EXPLANATORY STATEMENT

Select Legislative Instrument 2007 No. 231

Issued by Authority of the Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry

Subject: Primary Industries (Customs) Charges Act 1999

Primary Industries (Customs) Charges Amendment Regulations 2007 (No. 7)

Section 8 of the Primary Industries (Customs) Charges Act 1999 (the Act) provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act.

The purpose of the Regulations is to reflect the increased statutory marketing and research and development (R&D) charges imposed on the live export of cattle, sheep, lambs and goats.

Background

The Australian Livestock Export Corporation (LiveCorp) is the livestock export industry’s marketing and R&D services company. The live export industry’s peak body, Australian Livestock Exporters’ Council Limited (ALEC), has responsibility for making recommendations concerning the export charge rates.

LiveCorp and ALEC, in consultation with the livestock export industry, have requested that funding for LiveCorp be increased to expand and accelerate key marketing and R&D activities. The current charge rates were purposely set low to ensure the industry remained viable and able to meet its commitments during a period of poor trade conditions, while also having the capacity to repay the Cormo Express costs. The Cormo Express charge was put in place to recover the $10.3 million in costs incurred by the Australian Government and Meat and Livestock Australia in resolving the rejection of a shipment of live sheep in 2003. The Cormo Express costs have now been fully recovered and the charge was removed on 30 June 2007. Now there is a demonstrated need for an increase to LiveCorp’s funding base to enable it to continue to meet its obligations to the industry and to meet Government and community expectations in relation to animal welfare management.

The previous livestock export marketing and R&D charges raised approximately $2.578 million per year. The new livestock export charge rates will increase the amount collected to an estimated $4.27 million per year.

Details of the Regulations are provided in the Attachment.

The Office of Best Practice Regulation has been consulted in the preparation of these regulations and a Regulation Impact Statement (reference number 9168) has been compiled and is attached.

The Regulations are a legislative instrument for the purposes of the Legislative Instruments Act 2003.

The Regulations will commence on 1 October 2007.
Details of the *Primary Industries (Customs) Charges Amendment Regulations 2007 (No. 7)*

**Regulation 1 - Name of Regulations**

This regulation provides that the title of the Regulations is the *Primary Industries (Customs) Charges Amendment Regulations 2007 (No. 7)*

**Regulation 2 - Commencement**

This regulation provides for the Regulations to commence on 1 October 2007.

**Regulation 3 - Amendment of Primary Industries (Customs) Charges Regulations 2000**

This regulation provides that the *Primary Industries (Customs) Charges Regulations 2000* are amended as set out in Schedule 1.

**Schedule 1 - Amendments**

**Item [1]**

*Schedule 2, subclause 2(1).* This item allows for the charge rate on the export of live cattle to increase by 39% from 0.5712 of a cent per kilogram to 0.7936 of a cent per kilogram, to be destined for the livestock export marketing body.

**Item [2]**

*Schedule 2, subclause 2(2).* This item allows for the charge rate on the export of live cattle to increase by 11% from 0.1428 of a cent per kilogram to 0.1587 of a cent per kilogram, to be destined for the livestock export research body.

**Item [3]**

*Schedule 11, subclause 2(1).* This item allows for the charge rate on the export of live sheep to increase by 108% from 24 cents per head to 50 cents per head, to be destined for the livestock export marketing body.

**Item [4]**

*Schedule 11, subclause 2(2).* This item allows for the charge rate on the export of live sheep to increase by 67% from 6 cents per head to 10 cents per head, to be destined for the livestock export research body.
Item [5]

**Schedule 11, subclause 3(1).** This item allows for the charge rate on the export of live lambs to increase by 108% from 24 cents per head to 50 cents per head, to be destined for the livestock export marketing body.

Item [6]

**Schedule 11, subclause 3(2).** This item allows for the charge rate on the export of live lambs to increase by 67% from 6 cents per head to 10 cents per head, to be destined for the livestock export research body.

