

**REVIEW OF AUSTRALIA'S QUARANTINE AND BIOSECURITY ARRANGEMENTS  
– PRELIMINARY COMMONWEALTH GOVERNMENT RESPONSE –**

***One Biosecurity: a working partnership***

The Commonwealth Government ('the Commonwealth') is pleased to release the report of the independent Review of Australia's Quarantine and Biosecurity Arrangements, *One Biosecurity: A Working Partnership*.

The review panel, chaired by Mr Roger Beale AO, has presented a far-reaching and comprehensive blueprint for a stronger Australian biosecurity system. The Commonwealth agrees in-principle with all of the panel's 84 recommended reforms (specific detail is provided in the attached table).

***Not broken, but far from perfect, and facing significant challenges***

Australia deserves a biosecurity system that protects the health of all Australians, our natural environment, and a biosecurity system which supports the competitiveness and ongoing viability of our valuable farming, fishing and forestry industries.

Australia's biosecurity system has served the nation well. Indeed, it is one of the best quarantine and biosecurity systems in the world. However, the panel found that while the system is far from broken, it is also far from perfect. A number of significant deficiencies in the current arrangements have been identified. The outbreak of equine influenza in August 2007 exposed significant deficiencies in relation to horse imports.

Australia depends on trade and this carries unavoidable risks. Managing these risks is becoming more challenging with the increased movement of goods and people between borders. Over the past four years, total passenger numbers by air and sea increased by nearly 30 per cent. Sea cargo containers increased by 26 per cent.

It is also a system which faces significant challenges. Climate change increases the risk of pests and diseases. The threat of agri-terrorism by extremist activists or terrorists is a growing concern. The urbanisation of rural regions and the intensification of agriculture also increase the challenge of containing a pest or disease if it does arrive on Australian shores.

Appropriately, the report proposes significant reforms to strengthen Australia's biosecurity system and to improve governance arrangements, transparency and timeliness.

Australia needs a biosecurity system that allows us to trade and to welcome more visitors while at the same time protecting the integrity of our environment, our favourable pest and disease status and the productivity of our primary producers.

The Commonwealth recognises that Australia's pest and disease status provides a competitive advantage when exporting to world markets. We expect our exporters to be treated fairly under World Trade Organization rules. In return, our trading partners also expect to be treated fairly, so that they can meet the legitimate needs of Australian consumers and businesses demanding overseas-sourced products.

The panel has provided the Commonwealth with a comprehensive reform blueprint that strengthens Australia's biosecurity system so that it can meet future challenges.

***Australia's biosecurity goal—a working partnership***

The Commonwealth agrees in-principle that the partnership between the Commonwealth, states and territories and industry should be enhanced to strengthen Australia's biosecurity arrangements. The development of a seamless biosecurity system, from pre-border to border

and post-border, in a genuine working partnership calls for a commitment of time, energy and resources.

The escape from quarantine of equine influenza resulted from a breakdown of the shared responsibility for Australia's biosecurity held by governments, industry and the community. The cost and disruption to the Australian community and the horse industry of the outbreak has been substantial.

The relationship between the Commonwealth and the states and territories will be especially important in the new working partnership. The Commonwealth will seek to establish a stronger relationship through a new compact – a National Agreement on Biosecurity. Negotiations on the new compact will commence shortly, with the intention of achieving broad agreement by the end of 2009. If agreement cannot be reached, the Commonwealth will endeavour to implement the best national system possible.

The Commonwealth appreciates the need for a strong working partnership with industry and the community. The Commonwealth intends to establish a new Biosecurity Advisory Council to replace the Quarantine and Exports Advisory Council, drawing together individuals with a broad range of skills and expertise in disciplines such as agriculture, health sciences, the environment and business. The Biosecurity Advisory Council will provide advice to the Minister for Agriculture, Fisheries and Forestry and the core institutions.

### ***New institutional arrangements***

The Commonwealth agrees in-principle that new institutional arrangements are required to strengthen Australia's biosecurity, restore trust, improve communication and foster a shared purpose among Australia's biosecurity agencies.

The Commonwealth will establish a new Authority to bring together the major functions currently delivered by Biosecurity Australia (BA), Australian Quarantine and Inspection Service (AQIS) and parts of the Product Integrity, Animal and Plant Health Division of the Department of Agriculture, Fisheries and Forestry (DAFF).

To build confidence in the system, the Commonwealth will appoint an Inspector-General of Biosecurity to ensure the integrity of the new arrangements into the future. This will be an expansion of the role of the Inspector-General of Horse Importation. The Inspector-General would have broad powers of audit and investigation and would report to the Minister on the performance of systems and programs administered by the new Authority.

These new arrangements will be supported by new biosecurity legislation, replacing the existing Quarantine Act – now a century old. Drafting of the legislation will take time. As an interim measure, administrative steps will be taken to consolidate functions within DAFF from 1 July 2009. An Inspector-General of Biosecurity will be appointed on an interim basis.

### ***Managing risks better***

In order to better allocate resources to the areas of highest risk, the Commonwealth supports the proposal to move to a risk-return approach for managing biosecurity and quarantine instead of the mandated intervention targets that have existed for several years. This will take time to develop and will be supported by enhanced intelligence, monitoring and surveillance in consultation with foreign governments, states and territories and industry as required.

