

25 August 2022

Mr Gerry McInally
Committee Secretary
PO Box 6100
Parliament House
Canberra ACT 2600

Via email: rrat.sen@aph.gov.au

INQUIRY INTO THE ADEQUACY OF AUSTRALIA'S BIOSECURITY MEASURES AND RESPONSE PREPAREDNESS

ATTN: Senate Rural and Regional Affairs and Transport References Committee

Dear Mr McInally,

Freight & Trade Alliance (FTA) is Australia's leading representative body for the international supply chain sector bringing together importers, exporters, customs brokers, freight forwarders, logistics service providers and industry groups.

FTA also manages the Secretariat for the Australian Peak Shippers' Association (APSA) being the peak body as designated by the Federal Minister of Infrastructure and Transport to protect the interests of Australia's cargo owners and shippers in respect to shipping and international logistics services.

Recognition of Biosecurity Threats

FTA recognises Australia has serious biosecurity risks on its doorstep; should these cross our international borders and spread, it could have potentially devastating impacts on our agricultural industries, environment, health and economy.

Some of the notable risks include Varroa mite, Japanese encephalitis, African Swine Fever, Foot and Mouth, Lumpy Skin Disease, Khapra Beetle and the Brown Marmorated Stink Bug.

FTA note the increasing threat of Khapra Beetle, listed as number two on Australia's National Priority Plant Pests list. Changing trade patterns resulting from the pandemic and an inability to risk assess based on container history due to a lack of data are likely strong contributors to a spike in khapra beetle incursions in recent times.

While recognising the need for emergency measures to address these risks, FTA has concerns that these may take limited biosecurity resources away from business-as-usual trade facilitation activities to focus on passenger processing.

Out-dated Biosecurity Processing

In terms of import cargo, the Department of Agriculture, Fisheries and Forestry use labour intensive processes with biosecurity officers physically assessing import documentation and selecting consignments on a set criterion for inspection.

A change of import dynamics (increased import sea containerised volume and e-commerce via airfreight) and 'work from home' pandemic operating conditions highlighted inefficiencies in document processing and inspection programs administered by the department.

Federal Government Response

As outlined in an independent report completed by the Inspector-General of Biosecurity (IGB) in February 2021, the biosecurity system is not in a strong position to address the diverse and evolving biosecurity risks and business environment expected to prevail through to 2025. *'This assessment is based on an examination of the systemic problems, including the department's regulatory maturity, its approach to coregulation, inadequate frontline focus, and the absence of an appropriate funding model.'*

The release of the IGB report coincided with a meeting between FTA / APSA representatives and the Hon David Littleproud (the then Minister for Agriculture, Drought and Emergency Management) resulting in the Minister producing a media release acknowledging performance failures, outlining necessary proactive initiatives and making the following affirmative statement *'I have asked my department to work with industry groups on other short-term and medium-term system and process improvements, and on setting a global benchmark in biosecurity best practice through co-design.'*

Interim measures developed in consultation with industry and deployed by the department during 2021 provided a level of relief but were short-lived as they failed to address longer term underlying causes. It is evident that adequate resourcing levels are required to service the current processing in parallel to deploying longer term reforms.

Impacts on Trade Facilitation

Whilst document assessment processing times continue to fluctuate, inspections and the issuing of import permits can take weeks to complete.

Importers, freight forwarders and customs brokers have suffered significant delays adding considerable costs aligned to contractual failures in meeting supply commitments and foreign shipping line administered container detention penalties for the late dehire of the empty container.

As outlined in the FTA/APSAs response to the Productivity Commission's review of *Australia's Maritime Logistics Systems*, foreign owned shipping lines do not reasonably consider why there is a delay in returning empty containers yet insist they are returned within prescribed timeframes to add to their stockpile congesting our port precincts.

REFER ATTACHMENT A

Biosecurity delays are one of many causes of container detention fees that are conservatively costing importers \$500 million per annum. This is on top of surcharges, terminal access charges and record high freight rates that are rapidly escalating supply chain costs and adding to inflationary pressures.

FTA acknowledges that the department is co-designing solutions with industry including examination of commercial practices to reduce the risk of introducing and spreading contaminating pests and therefore minimise the associated regulatory consequences for Australian commerce.