Item [7]

**Schedule 11, subclause 4(1).** This item allows for the charge rate on the export of live goats to increase by 100% from 20 cents per head to 40 cents per head, to be destined for the livestock export marketing body.

Item [8]

**Schedule 11, subclause 4(2).** This item allows for the charge rate on the export of live goats to increase by 100% from 5 cents per head to 10 cents per head, to be destined for the livestock export research body.
BACKGROUND

The livestock export industry is a significant export earner for the Australian economy and the livestock sector, with industry estimates indicating that it contributes as much as $1.8 billion to Gross Domestic Product annually, when multiplier effects are considered\(^1\). In the 2005-06 financial year, 577,737 cattle valued at $404 million Free on Board (FOB) were exported and live sheep exports reached 4,251,184 at a value of $297 million FOB. Australian Quarantine and Inspection Service (AQIS)-issued livestock exporter licence numbers are currently at 63, but the livestock exports logistics chain also supports a significant number of rural and regional jobs.

The live export trade provides a viable alternative for livestock producers and ensures competition in the market place. The former was well demonstrated in Western Australia recently when drought affected farmers were still able to sell stock even though the abattoirs had ceased buying because they had reached slaughter capacity.

The success of the industry is attributable to a range of factors. Notable amongst these has been the commitment of livestock exporters to support industry research, communication and market development through an industry levy. The levy is directed towards the industry’s services company “Australian Livestock Export Corporation Ltd” (LiveCorp). LiveCorp manages levy funded marketing and research and development (R&D) programmes, which include those jointly funded by Meat and Livestock Australia Ltd (MLA) and producer transaction levy funding.

LiveCorp strongly focuses on animal welfare R&D, as well as marketing for the livestock export industry. LiveCorp was established as an industry services body, and arranged service delivery programmes with MLA. In 2004, LiveCorp became a declared marketing and R&D body for the livestock export industry, and provides livestock export industry services, utilising funds collected from statutory charges. The R&D and marketing activity is primarily funded by livestock exporters through the livestock export industry charge (commonly known as the export levy) with matching funding provided by the Australian Government, and producer contributions (through MLA’s producer transaction levies).

The LiveCorp industry charge is divided between marketing and R&D, with an 80 percent split in favour of marketing. The Government matches the funds for R&D, but not for marketing. For joint R&D programme funds, the LiveCorp and MLA (or producer) contributions are both 25 percent, and the Government provides matching funding, or the remaining 50 percent. For example, in the 2005-06 financial year, research and development was made up of $314,000 from both LiveCorp and MLA, and a $628,000 Government contribution. This percentage split will remain the same with the increased levy.

In the case of marketing, where the Government does not contribute financially, the total programme cost in 2005-06 was $2,763,000, of which LiveCorp contributed

$832,500 and MLA contributed $1,930,500. For the forecast increase totalling $1.692 million, of which 20 percent would be for R&D, the total maximum additional expenditure by Government for R&D would be $338,400. This remains well within the matching Government contribution of 0.5 percent of the red meat industry’s gross value of production.

The livestock export industry faces many challenges and opportunities, including an increased focus from animal rights groups over animal welfare, increased competition from alternative suppliers in a global market and increased demand for clean, healthy and well managed livestock.

**MARKET OUTLOOK**

Continued steady growth in Australian livestock exports is forecast, with estimates that by 2011-12, cattle exports are set to reach 750,000. Sheep exports are also expected to increase, although may be constrained by the availability of suitable sheep and strong competition from other supplying countries. The rising demand from Asian countries for beef sourced from imported live cattle is the principal driver for an increase in cattle exports, but there are many other markets with development opportunities, including the Middle East, Eastern Europe, Mexico, China, India, Turkey and Vietnam.

The ability of the livestock export industry to achieve the forecast export numbers will depend on a range of factors, some of which can be influenced by industry (market access negotiations, ongoing improvement in livestock quality and welfare outcomes, collaboration with customer countries to improve in-market animal handling and processing) and others which are beyond the control of industry (appreciation of the Australian dollar and the continuing national drought).

