



AUSTRALIAN LIVESTOCK
EXPORTERS COUNCIL

15 January 2021

Ann McDonald
Department of Agriculture, Water and the Environment
GPO Box 858
Canberra ACT 2601

By email: exportlegislation@agriculture.gov.au

Dear Ms McDonald

Re: Proposed export cost recovery framework

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. ALEC therefore appreciates the opportunity to provide comment on the draft legislation for the proposed export cost recovery framework released for consultation by the Department of Agriculture, Water and the Environment (DAWE).

The COVID-19 pandemic has shown that the livestock export industry is one of, if not the most resilient industries in the country. The industry has continued to operate near unfettered through this whole period and proven to be the essential and robust industry that it is. All without government assistance or stimulus. ALEC notes that the proposed export cost recovery framework, developed as a consequence of the new Export Control Act 2020, does not introduce any new charges or increase existing charges for export certification services. It simply reflects the existing cost recovery framework and is drafted to be consistent with the new rules format. On that proviso, this submission therefore focusses on the Cost Recovery Impact Statement (CRIS) process expected to be undertaken in 2021, where the industry will be faced with the prospect of dramatically increased government fees and charges.

Industry exposure to increasing regulatory costs

As a sector, the livestock export industry is one of the few in agriculture that is 100 percent exposed to the export market, and therefore 100 percent exposed to its regulation. Regulation that already has the highest regulatory cost structure of the over 100 nations involved in livestock export. No other nation places prescriptive and process orientated regulatory requirements on every aspect of the livestock export supply chain. In part, this reflects the government and industry commitment to place animal welfare as a critical component of business, but a substantial proportion of regulatory costs are due to inefficient service delivery and structural problems within regulatory agency business models.

Regulatory burden has a significant impact on the commerciality of parts of the sector, particularly considering that the industry runs on incredibly tight margins and exporters bear considerable financial risk with each shipment. Consequently, poor, unfair and unnecessary regulatory outcomes only heighten that financial risk which may be an inhibitor to trade.

It is imperative that DAWE's regulatory efficiency and effectiveness is reviewed and improved before any changes to cost recovery arrangements are made. ALEC notes that the Federal Government's 'Busting Congestion for Agricultural Exporters' package, announced in October 2020 as part of the Federal Budget, is expected to realise \$21.4 million in efficiencies through to 2023-24 through regulatory reforms.

Mounting regulatory burden that does not and will not deliver discernible improvements to animal welfare, fails to recognise the critical importance of the industry to the broader livestock production sector. An industry valued at \$1.8 billion in 2018-19, representing approximately 10% of all red meat export receipts. Changing regulations that add millions of dollars of costs to the industry, significantly reducing the price able paid to Australian producers for their livestock, should only be considered where there is convincing demonstrable benefit.

Industry has long argued for intervention on cost recovery and service delivery by a third-party agency such as the Productivity Commission or private sector accounting/finance firm. This would better enable a more independent detailed structural review of the arrangements to design a system that better aligns regulatory cost structures to business.

Increasing deficits

In 2019-20 the Livestock export cost recovery arrangement was projected to record a deficit of \$11.158m. Despite the current arrangement being implemented on 1 December 2015 following a CRIS process, it has been under recovering since 2011-12.

In 2018-19, DAWE implemented a range of regulatory reform measures resulting in significant increases in costs. These include the introduction of Independent Observers (IO) onboard vessels, the associated monitoring, assessment and publication of the resulting IO reports and the recreation of an Animal Welfare branch. This caused the cost-base to double, increasing from \$8.526m in 2017-18 to \$17.031m in 2018-19. In 2019-20 the expense forecast increased a further \$4.275m reflecting the government's announcement to expand cost recovery to a number of additional regulatory activities (\$1.096m), and the costs associated with increased work being done to undertake regulatory and policy functions (\$3.179m).

Existing cost recovery arrangements inadequate

The current arrangement, implemented on 1 December 2015 following a CRIS process, is inadequate and must be reviewed to ensure ongoing financial sustainability and to reflect the regulatory needs of the sector. However, DAWE's implementation of regulatory reform measures in response to recommendations from numerous reviews, including the Moss Review, have significantly increased costs. While additional regulatory rigor was necessary to satisfy community concern, any increase to fees and levies must be accompanied by robust justification and where possible, offset by regulatory efficiencies to be considered appropriate, reasonable and fair.

Industry accepts the need for regulatory oversight and the associated costs, on the proviso that regulatory activities outcomes focused, streamlined and efficient. Any proposed change to cost recovery arrangements must include efficiency improvements and be consistent with Australian Government Cost Recovery Best Practice Guidelines.