The new Authority will need to collect more data on interceptions at points along the biosecurity continuum. It will share that data to enhance cooperation with industry and state and territory governments. The Authority will continuously refine biosecurity arrangements, such as the certification and auditing requirements for a company exporting food to Australia, the frequency of inspections at the border, or the intensiveness of domestic pest and disease surveillance operations. At each step, implementation and performance will be backed by quality management, verification and audit systems.

### ***Reinforcing independent, science-based decision making***

As recommended, the Commonwealth will make further improvements to our science-based approach to assessing the biosecurity risk of imports. Greater consideration will also be given to assessing the risks to human health and the environment.

The Commonwealth will continue to set the overall Appropriate Level of Protection for Australia. Provision will also be made in new legislation for the Minister to make Guidelines, consistent with our international obligations, on the principles to underpin Biosecurity Import Risk Analyses, Biosecurity Import Policy Determinations and import permit decisions.

Decision making on import risk analyses will be vested in a new independent expert panel – the Biosecurity Standards Commission. The Commission will undertake Biosecurity Import Risk Analyses with the support of staff from the Authority. It will also make independent Biosecurity Import Policy Determinations.

Decisions on import permits, which are currently the responsibility of the Director of Animal and Plant Quarantine, will now be made by the Director of Biosecurity. The Minister will not have the power to influence the outcome or process (other than a direction to commence an assessment) of an individual Biosecurity Import Risk Analysis or Biosecurity Import Policy Determinations.

### ***Resources for Australia's biosecurity effort***

Biosecurity is a sound investment, protecting our unique natural heritage and potentially saving Australia billions in costs that could be avoided from a major pest or disease outbreak or incursion. Moving to a risk-return approach will allow for a more efficient allocation of resources to high risk areas. Additional funding requirements will be considered in the normal Budget processes.

State and territory governments will also be expected to contribute to the shared effort through appropriate matching contributions to increased Commonwealth investment.

In accordance with the principle of shared responsibility and the Commonwealth's Cost Recovery Guidelines, and as recommended in the report, the 40 per cent export certification subsidy will lapse as scheduled on 30 June 2009. The report says the 'policy objectives' for this subsidy were 'unclear'. Across the board, industry will benefit from improved regulatory arrangements, a more efficient allocation of resources, and increased resources.

The Commonwealth agrees in-principle that the IT systems that support the operation of Australia's biosecurity functions are in need of significant redevelopment. The resourcing to achieve this will also be considered in future Budget processes.

### ***The promise of a better biosecurity system***

The delivery of the strengthened and improved biosecurity system envisaged in the panel's report is a major step in fulfilling the Commonwealth's commitment to the Australian people to improve Australia's biosecurity system.

The panel is commended for its insightful and detailed analysis, and its recommendations.

These reforms are aimed at preparing Australia for future challenges and making systemic improvements to areas in need of immediate reform.

These reforms strike the right balance and will restore integrity and confidence to our quarantine and biosecurity system.

RECOMMENDATIONS	COMMONWEALTH RESPONSE
<b>A NATIONAL BIOSECURITY SYSTEM</b>	
<p>1 The Commonwealth's biosecurity legislation should provide that authority given by the Commonwealth to import goods into Australia also authorises the goods to be imported into a state or territory on the same conditions (if any). It should provide that this authority operates to the exclusion of any state or territory law that imposes biosecurity regulation on the direct, or indirect via another state or territory, import of the goods into the state or territory.</p>	<p>(Recommendations 1-8)</p> <p>Agree in-principle</p> <p>The Commonwealth intends to negotiate with states and territories to develop and implement a national system, with the aim of achieving an agreement on the new system by end-2009.</p> <p>The Commonwealth intends to address the issue of roles, responsibilities and decision making arrangements as part of the legislative development process.</p>
<p>2 The biosecurity legislation should provide necessary legislative authority for a comprehensive system of tracing imported goods, including from their production or manufacture, through Australia's biosecurity border and into the community, to ensure that, among other things, the Commonwealth is able to enforce any biosecurity conditions imposed on the goods. The specifics, including priorities for application to products or classes of product, should be developed in consultation with relevant stakeholders. Authorised officers should be provided with comprehensive and consistent investigative, enforcement and prosecutorial powers.</p>	
<p>3 As part of this extended reach, the Commonwealth should increase its resources to support the monitoring, surveillance, investigation and, where appropriate, prosecutions associated with post-border biosecurity detections (see also Recommendation 74).</p>	
<p>4 The Commonwealth should extend its legislative reach to cover the field with respect to international and domestic ballast water regulation.</p>	
<p>5 In relation to biofouling, the Commonwealth's legislative reach should be restricted to international vessels arriving in Australia, with the states and territories retaining responsibility for domestic biofouling requirements. The Commonwealth should promote the development of an international convention covering biofouling through the International Maritime Organization.</p>	
<p>6 The biosecurity legislation should continue to provide for national powers to deal with biosecurity emergencies. However, the powers should not be limited to quarantineable pests and diseases and associated measures and emergencies. They should clearly extend to biosecurity measures generally and biosecurity emergencies supported by the Commonwealth's constitutional reach. The opportunity should be taken to rationalise and simplify the existing powers, including by providing that they may be invoked or exercised by the Minister rather than the Governor-General.</p>	
<p>7 The biosecurity legislation should provide the Commonwealth with the capacity to override a specified law of a state or territory that imposes biosecurity controls on the use, movement, treatment or disposal of domestic goods imported into the state or territory from</p>	

