



AUSTRALIAN LIVESTOCK
EXPORTERS COUNCIL

19 April 2024

Dr Michael Bond
Interim Inspector-General of Animal Welfare and Live Animal Exports
GPO Box 858
Canberra ACT 2601

Dear Dr Bond

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 make a submission to the interim Inspector-General of Animal Welfare and Live Animal Exports (IGAWLAE) on the Department of Agriculture, Fisheries and Forestry's (DAFF's) Independent Observer (IO) Program.

ALEC notes the scope of the review and will provide comment on all specified topics, namely:

- how effectively the (IO) Program provides regulatory assurance on the transport of livestock for export by sea
- the processes, policies and systems that support the department's IO Program
- the department's risk-based approach to deploying IOs
- the potential use of alternative monitoring technology aboard ships
- what, if any improvements, should be made to the current arrangements.

Background

The IO program, commenced in April 2018, as a response to footage from the Awassi Express voyage in August 2017. The IO program commenced in great haste and, since its inception, DAFF has struggled to recruit and retain a sufficient pool of observers to undertake voyages.

IOs are tasked with monitoring compliance with the Australian Standards for the Export of Livestock (ASEL), and with an Exporter's Approved Export Plan (AEP). IOs primary role is monitoring and oversight, but in certain circumstances, IOs can intervene where they consider animal health or welfare is compromised, or such a situation is imminent.

The former Minister of Agriculture, the Hon. David Littleproud MP, publicly stated his original intention for IOs to be deployed on every sheep and cattle voyage. However, given the difficulties and lack of practicality in attracting and retaining staff, common sense prevailed, whereby deployment of IOs was based upon risk and were not deemed necessary for short-haul voyages.

Exporters are given a direction notice after they submit a notice of intent to export to inform them they are required to have an IO on board for a particular consignment. They typically only have a short amount of time to respond to the direction notice, usually around 3 days.

The IOs are required to take daily observations on a voyage in accordance with a daily checklist and provide a daily report and collect photographs and videos. These form the basis for a detailed report at the end of a voyage. A summary report is also prepared and published after a voyage has taken place.

The current deployment policy states that exporters should expect IOs to be deployed in the following conditions:

- voyages departing from ports south of latitude 26°S and crossing the equator
- the first voyage undertaken by an exporter and/or vessel following a reportable mortality
- the first voyage(s) by any new exporter or vessel
- other long-haul voyages (10 or more days) with complex arrangements such as those with multiple ports of discharge, carrying buffalo or enacting management plans (for example, heavy cattle).

DAFF retains discretion to direct an IOs to be deployed on other voyages.

The cost of deploying an IO is fully met by industry through DAFF's cost recovery arrangements. This includes a daily rate and return flights in accordance with travel entitlements that are determined through enterprise bargaining negotiations between DAFF, their staff and employee representatives.

Effectiveness of the IO Program at providing regulatory assurance

In the 2019-20 report undertaken by the former Inspector-General of Live Animal Exports (IGLAE) on monitoring and reporting during livestock export voyages, several reasons were cited as to why the IO program is not performing well. ALEC would agree that the following problems are still in existence:

- confusion of purpose
- extensive delays between voyages and publication of summary reports
- extensive delays between voyages and feedback to exporters on issues
- IO experience and skills, regulatory posture and onboard relationships
- efficiency (cost versus outcome)

These are the issues of most concern to ALEC and our members. The IGLAE attributed these issues to the haste in which the program was established. Whilst this may have been true at the beginning, the continuance of these problems means the program is flawed in its design and is, therefore, not fit-for-purpose.

Further, if other stakeholders deem that IO reports are perceived as ‘sanitised’ (which we would debate), and don’t achieve the level of transparency expected (again, we would challenge this), then the program cannot be judged a success.

It is prohibitively costly and unnecessary to expect that an IO would be deployed on every single voyage, especially given all the other means of assurance currently employed or at the Australian Government’s disposal. Despite an initial policy intent to place IOs on every livestock export voyage from Australia, this was soon revealed to be infeasible.