Prior to undertaking a CRIS process, a review into DAWE's regulatory efficiency and effectiveness is recommended, taking the following into consideration:

1. Systems and processes

The systems and processes used internally by DAWE appear to be predominately paper-based and archaic, which lends itself to being inefficient, slow and backwards-looking. This may be as a result of a lack of investment by DAWE into information technology solutions. Maintaining contemporary systems and processes is DAWE's responsibility and appropriated funding is therefore required to rectify the situation. The Federal Government's 'Busting Congestion for Agricultural Exporters' package should assist in the development and introduction of much needed technical solutions.

Enormous amounts of data are collected on live export voyages that only received minimal use. A benefit cost case should be made by DAWE before requiring any future additional data to be collected. Notwithstanding, if a benefit cost case can be made for the collection of some additional data, the data should be collected via the most efficient mechanisms available. The livestock export industry is firmly of the view that the Tracking Animal Certification for Export, or TRACE, system lacks intuition and is clunky to use.

With the move towards using animal welfare-based measures for assessing performance of the live export industry, which inevitably involves greater levels of data collection, easier methods of data input and greater standardisation of data and better storage / access mechanisms are required. LiveCorp is currently in the process of streamlining the entry, storage and accessibility of live export data. The system being developed by LiveCorp, known as LIVEX-Collect, to streamline the entry, storage and accessibility of live export data. Such a system would best be used by all persons responsible for monitoring and reporting during livestock export voyages, industry as well as regulatory.

2. Animal Welfare Branch

The Animal Welfare Branch was re-established in October 2018 in response to Recommendation 14 of the Moss Review. ALEC understands that DAWE will seek to recover the cost of this branch in the upcoming CRIS, substantially increasing the cost to industry. ALEC questions whether this conforms with the Australian Government Cost Recovery Guidelines (RMG 304), which states: 'It is usually inappropriate to cost recover some government activities, such as general policy development...'

The purpose or scope of the Animal Welfare Branch has also unfortunately become clouded since implementation. This is primarily due to a willingness to undertake scientific and statistical assessment that would be better undertaken by entities that have the requisite skills and experience, namely research and development corporations (RDC).

It is essential that regulatory decisions are practical and guided by robust research and evidence undertaken by recognised RDCs. This is extremely pertinent now as the global economy battles the impact of COVID-19, and even more so for our trading partners where these regulatory decisions have a real and tangible impact on their food security.

The Animal Welfare Branch assessments are negatively impacted by the inability, and unwillingness in some circumstances, to understand the impracticality of its outcomes and decisions. Negatively impacting the viability and sustainability of the industry it regulates.

As raised earlier, the scientific and statistical assessment being undertaken by the Animal Welfare Branch should be contracted to competent entities, such as RDCs. This has the added benefit of more efficient and effective use of exporter levies, particularly noting DAWE's intention to cost recover the activities of the Animal Welfare Branch. Exporters already pay a statutory levy for research and development in addition to the fees and charges associated with exporting livestock. This means exporters will end up paying for research by an RDC through a statutory levy and again by the Animal Welfare Branch through fees and charges, and only one

of those options can receive matched funding from government. It is therefore not unreasonable to describe the Animal Welfare Branch undertaking such assessments as double dipping.

3. Approved arrangements

Approved Arrangements for livestock exports were introduced following a Regulatory Impact Statement process in 2015. The intent was to move from the existing prescriptive, consignment by consignment approval system to a more simplified livestock export certification process that reduced government intervention in individual export consignments, maintaining the integrity of the trade and reducing costs. In addition to livestock exports, approved arrangements have been successfully implemented in agricultural export commodities such as meat, dairy, egg and fish.

Approved Arrangements achieve greater efficiency and reduce costs for both government and industry by reducing duplication, as well as placing more responsibility and accountability on exporters to meet the requirements for livestock exports. The intention of Approved Arrangements was to allow the focus of DAWE's role to shift to one of risk management, informed by exporter performance, audit and verification. Approved arrangements also allow DAWE's officers to step away from the hands-on management of each consignment to a role assessing an exporter's business operations to compliantly export livestock.

Approved Arrangements were framed as a quality assurance framework that would encourage the identification and rectification of issues proactively (i.e. demonstrating an effective assurance system). This has been lost, and that the identification of a problem is likely to result in punitive action and be viewed poorly against an exporter, rather than positively against the effectiveness of their system.

DAWE have recently committed to engaging a consultancy firm to undertake a review of Approved Arrangements. It is critical that the recommendations from this process are considered and implemented prior to a CRIS process being initiated.