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<p>another state or territory. This capacity should only be available where the National Biosecurity Commission has determined that the biosecurity controls:</p> <ul style="list-style-type: none"> <li>a are not justified by an examination and evaluation of available scientific information; or</li> <li>b are more trade restrictive than required and so constitute a disguised restriction on interstate trade and commerce in domestic product(s).</li> </ul>	
<p>8 The National Biosecurity Commission may only assess and make such a determination in relation to a biosecurity control under a state or territory law if an application for such an assessment and determination has been made by the relevant Commonwealth or state or territory Minister.</p>	
<b>A NATIONAL AGREEMENT ON BIOSECURITY</b>	
<p>9 A National Agreement on Biosecurity, to underpin a partnership approach between the Commonwealth and the states and territories on biosecurity, should provide for:</p> <ul style="list-style-type: none"> <li>a the Commonwealth to consult with the states and territories on the Appropriate Level of Protection and Biosecurity Import Risk Analysis Guidelines and priorities for considering market access requests;</li> <li>b the Commonwealth to consult with the states and territories on the appointment of members of the National Biosecurity Commission (other than the Director of Biosecurity);</li> <li>c emergency response policy and arrangements, including the circumstances in which the Commonwealth would utilise its national emergency management powers;</li> <li>d the steps preceding the Commonwealth's use of its legislative authority to override inappropriate state and territory controls on interstate trade in domestic products;</li> <li>e joint decisions on national priorities for investment by jurisdictions, including in monitoring and surveillance (including identifying national priority exotic pests and diseases for Commonwealth investment), research and development and biosecurity infrastructure; and</li> <li>f full and automatic information sharing between jurisdictions (in a manner consistent with obligations under the <i>Privacy Act 1988</i>), including information collected through pre-border intelligence activities, border controls (such as interception data) and information gathered through monitoring and surveillance programs (see Recommendation 54).</li> </ul>	<p>(Recommendations 9-11)</p> <p>Agree in-principle</p> <p>The Commonwealth intends to negotiate with all states and territories to develop a new intergovernmental agreement.</p> <p>The aim will be to secure agreement with participating jurisdictions before the end of 2009 to enable supporting powers to be developed in new legislation.</p>
<p>10 The National Agreement on Biosecurity should replace existing</p>	

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<p>intergovernmental agreements such as the <i>Memorandum of Understanding on Animal and Plant Quarantine Measures</i> and the <i>Intergovernmental Agreement on AusBIOSEC</i>.</p>	
<p>11 The aim should be to develop the Biosecurity Act (see Recommendation 43) and negotiate the National Agreement on Biosecurity within two years. While agreement with the states and territories is highly desirable, the Commonwealth should reserve the right to proceed with the Panel’s recommendations unilaterally, or with a limited number of participating states and territories, if agreement is not forthcoming within that timeframe.</p>	
<b>INDEPENDENT, SCIENCE-BASED DECISION MAKING</b>	
<p>12 The biosecurity legislation should provide that Biosecurity Import Policy Determinations should be made by an expert and independent National Biosecurity Commission. The Commission’s functions, basis of appointment and decision making rules should be specified under the biosecurity legislation. Its functions should include providing expert advice to the National Biosecurity Authority (see Recommendation 16) and the Government on biosecurity matters more generally.</p>	<p>(Recommendations 12-15)</p> <p>Agree in-principle</p> <p>The Commonwealth intends to implement the proposed decision making arrangements in new legislation.</p>
<p>13 The Commission should include members with expertise in natural sciences related to risks of pests and diseases in plants, animals and humans, risk assessment and management, ecology, agricultural and food production and economic assessments. The Commission should comprise no fewer than seven and no more than nine members, including the head of the National Biosecurity Authority.</p>	
<p>14 More training should be provided to biosecurity officials on principles of proper decision making and the types of conduct that may amount to offences against them or breaches of the Australian Public Service Code of Conduct.</p>	
<p>15 The biosecurity legislation should create a targeted offence of assaulting, resisting, molesting, obstructing, intimidating or interfering with officers in the performance of their duties, analogous to that in the <i>Customs Act 1901</i> and the <i>Civil Aviation Act 1988</i>.</p>	
<b>INSTITUTIONAL ARRANGEMENTS</b>	
<p>16 The primary biosecurity functions currently within AQIS, Biosecurity Australia and Product Integrity, Animal and Plant Health Division should be brought together in a statutory authority—the National Biosecurity Authority. The National Biosecurity Authority should be an independent authority under the <i>Financial Management and Accountability Act 1997</i> with the head of the Authority having the personnel and management powers and obligations of a Secretary under that Act. Its functions should include protecting Australia’s biosecurity status in accordance with</p>	<p>(Recommendations 16-19)</p> <p>Agree in-principle</p> <p>The Commonwealth intends to define the powers and</p>

