

Mr Ross Carter
Interim Inspector-General of Live Animal Exports
18 Marcus Clarke Street
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By email: iglae@agriculture.gov.au

Dear Mr Carter

Re: Monitoring and reporting during livestock export voyages

The Australian Livestock Exporters' Council (ALEC) is a member-based, peak industry body representing Australia's livestock export sector. It sets industry policy, provides strategic direction to the industry 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 to inform the interim Inspector-General of Live Animal Exports review, examining the effectiveness and efficiency of the Department of Agriculture's requirements and management of monitoring and reporting during livestock export voyages by sea.

Independent Observer roles and responsibilities

The Department of Agriculture (the department) introduced and administers an independent observer program for livestock export voyages by sea. From April 2018, Independent Observers (IO) have been placed on voyages to provide additional assurance of the effectiveness of exporter arrangements in managing animal welfare.

The role of an IO is to monitor activities in relation to Approved Export Programs (AEP) during voyages and report back to the department. ALEC notes that 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 is being appropriately and humanely managed. The intention of increasing transparency has yet to be fully realised for a range of reasons described later in this submission.

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. A business class flight, as required for government officers, to Australia from the Middle East is generally around \$7,000 by itself.



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.

The livestock export industry contributes over \$1 billion in export earnings annually while employing 13,000 mainly regional Australians. 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.

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.

Since the introduction and implementation of IO's in 2018, an IO is required on all export voyages unless otherwise specified by the department, or where there is insufficient room for an IO on the vessel – in this case the Accredited Stock Person acts as the IO. The disproportionate regulatory burden as a result of vessel size and the inferred acceptance that an Accredited Stock Person can act as an IO by the department are discussed further in this submission.

For export voyages of 10 days or more, an Australian Government Accredited Veterinarian (AAV) is also required to be present on board, unless otherwise specified by the department. Therefore, on voyages of 10 days or more and unless otherwise specified by the department, there is an IO, an AAV and an Accredited Stockperson required onboard export vessels, all required 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.

This line of thought leads to questioning whether the duplicated monitoring and reporting requirements demanded by the regulator is 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 Stockperson is at best neglected.

If the department is exclusively using the data provided by the IO, the need for the AAV or Accredited Stockperson to submit the very similar data they have collected must be questioned. Conversely, 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.



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 Stockpersons. If there are subtle differences, surely instructing either or both the AAV and the Accredited stockperson 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.

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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 Stockperson 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

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.

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.

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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. 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.

A risk-based approach is necessary

Risk is present in every facet of daily life, yet distinctly missing from 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 requirement for an IO to be present on an export vessel would be best determined using a range of risk-based principles. 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 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.

Recognition of performance

As raised in the above, the regulator does not currently recognise exporter experience, expertise or historical performance. The monitoring and reporting undertaken by on livestock export vessels should be better utilised to establish exporter performance. Good performance can then be rewarded, thereby incentivising it.

General comments

Improvement in regulatory performance necessary

The future sustainability and community acceptance of the livestock export industry is reliant on improved industry practices and transparency, and the competent and proficient regulation of the industry by the department.

ALEC has instituted a range of industry-wide policy and procedural changes in this regard. These include the introduction of a mandatory industry Code of Conduct, the establishment of an independent Conduct Committee and the voluntary moratorium on sheep exports to the Middle East during the northern hemisphere summer to name a few. Concerns persist, however, with the department's ability to regulate livestock exports efficiently, predictably and consistently.

