

13 December 2019

Mr Henry Campbell
Department of Agriculture
Canberra ACT 2601
By email: livestockexp@agriculture.gov.au

Dear Mr Campbell

Re: Independent observer deployment policy consultation paper

ALEC welcomes the opportunity to comment on the Department of Agriculture's (the department) *Independent observer deployment policy consultation paper* (the consultation paper). The Australian Livestock Exporters' Council (ALEC) is a member-based, peak industry body representing Australia's livestock export sector which contributes over \$1 billion in export earnings annually while employing 13,000 mainly regional Australians. ALEC provides strategic direction to the industry, sets industry policy and represents Australia's livestock export trade in Australia and internationally.

ALEC members account for more than 96 per cent of Australia's annual livestock exports, by volume and value. ALEC's membership also extends to supply chain participants including registered premise operators, ship owners, feed suppliers and other service providers to the trade. More on the importance of the livestock export industry to Australian agriculture and the economy can be found at Attachment 1.

Current deployment policy

The department introduced an independent observer program for livestock export voyages by sea in April 2018, following the public airing of distressing footage of animal treatment on live export voyages. Independent Observers (IO) have since been placed on voyages with the intention of providing additional assurance of the effectiveness of exporter arrangements in managing animal welfare.

The intention of the independent observer program was to provide increased transparency to industry, the public and government that the welfare of animals being transported on vessels are being appropriately and humanely managed. This intention has been realised and having served its purpose; the independent observer program is now only an excessive financial impost which puts at risk the viability of livestock exports.

The livestock export industry therefore welcomed the repeal of the requirement for independent observers to travel on low-risk short haul voyages. Voyage performance for all southeast Asian voyages, including those to Japan, China and Vietnam, clearly show that the additional impost on an IO onboard is unnecessary. IO's onboard these low-risk short haul voyages have not delivered any material change or improvement in voyage performance or delivery success rates. Further refinement as described later in this submission is, however, necessary to truly improve the performance and outcomes of the IO program and for it to deliver on its intention.

Delays at port

ALEC questions the scientific basis of the statement '*Voyages discharging in multiple ports have higher risks for animal welfare because there is less ventilation during the time a vessel is stationary in a port*' made in the consultation paper. The configuration of vessels – open, close decks or both, the port of discharge involved and the balance of stock remaining onboard all influence ventilation performance during discharge at a port. There are also risk mitigation strategies available to exporters and the industry led moratorium on the export of sheep during the northern hemisphere summer which substantially reduces the likelihood of animal welfare concerns occurring on vessels during discharge.

The livestock export industry therefore contends that multi-port discharges are not, on their own accord, a higher risk just because there are more stops. If there is a sound scientific basis to the departments statement on increased risk during discharge due to less ventilation, ALEC requests that this be shared and consulted upon.

ALEC does, however, note that for some vessels, a lack of air movement can potentially increase the risk that exhaust air could be re-ingested into fresh air inlets, reducing the quality of the air provided to the closed decks, and that this risk can increase at port. It is important to note, however, that re-ingestion was included in the pen air turnover (PAT) audits undertaken for all vessels that transport sheep the Middle East. Re-ingestion risk resulted in the development of two sets of PATs – port PATs and sailing PATs. Each vessel / shipment is now assessed against the higher risk of the two PATs, which can lead to de-stocking or the voyage not being able to proceed. The number of livestock on the vessel also decreases as the vessel moves from port to port lowering the load on the ventilation (and the number of head requiring feed, water, etc) and therefore, lowering the risk.

Using a purported link between potential delays with multiple port discharges and the need for a bedding contingency plan to justify the presence of an IO would appear to be unsubstantiated. Bedding contingency plans are not required under ASEL and ALEC questions what a bedding contingency plan would look like, given the bedding loaded is finite and the capacity to wash down the vessel in port, nearby (e.g. in the Gulf or country's economic exclusion zone) or at all (e.g. for sheep) does not exist.

ALEC understands that the amount of fodder required on the vessel for a particular voyage is calculated according to the number of livestock at the first load port through to the last discharge port. If there has been fodder shortages identified in IO reports, the livestock export industry needs to be advised. If a fodder shortage occurred due to delays associated with multiple port discharges, it would be an issue with fodder calculations rather than a need for contingency planning and having an IO on every voyage to observe the response. It is also important to note that following the first discharge port, there will be less livestock on-board thereby reducing the fodder demand.

