

18 April 2019

Mr David Trebeck
Independent Chair
Biosecurity Imports Levy Industry Steering Committee

Via email: bilreview@yahoo.com

Dear Mr Trebeck

BIOSECURITY IMPORTS LEVY CONSULTATION

The Chamber of Minerals and Energy of Western Australia (CME) is the peak resources sector representative body in Western Australia. CME is funded by member companies responsible for over 90 per cent of the State's mineral and energy production and workforce employment. The value of royalties received from the sector in 2017-18 totalled \$5.8 billion (iron ore and concentrates contributing 77 per cent), accounting for 19 per cent of State Government revenue.^{1 2} The sector is a key driver of growth, contributing to a third of the State's total industry gross value added.³

In 2017-18, Western Australia contributed to 46 per cent of Australia's international trade, with 96 per cent of major exports derived from the Western Australian resources sector.⁴ Commodity export earnings, aided by government stimulus support, has helped the Australian economy withstand the global financial crisis.⁵

The sector however operates in a highly trade exposed economy, sensitive to swings in global commodity markets and intense price competition from low cost producing economies such as South America and Africa. Imposing an additional levy on incoming ships can cause a cascade effect throughout supply chains, leading to a higher cost of imports and subsequent higher export price of goods and services to Australia's major trading partners. With global economic development moderating, producers and users of commodities are increasingly focusing on achieving operating and cost efficiencies. In this environment, supply chains are highly susceptible to changes in costs. A poorly targeted levy will have unintended negative consequences on Australia's global competitiveness.

Whilst CME strongly supports protection of Australia's unique biota and environment, introducing an industry wide biosecurity imports levy (the levy) without extensive consultation is remiss. As a major export industry, if the levy is on volume the resources sector stands to bear a disproportionate share of the cost to fund additional biosecurity activities. We also have strong concerns regarding what appears to be an inadequate assessment of biosecurity risks based on rigorous and robust science, regulatory implications (i.e. an economics cost benefit analysis) and lack of broader stakeholder consultation to date.

A risk-based assessment integrated with an impact analysis is critical to ensuring the levy effectively delivers improved biosecurity outcomes with the least distortion to trade and market access. Further, imposing an additional cost on imports should duly consider Australia's Agreement

¹ Excludes monetary contributions via State taxes and levies.

² Department of Mines, Industry Regulation and Safety, *Western Australian Mineral and Petroleum: Statistics Digest 2017-18*, October 2018.

³ Duncan, A., Kiely, D. and Salazar, S., *BCEC Quarterly Economic Commentary: March 2019*, Bankwest Curtin Economics Centre, April 2019.

⁴ Department of Foreign Affairs and Trade, *Western Australia*, Statistics Section, January 2019.

⁵ Office of the Chief Economist, *Resources and Energy Quarterly*, Department of Industry, Innovation and Science, December 2018.

on the Application of Sanitary and Phytosanitary Measures and General Agreement on Tariffs and Trade with the World Trade Organization to be the least trade restrictive.

A risk-based assessment should assess biosecurity threats based on various types of cargo, vessel, existing risk mitigation strategies, turnaround times, vectors and travelling locations. As highlighted by prior reviews, a “one size fits all” approach would be unequitable and inadequate. Coordination and communication across the wider biosecurity continuum of affected stakeholders is vital for implementing and sustaining effective biosecurity management.^{6 7 8} Imposing an industry wide levy without nexus to the risk creators, bearers or beneficiaries of biosecurity encourages behaviour that is compliance focused. It fails to provide a price signal to incentivise best practice quality assurance in supply chain management and regulatory stewardship. With federal research and development taxation reforms currently in limbo, such a levy could discourage investment in cooperative biosecurity research programs and continuous improvement initiatives.

The lack of engagement with downstream and export stakeholders such as the Western Australian resources sector is a cause for concern. Although CME understands these changes in the levy design to include a wider range of cargo and vessels occurred late last year, there has not been a proportionate extension of the consultation period. Therefore, this letter seeks to provide a high-level document outlining the concerns of the Western Australian resources sector.

While CME welcomes establishment of the Industry Steering Committee, as the levy may now affect a greater number of stakeholders, **CME strongly recommends deferral of the levy introduction until there is a broader industry consensus (across importers and exporters) and the review work program by the Inspector-General of Biosecurity is completed (items 8 and 12).** Findings and recommendations from these reviews currently underway may provide useful and meaningful insight into the levy’s design. For example, a dynamic and transparent list of priority biosecurity risks, informed by scientific knowledge, would enable better coordination of resourcing efforts and targeting of relevant stakeholders.⁹ The levy could be temporary in nature with sunset clauses or adjusted by tiers to reflect different categories of threats.