In this regard, ALEC recently collated ALEC exporter members' concerns with the regulator, for the purpose of identifying the areas needing improvement to enable the delivery of efficient, predictable and consistent regulation of the live animal export industry. While not specifically reporting or monitoring related, summarised below are the regulatory performance issues currently being experienced by ALEC members that export by both sea and air, that need direct and urgent attention:

- Staff retention issues over the last few years have had a significant impact on the Live Animal Export branch's corporate memory.
 - Export approval processes stall when a staff member is lost to the program. Compounding this issue is that when new staff are allocated, instead of continuing from the previous point, processes restart from the beginning causing substantial delays and frustration;
 - There is a lack of experience in the sector and an understanding of industry practicalities within the department. An improved understanding of the required lead times to prepare consignments for export and the consequences of delays, both from an animal welfare and a financial point of view is necessary.
 - Not overly complex concepts such as extrapolating between similar stock types i.e. sheep and goats for air freight are requiring substantial effort by the exporter and time to secure required approvals;
- Some exporters have experienced delays of in excess of 10 months in attaining an AEP. In some circumstances, this is in markets where an exporter has more than a decade of experience exporting to with the department's approval;
- Regulatory position tends to be obstructionist rather than facilitatory. Requests for information well beyond historical requirements, at time critical junctures, are being experienced by exporters;

- Excessive delays in the issuance of IO invoices creates an unnecessary and substantial financial risk for some exporters. Further, IO invoices received lack sufficient detail to enable reconciliation (Note: the department appears to have addressed this concern in the recent Export Advisory Notice (EAN));
- There are very limited means for exporters to determine the validity of the policy requirements/directions contained in EANs issued over the last 10 years or more. A review by the department is necessary to determine those that remain current and those that have been superseded;
- Impact level determinations are being applied without the exporter's knowledge and in some cases, with questionable justification. Timeframe related Impact level determinations are often a result of earlier delays by the department;
- Extended delays in issuing AEPs and Notice of Intention to Export livestock (NOI) by the department with no explanation, justification or path of recourse;
- Approved Arrangements (AA) do not appear to be well understood by the department, resulting in exporters being forced into funding ad hoc compliance costs, in addition to existing AA compliance costs.
- The department appears to be reverting to NOI/Consignment Risk Management Plan (CRMP) assessments without advising of their change in scope. For example, assessment of all documents and NOI application is being done prior to approval/export, rather than permitting exporters to invoke pre-approved Standard Export Plans (SEPs) and management plans;
- Concerns that a conservative, risk averse culture has been established within the department. This is resulting in a regulator that is increasingly slow and prescriptive; and
- Insufficient delegates often blamed by department staff for delays in approvals and decisions.

The formation of an industry/government working group would be the ideal forum to formulate and implement regulatory solutions.

Consultation timeframes insufficient

The timeframes for the below recent consultations undertaken by the department have been extremely short, particularly given the significance of the policies being consulted on:

- Guidelines for alternate pen space allocation applications and approvals for cattle on sea voyages less than 10 days (Proposed from 1 June 2019 and still not implemented) was released to industry on the afternoon of Thursday 9 May 2019, with industry feedback requested within four business days – being due 15 May 2019.

- Proposed Conditions for Live Exports to the Middle East during September and October 2019 was released to industry on the afternoon of Friday 12 July 2019, with industry feedback requested in less than six business days – being due 22 July 2019.

In both consultation processes, industry's ability to consider the proposal adequately, consult with members and provide appropriately considered feedback was severely limited, inhibiting stakeholder's ability to constructively participate in regulatory processes. In this regard, we note the *Australian Government Guide to Regulation*, which states,

Transparency can encourage genuine dialogue and build trust in the policy process, but in order for your consultation to be credible and effective, you need to engage with stakeholders in a way that is relevant and convenient for them. You also need to give stakeholders time to consider the information you give them and time to respond

The department's current approach to regulation can only be described as haphazard, which unnecessarily erodes certainty and stability for Australian producers, exporters and international customers. It is imperative that the department meets established governance principles into the future and ALEC stands ready to assist the department where possible to achieve this outcome.

ALEC and its members expect that this submission will assist the office of the interim Inspector-General of Live Animal Exports in its assessment of the effectiveness and efficiency of monitoring and reporting instituted by the department for livestock export voyages by sea. Please do not hesitate to contact me if you require further information.

Regards,



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