230

Dear Justice Callinan QC AC

I am writing regarding my letter of 10 October 2007 offering a submission to the Equine Influenza Inquiry from the Quarantine and Exports Advisory Council (QEAC).

Last week I welcomed the opportunity to speak with Mr Tony Meagher, Senior Council Assisting the Inquiry, and can now provide the Inquiry with a copy of the QEAC Submission (at Attachment 1), along with a full copy of the QEAC terms of reference.

During my conversation with Mr Meagher and associates, a copy of the AQIS Regulatory Framework Policy document was requested. I have attached a copy of this document for your information. Please note the title of the final document is now the AQIS Operational Framework Policy.

Please feel free to contact me on ph 08 8232 3388 if you have any questions regarding the submission.

Yours sincerely

John Crosby
Chairman
QEAC

4 February 2008



The Quarantine and Exports Advisory Council (QEAC)

Submission to the enquiry into Equine Influenza

The Quarantine and Exports Advisory Council (QEAC) is a non-statutory advisory body to the Minister for Agriculture, Fisheries and Forestry. QEAC was established in 1997 following the Government's consideration of the recommendations of the Review of Quarantine in Australia chaired by Professor Malcolm Nairn.

The Council's terms of reference are to:

- provide advice on major quarantine and export services policy issues and strategic directions for the Australian Quarantine and Export Service (AQIS),
- provide advice on the effectiveness of AQIS's program delivery;
- provide advice on matters referred by the Minister,
- help AQIS evaluate its performance
- act as a focal point to ensure broad-ranging consultation between AQIS, industry and stakeholders, and
- oversight implementation of the Government's decisions on the Nairn and Fish Task Force Reports

The membership of the Council is based on expertise and experience, not industry representation, and members are appointed by the Minister. The current membership is at Attachment A.

QEAC is uniquely placed to provide a broad, independent and informed view across all of the programs that AQIS is responsible for. The Council, however, has no direct role in the day-to-day operations of the programs administered by AQIS

Purpose of this Submission

As a member of the World Trade Organisation, Australia has both rights and obligations in relation to the operation of its national quarantine system. These are set down in the Agreement on the Application of Sanitary and Phytosanitary Measures (the SPS Agreement). The SPS Agreement provides, inter alia, that countries must make quarantine decisions based on scientific evidence and that any measures applied to proposed imports should be both consistent with Australia's appropriate level of protection and the minimum necessary in order not to unduly restrict trade.

QEAC is of the opinion that in developing policies and procedures for the importation of live animals into Australia, the system must be based on the best

scientific knowledge at the time, consistent with the appropriate level of protection that does not unduly restrict trade.

QEAC contends that because of Australia's obligations to the WTO and the application of the SPS agreement, a zero risk policy to the importation of live animals is not defensible. There is always a level of risk that must be managed. Policies and procedure to manage these risks can be applied at many points along the Quarantine (Biosecurity) Continuum; pre-border, border and post border, all must be viewed as integral parts of Australia's biosecurity system.

It would be wrong to rely solely on one aspect; the border, to mitigate the risk of the introduction of an unwanted disease through the importation of live animals, it is vital that we view the quarantine (biosecurity) risk as a shared responsibility and the best outcomes will be achieved when federal and state governments, industry and the community work together.

QEAC contends that, although Australia has experienced the introduction of equine influenza through the import of horses from Japan, the biosecurity system has not failed as the post border activities of the system have contained the incursion and will eventually eradicate the disease.

The Commission of Inquiry into the Introduction of Equine Influenza

QEAC welcomes this Inquiry into the circumstances of the introduction of Equine Influenza into Australia. It is vital for the continued high level of security of Australia's beneficial animal, plant and human health status that any introduction of exotic pests and diseases is thoroughly investigated and that Quarantine policy and operational settings are reviewed in the light of findings that are made.

It is important that any decisions to revise current policy and operational settings are taken in the light of the carefully researched and considered findings of the Commission of Inquiry. In making any such decisions it will also be important to consider whether proposed changes to the Quarantine procedures for imported horses have the potential not only to impact on the import into Australia of horses and other live animals, but also on the operation of all other of AQIS's Quarantine programs.

Term of Reference (a): the circumstances that have contributed to the outbreak of equine influenza in Australia

Australia has an extremely beneficial animal and plant health status in comparison with other countries and is free of many of the more significant pests and diseases that impose costs and restrictions on producers in other countries. However, given the realities of the volume of international trade, the rapidly growing worldwide movement of people and goods and natural occurrences including the movement of birds, fish and animals and wind-borne diseases,



there are from time to time incursions into Australia of exotic pests and diseases. Establishing the facts of the transmission path(s) is often difficult and in the case of a number of previous incursions it has not been possible, albeit after extensive processes of review, to be certain of the means by which the incursion occurred.