As requested, please find below CME’s feedback on the identified contentious issues and questions posed in the discussion paper.

1. Principal conclusions of the Craik Review

CME accepts the tenor of the selected quotes from the Craik Review. For example, the Australian economy would benefit from a national biosecurity system with greater alignment of market access efforts and efficient delivery of biosecurity services. Furthermore, maintenance of current budget appropriations for biosecurity is critical, enabling flexibility to pursue both core and non-core regulatory services.

CME accepts it is difficult to pinpoint the source of biosecurity risk material from arriving vessels and containers. On assessment of certain factors, proximate causes of recent incursions of myrtle rust and fire ants have occurred outside Western Australia. In this respect, it has been contended Western Australia’s climate and geography provides a natural barrier to these types of incursions. This is not to suggest Western Australia’s environment is of less value (biodiversity richness), on the contrary, the conservation imperative is discussed later below.

As expanded upon below, conditional discretionary concessions could apply for the purposes of equity and equality amongst affected sectors. Introducing a concession methodology, supported

⁶ Nairn, M.E., Allen, P.G., Inglis, A.R. and Tanner, C., *Australian Quarantine: a shared responsibility*, Department of Primary Industries and Energy, October 1996.

⁷ Beale, R., Fairbrother, J., Inglis, A.R. and Trebeck, D., *One Biosecurity: a working partnership*, independent review, Department of Agriculture, Fisheries and Forestry, September 2008.

⁸ Craik, W., Palmer, D. and Sheldrake, R., *Priorities for Australia’s biosecurity system*, independent review, Department of Agriculture and Water Resources, July 2017.

⁹ Scott-Orr, H., *Environmental biosecurity risk management in Australia*, Inspector-General of Biosecurity, Department of Agriculture and Water Resources, April 2019.

by tiered rates on the basis of risk or volume, would ensure those posing little threat or have robust risk mitigation measures do not bear a disproportionate burden. If this is administratively complex, a non-discretionary flat concessional rate could apply. Some shipping lines for example utilise rigorous vetting systems to match cargo with vessels with a history of good practice and quarantine conformity. A concessional rate would incentivise these practices to continue.

2. General levy vs cost recovery charge

CME does not support a levy that cascades the cost of externalities onto the Western Australian resources sector to bear as an end user. The revenue target should not seek to address pre-existing market and institutional failures caused by others. Implementing such a regulatory measure is inequitable, potentially unsustainable, and is not adequately proportionate in responding to the risks of pest, pathogen and disease invasions. For example, the levy would not address those repeatedly failing to respond to fines and penalties in letting biosecurity risks enter via cargo and vessels. Nor does it address the under-provision of dedicated funding and coordination of biosecurity activities across tiers of government.

CME would support proportionate application of the levy to the highest risk creators (user-pays principle) or extended to the wider public (end consumers) in recognition they benefit from a pristine environment free of pests, pathogens and diseases. If raising funds under these approaches are insufficient to meet the government's proposed revenue target, then an increased appropriation of taxpayer funds to meet the balance should be considered on the basis biosecurity should rightly be a core regulatory service¹⁰. The New Zealand government's decision rules on recovering costs of the biosecurity strategy is a good example.

Conversely, if the levy is regarded as a tax measure, this will increase Australia's relatively high marginal effective tax rate on corporate income and capital investment.^{11 12} This may detract from Australia's ability to take advantage of neighbouring growth in emerging and developing economies in the Asia Pacific.

3. Private sector concerns regarding the principle of a biosecurity import levy

CME agrees with the concerns raised during the consultation process regarding appropriation of the levy funds raised. Without hypothecating the levy funds, it is not possible to ascertain if the levy will fund additional biosecurity services or is simply designed to accrue consolidated revenue. CME does not welcome cross subsidisation of unrelated or underperforming regulatory services.

Further to the recent submission by the Minerals Council of Australia,¹³ the resources sector stands to bear a disproportionate share of the proposed costs of funding additional biosecurity activities (more than \$100 million per annum). The recent independent review supports this assertion,¹⁴ highlighting a high proportion of the levy will receive funding from sectors with relatively low numbers of vessel movements such as CME's member companies.

4. Biosecurity Advisory Council, annual papers and budgets

CME supports appointment of an expert, independent Biosecurity Advisory Council and production of an annual biosecurity paper. This will be beneficial in providing a forum to share knowledge on best practices, provide a sense of ownership and streamline environmental biosecurity risks with plant and animal biosecurity. If the levy funds cannot be hypothecated, an annual budget report will provide transparency to show the meaningful use of the funds.

¹⁰ Biosecurity Council of Western Australia, *Environmental biosecurity in Western Australia*, February 2018.

¹¹ Organisation for Economic Co-operation and Development, *Corporate tax statistics database*, December 2018.

