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Australian Quarantine
and Inspection Service

AQIS

COST RECOVERY POLICY

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TABLE OF CONTENTS

TABLE OF CONTENTS	2
1. PURPOSE	3
2. BACKGROUND	3
3. AQIS' COST-RECOVERY MODEL	4
4. THE NATURE OF AQIS'S COSTS	5
WHAT ARE DIRECT COSTS?.....	5
WHAT ARE INDIRECT COSTS?	6
5. AQIS'S KEY FEE AND CHARGE SETTING PRINCIPLES	6
EQUITY.....	6
EFFICIENCY	7
PRICE STABILITY	7
TRANSPARENCY	7
6. IMPORTANT LEGAL DEFINITIONS AND PRINCIPLES	8
WHAT IS A USER-GROUP?	8
WHAT IS A FEE FOR SERVICE?	8
WHAT IS A TAX?.....	8
THE CONSTITUTION.....	9
7. THE LEGAL AUTHORITY FOR AQIS FEES AND CHARGES	10
FEE FOR SERVICE LEGISLATION	10
QUARANTINE ACT 1908	10
EXPORT CONTROL ACT 1982	10
AUSTRALIAN MEAT AND LIVE-STOCK INDUSTRY ACT 1997	11
IMPORTED FOOD CONTROL ACT 1992.....	11
TAXING LEGISLATION.....	11
EXPORT INSPECTION AND MEAT CHARGES COLLECTION ACT 1985	11
EXPORT INSPECTION (ESTABLISHMENT REGISTRATION CHARGES) ACT 1985	11
EXPORT INSPECTION (QUANTITY CHARGE) ACT 1985	12
EXPORT INSPECTION (SERVICE CHARGE) ACT 1985.....	12
9. MANAGING CROSS-SUBSIDISATION	12
10. MANAGING COST-RECOVERY OUTCOMES	13
UNDER-RECOVERIES	13
OVER-RECOVERIES.....	14
<i>General principles governing the use of over recovery accounts</i>	14
<i>Income equalisation account</i>	14
<i>Revenue rebate account</i>	15
11. INTEGRATION OF COST RECOVERY STRATEGIES INTO BUSINESS PLAN	15
12. REPORTING COST RECOVERY OUTCOMES TO STAKEHOLDERS – INDUSTRY CONSULTATIVE COMMITTEES	15

1. Purpose

The purpose of this policy is to establish overall principles to be used in the formulation of AQIS fees and charges. The document is for the use of AQIS programs and their respective industry consultative committees in considering appropriate resourcing levels and fee and charging structures.

2. Background

In July 2005 the Department of Finance and Administration issued the *Australian Government Cost Recovery Guidelines*. It identified the following key points:

1. Agencies should set to recover all the costs of products where it is efficient to do so, with some exceptions for partial cost recovery.
Note that in 2001, the Government reduced AQIS's export fees and charges by 40 percent. Programs to benefit from this decision include the Live Animal, Grain, Horticultural, Dairy, Fish, Organics and Meat export programs. The 40 percent of revenue not recovered from industry is received through Budget appropriations.
2. Cost recovery should not be applied where it is not cost effective, where it is inconsistent with government policy objectives or where it would unduly stifle competition or industry innovation;
3. Any charges should reflect the costs of providing the product or service and should generally be imposed on a fee-for-service basis, or, where efficient, as a levy;
4. Agencies should ensure that all cost recovery arrangements have clear legal authority;
5. Costs that are not directly related or integral to the provision of products or services should not be cost recovered;
6. Where possible, cost recovery should be undertaken on an activity (or activity group) basis rather than across the agency as a whole;
7. The government will determine an agency's 'basic information product set', ie those activities that should not be cost-recovered;
8. Portfolio Ministers should determine the most appropriate consultative mechanisms for agencies' cost recovery arrangements;

9. Agencies with significant cost recovery arrangements should ensure that they undertake appropriate stakeholder consultation. *For the purposes of this definition, AQIS is considered an ‘agency with significant cost recovery arrangements’;*
10. All agencies with significant cost recovery arrangements will need to prepare a Cost Recovery Impact Statement for proposed changes;
11. Agencies are to review all significant cost recovery arrangements periodically, but no less than every five years;
12. Agencies are to separately identify all cost recovery revenues in notes to financial statements – to be published in portfolio budget statements and annual reports; and
13. Portfolio Ministers will be responsible for ensuring that the cost recovery arrangements of agencies within their portfolios comply with the policy and will report on implementation and compliance in portfolio budget submissions.