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<p>Australia's treaty obligations and Appropriate Level of Protection, as well as providing secretariat, research and administrative support to the National Biosecurity Commission in the conduct of its functions. The head of the Authority should be referred to as the Director of Biosecurity.</p>	<p>functions of the new Authority in legislation.</p> <p>The Commonwealth</p>
<p>17 An eminent Australian should be appointed as the part-time Chair of the National Biosecurity Commission, with the Director of Biosecurity being an ex-officio member of the Commission.</p>	<p>intends to take administrative steps to consolidate functions in advance of the new legislation.</p>
<p>18 The biosecurity legislation should expressly provide that the National Biosecurity Commission, and officers and other authorised personnel performing National Biosecurity Commission functions, are not subject to direction by the Government in performing their duties in relation to Biosecurity Import Policy Determinations. The legislation should also prevent the Government directing the Director of Biosecurity, or his/her delegate, in relation to an import permit decision.</p>	<p>As indicated in the Beale report, it is also intended that the restrictions proposed in recommendation 18</p>
<p>19 The export inspection and certification functions of AQIS should be transferred to the National Biosecurity Authority, but trade facilitation should remain a role of the Department, with technical expertise provided by the Authority as needed.</p>	<p>also extend to Biosecurity Import Risk Analyses.</p>
<p>20 The Commonwealth should establish within the Department of Agriculture, Fisheries and Forestry, a statutory office of the Inspector General of Biosecurity that will audit and report on the performance of the National Biosecurity Authority. The legislation should provide that the holder of this office have appropriate skills in relevant scientific and auditing or systems assessment disciplines. The appointment should be made by the Minister for a five year term and there should not be limitations on the appointment of persons on the grounds that they have been previously employed in the Australian Public Service or otherwise by the Australian Government.</p>	<p>(Recommendations 20-21)</p> <p>Agree in-principle</p> <p>Ahead of a statutory appointment, the Commonwealth intends to appoint an interim Inspector-General of Biosecurity,</p>
<p>21 The functions of the Inspector General of Biosecurity should subsume those recommended by Commissioner Callinan for the Inspector General of Horse Importation.</p>	<p>replacing the functions of the interim Inspector-General of Horse Importation.</p>
<p>22 The biosecurity legislation should require that the Commonwealth obtain the support of any five of the states and territories before it can appoint the Chair and members of the National Biosecurity Commission, other than the Director of Biosecurity.</p>	<p>(Recommendation 22)</p> <p>Agree in-principle</p> <p>The detail of the appointments process will be settled following</p>

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	discussions with the states and territories.
<b>SHARING RESPONSIBILITY</b>	
<p>23 A Biosecurity Advisory Council (replacing the Quarantine and Exports Advisory Council) should:</p> <ul style="list-style-type: none"> <li>a be established to provide strategic and policy advice on biosecurity issues to the Minister, to the National Biosecurity Commission and to the Director of Biosecurity; and</li> <li>b consist of non-representative members with a broad range of skills in biosecurity and related disciplines drawn from the Commonwealth and state and territory governments, business, academia and non-government organisations.</li> </ul>	<p>(Recommendations 23-28)</p> <p>Agree in-principle</p> <p>The Commonwealth intends to consult with industry to refine the shared responsibility and ongoing consultation arrangements.</p> <p>The Commonwealth intends to review co-regulatory arrangements in the context of the legislative development process.</p> <p>The Commonwealth intends to take administrative steps to establish an interim Biosecurity Advisory Council.</p>
<p>24 Commodity and/or sector based Industry Consultative Committees should continue to discuss operational biosecurity issues including the delivery of services and cost recovery for those services.</p>	
<p>25 All animal, plant and aquatic industries should commit to sharing the responsibility and costs of pest and disease response actions, with those who are not signatories to the relevant cost sharing agreement meeting their share of a response, possibly by way of levy to recover costs.</p>	
<p>26 The membership of Animal Health Australia and Plant Health Australia should be broadened to encompass environmental pest and disease issues including those affecting the aquatic and terrestrial environments.</p>	
<p>27 To enhance biosecurity planning:</p> <ul style="list-style-type: none"> <li>a where Industry Biosecurity Plans already exist, there should be strong encouragement for their implementation at an individual business level;</li> <li>b industries or sectors that are vulnerable but not covered by Biosecurity Plans (for example, the aquatic wildcatch and aquaculture industries), should be encouraged to develop a Biosecurity Plan; and</li> <li>c governments should work with managers of land for conservation purposes to ensure that they have appropriate biosecurity plans and practices.</li> </ul>	