**PROBLEM**

The current rate of the livestock export industry charges does not provide sufficient funds to finance the delivery of the level of services that industry sees as essential for long term sustainability. The strategic imperatives identified by industry include:

- market access and development (relationships with governments and industries in other countries to improve veterinary protocols and market access; the promotion of meat from Australian imported livestock in all key markets);
- industry capability (the provision of tools to assist exporters meet regulatory requirements; the development and trial of Emergency Management plans; the development and implementation of education and training programmes for the supply chain);
- livestock management and welfare (with stakeholders, the development of acceptable animal welfare standards in Australian and in-market; ongoing training to improve livestock handling and management; improving processing techniques including use of restraint devices); and
- stakeholder communication and consultation.

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2 *Australian Commodities: March Quarter*, ABARE, 2007
Industry is funding these activities through a combination of the existing statutory charges and the use of reserves established when the body was voluntarily funded. Additionally, inflationary pressure since the levy rates were originally set means that levy income has diminished in real terms. To have adequate income to meet the costs: of operation; to rebuild a reasonable reserve to meet any industry emergency or crisis; and to improve animal welfare related programmes, an increase to the levies is proposed.

OBJECTIVES
LiveCorp is seeking to increase the funds available to expand and accelerate critical areas of activity that will benefit the entire livestock industry. The proposed strategic outcomes include, but are not limited to:

- improving livestock care and animal welfare standards and practices;
- developing and maintaining effective, constructive working relationships with relevant animal welfare groups;
- improving standards of livestock handling and processing in export markets;
- having the Australian livestock export industry recognized for responsible livestock management;
- increasing demand for Australian livestock in new and existing markets;
- improving market and trade access for Australian livestock exporters;
- minimising restrictions and imposts on livestock exporters;
- effectively managing risk and standards in the livestock export supply chain;
- ensuring exporter systems consistently meet regulatory requirements;
- ensuring sustained, constructive working relationships between the livestock export industry and regulators;
- strategic positioning of the livestock export industry within the domestic and overseas markets;
- strengthening community support for the livestock export industry;
- developing and maintaining effective practical working relationships between LiveCorp and key industry and Government stakeholders such as Peak Councils, the Department of Agriculture, Fisheries and Forestry (DAFF), and other industry service providers; and
- fostering LiveCorp member support for LiveCorp’s role and services.

LiveCorp aims to deliver these and other programmes and services with improving animal welfare as the underlying objective.

IDENTIFICATION OF OPTIONS TO ACHIEVE THE OBJECTIVE

Option 1 - Status Quo:
Under this option, there would be no change to the current level of funding going to LiveCorp for service provision, marketing and research and development.

Option 2 - Raise the funds through voluntary means:
Livestock exporters could be asked to revert to and increase voluntary contributions to raise the additional funds.
Option 3 - Increase funding through existing statutory charges

At a Special General Meeting of LiveCorp in February 2007, 96 percent of eligible industry voters were in favour of implementing an increase to the existing statutory marketing and R&D charges.

IMPACT ANALYSIS

Analysis of Option 1: Status Quo

LiveCorp operated at a loss of $79,710 in 2005-06, and this operating loss is likely to continue if levy revenue remains at current levels. LiveCorp is currently developing a five year strategic plan and has determined that it will not be able to deliver the level of services that industry sees as essential for long term sustainability if levy rates remain at the current level.

Not having the additional marketing and R&D funds could see the Australian livestock export industry lose competitiveness and subsequent market share to competitors in many of its export destinations. In turn, this would likely lead to a fall in cattle prices.

Should funding remain at the status quo, the livestock export industry will be unable to effectively deliver a cohesive response to the current challenges it faces, including increased focus from animal rights groups, increased competition from alternative suppliers in a global market and an increased demand for clean, healthy and well managed livestock for processing. Also, the Government particularly requires the industry to improve its animal welfare outcomes, and without increased funding, LiveCorp will not be able to undertake further development in this area.