For further information regarding this government policy, refer to the *Guidelines* available on the Department of Finance and Administration’s website www.finance.gov.au.

AQIS is a regulatory body and does not operate in a competitive environment, however AQIS seeks to maximise the efficiency of providing services. In delivering cost-effective services, it should be emphasised that:

- cost considerations must not compromise the integrity of the quarantine and inspection system; and
- AQIS needs to retain flexibility in its resource allocations.

3. AQIS’ cost-recovery model

All AQIS cost-recovery programs should calculate the cost of activities using a consistent methodology. These calculations are undertaken during the budget setting process each year and again during the mid-year review of budgets.

To measure each activity's full cost programs should ensure all cost elements are considered including:

- program management and infrastructure. This includes staffing costs such as time spent on program management and salary on-costs and non-staffing costs such as corporate costs, overheads, property and technical costs;
- service delivery. This includes time spend on field inspections/audits, including time spent travelling to inspections. It also includes time spent managing field staff and salary on-costs such as superannuation and long-service leave. Non-staff costs include activity-specific supplier costs;
- other – this includes overtime and travel costs and the costs associated with running the fleet of vehicles.

Programs seeking to capture and attribute these costs in a different manner will consult with the respective industry consultative committee and seek agreement from the AQIS Financial Analysis Sub-Committee.

4. The nature of AQIS's costs

It is imperative to identify all direct and indirect costs to ensure that the fee and charging mechanisms in place will fully recover the costs of delivering the service at a user group level.

What are direct costs?

Direct costs are those costs that can be clearly and specifically identified and attributed on an unequivocal basis to a user group. The importance of identifying direct costs is that they are more likely to vary with a change in the level of output.

Direct costs include:

- Staffing costs. This can be broken into two components:
 - salaries and wage rates of staff expressed in annual, fortnightly, daily and hourly terms; and

- other staffing on-costs, such as allowances, shift/penalty payments, overtime, annual and long service leave, separation payments and superannuation costs.
- Accommodation costs, including rent, repairs and maintenance, cleaning and utility charges;
- Costs such as minor stores, communications, office machines, stationery, telephonic communications, advertising and insurance;
- Travel costs;
- The costs of materials and services such as stores, computer services (including outsourced service provision) and services obtained on a contract basis;
- Provisions for bad and doubtful debts and Fringe Benefits Tax; and
- Capitalisation costs, including depreciation for plant and equipment.

What are indirect costs?

Indirect costs form part of general user group costs and are not easily attributed to particular activities.

Indirect costs include:

- an appropriate allocation of DAFF and AQIS specific corporate costs (or *overheads*), including executive, financial, personnel, registry, library and audit services, internal audit fees;
- Technical and Operational costs, if applicable. Technical and Operational costs are the costs associated with internal AQIS services provided to a specific range of programs through agreed cost drivers. These include Detector Dogs, Operational Science services, Branch Executive and support areas, EXDOC, Co-Regulation, Learning and Development, Public Awareness and Business Software Solutions.

5. AQIS's key fee and charge setting principles

Equity

Fees and charges will be set to recover the full costs of providing inspection services to the relevant user group. These costs will include all direct and indirect costs reasonably attributable to the activity involving these clients. A fundamental concept

included in this has been to ensure that there is no cross-subsidisation between user groups (or programs).

Efficiency

Revenue should be collected in the most efficient manner. Fee and charging mechanisms developed will enable the efficient collection of revenue. These mechanisms include the minimisation of the risk of bad debt through collection of charges at the time of service delivery, where possible. The most efficient point of collection should be made available to clients. For example, where possible, electronic bill-pay systems or up front payment of services should be used. Revenue collection systems should be integrated with other processing systems.

Price Stability

Fees and charges will be set on the basis of achieving full cost recovery while seeking to minimise the frequency and level of price variations.