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<p>28 There should be:</p> <ul style="list-style-type: none"> <li>a greater consistency in the administration, auditing, and response to non-compliance of co-regulators;</li> <li>b reduced regulatory burdens for businesses that maintain an excellent track record of compliance with co-regulatory agreements; and</li> <li>c wider adoption of co-regulatory arrangements.</li> </ul>	
<p>29 To enhance communications effectiveness:</p> <ul style="list-style-type: none"> <li>a messages promoting Australia’s biosecurity should cover the biosecurity continuum;</li> <li>b new communication options, including those available on the Internet, should be employed by the National Biosecurity Authority; and</li> <li>c particular efforts should be made in collaboration with the states and territories, local governments, community and business groups to inform peri-urban farmers, including from non-English speaking backgrounds, of Australia’s biosecurity policies and to engage them in monitoring, surveillance and response strategies.</li> </ul>	<p>(Recommendations 29-30)</p> <p>Agree in-principle</p> <p>The Commonwealth also recognises the importance of international stakeholders and will communicate the reforms to trading partners.</p>
<p>30 The National Biosecurity Authority should develop education and awareness programs for:</p> <ul style="list-style-type: none"> <li>a all importers regarding their obligations to meet Australia’s import requirements; and</li> <li>b the competent inspection and certifying agencies in the exporting countries to ensure that they meet Australia’s import requirements.</li> </ul>	
<p><b>AUSTRALIA’S APPROPRIATE LEVEL OF PROTECTION AND ITS IMPLEMENTATION AND LEGISLATION</b></p>	
<p>31 The biosecurity legislation should:</p> <ul style="list-style-type: none"> <li>a define the concept of ‘biosecurity risk’ in a manner analogous to, but broader than, section 5D of the <i>Quarantine Act 1908</i>;</li> <li>b provide that the basis for a decision whether to authorise, under the legislation, an import of goods should be that the level of biosecurity risk associated with the import is acceptably low;</li> <li>c provide that the Minister may determine what level of biosecurity risk is acceptably low (that is, Australia’s Appropriate Level of Protection), and may make Guidelines for Biosecurity Import Risk Analyses, Biosecurity Import Policy Determinations and import permit decisions. The determination and Guidelines should be legislative instruments for the purposes of the <i>Legislative Instruments Act 2003</i>, and should not be disallowable; and</li> </ul>	<p>(Recommendations 31-43)</p> <p>Agree in-principle</p> <p>The Commonwealth intends to define the scope, powers and functions in the new legislation.</p> <p>Relevant aspects affecting states and territories will be settled in</p>

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<p>d require that decision makers under the legislation (the National Biosecurity Commission in relation to Biosecurity Import Policy Determinations and the Director of Biosecurity in making import permit decisions) should be required to apply the Determination, and act in accordance with the Guidelines.</p>	<p>discussions on the new intergovernmental agreement.</p>
<p>32 The Guidelines should:</p> <p>a include a clear statement of the approach to be taken to the economic assessment of potential biosecurity threats including the appropriate use of formal economic analysis; and</p> <p>b require estimation of net rather than gross costs, allowing for best practice management methods, substitution to alternative crops or husbandry techniques.</p>	<p>The Commonwealth intends to examine options to provide the Commission with the powers to obtain information it requires.</p>
<p>33 The National Biosecurity Commission should:</p> <p>a include high level economic skills (see Recommendation 13); and</p> <p>b develop a close working relationship with the Productivity Commission, the Australian Bureau of Agricultural and Resource Economics or other suitable agencies.</p>	
<p>34 The Eminent Scientists Group should be expanded to include an economist.</p>	
<p>35 The:</p> <p>a Guidelines should include a requirement for the assessment of any relevant regional differences in biosecurity status and risk;</p> <p>b states and territories should be consulted on the terms of this requirement before it is included in the Guidelines; and</p> <p>c Commonwealth and the states and territories should develop a protocol on the collection and timely provision of the scientific evidence necessary to demonstrate biosecurity threat status to support both the Biosecurity Import Risk Analysis process and improved access to export markets for Australian products.</p>	
<p>36 The biosecurity legislation should provide:</p> <p>a that when an import permit application is made for which a relevant Biosecurity Import Policy Determination exists, the Director of Biosecurity should have primary regard to that Determination in deciding whether to grant the permit, unless the Director has reason to believe that granting the permit would lead to a biosecurity risk that is not acceptably low. If the Director of Biosecurity denies an import permit on these grounds he/she must immediately inform the National Biosecurity Commission of the reasons; and</p> <p>b that the Director of Biosecurity have two options for dealing</p>	

RECOMMENDATIONS	COMMONWEALTH RESPONSE
<p>with market access and import permit applications for which there is no specific Biosecurity Import Policy Determination already in place:</p> <ul style="list-style-type: none"> <li>—if the Director is satisfied that the biosecurity risk involved is acceptably low, he/she should authorise importation, with or without conditions; and</li> <li>—if the Director is not satisfied that the biosecurity risk would be, or could be through imposing conditions, acceptably low, he/she should not grant a permit and should not provide market access, until the National Biosecurity Commission has made a Biosecurity Import Policy Determination following a Biosecurity Import Risk Analysis.</li> </ul>	
<p>37 The biosecurity legislation should provide:</p> <ul style="list-style-type: none"> <li>a for three broad Biosecurity Import Risk Analysis processes—the existing standard and expanded Import Risk Analyses and a new process under which a greater obligation to prepare detailed information about relevant biosecurity risks would be placed on the proponent / applicant;</li> <li>b that, in conducting a Biosecurity Import Risk Analysis, the National Biosecurity Commission should have the power to compel the production of any relevant documents, the power to require relevant evidence to be given to it under oath and to hold public hearings;</li> <li>c that in deciding priorities for Biosecurity Import Risk Analyses, the National Biosecurity Commission should consult with relevant Australian Government agencies, including the departments having responsibility for agriculture, health, environment and foreign affairs and trade, with the states and territories and with other appropriate stakeholders relevant to import access proposals; and</li> <li>d the Minister with the power to direct the National Biosecurity Commission to commence a Biosecurity Import Risk Analysis, with such a direction to be tabled in Parliament.</li> </ul>	
<p>38 The:</p> <ul style="list-style-type: none"> <li>a Import Risk Analysis Appeals Panel should cease to exist as the review mechanism for determining whether a Biosecurity Import Risk Analysis has followed due process;</li> <li>b Biosecurity Import Policy Determination should be a non-reviewable instrument;</li> <li>c Eminent Scientists Group should be empowered to co-opt one or more Associate Members; and</li> <li>d Eminent Scientists Group should be appointed by the Minister after consultation with the states and territories.</li> </ul>	