¹² Bazel, P. and Mintz, J., *Corporate tax reform: Australia watches the train go by*, policy paper, Minerals Council of Australia, March 2019.

¹³ Minerals Council of Australia, *Submission to inquiry into the policy, regulatory, taxation, administrative and funding priorities for Australian shipping*, Senate Standing Committee on Rural and Regional Affairs and Transport, March 2019.

¹⁴ Fisher, R. and Davey, A., *Report on the biosecurity imports levy*, Pegasus Economics, March 2019.

5. Principles to guide levy imposition and collection

CME agrees to the selected principles, especially equity and efficiency, as an appropriate basis to assess the proposed levy. For example, containerised sea imports such as caustic soda (inputs for chemical processing) pose little risk to biosecurity. In recognition of this, a proportional concession should apply.

6. Levy base

CME does not agree with the levy's application to sea freight only and supports an extension to airfreight on equity grounds. The levy should also correlate to pathways of biosecurity risk, i.e. passengers as a key carrier for vector-borne pathogens and diseases. The levy base, either volume or tonnage based, should be underpinned by comprehensive import risk assessments.

7. Levy rates and biosecurity risk

No comment at this stage.

Given the late involvement of downstream stakeholders in the consultation process, CME has not formed a view on the optimal imposition of rates and revenue targets, other than supporting the premise of proportional risk-based categories as outlined above.

8. Points of levy imposition

CME supports exploring use of the Full Import Declaration as a means of collecting the levy. On principle, CME does not support an alternative mechanism requiring customisation and configuration of new software systems for the sole or dominant purpose of collecting the levy. This may result in passing down of incremental costs for administration (data entry and reporting compliance) further down the imports supply chain.

9. Industry contributions to biosecurity funding

The south west of Western Australia is a global major biodiversity hotspot; one of only 36 in the world recognised by Conservation International. As the first of two identified in Australia, Western Australia is home to best practice environmental research and management of its endemic species. Since 1992, the Golden Gecko Awards for Environmental Excellence and Certificates of Merit have recognised the efforts made by the Western Australian resources sector to maintain these rich and diverse ecosystems.

In addition to geographic isolation (i.e. limiting propagation of interstate biosecurity risks), a clear biosecurity regime exists in Western Australia. For example, there are high priority monitoring regimes for sensitive ecosystems such as Barrow Island and Thevenard Island. Western Australia has also developed world first in-water hull cleaning systems¹⁵, dieback pathogen eradication and molecular detection techniques for marine pest incursions.¹⁶ Most recently, the maritime surveillance initiative has received national recognition in contributing to Australia's leading biosecurity status.¹⁷ CME's member companies, through the port authorities, contributed to these advancements.

Every year the resource sector also contributes over \$8 million in partnership funding and sponsorship towards research at the Botanic Gardens and Parks Authority, tertiary institutions, recognised biosecurity groups and not-for-profit organisations.^{18 19 20} In addition to these community contributions, some of CME's member companies also use Indigenous rangers to detect and

¹⁵ Hon. Bill Marmion MLA, former Minister for State Development; Transport; Innovation, *In-water hull cleaning system awarded 2014 Golden Gecko*, media statement, October 2014.

¹⁶ Hon. Bill Johnston MLA, Minister for Mines and Petroleum; Energy; Industrial Relations, *Excellence on show at WA's resources sector awards*, media statement, October 2018.

¹⁷ Pilbara Ports Authority, *WA ports win National Biosecurity Awards*, March 2019.

¹⁸ CME, *2015/2016 Western Australian resource sector operations*, Lawrence Consulting, March 2017.

¹⁹ Understated as it represents data from a limited number of ordinary member companies.

²⁰ Pilbara Mesquite Management Committee, De Grey Land Conservation District Committee, Harry Butler Institute and Leschenault Biosecurity Group.

eradicate exotics on a regular basis, or provide in-kind support to boards and committees of these groups and organisations.²¹

10. Proposed biosecurity activities to benefit from the levy

The activities identified for funding from the levy are generic and broadly encompassing, running a risk of being unable to demonstrate improved biosecurity outcomes to the general public.

The levy should fund identifiable activities, helping to address the problem of hypothecating budgets as well as providing industry with the needed confidence on how the funds are spent. An example is the installation of automatic sea container washing facilities at port rail entries (an existing review recommendation) or dedicated resourcing to the development and public consultation of the biofouling policy to occur this year.

Should you have any questions regarding this letter, please contact Ms Linh Nguyen, Policy Adviser, Economic Competitiveness on (08) 9220 8513 or l.nguyen@cmewa.com.

Yours sincerely



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cc:

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Department of Agriculture and Water Resources

²¹ Pilbara Regional Biosecurity Group and the Western Australian Biodiversity Science Institute.