Transparency

Expenditure and revenue information will be provided to industry representatives at an appropriate level of detail agreed with industry. Consultation with the Industry Consultative Committees should occur prior to any change to the fee and charging structure and be documented in the development of the subsequent CRIS.

Clients are to be kept fully informed of the application of fees and charges and notified of any changes via the internet or where reasonable, by direct correspondence.

Programs are required to publish their respective *Fees and Charges Guidelines* on the internet. The guidelines inform clients of how fees and charges will be imposed and state the link to the relevant legislation. The guidelines are to be updated when fees or charges are amended, or reviewed on an annual basis if there are no legislative changes.

6. Important legal definitions and principles¹

There are legal definitions and principles fundamental to AQIS's fees and charges.

What is a user-group?

At a broad level, a user group consists of those persons or organisations that deal with AQIS in relation to a broad industry classification of services such as the export of meat, the export or import of plants, animals or foodstuffs and the clearance of goods at the Australian border via airports, seaports and mail.

For example, in the case of the meat inspection program, the user group will be meat exporters. There are also sub-groups of meat exporters but it is not necessary to identify or define these if the relevant fee regime is capable of functioning satisfactorily in relation to meat exporters as a group.

What is a fee for service?

A fee for service has three main elements:

- An identifiable service
- Rendered to the person paying and
- The fee charged is related to the cost of providing the service to the user group as a whole.

Fees for service must be in respect of specific services and their relationship with costs is an important, but not exclusive factor, in their categorisation as fees for services. The relationship to costs can be manifested at the user group (or 'service system') level, where the services are highly integrated.

What is a tax?

A tax is defined as a compulsory exaction by a public authority for a public purpose, and is not a payment for services rendered.² Charges imposed under taxation powers³ are not required to align with the cost of providing the service.

¹ There have been a limited number of court decisions that relate to AQIS fees and charges. Relevant legal advice obtained from various sources has been used.

² *Mathews v Chicory Marketing Board* (1938) 60 CLR 263, 276.

The Constitution

In setting fees and charges, AQIS must not breach any sections of the Constitution. Section 55 states that any Act imposing taxation must be dealt with in a separate Act. Any other section dealing with non-taxation matters will be of no effect. Accordingly at least two acts are required, namely an act to authorise the collection of tax (for example *Export Inspection and Meat Charges Collection Act 1985*) and an act to impose the tax (for example *Export Inspection (Establishment Registration Charges) Act 1985*; *Export Inspection (Quantity Charge) Act 1985* and *Export Inspection (Service Charge) Act 1985*).

Section 51(ii) states that the Commonwealth has the power to make laws with respect to taxation, but cannot discriminate between States or parts of States. If, for example, a charge on the grant of export permits for meat is imposed at the rate of five cents per kilogram in respect of exports from Queensland and at the rate of four cents per kilogram in respect of all other exports, the legislation will infringe section 51(ii).

Section 99 provides that revenue laws must not give preference to one State or any part of a State over another State or part of the State. The word “preference” has been defined to mean ‘some tangible advantage obtainable in the course of trading or commercial operations, or at least some material or sensible benefit of a commercial or trading character’.⁴ To give preference to one State over another, some discrimination or differentiation is necessary. For example, if a scheme imposing a charge on chickens contained a mechanism under which payers of the charge in one State, but not others, would qualify for a partial refund, section 99 would probably be infringed.

Therefore legislation imposing fees and charges must operate uniformly between States or parts of States.⁵

³ For example, *Export Inspection (Establishment Registration Charges) Act 1985*, *Export Inspection (Quantity Charge) Act 1985*, *Export Inspection (Service Charge) Act 1985*.

⁴ *Crowe v The Commonwealth* (1935) 54 CLR 69, 92.

⁵ For further information regarding ss 51(ii) & 99, see the Australian Government Solicitor’s advice to the Australian National Audit Office titled “Performance Audit of AQIS Cost Recovery” dated 17 December 1999.

7. The legal authority for AQIS fees and charges

AQIS must have clear legislative authority for the collection of fees and charges. The legal basis of AQIS fees and charges are contained in a number of principal and subordinate legislation.