4. Independent observers

DAWE introduced and administers IO program for livestock export voyages by sea. From April 2018, IO's have been placed on voyages to provide additional assurance of the effectiveness of exporter arrangements in managing animal welfare. IO's are, however, a significant financial impost which ultimately puts at risk the viability of livestock exports. For this financial impost to be justifiable, an IO should provide a service that is unique compared to other personnel onboard and add significant value.

In partial recognition of this, DAWE has implemented a risk-based approach to the deployment of IO's on short-haul voyages. Consequently, the COVID-19 pandemic required DAWE to cease deployment of IO's entirely, irrespective of whether it is a short-haul or long-haul voyage. This has enabled the implementation of alternative options that achieve equivalent independent assurance of the effectiveness of exporter arrangements in managing animal welfare, at a lower cost. These experiences and outcomes should be incorporated into the process of reshaping the regulatory approach before the upcoming CRIS process.

5. 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. However, ALEC remains concerned with the duplication of monitoring and reporting activities being undertaken onboard export vessels.

Prior to COVID, on voyages of 10 days or more and unless otherwise specified by DAWE, there is an IO, an AAV and an Accredited Stockperson required onboard export vessels, all required to monitor and report similar

observations. This duplicated monitoring and reporting results in an excess of paperwork that is unlikely to enable efficient nor cost-effective regulatory practices.

This line of thought leads to questioning whether the duplicated monitoring and reporting requirements demanded by the regulator is even used. The delays in the publication of IO reports leads to the conclusion that DAWE 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 Stockperson is at best neglected.

If the Accredited Stockperson 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. Of the three, IO's are the least qualified to judge onboard welfare and the most expensive system to implement. The efficiency and effectiveness of the Accredited Stockperson and AAV system has been demonstrated during COVID. Unlike DAWE, industry has not put the existing animal welfare monitoring and reporting systems on hold.

An analysis of IO reports during their time of operation demonstrates few benefits, other than the independence and transparency sought by the Minister, with little or no resulting welfare improvements, and no major shortcomings revealed. The superior option is better utilisation of AAV's and Accredited Stockpersons, with increased oversight and control by DAWE, using existing State Veterinary Registration and Livecorp Stockman Accreditation as the regulatory tool to manage performance. Notwithstanding, improving the use of and investing in technology to streamline onboard regulatory reporting and monitoring requirements that is currently duplicated, costly and inefficient is necessary.

Roundtable meetings between DAWE, ALEC and LiveCorp have considered these concerns and the resulting project work needs to conclude before the upcoming CRIS process begins.

6. Unsolicited submissions

The cost associated with assessing, consulting, deliberating and responding to unsolicited submissions by animal activist groups, seeking to delay or stop legitimate export of Australian livestock, must be reviewed. DAWE has had to deal with numerous and sizable submissions such as these for sheep exports to the Middle East in recent years, for no benefit or use to the Australian Government, economy, the community or our trading partners.

It is critical that the cost of anticipated future unsolicited submissions is not included when forecasting future DAWE overheads, which would ultimately impact livestock export regulatory costs. Incorporation of these anticipated costs within DAWE overheads would result in the recovery of these costs through exporter fee and charges by stealth, which would be unfair, unwarranted and strongly opposed. The livestock export industry therefore seeks assurance and confirmation that livestock exporters will not be liable for costs of unsolicited, frivolous and vexatious submissions by animal welfare activist organisations.

7. Non-compliance investigatory framework

DAWE's non-compliance investigatory framework is extremely cumbersome, manually intensive and therefore cost prohibitive. An overhaul of associated systems and processes is necessary to drive efficiency. Something that needs to first occur before the upcoming CRIS process. Again, the Federal Government's 'Busting Congestion for Agricultural Exporters' package should assist in the development and introduction of much needed technical solutions.

8. Benchmarking against other regulators

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. ALEC recommends that DAWE liaise with other regulatory bodies, such as the Australian Pesticides and Veterinary Medicines Authority (APVMA), to better understand the concept of risk in a regulatory environment and how to use it to incentivise good regulatory behaviour.

Performance benchmarking is also necessary to ensure appropriate time allocation and associated costs. The implementation of performance benchmarks should enable effective assessment and comparison of regulatory performance and trends.

Thank you for the opportunity to provide comment on the draft legislation for the proposed export cost recovery framework. ALEC would welcome the opportunity to provide more detail on the concerns raised in this submission with you and your team. Please do not hesitate to contact me at ceo@livexcouncil.com.au or on 0400 980 452 should you wish to discuss further.

Yours sincerely



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