In the case of the EI incursion it will be essential that the inquiry examine and report on:

- the country of origin of the virus – is it conclusive that the virus emanated from Japan?
- the entry path into Australia – subject to the characteristics and behaviour of the virus, there are a number of potential entry pathways, including horses, persons and equipment travelling with horses and persons and equipment not travelling with horses;
- the effectiveness and operation of pre-border quarantine measures in accordance with the import conditions applying at the time of the EI outbreak;
- the effectiveness and operation of the border arrangements – in the case of live animals this includes their arrival in Australia and transportation to Post-border quarantine premises as well as the management of accompanying staff and equipment;
- the effectiveness and operation of the post-border quarantine processes – if the virus was brought to Australia by horse(s) and entered Eastern Creek, the likely vectors for transmission outside the quarantine premises includes AQIS staff, other persons in contact with the horse(s), birds or other vector, aerosol spread;
- the epidemiology of the virus in Australia and whether in the light of this knowledge there is cause to revise any of the existing pre-border, border or post-border requirements.

Term of Reference (b): the need for any strengthened biosecurity procedures for quarantine management of imported horses

Implications for Quarantine Policy

Australia's quarantine systems were the subject of a major review carried out in 1996 by a Review team chaired by Professor Malcolm Nairn. The Government's response to that Review in 1997 sets out the policy framework for Quarantine decision making in Australia. The Government endorsed seven key themes to underpin Quarantine Policy in Australia. They are:

- managed risk, based on science;
- a continuum of quarantine (pre-border, border, post-border);
- community responsibility;
- consultative decision making;

- external input to quarantine policy;
- enhanced capacity in plant and fish quarantine protection and policy; and
- delivering quarantine objectives.

Three of these themes are particularly relevant to consideration of possible outcomes from this Inquiry.

(i) *Managed risk, based on science*

“There are many paths for pests and diseases to enter Australia, by natural routes, accidents, or breaches of quarantine regulations. We cannot eliminate all these potential means of entry so therefore a zero risk quarantine policy is not possible. The Government accepts that there will always be an element of risk. The challenge facing us is to manage the risks within an appropriately conservative quarantine framework.”¹

Over the years, Australia’s Quarantine Policy stance has been criticised in some sectors of the community as ‘too risky’ and calls have been made effectively for a ‘no risk’ or ‘zero risk’ approach. A 1996 Senate Committee report on AQIS commented that the Committee was:

“concerned about the persistence of the view that “no risk” is a viable option for quarantine policy, despite consistent and unequivocal dismissal of this approach by previous reviews”²

The Nairn Review reported that it had received submissions also advocating a ‘no risk’ policy. However, the Committee concluded that;

‘... the continued perception in some quarters that there ever has been or ever can be a ‘no risk’ quarantine policy for any country ... reflects a fundamental misconception that needs to be corrected...’³

Clearly there are concerns in the thoroughbred horse industry and the broader community about the incursion of EI and the economic and social impacts associated with it. But, it is simply not possible to accept the *benefits of the* importation of any goods (including live animals) without also accepting that there are risks and potential costs also associated with it. The challenge is to design, and apply, policies and procedures that enable the risks to be managed to an appropriately conservative level.

(ii) *A continuum of quarantine (pre-border, border, post-border)*

¹ Australian Quarantine A Shared Responsibility: The Government Response, August 1997

² Australian Quarantine and Inspection Service. Report of the Senate Rural and Regional Affairs and Transport Legislation Committee, 1996

³ Australian Quarantine a shared responsibility, 1996



“The Review Committee emphasised the importance of a balanced approach to pre-border, border and post-border quarantine systems. There is a tendency for quarantine to be viewed as merely about border protection. This is understandable given that this is the most visible aspect of quarantine to the community. It has always been the position of this Government that an effective quarantine regimen comprises more than just border protection. The Nairn Report pointed out that quarantine needs to be seen as a continuum of activities involving pre-border measures to reduce the threat of entry, well targeted border controls, and post-border activities such as monitoring and surveillance to detect incursions at an early stage, with emergency response plans to contain, control or eradicate pests and diseases.

The Nairn Report highlighted the effectiveness of pre-clearance of passengers or goods in their country of origin as consistent with the principle of managing quarantine risks offshore. The Government acknowledges this and endorses the continuation and expansion of offshore pre-clearance as part of the pre-border phase of the continuum of quarantine.”⁴

This principle is reflected in the operation of the Live Animal import conditions in that each horse entering Australia (except from New Zealand) is required to undergo a period of Quarantine in the exporting country before departing for Australia. AQIS receives certification from the relevant government authority of the exporting country that the period of quarantine and all associated conditions have been met before the animal is permitted to leave the quarantine station.