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<p>39 Merits review of import permit decisions should only be available where the Director of Biosecurity has made a decision to refuse to issue an import permit on the grounds that to do so would not be consistent with a Biosecurity Import Policy Determination. In addition, access to merits review should be subject to the following requirements:</p> <ul style="list-style-type: none"> <li>a standing should be limited to the applicant for the permit;</li> <li>b provisions should be established to guard against vexatious appeals; and</li> <li>c there should be strict timeframes around the lodgement of appeals.</li> </ul>	
<p>40 The National Biosecurity Commission should:</p> <ul style="list-style-type: none"> <li>a provide stakeholders with advance notice of the release of draft Biosecurity Import Risk Analyses and issues papers to allow sufficient time to prepare responses; and</li> <li>b include a draft Biosecurity Import Policy Determination with the draft Biosecurity Import Risk Analysis when it is released for public comment.</li> </ul>	
<p>41 A memorandum of understanding should be developed between the National Biosecurity Commission and the Department of Health and Ageing to cover human health aspects of Biosecurity Import Risk Analyses.</p>	
<p>42 The National Biosecurity Commission should have the professional capacity to assess risks to the environment and human health in a Biosecurity Import Risk Analysis to the same quality as agricultural assessments.</p>	
<p>43 A new Biosecurity Act should be drafted to replace the <i>Quarantine Act 1908</i> giving effect to the Panel’s legislative recommendations, drawing on a much broader set of the Commonwealth’s Constitutional powers and providing for modern and effective management of biosecurity risks.</p>	
<b>BALANCING RISK AND RETURN</b>	
<p>44 The balance and level of biosecurity resources across the continuum should be determined by a consistent analysis of risks and returns across programs. The level and allocation of resources should be comprehensively reviewed against risk-return profiles at least every five years.</p>	<p>(Recommendations 44-64)</p> <p>Agree in-principle</p> <p>The development and implementation of a risk-return approach will be an ongoing process.</p>
<p>45 The National Biosecurity Authority, in consultation with relevant stakeholders and the Biosecurity Advisory Council, should develop a list of national priority exotic pests and diseases, with their respective pathways, on the basis of the likelihood of incursion and the consequences for businesses, human health and the</p>	

RECOMMENDATIONS	COMMONWEALTH RESPONSE
environment. This list should be used to prioritise the review and development of comprehensive biosecurity risk management plans across the biosecurity continuum.	The Commonwealth intends to
46 A new memorandum of understanding should be developed between the Department of Health and Ageing and the National Biosecurity Authority on delivery of human biosecurity services at the border, including clear operational guidelines for the Authority and procedures for validating health biosecurity measures, training and competency of inspection staff, resources, data collection, reporting and communication.	implement the intelligence, monitoring and surveillance recommendations in consultation with foreign governments, states and territories and industry as required.
47 The Authority should enter into compliance agreements to recognise formally the food safety management systems of importing businesses. These arrangements should provide for a power of audit, inspection, suspension or removal of approvals, and penalties where appropriate for breaches.	As part of the legislative development process, the Commonwealth intends to examine appropriate powers to support
48 The National Biosecurity Authority should be empowered to require in specific circumstances, as a condition of entry to the Australian market, that importers provide certification by the exporting country's competent government authorities that Australian food safety standards are met.	enhanced intelligence, monitoring and surveillance.
49 The National Biosecurity Authority should work with other countries and the states and territories to share pest and disease intelligence and consider working together with trading partner countries on issues such as regionalisation and compartmentalisation assessments and systems assurance.	The Commonwealth intends to
50 The National Biosecurity Authority should establish an intelligence gathering and assessments group to monitor animal and plant pest and disease status internationally, with a particular focus on the region and our trading partners.	implement the research and training recommendations in consultation with relevant experts and providers.
51 To improve the management of biosecurity risks, a sample sufficient to identify risks and risk pathways should be collected and analysed from cases where imported goods have been rejected because of suspicion of an exotic pest or disease. This should be done at the public expense.	The Commonwealth intends to consider capital investments contained in the risk-return recommendations in the Budget process.
52 The National Biosecurity Authority should undertake a continuing program of analysis of risk pathways using data collected from pre-border intelligence and border inspections at control points along the continuum. The results of this analysis should be used to update risk management strategies and measures.	
53 The National Biosecurity Authority should develop and maintain, in consultation with the states and territories and business organisations, a comprehensive post-border monitoring and surveillance program for national priority exotic pests and diseases,	