Fee for service legislation

Quarantine Act 1908

Section 86E of the *Quarantine Act 1908* provides that the Minister may determine fees in respect of specified services provided under the Act. The following types of fees are provided for under section 86E:

- Fees in connection with specified examinations or services carried out or provided under the Act;
- Fees in connection with the issue by quarantine officers of specified certificates under the Act;
- Fees in connection with the maintenance of the management and maintenance of animals at a quarantine station in Australia or Cocos Island or at an approved place under section 46A of the Act;
- Fees in connection with the giving of approval by a Director of Quarantine;
- Fees connected with the giving of permissions and permits under the Act; and
- Fees connected with entering into compliance agreements.

The specific fees for each user group are set out in the Quarantine Service Fees Determination 2001.

Export Control Act 1982

The imposition of fees for service is authorised under the *Export Control Act 1982*. Regulation 3 of the Export Control (Orders) Regulations authorises the collection of fees under Export Control (Fees) Orders. Fees must be in relation to:

- The performance of services by authorised officers; and
- The registration of premises.

Australian Meat & Live-stock Industry Act 1997

Section 74 of the *Australian Meat & Live-stock Industry Act 1997* provides that the Minister may make regulations for the purposes of the Act.

The *Australian Meat & Live-stock Industry (Export Licensing) Regulations 1998* introduces a scheme for the administration and imposition of fees for export licensing.

Imported Food Control Act 1992

Section 36 of the *Imported Food Control Act 1992* authorises the imposition of fees for service and must be:

- Fees in relation to the inspection, or inspection and analysis of food;
- Fees for the arrangement by an authorised officer of an analysis of food to be carried out by another person;
- Fees in relation to the issue of relevant documentation in respect of food;
- Fees for the supervision of the treatment, destruction or re-exportation of food;
- and
- Fees for the making of an import entry.

The specific fees for service are contained in Schedule 2 of the *Imported Food Control Regulations 1993*.

Taxing legislation

Export Inspection and Meat Charges Collection Act 1985

The *Export Inspection and Meat Charges Collection Act 1985* (the Collection Act) provides for the collection of charges imposed by:

- the *Export Inspection (Establishment Registration Charges) Act 1985*;
- the *Export Inspection (Quantity Charge) Act 1985*;
- the *Export Inspection (Service Charge) Act 1985*; and
- the *Domestic Meat Premises Charge Act 1993* (not operated by AQIS).

Export Inspection (Establishment Registration Charges) Act 1985

The *Export Inspection (Establishment Registration Charges) Act 1985* imposes charges in relation to the registration of export establishments. These export

establishments must be registered for operations associated with the preparation of a prescribed commodity specified in the regulations.

Specific charges are contained in the Export Inspection (Establishment Registration Charges) Regulations 1985.

Export Inspection (Quantity Charge) Act 1985

The Export Inspection (Quantity Charge) Act 1985 imposes a charge on prescribed goods calculated by quantity. Goods that are prescribed are set out in the definitions under the Collection Act.

Specific rates of charges are contained in Schedule 1 of the Export Inspection (Quantity Charge) Regulations 1985.

Export Inspection (Service Charge) Act 1985

The Export Inspection (Service Charge) Act 1985 imposes charges on the provision of certain export services in relation to the following products:

- dairy products;
- dried fruits;
- fish;
- eggs;
- processed fruit; and
- processed vegetables.

Specific rates of charges are contained in Regulation 5 of the Export Inspection (Service Charge) Regulations 1985.

9. Managing cross-subsidisation

Cross-subsidisation occurs when one user group pays more for a service than the actual cost of providing the service and the surplus is used to offset costs of services to other user groups. It is AQIS policy to prevent this type of cross-subsidisation

between user groups by setting fees and charges that are designed to achieve full cost recovery for each group.

Alignment at the individual fee/charge level may not be practical or cost-effective for AQIS given the large number of services provided. AQIS therefore seeks to minimise the occurrence of cross-subsidisation, having regard to cost-effectiveness considerations. In some instances, cross-subsidisation within programs may be unavoidable or planned. For example, AQIS may set fees higher than costs for certain activities or services within a program to influence industry behaviour or to fund activities that benefit the industry as a whole.