This process of government-to-government certification is fundamental to world trade systems. It is the basis on which goods are able to move efficiently from one country to another. It is the basis on which AQIS accepts many goods into Australia. Some have argued previously that Australia should not ‘trust’ other country’s certification and that AQIS itself should carry out the verification of the pre departure quarantine procedures. Such an argument, when applied across all imports would simply be unmanageable and, if adopted by all countries, would see massive disruption to trade and enormous costs imposed on communities.

It is worth emphasising here that there are three levels of protection, each with their own types of costs and performance.

Pre-border is very effective, because it keeps the potential organism at the greatest distance from escaping in Australia. However the cost structure can be extremely high and the effectiveness variable, because of differences in standards of adherence to best practice and timing issues with disease incubation and identification. We rarely hear about potential incursions stopped at this level, but they are probably the largest in number.

⁴ Australian Quarantine A Shared Responsibility: The Government Response, August 1997



Border is the key point where everything has to proceed through a defined point for checking and identification. It is highly effective and highly cost effective, but is not perfect due to incubation times, deliberate concealment and human error.

The third level, Post-border, is not as well understood by the general population but is equally important. When a disease or pest incursion passes through the first two barriers its spread is often stopped by area quarantine together with various other aids, such as vaccination and animal slaughter. In many cases eradication is possible. This third level has been required, amongst others, for Foul Brood, Papaya Fruit Fly and now Equine Influenza.

It is at this point that the community affected by the incursion become vitally interested and accuse the system of having broken down. However, it is not until this third barrier is breached and cannot be closed that the system has failed to deliver the expected level of protection. This last stage can be very expensive and very visibly so and, typically, Governments would then consider the case for assistance to those affected.

In response to the out break of Foot and Mouth Disease in the UK in 2001 and the heightened quarantine concern in the community, the Australian Government committed extra expenditure, of \$596.4 million to increase the capacity of DAFF and the Australian Customs Service (Customs) to substantially strengthen Australia's quarantine border controls. Quarantine border intervention target rates were increased to more than 80% for passengers at international airports and 100% at other border entry points. The decision required AQIS to achieve specific intervention and effectiveness targets set by Government. Many of the IQI activities achieved their stated goals within a very short time of being put in place.

QEAC has been concerned for some time at the need to reassess the quarantine intervention targets and base them on sound risk management principles. A large amount of information has been collected as a result of the increased quarantine intervention initiatives which appear to indicate in some cases that resources could be reallocated to programs where there is greater quarantine risk associated with their activities. QEAC now questions whether this program is skewing the quarantine effort toward border inspection which is not helpful in mitigating risk across the quarantine continuum.

(iii) Community responsibility

"The Nairn Report identified a need to establish a new quarantine culture in Australia; a culture of shared responsibility. Quarantine is the responsibility of everyone; the Commonwealth, States, industry and the wider community. While the Commonwealth Government clearly has a leadership role, it is impossible for the Commonwealth to do it all alone. For example, people have to be responsible for what they bring back when travelling overseas, and



State Governments and industry each have an important role in developing incursion management plans, monitoring and surveying for pests and diseases and responding to outbreaks.”⁵

The concept of shared responsibility is fundamental to Australia's quarantine policy and AQIS's operational processes. In the time since the Government adopted the principle of shared responsibility, significant progress has been made in strengthening our systems through the process of building awareness of the importance of quarantine in the community generally and in engaging stakeholders in the delivery of procedures and processes that contribute to our quarantine security.

In the quarantine clearance of imported goods, for example, the private sector is actively involved in the training of staff in quarantine procedures and the delivery of services under audit and review by AQIS.

It has been reported that some stakeholders in the horse industry have argued that the involvement of private veterinarians in the process of Live Animal imports has in some way increased quarantine risk. The Council does not accept this view.

There are procedures set down for avoiding the possibility that visitors to, or staff working in, quarantine stations may inadvertently carry pests/diseases from the stations. This risk is mitigated by the clean-up procedures that apply to persons who have contact with horses in quarantine, not by who employs them.

Acceptance of the argument that only public sector employees may safely deliver quarantine security would have enormous implications for the delivery of all AQIS quarantine programs and flies in the face of experience with current systems that adopt the principle of shared responsibility.

