



4 February 2025

Ms Lisa Chesters
Chair
Joint Standing Committee on Treaties
PO Box 6021
Parliament House
Canberra ACT 2600
Via email: jsct@aph.gov.au

Dear Ms Chesters

I wish to draw your attention to the evidence given to the committee by Mr Ravi Kewalram, First Assistant Secretary and Chief Negotiator, Department of Foreign Affairs and Trade (DFAT) regarding the Australian Livestock Exporters' Council's (ALEC's) position on the Australia-United Arab Emirates Comprehensive Economic Partnership Agreement (A-UAE CEPA) at the public hearing of the committee held on 30 January 2025. I seek to correct the record.

I contend that some of the evidence given by Mr Kewalram is incorrect regarding consultation or misconstrues our position as one of support for article 21.4 of the negotiated agreement.

ALEC made a submission to DFAT on 2 May 2022 regarding our desire to see a side letter or memorandum of understanding (MoU) included in the agreement. Our submission made clear that the former Department of Agriculture, Water and the Environment (DAWE)¹ imposed what we considered to be inefficient regulation that adds substantial, yet unnecessary, costs to our supply chains and therefore damages our international competitiveness.

The Australian Government applies regulations and requirements on Australian exporters in-market through the Exporter Supply Chain Assurance System (ESCAS). Exports of live sheep by sea to the Red Sea and Arabian Gulf are currently prohibited during the Northern Hemisphere Summer.

These requirements impose a significant burden on our customers, yet our regulatory impact assessment processes seldom consider these impacts as they do not fall on Australians. Nevertheless, they have a substantial impact on our trading partners' food security goals. DAFF has, in the past two years undertaken reviews of both the Northern Hemisphere Summer and ESCAS and there has been a distinct failure to consider the views of stakeholders outside of Australia.

¹ Now known as the Department of Agriculture, Fisheries and Forestry (DAFF)

These extra costs are opaque and act as a self-imposed non-tariff barrier on Australian livestock exports to the Gulf region. The intention of our suggested MoU or side letter was two-fold. Firstly, to provide a mechanism for trading partners to be notified of any potential changes to ESCAS or other export or maritime regulations that might impact them. Secondly, to allow them to participate in the relevant policy impact analysis processes on proposed changes before they were set and implemented.

This would impose a legally binding requirement on the Australian Government to notify, and consult with, our trading partners on issues that affected them. This would give trading partners the same opportunities as affected Australian businesses and individuals on regulations that are atypical in their effect across international borders.

ALEC believed that such an offer could be beneficial to our negotiators in trying to achieve greater trade liberalisation for other commodities. ALEC firmly believes that this request has been misconstrued by Mr Kewalram in his evidence. Specifically, Mr Kewalram stated:

*Some of the other comments I heard were about awareness before this came out and so on. I note that, in the consultation process, there were a number of Australians seeking for us to have something in the animal welfare space. **One recommendation from industry that we are aware of in this space, which I believe was from the Australian Livestock Exporters Council, was that CEPA should establish a mechanism for the UAE to raise any concerns with changes to Australian livestock regulations, and we got that outcome.***²

The text in Article 21.4 of the agreement **does not** achieve what we asked for. What we requested was a process that would be initiated by the Australian side whenever changes to the relevant Australian legislation or regulations were proposed. In our view, “relevant” changes would be broader than just ‘animal welfare’ regulations – they would cover changes made under the *Navigation Act 2012* and the *Export Control Act 2020*, for example. Elsewhere in his testimony, Mr Kewalram stated:

*It does not affect the right of each party to establish its own policies and priorities for the protection of animal welfare and to adopt or modify its laws, regulations and policies.*³

This directly contradicts what we were asking for in our submission. Because ESCAS, for example, is unique in its extra-territorial application, our view is that there needs to be a binding requirement on the Australian Government to apply a greater level of scrutiny and consult with a wider range of stakeholders than is traditionally the case under standard policy impact analysis processes.⁴ This has little relevance to the kind of references to

² Proof Committee Hansard, p. 21 [emphasis added]

³ Ibid., p.21

⁴ See <https://oia.pmc.gov.au/sites/default/files/2024-01/australian-government-guide-to-policy-impact-analysis.pdf>

This document sets out guidelines for Australian Government agencies on the levels of analysis and consultation required. As it stands, the Department of Agriculture, Fisheries and Forestry rarely conducts detailed policy impact analysis and does not consult effectively with foreign stakeholders.

animal welfare we see in 'a previous FTA' - the Australia-UK FTA - and for Mr Kewalram to conflate these issues shows just how little DFAT understood about our proposal.

We received a response from Mr Andrew Jacenko (A/g Assistant Secretary, Chief Negotiator UAE CEPA and GCC FTA) on 2 May 2022. The only points Mr Jacenko sought to clarify were whether ALEC was happy for the submission to be made public and whether we wanted the submission to be treated as equally applicable to any negotiations for any potential Gulf Cooperation Council (GCC) agreement negotiations.

DFAT made no further contact with anyone at ALEC until 20 December 2023 at which point, DFAT stated that they understood our position and invited us to provide further input, although there was no mention of the possibility of an animal welfare chapter or reference in the agreement. The next contact we had with DFAT was the invitations to the general briefings in 2024 with more than 100 other stakeholder groups at a time.

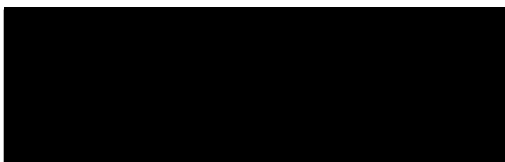
I can confirm that ALEC was sent a general invitation to three general stakeholder briefings in 2024, including the one specifically mentioned by Mr Kewalram on 14 June 2024. It was sent only to our deputy CEO Mr Scott Kompo-Harms, and Mr Kompo-Harms was on leave at that time, so he did not attend that briefing. These general briefings tend to be very vague and rarely cover any specifics of what is included in an agreement. The briefings are also very one-sided with minimal chance for any meaningful input from stakeholders.

Therefore, I stand by the claim that article 21.4 came as a surprise to our industry. DFAT never attempted to clarify our position or check that their interpretation was correct.

I should also add that the Albanese Government introduced legislation into the Parliament to ban live sheep exports and curtailed debate into a very short timeframe in the middle of 2024, so to expect our industry to be highly engaged on other Government consultation processes is unrealistic at best.

I would urge the committee to reexamine the evidence given to date and seek corrections to the public record where appropriate.

Yours Sincerely



Mark Harvey-Sutton
Chief Executive Officer
Australian Livestock Exporters Council