REFER ATTACHMENT B

The Biosecurity Trusted Importer Program or commonly referred to as 'green lane' is the gold standard of strong partnerships and shared biosecurity culture as outlined in the recently released National Biosecurity Strategy

'The goal of the green lane is to establish trust-based arrangements to:

- *Reduce compliance effort and regulatory fees for participating importers, and improve speed to market for their goods*
- *Allow the redirection of Departmental resources to areas of greater risk and system reform*
- *Build relationships between Industry and Government through sustained effort and collaboration'*

These longer term strategies tie in with the *Commonwealth Biosecurity 2030* 'roadmap' by reducing the regulatory burden for qualifying import businesses and increase certainty in border clearance. Furthermore, it ties with successive federal government agendas for simplifying trade and deregulation and align with the scope of the *Simplified Trade System* (STS) Taskforce.

FTA was honoured to be a member of the National Biosecurity Strategy Reference Group and see all identified priority areas as having of significant merit requiring an underpinning sustainable funding model.

Whilst applauding and supporting these initiatives, the rate of implementation is too slow.

By way of example, a contingent of FTA representatives met with departmental executives in December 2021 identifying three areas of reform that were in progress and would be quick to implement. Some nine months later the initial phases of of 14.4 Rural Tailgates Approved Arrangement is being deployed and other agreed initiatives are yet to implemented.

We urge the incumbent federal government to introduce immediate relief measures.

Whilst a broader review of cost recovery arrangements is clearly necessary as a part of future budgetary considerations, FTA recommends immediate industry engagement to consider additional transactional fees on the proviso that this directly translates to commensurate improved and immediate trade facilitation measures.



Paul Zalai

Director and Co-Founder | Freight & Trade Alliance (FTA)
Secretariat | Australian Peak Shippers Association (APSA)
Director | Global Shippers Forum (GSF)

ATTACHMENT A

EXTRACT OF FTA/APSA SUBMISSION (FEB 2022) IN RESPONSE TO THE PRODUCTIVITY COMMISSION REVIEW OF AUSTRALIA'S MARITIME LOGISTICS SYSTEM

5. CONTAINER DETENTION

5.1. Incentivisation to return empty containers

Container detention is a charging practice deployed by shipping lines globally to incentivise the return (dehire) of the empty container within contracted periods from the time of import. While shipping lines have every right to be recompensed for extended equipment use, shippers should not be forced to pay for events that are outside of their control.

In an extended period from September 2019 to March 2021 we witnessed a surplus of containers being imported versus those exported causing, at times, severe congestion at empty container parks contracted to shipping lines. In normal operating conditions, shipping lines would be proactive in commissioning 'sweeper vessels' to evacuate surplus empty containers for repositioning back to suppliers, primarily across Asia. Limited opportunities for this action existed in 2020 with tight windows at stevedores utilised by shipping lines to discharge large volumes of imports and to service our export market recovering from drought and bushfires and finally having produce after much needed rain.

5.2. Logistics complexity in de-hiring containers

The congestion at empty container parks forced transport operators to store containers at their own premises and complete multiple lifts to access containers within stacks with no recompense from foreign owned shipping lines. Rather than offering blanket extensions to detention free periods, most shipping lines continued to issue detention penalties with the importer, transport operator, freight forwarder and / or customs broker having to demonstrate evidence of the inability to de-hire to seek a refund with assessment completed by shipping lines on a 'case-by-case' basis. The charging of container detention in these circumstances is a totally unacceptable measure, only increasing the workload for industry to maintain data supporting the need for relief and then shipping line staff having to validate the claims. During this period, transport operators also reported a growing number of issues in respect to the way shipping lines are managing empty container movements, with a surge of 're-direction' notices (where the shipping line instructs a transport operator to return a container to a certain empty container park, then changes the direction to a different empty container park). Again, without any level of compensation provided by shipping lines, the issue reached a crisis point where Australian transport operators applied an industrywide broad surcharge to recover costs of related inefficiencies (futile truck trips, more truck kms travelled, extra handling costs, etc.)

5.3. Unfair penalty imposition

Detention charges caused by Australian Border Force (ABF) imposed 'border holds', or containers being inspected at the Container Examination Facility (CEF), are a major and recurring issue for importers, freight forwarders and customs brokers. While the ABF has arrangements in place with stevedores to offer free storage arrangements if the cargo report was lodged within statutory timeframes, shipping lines will still apply detention fees for late container de-hire, even though the importer, freight forwarder or customs broker has no control over the container during that time. If container detention and demurrage practices were 'just and reasonable', the container detention clock would start from the time the container becomes available after CEF processing, not from the time the container is discharged from the vessel.