Effectiveness of Australia's Quarantine Systems

AQIS manages 15 programs in all of which 8 are quarantine programs and 7 are export certification programs. The annual activity levels for key quarantine programs are as follows:

- Import Clearance – arrival of 1.6 million sea cargo containers, 420,000 air cargo containers and 2.1 million consignments of High Volume, Low Value air cargo. A wide range of other bulk cargo and machinery items are also processed by this program
- Seaports – arrival of over 12,000 vessels into Australian ports including over 100,000 sea passengers
Airports – arrival of over 59,000 flights carrying over 11.9 million passengers

⁵ Australian Quarantine A Shared Responsibility: The Government Response, August 1997



- Mail – arrival of over 146 million mail items
- Post-entry Plant Quarantine – 2 AQIS operated facilities receiving over 600 consignments of high risk plant materials
- Post-entry Animal Quarantine – 4 AQIS operated facilities receiving over 14,000 animals

The structure and operation of each of these programs reflects the underlying themes for Quarantine in Australia endorsed by the Government.

At the time the Government commissioned the Nairn report there were concerns in some sectors of the community that Australia's quarantine systems were not delivering the level of security appropriate to Australia's needs. These concerns were generated by consideration of import conditions for commodities such as salmon, chicken and pig meat and by a number of pest and disease incursions in prior years some of which were western flower thrips, papaya fruit fly, chalkbrood, northern pacific starfish and Japanese encephalitis.

The Review commissioned examinations of the incursion of exotic pests and diseases of animals and plants and of weed incursions over the 25 years preceding the Review. It concluded that:

“there is little or no evidence for an increased rate of incursions leading to the establishment of pests and diseases of animals or plants over the past 25 years – although weeds appear to show an increasing rate of incursions over recent years.”

These findings indicated that Australia's overall conservative quarantine policy stance and its quarantine programs and systems had generally served the country well, notwithstanding the enormous increase in trade and tourism that had occurred over the same 25 year period. In the succeeding 9 years since the review there is nothing to indicate that there has been an increase in the rate of incursions leading to the establishment of exotic pests and diseases.

Post-arrival Animal Quarantine Stations

AQIS and its predecessors have permitted the entry of live animals into Australia under strict quarantine conditions since the late 1950's. AQIS currently operates four government owned animal quarantine stations;

- Eastern Creek in New South Wales – dogs, cats, horses, bees
- Spotswood in Victoria – livestock, horses, dogs, cats, live birds
- Byford in Western Australia – dogs, cats
- Torrens Island in South Australia – hatching egg facility

Up until the late 1990's it also operated a facility on the Cocos Islands.



There are a range of non-AQIS facilities which may be used for post entry quarantine of specific commodities. These range from private quarantine stations (such as Sandown, which is used for live horse imports) to State operated facilities (used for post entry plant quarantine) and privately operated quarantine approved premises (including some academic research facilities, for example).

The development of policies permitting the importation of animals under certain conditions and the operation of the AQIS Animal Quarantine Stations has brought significant economic and social benefits to Australia.

Economic benefits

- The thoroughbred industry has benefited from the importation of stallions and mares for breeding.
- New industries have been able to be established, for example the importation of alpacas has led to a viable Australian alpaca industry emerging.
- Existing Australian industries also gain access to new genetic material to improve their value and sustainability – for example, the chicken industry has benefited from genetics introduced through the importation of hatching eggs.

Environmental benefits

- Live animal imports have also allowed Australia to participate in breeding programs to helping to save a range of endangered species, including White Rhinos from Zimbabwe, giraffes, bears, polar bears, seals, and various primate species.

Social benefits

- The live animal import protocols for cats and dogs enables families to bring their pets to Australia, providing significant social benefits.

QEAC Observations and Comments / Quarantine Issues for Future Consideration

Despite the high profile for quarantine and biosecurity in recent years, biological risk management, the global trading environment and the benefits of quarantine are still often poorly understood. Whilst all Australians enjoy a way of life to which quarantine continues to make a significant contribution, insufficient consideration is given to the complexity of the challenge or the need for sustainable funding of AQIS, BA and other related services.

Many factors will influence the shape or structure of AQIS during the period up to 2020, including:

- the structure and relative importance of the rural and primary industries in Australia



- the need to maintain Australia's freedom from major pests and diseases through effective quarantine measures to ensure that Australian agriculture's competitive trading advantage continues
- community attitudes and awareness of environment protection, advances and usage of science, animal welfare, globalised trade, and food safety / security
- the increasing level and speed of international movement of people into Australia – legally and illegally
- the extent and origin of international goods being brought into Australia by air and by sea
- the status of World Trade Organization / Sanitary Phytosanitary / Free Trade Agreements, obligations and the extent of international participation in these processes
- animal and plant pest and disease status of Australia's near neighbours and trading nations
- the balance between world population and food supply
- international conflicts which lead to the disruption of governments and the unpredictable movement of people
- advances in science for pest and disease surveillance and control
- unpredictable events
- impact of bilateral agreements on quarantine integrity.