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<p>which should include:</p> <ul style="list-style-type: none"> <li>a an enhanced Northern Australia Quarantine Strategy that extends beyond the current 20km zone to provide coverage for at-risk areas around international airports, seaports and vulnerable areas of Australia's coastline;</li> <li>b existing and additional port surveillance activities;</li> <li>c the Commonwealth's responsibility for investigating suspected post-border detections of pests and diseases in imports;</li> <li>d strategic surveillance to support Australia's pest and disease free export claims and the conduct of Biosecurity Import Risk Analyses;</li> <li>e national priority marine pests and diseases to support the Commonwealth's expanded role in relation to managing risks associated with ballast water; and</li> <li>f the current National Sentinel Hive Program and its eventual replacement with a more comprehensive approach based on an assessment of risks.</li> </ul>	
<p>54 The information and analysis obtained from pre-border, border and post-border biosecurity activities should be made available for use by state and territory governments, industry and research organisations. This should be done in a manner consistent with obligations under the <i>Privacy Act 1988</i> and should be supported by a biosecurity risk information sharing protocol and data sharing infrastructure.</p>	
<p>55 Redevelopment of biosecurity information technology systems for the National Biosecurity Authority should occur promptly. As part of this task:</p> <ul style="list-style-type: none"> <li>a information technology systems should be developed to provide intuitive and user friendly interfaces and processes;</li> <li>b biosecurity risk research should be supported by providing reports and data in formats that are useful for government and other researchers, preferably via a free-to-access web interface;</li> <li>c paper work generated between the Authority and businesses should be eliminated wherever feasible through electronic interfaces, on-line approval systems and electronic certification; and</li> <li>d connectivity with other border agencies (particularly Customs) should be central and should also be enabled where possible with trading partner authorities, particularly with New Zealand.</li> </ul>	
<p>56 The National Biosecurity Authority should work with state and territory agencies, professional associations and higher education providers to develop a general biosecurity course to be incorporated in health, environmental, marine biology, veterinary and agriculture science curricula. All staff employed in the National Biosecurity</p>	

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<p>Authority should be taught an appropriate adaptation of the general biosecurity course upon commencement of their employment in the agency.</p>	
<p>57 The National Biosecurity Authority should develop national research priorities, including for new technologies to better address biosecurity risk, and should work with research bodies to coordinate the research effort towards those priorities.</p>	
<p>58 The National Biosecurity Authority should ensure Australia has the laboratory capability and capacity to manage exotic pest and disease incursions of national significance. The Panel recommends that the Authority, working with the states and territories, should improve the quality and use of state and territory laboratories to support national biosecurity priorities.</p>	
<p>59 The import of positive control samples (including the foot and mouth disease virus) for use in laboratory diagnostic research and capacity building for exotic disease pathogens is vital and should be permitted under strict import permit conditions to laboratories such as the Australian Animal Health Laboratory.</p>	
<p>60 The Commonwealth government should move toward a unified coordinated system for the approval of quarantine facilities (for animal and plant research laboratories). This would require agreement between the National Biosecurity Authority, Australian Pesticides and Veterinary Medicines Authority and the Office of the Gene Technology Regulator for one system of approval of laboratories.</p>	
<p>61 The Commonwealth should own and operate specialised quarantine facilities where monopoly rents might be charged if such facilities were operated privately.</p>	
<p>62 The Commonwealth should immediately clarify its intentions with respect to the future ownership, management and operation of the quarantine facilities currently located at Eastern Creek and Knoxfield.</p>	
<p>63 All quarantine stations that manage equivalent risks should have their performance accredited and audited to equivalent standards, irrespective of whether the quarantine station is privately or publicly owned and operated.</p>	
<p>64 The effectiveness of the anti-smuggling subsidy for plant material should be reviewed, with other avenues explored for improving compliance with biosecurity requirements, including a review of smuggling penalties.</p>	
<b>ENSURING THE INTEGRITY OF THE SYSTEM</b>	
<p>65 The National Biosecurity Authority should develop quality</p>	<p>(Recommendations</p>

RECOMMENDATIONS	COMMONWEALTH RESPONSE
<p>management systems that:</p> <ul style="list-style-type: none"> <li>a incorporate consistent quality management approaches across its programs;</li> <li>b include periodic audit of external assurances such as official certification provided by overseas authorities and accredited third-party systems; and</li> <li>c include, where relevant, ISO 9000 and other quality standards in introducing these quality management strategies and systems.</li> </ul>	<p>65-72)</p> <p>Agree in-principle</p> <p>The Commonwealth intends to define the powers of the Inspector General of Biosecurity in the new legislation.</p>
<p>66 The National Biosecurity Authority should establish an internal audit group to inquire and report on the adherence by the Authority to its policies and their adequacy to deal with risks across the biosecurity continuum.</p> <ul style="list-style-type: none"> <li>a The responsibilities of this group should include both financial and performance audits of the Authority's programs.</li> <li>b The internal audit program should cover the National Biosecurity Authority's activities over an audit cycle.</li> <li>c The audit reports should be provided to the National Biosecurity Commission and the Director of Biosecurity.</li> </ul>	
<p>67 In relation to the National Biosecurity Authority's internal audit program, the National Biosecurity Commission should have:</p> <ul style="list-style-type: none"> <li>a a determinative role for audit activities that relate to Biosecurity Import Policy Determinations; and</li> <li>b an advisory role in relation to the overall internal audit program.</li> </ul>	
<p>68 The National Biosecurity Authority should maintain an enforcement branch with the resources and expertise to investigate breaches of the biosecurity legislation, with this function being afforded a high priority. Arrangements should be made with the Director of Public Prosecutions in relation to the conduct of prosecution of offences against the biosecurity legislation including to provide:</p> <ul style="list-style-type: none"> <li>a protocols to facilitate the commencement of proceedings by the Authority in cases involving the non-payment of infringement notices which cover high-volume matters of minimal complexity; and</li> <li>b for the recovery of pecuniary penalties by the Authority.</li> </ul>	
<p>69 The Minister for Agriculture, Fisheries and Forestry should be enabled under the legislation to require the Inspector General of Biosecurity to inquire into any matter which is the responsibility of the National Biosecurity Authority.</p>	
<p>70 The Inspector General of Biosecurity should develop a program of audit on appropriate timescales (for example, five years, one year</p>	