The US Federal Maritime Commission (FMC) has recently launched a formal investigation into the shipping lines use of 'unfair and unreasonable' practices imposed on importers and exporters in relation to empty container returns and shipping line container demurrage- detention charges. FTA / APSA had the privilege of interviewing Commissioner Rebecca Dye on 8 April 2021 who has responsibility for leading the FMC investigation. The Commissioner noted: "there are good charges and bad charges"; "We are no longer going to allow the ocean carriers and the ports to push-off port inefficiencies to shipper, truckers and intermediaries"; and "And if a trucker attempts to return an empty container within the time allocated, and is prevented by congestion from returning it, then he doesn't pay."

Administering container detention penalties in situations where the shipping line contracted Empty Container Park (ECP) is closed or is at full capacity should not be permitted. To impose these charges and then expect the importer to justify a claim for refund adds unnecessary administration both on the importer and the shipping line.

REFERENCE: [FTA / APSA podcast with Rebecca Dye \(Commissioner US Federal Maritime Commission\)](#)

In line with this position, the Commissioner noted during the recent congestion at Los Angeles – Long Beach USA, a major shipping line waived all detention and demurrage charges with the rationale "they understand it is unreasonable to impose charges in situations of such extreme congestion" It is disappointing that during the recent congestion issues at ECPs and the difficulties being faced by the transport sector in response to the Omicron COVID-19 outbreak significantly affecting Australian east coast port logistics operations, that no foreign owned shipping lines have applied a general waiver of this nature and instead imposed a more rigorous regime of applying a case-by-case basis of review for refund of container detention charges imposed.

FTA / APSA see the need for regulation to enforce the following rules:

- shipping lines to start the container detention clock from the time that the import container is physically available to collect from the stevedore (some currently commence the detention clock from when the container is discharged from the import vessel);
- shipping lines to provide a minimum of seven days to de-hire containers to facilitate staged movements of containers (extended periods to be available and negotiated on a commercial basis);
- the detention clock to apply only after border and biosecurity intervention have been completed (in prescribed circumstances when the importer has completed all necessary pre-arrival regulatory requirements);
- the detention clock to stop on week-ends and public holidays when many nominated de-hire locations are unavailable; and
- the detention clock to stop in the event that the nominated dehire location is at capacity and not physically able take receipt of the container.

RECOMMENDATION 5 (regulation of container detention practices) – the need for federal government action and potential regulation, similar to US Federal Maritime Commission (FMC), to ensure reasonable container detention policies are administered

LONGER TERM BIOSECURITY REFORMS

- Finalising the pilot of remote inspection capabilities to increase inspection efficiency and mitigate workplace health and safety risks.
- Completing the trial of X-ray applications to automate the identification and capture of seed packets coming through international mail gateways.
- Continuing the adoption of modern diagnostic technologies to improve operational service delivery and risk management, including partnering with key stakeholders to pilot High-Throughput Sequencing in post-entry quarantine.
- Delivering a national environmental DNA (eDNA) testing program to assist border surveillance for key exotic pests, supported by a partnership with University of Canberra to establish a national eDNA reference centre.
- Rolling out the Biosecurity self-service online inspection booking portal.
- Progressing automated import document assessment (self-assessed clearance and minimum documentation assessment processes) and enhancements to COLS lodgement process.
- Trialling mobile handheld technologies to evaluate their effectiveness as tools to detect key passenger pests more effectively.
- Partnering with industry to deliver a prototype sensor that identifies and quantifies residual fumigants on sea containers in real time and identifies biosecurity pests of concern.
- Piloting automating shipping container screening using hyperspectral cameras attached to port cranes.
- Completing testing of tools to improve monitoring of compliance with aircraft disinfection requirements.
- Progressing the development of a tool using artificial intelligence to enable real-time identification of brown marmorated stink bug (BMSB) and exotic bees.
- Implementing interoperable system functionality to provide for accurate, consistent and current taxonomic information to support regulatory decision-making.
- Proof of concept to digitise the Code of Practice for Packing of Cargo Transport Units (CTU Code)