In the 2020 Post Implementation Review of the McCarthy review, IOs and Marine Order 43 (the 2020 PIR), the primary justification used for the IO program was that reporting undertaken by accredited stockpersons and Australian Government accredited veterinarians (AAVs) prior to the introduction of IOs in 2018 was not detailed nor transparent enough for DAFF to make informed regulatory decisions. Further, the PIR noted a perception that AAVs and stockpersons were not independent and therefore conflicted.

AAVs 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 2020* and the *Export Control (Animals) Rules 2021* specifically give legislative mechanisms for the accreditation of veterinarians as AAVs. 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.

DAFF has also implemented a series of reforms as part of the ‘Strengthening the AAV program’. The reforms have so far:

- revised the AAVet accreditation course
- produced additional guidance material, including ASEL rejection criteria guidebooks

DAFF has also commenced implementation of a more rigorous auditing and assurance framework and post-voyage briefings.

DAFF has a greater amount of information than ever before, with more detailed end-of-day and end-of-voyage reporting and the advent of LiveXCollect, which has standardised and improved the collection of data on animal welfare and performance during and after a voyage.

AAVs face greater scrutiny and have more guidance material and resources than when the IO program was introduced. In short, DAFF has more, and higher quality data than ever before, coupled with more measures to avoid or mitigate any perceived conflicts of interest and this needs to be taken into account when assessing the current policy settings.

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). It is department policy that the IO must have a cabin to themselves. This create a great deal of angst, animosity and discontent on board when other persons on board are relocated from their cabin to share with another person. The language from the department in demanding this is also nothing short of arrogant and substantially takes away from any cooperation that the department and the observer demand.

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.

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. In terms of fulfilling critical functions on a vessel, IOs do not change any animal welfare outcomes as they scarcely, if ever, intervene or assist. They damage morale by second guessing skilled stockpersons and AAVs.

The placement of IOs on board is also compromising the ability of exporters to place additional stockpersons on board to train them. Every IO placed on board a vessel is potentially one less person an exporter can deploy for training. Becoming a skilled stockperson requires on the job learning, practical experience and high-quality coaching and mentorship from experienced people in the industry. A livestock vessel is a unique workplace environment that is nigh on impossible to replicate elsewhere.

The industry already has an issue with attrition – recently more than 60% of provisionally accredited stockpersons have not gone on to achieve full accreditation (achieved by successfully completing two voyages within two years of successfully completing LiveCorp's training). Longer haul voyages can present a unique opportunity to train stockpersons because the larger consignments and vessels mean there will be more experienced stockpersons and AAVs onboard to provide training. These also happen to be the voyages where IOs are most likely to be deployed. This is unequivocally causing a shortage of skilled stockpersons and will detrimentally effect animal welfare outcomes onboard now and more so into the future.

ALEC is aware that DAFF has suggested that exporters may 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 stockpersons needs to be embarked on to a vessel it is for a very good reason. Ultimately more supervision and inspection of the livestock can only result in a better welfare outcome. 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 the stated wants and beliefs of DAFF, politicians or members of the community.

Vessels operating in fisheries is another setting that requires assurance of regulatory compliance on a vessel at sea. Fisheries management authorities in Australia and elsewhere have noted the deficiencies with an observer program and have been actively investigating technology-based alternatives. For example, The New Zealand Ministry of Primary Industries (NZMPI), in a Regulatory Impact Statement on the rollout of onboard cameras, notes:

There are practical difficulties and health and safety concerns about the deployment of fisheries observers on smaller inshore vessels. Expanding the use of on-board cameras will improve the integrity of the management framework by significantly expanding monitoring and verification of fishing activity, and fishery interactions with protected species and the environment.¹

Further, the NZMPI RIS goes on to acknowledge the costs and practical difficulties and expense of increasing the rate of coverage of voyages by independent observers:

The low observer rate of the inshore fisheries (less than five percent) would mean that very low levels of verification of catch reporting and fishers' behaviour at-sea would continue. Increasing coverage is expensive and some inshore vessels are too small to carry an observer due to health and safety requirements. Other methods of verification, such as portside monitoring is challenging as activity is far from shore and often in geographically isolated areas.