Legal precedent suggests that there can be cross-subsidisation within user groups, provided that there is a rational basis for discrimination between users in the group.

AQIS seeks to operate on a system of nationally uniform fees and charges. Therefore, fees and charges set and collected should be consistent between locations.

It must also ensure that processes for allocating costs across programs are reviewed and updated on a regular basis to ensure that there is no cross-subsidisation.

10. Managing cost-recovery outcomes

Programs should ideally endeavour to fully recover their costs in the year they are incurred. However, full cost recovery in one year must be weighed against the necessity for price stability and, in practice, it may not be possible to achieve full cost recovery in one year. Where unbudgeted under or over recoveries become evident, action should be taken to adjust charges to ensure that costs are fully recovered over a period of time. This action must be agreed with the appropriate Industry Consultative Committee and appropriately documented. Fees and charges should be set at a level to avoid sustained under or over recoveries in future years.

Under-recoveries

Under-recoveries must be recouped in future years. Programs must present to the AQIS Leadership and Governance Committee (ALGC) a strategy designed to recoup

these shortfalls in revenue. Strategies to be considered include a reduction in expenditure, the use of over-recovered funds from previous years or a fee/charge increase. A presentation must be made to the ALGC when it becomes evident that there is likely to be a significant gap between revenue and expenditure.

Over-recoveries

Any over-recoveries should be placed into one of the following two accounts:

- 1 Income equalisation account (IEA)
- 2 Revenue rebate account.

General principles governing the use of over recovery accounts

The treatment of over-recovered funds should reflect the following principles:

1. Over-recovered funds will be returned to industry and therefore represent a liability to AQIS for the return of these funds on the basis that they are a constructive obligation as defined in *Framework for the Preparation and Presentation of Financial Statements*.
2. The distribution of over-recovered funds is to be undertaken, as far as possible, in a timely manner and on a basis that is as equitable as possible to those groups and individuals within the industry who contributed to the surplus position; and
3. The principal purpose of the IEA is to buffer AQIS and industry from unforeseen events resulting in program deficits and should not be applied to offset or postpone the impact of ongoing structural changes in either industry activities or AQIS's charging structure.
4. Agreement should be reached with Industry Consultative Committees on how the over-recovered funds are to be utilised.

Income equalisation account

The principal purpose of the income equalisation account is to enable AQIS and industry to overcome unforeseen downturns in the recovery of expenditure within each industry over a period of years. This account is designed to reduce the need for constant changes to fee/charging levels to accommodate unforeseen and often uncontrollable circumstances. Examples of unforeseen circumstances include results of severe climatic changes on production and exports or loss of major markets.

IEA accounts are established with the agreement of industry through the program consultative committees. Written agreement to retain funds up to 10% of the program's annual expenditure is to be obtained from industry before the creation of an IEA. This agreement should be documented in the minutes of the consultative meeting.

The program should endeavour to manage the balance of such an account at between 2 percent and 10 percent of the annual expenditure for the program.

Revenue rebate account

Over recoveries above 10 percent may be placed in a revenue rebate account to be used to temporarily reduce the level of fees or charges applied for services performed by the recoverable program, as agreed by industry. The actual method and timeframe for returning these funds is a matter for the relevant consultative committee.

11. Integration of cost recovery strategies into Business Plan

The basis for a program's charging regime is a fundamental element of their cost recovery strategy. Managers of cost recovered programs should document the model used to develop their fees and charges, including the matching of revenue to major types of activity and/or client groups. The model should be reviewed with the Program's Accounting Liaison Officer and/or the Corporate Accountant.

The Business Plan should also state cost recovery strategies for three forward years and include an analysis of the risks and contingencies associated with the strategies.

12. Reporting cost recovery outcomes to stakeholders – Industry Consultative Committees

To ensure transparency in the financial status of a user group, cost recovery outcomes must be reported to Industry Consultative Committees (ICC) in a timely manner.

At the end of each financial year, details of the end of year result and the amount of any under or over-recoveries accumulated from prior years must be presented to the ICC for consideration.

ICCs must be consulted in the development of an appropriate fee and charging structure and cost recovery strategies for each user group.

Cost recovery outcomes must also be fully detailed in the *AQIS Report to Clients*.