It is early days but Australia, through the Primary Industries Ministerial Council (PIMC) is moving toward the development of a National Biosecurity Strategy incorporating human, animal, plant and environmental health initiatives. The outcome of this initiative will help shape the direction of quarantine in the future and the need for the development of strengthened quarantine strategies consistent with the National Biosecurity Strategy. Historically, these initiatives have a long lead time from inception to implementation and thus

QEAC recommends that this matter be raised to a higher level of importance and that adequate resources be made available to progress this initiative as quickly as possible.

Continued attention will need to be given to developing and sustaining traveller, trader, industry and community knowledge of, and participation in quarantine measures. The term 'biosecurity' will have a wider use and will be widely recognised in the community. Due to its strong international and national brand name it would not be appropriate for AQIS to adopt a new or different name as the word 'quarantine' may be in keeping with the trend to describe organisations by their outputs / outcomes rather than process or action.

In looking to the future, some additional thoughts come to mind which may shape the future of AQIS:



- barrier security will be more automated, conducted offshore and be more selective or targeted using the best and most recognised global risk management principles
- pre-border quarantine activities will be more prominent with an increasing proportion of quarantine staff located overseas to supervise offshore compliance, working in partnership with our trading partners
- overseas aid programs will have a strong human, animal and plant health focus with a mutual benefit to the participating countries
- agricultural products sold both locally and overseas will need extensive quality assurance certification, often much more stringent than Government standards as a result of the influence of large and very powerful global retail chains
- electronic trace-back systems will be mandatory on all products, and quality assurance will be adopted at all levels of the production chain creating opportunities for AQIS to link quarantine and export requirements into these systems
- bioterrorism could be expected to be an increasing challenge.

AQIS is probably one of Australia's most externally reviewed agencies and although a high level of scrutiny may be desirable, ongoing reviews take up considerable time and resources that may well be better placed in operational activities. Following on from initiatives and programs put in place over the last two to three years, Australia's level of quarantine protection cannot and must not be compromised. Acceptance is needed on what could be termed a 'Baseline Operational Resource Requirement' which in turn sets in place minimum operational standards and benchmarks for all AQIS Programs.

This baseline need not be fixed but tied to the forecast volume of tourism and trade. In adopting this approach, it may well reduce the need to continually waste valuable AQIS resources justifying the continuation of marginal program enhancements. However, it is both appropriate and necessary that various programs should be subjected to ongoing or regular review in order to gain increased effectiveness, efficiencies and, where required, reallocation of resources to achieve the highest level of overall risk management practically achievable within the resources available.

The potential risk of what may be termed the 'natural pathways' of quarantine risk such as migratory birds and wind born insects, seeds etc, must also be addressed by effective surveillance systems as part of the quarantine continuum. These pathways are ever present making the early detection and prompt control of pests and diseases essential parts of our quarantine system.

It is essential that many of these initiatives and issues be pursued and it is the intention of QEAC to continue its process of review of the programs within AQIS and its role as the independent, industry based adviser to AQIS BA and DAFF on quarantine and market access issues. The approaches to quarantine first



recommended in the 1996 Quarantine Review (led by the first Chairman of QEAC, Professor Mal Nairn) are as applicable today as they were in 1996, namely:

- managing quarantine risk using a scientific based approach
- adopting the concept of a continuum of quarantine (pre-border, border, post-border)
- quarantine being a shared responsibility between Government, industry and the community
- improved consultative mechanisms.

Comment

The Australian public has considerable respect and admiration for Australia's current quarantine systems and has an expectation that ongoing efforts and programs will continually be put in place by Government(s) in order to maintain the low pest environment and internationally recognised reputation for high quality, safe produce that Australia has earned and enjoys.

However, like all regulatory and enforcement agencies, it is exposed to severe and sometimes very pointed criticisms from those who have had their normal business or social life disrupted. Sometimes these criticisms are correct, as AQIS is a very large bureaucracy made up of fallible individuals. Sometimes they are exaggerated or unfounded.

The alternative is hard to imagine.

Therefore committees such as QEAC and the industry consultative committees have been set up to help AQIS, BA and DAFF in ensuring the task is carried out with the maximum focus on interacting with the general population in the best way possible, but with a clear view to maintaining Australia's envied status in biosecurity.