Without evidence that contingency plans have been regularly enacted, requiring IOs on certain voyages just because they may have to initiate a contingency plan is an unconvincing argument. It is also unclear in the consultation paper whether multi-port South East Asian cattle voyages are intended to be included in this area of concern. ALEC contends that they shouldn't be.

Consideration of risk

Risk is present in every facet of daily life, yet until the recent release of the current IO deployment policy it was not present in the departments regulatory posture on livestock exports. Zero risk is an unattainable goal and only really sought after by those that would prefer to see the livestock export industry phased out. All regulators need to incorporate risk into their regulatory decisions and nearly all do. The department would do well by liaising with other regulatory bodies, such as the Australian Pesticides and Veterinary Medicines Authority, to better understand the concept of risk in a regulatory environment and how to use it to incentivise good regulatory behaviour.

The livestock export industry's self-imposed moratorium was introduced to address the highest risk months of shipping sheep to the Middle East. Combined with significantly reduced stocking densities following the implementation of ASEL recommendations, shipments are now experiencing extremely low voyage mortalities. Claims of less than optimal health and welfare outcomes occurring on long haul voyages should now be considered historical, with contemporary data following the implementation of ASEL review recommendations now forming the basis of regulation.

The requirement for an IO to be present on an export vessel would be best determined using a range of risk-based principles, not just limited to short haul voyages. Voyages deemed to be of lower risk, adjudged due to factors such as voyage length, destination, livestock type, expected climatic conditions and the historical performance of the exporter would not need an IO. Whereas the opposite would apply for higher risk exports.

Enabling the IO program to evolve into a more sophisticated risk-based program would complement an independent third-party approach and deliver continual improvement by incentivising good exporter performance. Application of such an approach would benefit a range of livestock export regulatory considerations, not the least of all would be stocking density.

Accommodating independent observers on vessels

A significant level of department distrust for exporters advice pervades the consultation paper regarding the inability to accommodate IO's on vessels. Animal welfare is and remains the livestock export industry's primary concern. This unsubstantiated distrust of exporter 'claims' are, at minimum, unhelpful and unwarranted. Instead of distrusting advice from exporters, the department would benefit from consulting the Australian Maritime & Safety Authority (AMSA) for guidance on associated maritime laws and international conventions.

Maritime laws stipulate that all livestock vessels must be sufficiently manned to provide safe navigation and operation at sea and in port and the welfare of the livestock onboard, and that the health of seafarers, is maintained. Officers and crew accommodation generally provide very few options for additional persons to be billeted onboard. One or two spare cabins may be available but will on every long-haul voyage be taken up by a supernumerary (AAV and stock person).

The International Convention for the Safety of Life at Sea (SOLAS) makes it a requirement for livestock ships to have life-raft capacity for all people on board. The stated capacity of the life-rafts is determined by the



manning level of the vessel including any set provisions made for additional passengers. Under no circumstances can this be exceeded.

Any suggestion that crew members should be disembarked from a vessel to accommodate an IO is non-sensical and impractical. Every designated person on a vessel has a part to play in its safe operation or the care of its cargo. This position is not negotiable by vessel owners, nor should it be.

Similar concerns exist with the departments suggestion that exporters inflate the number of stock persons needed on a voyage for the purpose of preventing an IO to be carried on the vessel. An exporter's first priority is the welfare of the livestock cargo during the voyage. Where a full complement of stock persons needs to be embarked on to a vessel it is for a very good reason. A statement of fact from the owners of every vessel should be attained by the department to provide clarity for all and remove the onus on exporters, who can only take owners word on this matter.

The above issues are particularly relevant on smaller vessels where there is no leeway to accommodate extra people, regardless of departments wants and beliefs. These issues will be exacerbated if / when the department introduces a minimum ratio between number of stock persons and the number of livestock.