Processes, policies and systems and the risk-based approach

ALEC has several concerns with the current approach. The cost of an independent observer, borne solely by exporters through cost recovery, is the most fundamental issue, particularly if there are more cost-effective alternatives available.

One of the largest components of the cost is the cost of a business class airfare to return an IO to Australia. Exporters are expected to pay the entire cost of these airfares, yet have no oversight or control over which airlines are used or the timing of flights, all of which can affect the cost significantly.

¹ <https://www.mpi.govt.nz/dmsdocument/51484-Regulatory-Impact-Statement-Wider-Rollout-of-On-board-Cameras> (see p.1)

Business class airfares are an exorbitant luxury that are prescribed by travel entitlements negotiated by DAFF and their employees. ALEC is of the understanding that the DAFF's 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". IOs are not senior executives nor could a supporting satisfactory business case be developed. 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. Again the language from the department regarding this matter only portrays the perceived arrogance of the department and also in many cases has caused animosity on board due to observers flaunting or boasting of the business class flights home.

Given that this travel is paid for by exporters and not charged as departmental expenses, it is a reasonable expectation that the fees charged would be commensurate with the lowest cost options for travel. If DAFF wishes to provide additional benefits to their staff, DAFF should pay for that out of their own departmental appropriations.

Under the current settings, neither DAFF, nor its staff have any incentive to minimise these costs, which constitutes an inefficiency baked into the program, and unfairly imposed on exporters. Some critical questions that the Inspector-General should ask of DAFF are:

- Do IOs book their own return airfares?
- Does DAFF's staff travel policy contain any requirements for IOs to book the lowest cost airfare possible?
- Does DAFF staff travel policy allow IOs to gain benefits, such as frequent flyer points, status credits or other pecuniary benefits, as a result of their staff travel?
- What oversight does DAFF undertake, to ensure IOs are adhering to their staff travel policy, and are not misusing Commonwealth resources or otherwise benefitting at the expense of exporters?
- Are IOs required to return to Australia immediately, or they able to take leave and return to Australia at a time of their own choosing?

If DAFF were to be more transparent, improve incentives to operate at the lowest possible cost, make greater use of other more effective and efficient assurance systems and put mechanisms in place to ensure IOs were not personally benefitting from undertaking voyages, this would lessen resistance from industry. Assurance is a reciprocal obligation on all parties, including the regulator.

The lack of certainty about when an observer will be deployed, coupled with (or perhaps because of) the opacity of the risk matrix underpinning the deployment policy, is a major concern. Also, 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.

Timeliness of the IO reports and their receipt by the exporter is yet another concern held by the livestock export industry. 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.

Potential use of other monitoring technologies

Alternative approaches to assurance, based on technology, can be an excellent way to achieve desired outcomes at the lowest cost. The world has changed substantially since the IO program was first implemented. First, the COVID pandemic showed that other means of assurance were possible. ALEC contends that independent assurance of exporters animal welfare management was achieved during the COVID pandemic at an equivalent level to Independent Observers (IO), at a substantially lower cost. These experiences and outcomes should be incorporated into any future regulatory approach.

ALEC also understands that in cases where an exporter is unable to accommodate an IO, DAFF can, and does impose other conditions and/or mandate the use of other means of assurance, such as requiring AAVs and stockpersons to deploy and use data loggers to send observations back to DAFF during and after a voyage.

This proves that alternative means of assurance are available and these should be transparently and truthfully evaluated by DAFF and industry (through LiveCorp). This evaluation should form the basis for an improved assurance program, with less reliance on IOs, unless their cost can be justified.

Technology has improved substantially since 2018, and so has acceptance amongst regulators, trading partners and the broader community. And with connectivity continuing to improve, the necessary conditions for technological adoption are there. However, this is not sufficient to ensure these solutions are successfully deployed.

The cost to exporters of the IO program, and the reluctance of DAFF to be specific about the regulatory and assurance aims they are seeking, are acting as prohibitive barriers to adoption, despite a strong desire from the industry to invest.