The Red Meat Industry Memorandum of Understanding (MOU) commits each of the representative bodies to certain joint programmes that have whole of industry outcomes. LiveCorp, as part of this MOU, may not be able to meet all its industry obligations if the funding remains at current levels.

Current funding will see a continuation of only base-level services. The ability of exporters to meet the increasingly complex trade and regulatory requirements will be hampered and deplete appropriate levels of reserves, which ensure the industry has an effective emergency response capability.

We note that producers are currently funding a disproportionately higher share of joint producer/live exporter programmes. This is not acceptable to producers for the longer term and if the status quo for live exporters remain, producers are likely to reduce their funding commitments to similar levels as paid by live exporters. This will jeopardise programme funding and subsequently lead to a lower level of participation in joint programmes.

Analysis of Option 2: Raise the funds through voluntary means

LiveCorp operated under a voluntary contribution system from 1998 until 2004. The expanding activities of LiveCorp and the role envisaged for the organisation, following the Government’s response to the Keniry Livestock Export Review,
identified that the revenue obtained by LiveCorp through voluntary contributions was inadequate and inappropriate to guarantee its long term sustainability. A statutory export charge was introduced in 2004 to ensure that LiveCorp could continue to undertake its industry obligations.

The reasons for implementing the compulsory charge remain valid and a return to a voluntary levy is not recommended. A combination of statutory and voluntary funding is also not recommended.

There is no infrastructure or systems currently in place to accommodate voluntary contributions from livestock exporters, so they would need to be developed with cost implications and likely duplication of existing levy collection arrangements. Further, an industry body would need to take on the principal function of managing the flow of funds from voluntary contributions to marketing and research and development activities.

Further, attempting to raise additional marketing and promotional funds voluntarily is likely to present the ‘free-rider’ problem for some livestock exporters – that is, obtaining broad industry benefits from programmes funded by only a few. This is a form of market failure, often referred to as ‘non-excludability’ because those who do not contribute (under a voluntary system) to industry-wide services cannot be effectively excluded from benefiting from their impact. Even if livestock exporters understand that there are benefits to be gained from increased marketing and promotion, if they saw that there were other livestock exporters willing to fund enough marketing and promotional activities voluntarily, they are likely to further their own private interests by diverting their contributions to alternative activities.

Analysis of Option 3: Increase funding through existing statutory charges

Livestock exporters currently pay a marketing and research and development charge on the export of live animals and an additional charge to repay the costs incurred by the Government and MLA during the Cormo Express incident in 2003. The Cormo charge was terminated at the end of 30 June 2007, as all costs were recovered by this time. The proposed levy increase, therefore, will not be a large financial burden on the industry, as despite the increase to the general levy, the Cormo levy will have been phased out by the time it increases. Subsequently, the industry will be paying less than currently per head (for cattle and sheep) or an equivalent amount (for goats). Details of the current and proposed charges are set out in table 1.

TABLE 1

<table>
<thead>
<tr>
<th></th>
<th>General (current)</th>
<th>Cormo</th>
<th>General + Cormo</th>
<th>Proposed General</th>
<th>Proposed charge percentage difference from current charges</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cattle</td>
<td>$2.25*</td>
<td>$1.50</td>
<td>$3.75</td>
<td>$3.00**</td>
<td>20% less</td>
</tr>
<tr>
<td>Sheep/lambs</td>
<td>$0.30</td>
<td>$0.60</td>
<td>$0.90</td>
<td>$0.60</td>
<td>33% less</td>
</tr>
<tr>
<td>Goats</td>
<td>$0.25</td>
<td>$0.25</td>
<td>$0.50</td>
<td>$0.50</td>
<td>0%</td>
</tr>
</tbody>
</table>