Timeframe to adjust vessels to accommodate Independent Observers

Consideration of setting a date for IO's to be accommodated on particular vessels illustrates a complete lack of understanding of the practical and commercial realities of livestock shipping. Simply setting a date for an such an obligation without considering the facts is as fanciful as it is naive. Similarly, the departments contention that an exporter can load a vessel more lightly than economics and regulation dictate further shows an unrealistic view of how the livestock export industry operates.

Exporters often have back-to-back charter arrangements on vessels that can extend over a small or large number of voyages, for several or many months at a time and are generally negotiated months in advance. Breaking these arrangements comes with heavy financial penalties for an exporter. Customer requirements, vessel availability and ports, to name a few, all influence an exporter's choice of vessel. Suggestion that an exporter can simply use another vessel for these voyages, purely to accommodate an IO, portrays a substantial lack of the necessary understanding of industry practicalities to enable functional and effective regulation.

Duplication of monitoring and reporting requirements

Animal welfare is the livestock export industry's primary concern and efficient and effective monitoring and reporting ensure appropriate animal welfare standards are being upheld during voyages. ALEC is, however, concerned with the duplication of monitoring and reporting activities being undertaken onboard export vessels.

For voyages deemed higher risk, an IO, an AAV and an Accredited Stock person are required onboard export vessels, to monitor and report similar observations to the department. This duplicated monitoring and reporting results in an excess of paperwork that is unlikely to enable efficient nor cost-effective regulatory practices.

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This line of thought leads to questioning whether the duplicated monitoring and reporting requirements demanded by the regulator are even used. The excessive delays in the publication of IO reports, discussed later in this submission, leads to the conclusion that the department is incapable of managing, assessing and using the data provided by the IO alone in making regulatory decisions. It is therefore likely that the information carefully collated and submitted by the AAV and the Accredited Stock person is at best neglected.

If the department is exclusively using the data provided by the IO, the need for the AAV or Accredited Stock person to submit the very similar data they have collected must be questioned. Conversely, if the Accredited Stock person and the AAV already collect the required data, the need for an IO to collect similar at an excessive cost must also be questioned or at least justified.

As noted earlier, the cost burden of IO's on the industry is excessive, therefore the information provided by them must be unique and highly valuable. ALEC has not identified any reason why the information collected by an IO would be considered all that different or more valuable than that already collected by AAV's and Accredited Stock persons. If there are subtle differences, surely instructing either or both the AAV and the Accredited stock person to modify their approach would deliver a significantly more cost-effective way of achieving the same outcome without adding unnecessary costs to the system.

Independence of AAVs

There is unfortunately an incorrect and unsubstantiated perception that AAVs are not independent. This is primarily a result of the Review of the Regulatory Capability and Culture of the Department of Agriculture and Water Resources in the Regulation of Live Animal Exports by Mr Philip Moss AM (the Moss Review). The Moss Review stated that the role of an AAV 'appears to be inherently conflicted' between their reporting obligations to the department and their commercial relationship with an exporter who engages them.

AAV's are accredited and registered by the department and are the only veterinarians permitted to officially prepare livestock for export or accompany livestock on voyages. ALEC contends that quantifiable evidence of a conflict does not exist and that the inference of AAV conflict of interest is unwarranted as it cannot be substantiated. Regulation based on perception and without substantiated evidence runs the risk of increasing bureaucracy without delivering benefit.

While a potential for a conflict of interest exists with any commercial fee-for-service arrangement between an animal owner or representative and a registered veterinarian, mitigation of this potential conflict has been incorporated into training, professional standards, accreditations and legislation allowing registration.

The *Export Control Act 1982* and the *Export Control (Animals) Order 2004* specifically give legislative mechanisms for the accreditation of veterinarians as AAVs. In order to be accredited as an AAV, a veterinarian must be registered by a state/territory veterinary surgeons board in the state in which they are intending to conduct export work. An AAV must also have successfully completed the initial Animal Health Australia Accreditation Program for Australian Veterinarians (APAV) and successfully completed the Animal Health Australia online AAVet course.



Legislation specifically outlines what procedures can only be conducted by AAVs, how AAVs must operate, what records AAVs must keep, what specific power the department has over the AAVs and what penalties can apply if the AAV does not comply. The regulator has legislative powers to ensure the AAVs meet these requirements.