LiveCorp is developing a LiveXCollect mobile phone/device application to improve the collection voyage data even further, making easier and more intuitive for stockpersons to use day-to-day. It will ensure faster and more accurate data transfer. It will also enable information to be timestamped and prevent it from being altered, improving the objectivity of the data collected. However, this development has been hampered by unclear parameters from DAFF as to the data they are seeking to collect, and poor communication with exporters.

Potential improvements to the current arrangements

ALEC believes that serious consideration should be given to implementing a system that:

- is less reliant on physical observers, employed by the Australian Government, being present on vessels
- makes third party providers a centrepiece of the IO model
- utilises technology more effectively
- reduces duplication between AAVs and IOs

- utilises past performance information to incentivise ongoing high performance and improvement
- provides more timely and better quality feedback to exporters to improve performance
- is subject to a deployment policy that gives exporters and vessel operators a greater opportunity to plan for, and accommodate IOs

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 AAVs for a perceived and unsubstantiated conflict of interest, the department should investigate ways to better utilise the skills, knowledge, experience and independence AAVs possess. In this vein, ALEC understands that the department has investigated making 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 AAVs to become Authorised Officers (AO) under the Export Control Act. The ability to appoint AOs 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.

Third-party providers of IOs 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 IO program on an ongoing basis. But it should be noted still that a third party IO would still come at a significant cost, for which it is very hard for exporters to bear.

IO services managed by government approved third-party services providers are independent from the export industry, functioning under Government governance and standards. Similar arrangements operate in other sectors, such as meat and grain exports. Minimum qualifications and independence requirements for AO IOs 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.

This model 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 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 long-haul voyages.

ALEC supports both the third-party provider approach, coupled with greater use of technology, such as sensors/data loggers/cameras (either fixed or body-mounted on AAVs and stockpersons) and through the LiveXCollect mobile device app being used as a real-time two-way communication tool between personnel on the vessel and the regulator and encourages DAFF to progress the investigation of these alternative, lower cost options.

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 IOs.

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.

To this end, ALEC worked with DAFF constructively and in good faith over the last two years on a new IO deployment policy that would have guaranteed each exporter would accommodate an IO at least once per year. Further, ALEC was led to believe that a new deployment policy had been agreed with senior executives within DAFF, but this agreement was never formalised and has since seemingly disappeared into the ether. DAFF should consider implementing this policy as agreed.

Another improvement to the current system would involve setting more robust deadlines around the timeliness and objectivity of IO reports. 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.

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.

With these improvements, ALEC firmly believes the quality assurance undertaken on vessels could be performed to a higher standard than currently, and at lower cost. This is an ambitious yet achievable goal. It would be an unambiguous win-win situation for all parties – exporters, vessel operators and crew, DAFF as the regulator, AAVs and stockpersons, members of the community – and most importantly, the livestock being exported. In that vein, ALEC urges you to provide with DAFF a clear set of recommendations that sets out a pathway and timeline for action.

As a general comment, ALEC must also stress that the cost of compliance for exporters is overwhelming. The department is running at a significant deficit, while exporters are being burdened with the cost recovery of an incredibly inefficient department. An example was provided by an exporter of the cost of an observer on a recent long haul voyage, where the invoice was in the vicinity of \$80,000. In many cases, in this current economic climate, the observer costs are affecting the viability of the business, or at least the shipment. Similarly customers and consumers overseas cannot absorb all of these costs when in many cases they are struggling to feed themselves and their families. The animals exported by Australia in almost all cases are not a luxury item, through either direct slaughter or their production of milk they are feeding the general population in countries that are socioeconomically much poorer than Australia.

Conclusion

Thank you for the opportunity to provide a submission to the review of the Independent Observer Program. ALEC would welcome the opportunity to discuss the issues, concerns and recommendations raised in this submission with you and your team. Please do not hesitate to contact ALEC Deputy CEO, Mr Scott Kompo-Harms at deputyceo@livexcouncil.com.au or on 0449 839 725 should you wish to discuss further.

Yours Sincerely



David Galvin
Chair
Australian Livestock Exporters Council