* based on an average 315kg, and at the proposed rate of $0.00714/kg
** based on an average of 315kg, and at the proposed rate of $0.0095238/kg
The compulsory charge consists of 2 separate components, which are marketing and research and development. Each component of the compulsory charge must, by law, only be used for the purposes for which it is raised:

- of the proposed additional $0.30 for sheep, $0.04 would be directed towards R&D and $0.26 would be directed to marketing;
- the rate of charge imposed on cattle is determined per kilogram. The current rates of charge are $0.001428 directed to research and development and $0.005712 directed to marketing. The proposed rates of charge would increase these rates to $0.001578 directed to R&D and $0.007936 directed to marketing. Using an average weight of 315kg per beast, the proposed increases would raise an additional $0.75 per beast for cattle - of which, around $0.05 would be directed to R&D and $0.70 would be directed to marketing;
- of the proposed additional $0.30 for lambs, $0.04 would be directed towards R&D and $0.26 would be directed to marketing;
- of the proposed additional $0.25 for goats, $0.05 would be directed towards R&D and $0.20 would be directed to marketing.

The Primary Industries (Customs) Charges Act 1999 (the Charges Act) prescribes maximum rates of charge for cattle, sheep, lambs and goats. The proposed charge increase by LiveCorp does not exceed the maximum prescribed rate of charge as set out in the Charges Act.

Based on forecast livestock export numbers of 650,000 cattle, 3.8 million sheep and 40,000 goats for 2007/08, the new rates, would raise an additional $1.692 million from the general levy annually.

The additional revenue would be used to provide positive, industry-building initiatives that would be beneficial to livestock exporters, including:

**Market access and development**

- Developing new market opportunities
- Improving market intelligence, particularly with respect to looming competition from India, China, North Africa and South America
- Positioning Australian livestock as a quality, disease-free product
- Utilising the industry’s influence, in conjunction with the Government, to positively influence international standards in the livestock export trade
- Develop preparedness to meet risks and challenges including sudden market closure and technical, political or protocol barriers to trade

**Research and development**

The major proportion of the additional funding will be directed to the key strategic area of improving animal welfare and management at each stage of the live export chain.

- Investigating inanition in live sheep exports (to provide a better understanding of the problem and investigate solutions)
- Investigating quantitative behavioural assessment as a measure of animal welfare (to develop techniques to objectively measure animal welfare during the live export process)
• Investigating the role of supplementation in reducing morbidity in sheep and cattle exports (to reduce the incidence of sickness and weight loss in livestock exports)

**Technical Services**

• Development of tools to assist exporters obtain timely State Property of Origin clearances from a variety of administrative regions
• Additional face-to face courses for new entrants, ships’ crews, stock handlers and other sectors
• Supporting the industry’s effort to raise global live export standards by bringing Australian Livestock Export Standards into line with the World Organisation for Animal Health and marketing this standard
• Continuing to ensure the standards are sound from a technical, experiential and animal welfare basis

**Communications**

• Project a more positive image of the industry to the Australian community
• Maintain and enhance communication with industry stakeholders, including consultation on industry plans and reporting on research outcomes
• Industry image programme piloted in Western Australian will be rolled out in the eastern states to counter animal activist strategies as well as to educate and inform the broader community.

Raising increased revenue through a compulsory charge would prevent ‘free-riders’ receiving benefits from these activities without contributing to the costs of developing them.

The strong correlation between livestock exports, farm gate values for livestock and prices for red meat, indicates that the Australian red meat industry would also benefit by the extent of the success of LiveCorp strengthening its marketing and research and development programmes from the funding increase.

There would be no additional administrative costs for the Australian Government in collecting and remitting the increase to LiveCorp, as the Levies Revenue Service of DAFF operates under full cost recovery.

**CONSULTATION**

Industry discussion was undertaken in 2006 and more formal processes occurred between September 2006 and February 2007. The level of industry consultation meets the Government’s Levy Guidelines and Principles.