Instead of marginalising AAV's for a perceived and unsubstantiated conflict of interest, the department should investigate ways to better utilise the skills, knowledge, experience and independence AAV's possess. In this vein, ALEC understands that the department intends to make AAVs on vessels no longer employees of exporters, consistent with the recommendations of the Moss Review. While this may assist with perceptions, the prospect of confusion is seemingly high should two Australian Government employees with similar roles be present on a vessel with potential overlaps in their responsibilities.

Of benefit, would be giving consideration towards establishing a framework allowing AAV's to become Authorised Officers (AO) under Section 49 of the *Australian Meat and Livestock Industry (AMLI) Act*. The ability to appoint AO's and the APAV framework gives the department the ability to outsource the service delivery of regulatory duties to private non-government veterinarians accredited under the APAV and AAVet training. This would deliver regulatory efficiencies by enabling non-government veterinarians to issue Australian Government Health Certificates and Permits to Export on behalf of the department, while maintaining the system's integrity and independence.

A precedence has been set

A precedence has been set with allowing an Accredited Stock person to act as an IO on smaller export vessels that cannot accommodate additional personnel. If an Accredited Stock Person can adequately fulfil this role, on these occasions, surely an AAV and an Accredited Stock Person can fulfil the role in longer-haul voyages. An outcome that carries considerably less cost for those exporters.

Longer-term deployment policy

The current IO deployment policy does not recognise exporter experience, expertise or historical performance. The monitoring and reporting undertaken on livestock export vessels should be better utilised to establish exporter performance. Good performance whether it be short haul or long can then be rewarded, thereby incentivising good performance.

Voyage performance since April 2018 clearly shows a pattern of significantly improved welfare and mortality outcomes. In combination with industry's self-imposed moratorium and the introduction of allometric stocking densities, consistent high performance and successful outcomes for voyages are being achieved year-round. This improved performance needs to be considered retrospectively by the department when making regulatory decisions.

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ALEC notes that the department is considering further sophisticated risk-based approaches to the IO deployment policy. The livestock export industry supports this approach and looks forward to working with the department towards their prompt implementation.

Cost benefit analysis required

The scenario depicting a standard livestock export audit activity and related charges provided in Export Advisory Notice (EAN) 2018-10, shows the cost to an exporter of an IO on a 13-day voyage is nearly \$25,000. Not depicted in the EAN and important to note, is that voyages to the Middle East are typically much longer and therefore, far more costly.

ALEC questions why the department omitted stating that the returning international flights for IO's must be at business class level. One-way fares are also consistently more expensive than round trip fares. A returning business class flight to Australia from the Middle East is generally around \$7,000 by itself.

Vessel AAV's and stock persons do not fly business class and livestock export industry cannot fathom why business class fares are required for IO's. ALEC is of the understanding that the Australian Government travel policy on all air travel *"must be the lowest practical fare in economy class unless there is a business case or entitlement to travel business class"*.

IO's are not senior executives nor could a supporting satisfactory business case be developed. This is an excessive financial impost which ultimately puts at risk the viability of livestock exports. An IO must provide a service that is unique compared to other personnel onboard and highly valuable to come close to justifying this kind of imposition.

Alternative options that achieve equivalent independent assurance of the effectiveness of exporter arrangements in managing animal welfare, at a lower cost, must be investigated and implemented urgently. At minimum, a cost benefit analysis must be undertaken to identify if any benefit exists to balance the excessive cost of the IO program.

Alternative proposal – Independent Observer program

Third-party providers of IO's is a concept that ALEC believes has merit and could be a model that carries efficiencies for both the Australian Government and exporters – particularly should AAVs and IOs be subject to similar arrangements. It appears the department came to the similar conclusion when undertaking Request for Information (RFI2018-28645). ALEC understands the department was seeking to understand the market's capacity and willingness to deliver the independent observer program on an ongoing basis. ALEC supports this approach and encourages the department to progress the investigation of alternative, lower cost options.

As an alternative to Government employed and managed IO services, government approved third-party services providers could undertake this responsibility. This has the advantage of allowing Government to focus on determining and enforcing standards and reporting requirements, without the responsibility of employing and managing an IO workforce.