RECOMMENDATIONS	COMMONWEALTH RESPONSE
and to allow for ad hoc audits).	
71 The Inspector General of Biosecurity should provide regular independent reports to the Minister with these reports copied to the Director of Biosecurity and the National Biosecurity Commission. These reports should be made public unless a strong contrary reason exists. The Director of Biosecurity and the National Biosecurity Commission, as relevant, should report to the Minister on actions taken on recommendations by the Inspector General. The reports and responses to them should be reflected in the National Biosecurity Authority's annual report to Parliament.	
72 The Biosecurity Advisory Council should provide advice on inspection and audit activities to the Director of Biosecurity.	
<b>RESOURCING THE BIOSECURITY SYSTEM</b>	
73 The Commonwealth should increase its biosecurity investment by an amount in the order of \$260 million per annum, subject to a full costing by departments, to meet the recommendations of this report. A significant part of this increase in resources should be funded through cost recovery and an adjustment to the Passenger Movement Charge.	<p>(Recommendations 73-75 and 79-83)</p> <p>The Commonwealth intends to consider the specific resourcing requirements and methodologies related to reforms in the Budget process.</p> <p>The Commonwealth intends to consider the recommendation for matching investments from states and territories in the process for negotiating the intergovernmental agreement.</p> <p>The 40 per cent Commonwealth subsidy for export certification functions will lapse as scheduled from</p>
74 The Commonwealth's additional post-border investment should be tied to an agreement with the states and territories on appropriate matching commitments (see also Recommendation 3).	
75 Recognising past underinvestment, an additional \$225 million should be appropriated through the Commonwealth Budget over a number of years for investment in information technology and business systems for biosecurity. Future cost recovery arrangements should be adjusted to cover depreciation and replacement of that infrastructure.	
76 Programs that currently use cost recovery should continue in this mode but charges for like activities should be aggregated, leading to a significant reduction in the number of individual charges.	
<p>77 In developing cost recovery arrangements, the National Biosecurity Authority should consult with business groups, but have the ultimate responsibility of recommending to the responsible Minister a cost recovery package that will support the provision of an effective and efficient regulatory function including:</p> <ul style="list-style-type: none"> <li>a adequate and long-term investment in infrastructure, including information technology and information services;</li> <li>b appropriate funding for staff and training;</li> <li>c the costs of auditing pre-border and border biosecurity certification; and</li> </ul>	

RECOMMENDATIONS	COMMONWEALTH RESPONSE
<p>d the cost of diagnosing a proportion of interceptions to inform a risk-return approach to activities.</p>	<p>1 July 2009.</p>
<p>78 Cost recovery by the National Biosecurity Authority should be subject to periodic external review to ensure that:</p> <p>a cost recovery reflects efficient costs and provides appropriate efficiency signals to the Authority;</p> <p>b the cost recovery structure provides appropriate price signals for business performance;</p> <p>c there is no long-term over-recovery; and</p> <p>d costs are being aggregated wherever possible and that unnecessary constraints are not being placed on the use of revenue from a risk-return perspective.</p>	<p>(Recommendations 76-78)</p> <p>Agree in-principle</p> <p>The Commonwealth intends to refine cost recovery arrangements in consultation with industry.</p>
<p>79 Export certification functions should return to 100 per cent cost recovery as scheduled at the beginning of July 2009, noting that this would require an early decision and announcement by the Government to allow businesses to prepare for the additional costs as well as for the necessary consultation on revised fee structures.</p>	
<p>80 The Government should enhance Budget funding for activities which support biosecurity-related technical market access for Australian exporters.</p>	
<p>81 Funding for the Airports Program should be adjusted in future on the basis of a Workload Growth Agreement established between the National Biosecurity Authority and the Department of Finance and Deregulation that links passenger numbers with Budget appropriations.</p>	
<p>82 The Workload Growth Agreement should reflect a risk-return strategy for managing intervention rates and make appropriate allowances for productivity.</p>	
<p>83 In developing the detailed budget for biosecurity functions, the Government should recognise the need for a significant enhancement in senior management capacity in the National Biosecurity Authority.</p>	
<p>84 The National Biosecurity Authority should review staff training and rotation practices to ensure that they provide an optimum balance between development of broadly skilled officers, the deepening of expertise through experience in a role and the avoidance of regulatory failure through officers developing inappropriately close relationships with the clients they are servicing.</p>	<p>(Recommendation 84)</p> <p>Agree in-principle</p>