The process involved:
• an industry strategic planning conference with participation from a wide range of industry stakeholders, including producers, who were represented through producer peak councils;
• a formal presentation on the levy proposal to the Board of Australian Livestock Exporters’ Council (ALEC) and all state chapters of ALEC;
• a formal presentation to the ALEC Annual General Meeting;
• formal consideration and voting by each state chapter, and the ALEC Board;
• formal presentations to each of the six major exporters;
• an information package was sent to all 55 members of LiveCorp, 5 associate members, and non members licensed by AQIS to export livestock;
• a statement of views was sought from those who were ineligible to vote; and
• a Special General Meeting of LiveCorp was held to vote on the resolution.

At the Special General Meeting of LiveCorp on 21 February 2007, the proposed increase to the livestock export charge was considered and voted upon. Twenty-seven of the 31 eligible members of LiveCorp (those that held a livestock export licence and were actively exporting) voted, with 24 in favour and 3 against the increase. On the basis of one vote per $100 of levies paid, 25,195 were in favour of the increase and 1209 were not. This is a 96 percent vote in favour of the charge increase. The Levies Revenue Service of DAFF was contracted to conduct the ballot. A report of the outcome of the vote was provided to the Government, which supported LiveCorp’s recommendation to increase the charge.

The ‘statement of views’ provided a further measure of support for the charge increase from those members, non-members and industry members, who were potential charge payers. Of the 33 companies who received the mail out package, 13 responses were received, with only one disagreeing with the increase. This exporter was also one of the 3 eligible voters against the increase.

Of the thirty-nine exporters who voted or provided a ‘statements of views’, three were against the charge increase, but they did not provide reasons for their opposition to the increase.

The strong support from the livestock export industry for the levy increase indicates that it firmly believes that the critical areas of activity to be expanded and accelerated would provide industry benefits that would exceed the additional cost.

Within the broader industry, support was shown at the 39th board meeting of the Red Meat Advisory Council (RMAC), where relevant peak industry councils (Sheepmeat Council of Australia and Cattle Council Australia), as well as the industry services body, MLA, supported the LiveCorp decision to increase the statutory levy.

**CONCLUSION AND RECOMMENDATION**

To safeguard the future sustainability, profitability and competitiveness of the Australian livestock export industry, additional funds are required to expand and accelerate critical activities undertaken by LiveCorp.

Of the three options outlined above, the option of increasing the statutory charge is regarded as the only effective option of raising the additional funds. In addition, the recommended increases of $3.00, $0.60 and $0.50 per head for cattle, sheep/lambs and goats respectively, to the livestock export industry charges:

- conform with the Government’s **Levy Principles and Guidelines**;
- will be applied universally across the levy paying population and;
- have clear potential to benefit the industry.

It is therefore recommended that the Government accepts LiveCorp’s proposal to increase the charge.
IMPLEMENTATION AND REVIEW

Should the Australian Government approve the recommended increase to the live export industry levy, we would seek to have the new rates in place from October 2007. The collection and distribution of the levy would remain the same as the existing arrangements.

LiveCorp has been in operation since 1998 and has operated on a voluntary levy system. Compulsory levies were introduced from 1 January 2005 and payments of the levies are enabled by a Statutory Funding Agreement (SFA) between the Commonwealth and LiveCorp. The SFA provides an accountability framework attaching to the expenditure of funds received by LiveCorp under the SFA, and the first SFA expires on 30 June 2007. In compliance with the SFA, LiveCorp must, at its cost, engage an independent organisation or person to complete a Performance Review.

In addition to LiveCorp having to meet the requirements of the SFA accountability framework, Section 68C of the Australian Meat and Live-stock Industry Act 1997, the Minister for Agriculture, Fisheries and Forestry is required to table a Compliance Report after the end of each financial year on:

- the amount of levies received by LiveCorp in the financial year, and
- whether the Minister is satisfied, based on information provided by LiveCorp that the spending by LiveCorp of the levies complied with the SFA.