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The community will be comforted in the knowledge that independent, audited, government approved third-party delivers appropriate and cost-effective oversight of export shipments of livestock. Exporters will benefit from the reduced cost imposition without impinging on the independent animal welfare assurance provided by IO's.

With the appropriate training and accreditation framework, third-party services provider IO's would become AO's, legislatively authorised to perform required services. This would be a similar approach to those successfully implemented for meat and grain inspectors under Approved Arrangements in export establishments.

IO services managed by government approved third-party services providers are independent from the export industry, functioning under Government governance and standards. Minimum qualifications and independence requirements for AO IO's would be set by government, along with reporting requirements. An additional requirement could be to necessitate certification and auditing to international standards (NATA/ISO). This would ensure competent and independent monitoring and reporting of activities in relation to Approved Export Programs during voyages, while substantially reducing the cost.

Timeliness of the Independent Observer reports

The timeliness of the IO reports and their receipt by the exporter is yet another concern held by the livestock export industry. Ideally, these IOs reports would be received within a week of a voyage and contain a timeframe for addressing any adverse findings that may have been identified. In many instances, exporters have reported that they have been unaware of adverse findings until they are raised by the department when preparing for their next voyage – sometimes only days before intended departure. This scenario presents additional challenges if the vessel is chartered by several exporters.

The introduction of IO exit meetings at the conclusion of export voyage disembarkation, similar to those required for meat inspectors at export establishments, would provide an appropriate vehicle for the necessary and timely communication of any concerns that may have arisen during the voyage.

ALEC and its members expect that this submission will assist the department in refining the Independent Observer Deployment Policy. Please do not hesitate to contact ALEC's Deputy CEO, Alastair James, on 0428 776 626 or deputyceo@livexcouncil.com.au if you require further information.

Regards,

Mark Harvey-Sutton
Chief Executive Officer
Australian Livestock porters' Council

Attach.

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Attachment 1

The importance of the livestock export industry to Australian agriculture and the economy

According to market intelligence company Mercado, over \$620 million of revenue from live cattle exports is returned to the farm gate, representing around 50 per cent of total revenue. Live Cattle exports are valued at \$1.2 billion, representing 13 per cent of the total cattle industry value. The live cattle industry also sustains approximately 10,000 full time jobs.

Of more relevance to the discussion paper is a similar report prepared by Mercado, which recently found that the average value of Australia's Live Sheep exports from 2014-18 is \$220 million per annum. Almost half of the revenue earned from the live sheep export trade is retained on-farm and is estimated to have averaged \$100 million per annum over the last five years. Western Australia is the largest exporter accounting for 82 per cent of all sheep exports, representing nearly 30 per cent of annual sheep and lamb turn off.

This indicates that the live export sector plays an integral role in underpinning price, which assists in growing the overall value of the sector. Many chilled and frozen markets have been established off the back of the live export industry's initial presence, providing a pathway for chilled and frozen exports.

There are also significant other benefits of the trade beyond economic:

- Some countries do not produce enough livestock to feed their population and as a result they rely heavily on Australian livestock for their food security and in some cases, social harmony.
- Processing animals locally, for some nations, is often cheaper than buying boxed or chilled meat slaughtered in Australia, which is a high input cost industry compared to its global competitors.
- Religious requirements, particularly around festival times, dictate the slaughter of animals (under Australian controlled conditions where Australian animals are involved).
- International processors prefer to use not just the meat, but the entire animal for different products.
- The export of livestock supports a wide range of consumers and different market segments that live animals processed locally are most suited to (for example, wet markets).
- Exporting livestock strengthens breeding and herd numbers with quality genetics and aids many developing countries in achieving self-sustainability goals.
- Australia's live exports support the development of a local processing sector in developing countries.
- Live export supports public policy programs to increase meat and dairy consumption and the endeavours of importing countries to provide food security.

Over 100 countries export live animals with Australia having the highest standards in the world. Indeed, through the Livestock Global Assurance Program (LGAP) which is an initiative of the Australian industry, a global standard will be set for live animal exports.

Australia's increased efforts to help improve animal welfare is recognised as contributing to wider social and ethical change, better treatment of local livestock, improved worker safety and better meat quality. This positions the sector as a key driver of animal welfare improvements globally.