

SAL Submission to Inspector General of Biosecurity Review**Assessment of the Effectiveness of Biosecurity Measure to Manage the Risk of Brown Marmorated Stink Bugs Entering Australia****Part I - Observations of the 2018-19 BMSB Season****Policy Consultation, Development and Notification Period Inadequate**

1. The 2016-17 Season - DAWR applied substantially increased measures over previous seasons. Changes to requirements/treatment providers for goods from Italy were still being promulgated in March 2018.
2. The 2017-18 Season – expanded these measures to 7 additional European countries but the first indications of these changes was not given until an industry consultation meeting on 5 July, less than 2 months before the commencement of seasonal BMSB measures. Though additional consultations did occur over the next four weeks, final notice of the changes and the measures was not given until 8 August 2018 (IAN 89/2018) only 3 weeks before the measures commenced and after much sea cargo had already been shipped.
3. Despite the best efforts of industry to promulgate the requirements throughout the global shipping and freight industry, the late notice of requirements:
 - a. left insufficient time to establish and implement effective offshore treatment protocols to cover the additional target risk countries prior to the start of the season;
 - b. left insufficient time (and insufficient global publicity) to get the message out globally that containerised break bulk other than FCL, i.e. Open Tops (sealed with tarps) and Flat rack cargo MUST be treated offshore;
 - c. meant that at the commencement of the season there were not sufficient DAWR approved offshore treatment facilities in target risk countries to enable cargo's to be treated offshore; and
 - d. resulted in a high level of non-compliant cargos arrived early in the BMSB season, and non-compliant breakbulk cargo was shipped to Australia.

Policy position not workable

4. The inclusion of Japan as a target risk country with greater surveillance but NOT imposing any mandatory treatment on Japanese cargo was a notable anomaly and did nothing to reduce the risk of infested cargo being embarked, it transferred risk and cost to carriers (ships).
5. DAWRs initial proposed policy to allow only sealed, 6 sided FCL to be treated in Australia may have been successful but was diluted to also allow LCL and FAK to be treated in Australia, this complicated the onshore treatment process and overwhelmed the onshore treatment facilities resulting in increased risk to Australia and unacceptable cargo clearance delays.
6. Onshore treatment facilities were not sufficient to treat FCL, LCL and FAK – leading to substantial delay in treating and releasing these cargos on arrival in Australia. These delays were exacerbated by an inability to treat FCL/FAK at the container level due to some consignments in the container being unsuitable for treatment.
7. From midway through the season, DAWR officers' refusal to conduct inspections of sulfuryl fluoride treated containers delayed inspection and release of cargo. DAWR solution in IAN 5/2019 overcame

the backlog but put increased risk of BMSB incursion. A further change intended to reduce this risk published in IAN 15/2019 put the responsibility onto forwarders/brokers to third party gas detection to be on site at the time of the inspections. When industry advised that this was unworkable DAWR issues IAN24/2019 reverting to the previous non-inspection regime advised in IAN 5/2019. These rapid and inconsistent policy changes are a symptoms of DAWR failing to effectively consult with industry prior to promulgation of appropriately considered policies.

Vehicle/Break Bulk cargo policies illogical – Transferred risk from cargo interest to carriers

8. **Note:** The Carrier (shipping line) cannot enforce shippers (exporter/importer) to carry out additional, time consuming and costly cargo treatments if such treatment is not a requirement of the Australian Government. This point was clearly made to DAWR officers in bilateral consultations with Shipping Australia Limited.
9. The rules put in place for Vehicle Break Bulk Cargo at the beginning of the season were inadequate, with no treatment required for BB cargo embarked from known BMSB native countries. This removed any onus from the exporter to ensure that his cargo was not infested prior to loading. The result is that the risk and costs of cargo infestation was transferred from the cargo owner (exporter/importer) to the carrier (ship). Some examples of this policy failure are:
 - a. the delimitation of target risk countries in Europe was not logical – for example major ports of Zeebrugge (Belgium) and Rotterdam (Netherlands) were not counted as target risk countries. It is obvious that there are BMSB in Belgium and Netherlands when there are BMSB in adjacent France and Germany. The exclusion of these major loading ports complicated the documentation process and undermined the ability of the carrier to ensure that all embarked cargo was appropriately treated. The Carrier does not have visibility of the origin of all cargo. If it is consigned from Zeebrugge to Sydney, then the carrier would not ask for a treatment certificate.
 - b. The inclusion of Japan as a target risk country with greater surveillance but NOT imposing any mandatory treatment on Japanese cargo did nothing to reduce the risk of infested cargo being embarked.
 - c. The exclusion of other known BMSB native countries, e.g. China and Korea (and Japan) from the compulsory treatment regime left the door open to infested Break Bulk cargo being embarked from these countries
 - d. The effect of a. b. and c. above was to simply transfer the risk and cost from the cargo interest to the Carrier and to use the carrier as the testing and reporting facility for infestations. While this may be satisfactory from a border biosecurity perspective it is not sustainable for Carriers. Once the ships reported BMSB onboard DAWR did not provide any workable options for treatment of the cargo in Australia or onboard and turned ships away to transit, disembark, treat, re-embark and return – with costs to the Carrier in the \$Millions.
 - e. Rules for used vehicles did not capture the risk of infestation – for example a used vehicle which had originated in a non-target risk country, but had been used in target risk countries did not require treatment if it was loaded in a non-target risk country port. This increased the risk of infestation and cross contamination of other treated cargo. Some lines implemented a policy not to embark untreated used cargo.

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10. When evidence presented that infestations were occurring in compliant RoRo cargo (due to lack of mandatory requirements for offshore treatment of that cargo) the DAWR response was not to implement mandatory offshore treatment, as might be expected, but to increase the inspection impost on the carrier vessels! This is not an appropriate solution – inspecting a ship/cargo does nothing to stop infested cargo being embarked. That requires stronger measures to be taken at the risk source. The reality is that in a competitive shipping market, carriers cannot practically require cargo interests to treat cargo if it is not a requirement of the receiving Government. Shippers will not bear the cost of a treatment that is not a mandated by the Australian Government - but with DAWR not putting the requirements in place (which are clearly needed if cargo is arriving contaminated) this leaves the cost risk of contaminated cargo with the ship operator which is not fair.

11. Instead of placing pre-embarkation requirements on suspected sources of BMSB which were not currently target risk countries, on 06 February 2019 DAWR introduced IAN16/2019 which required all RORO/PCC to be subject to a Seasonal Pest Inspection if they had ANY non-treated cargo onboard. Additionally, DAWR would only conduct the inspections on vessels alongside and not at anchor (unless there is a biosecurity reason for the ship to remain outside 3 nm from the coast). The immediate impact of this inspection regime put a major cost burden on the ship:

- a. ships which didn't have permission to discharge cargo were given lower priority for berthing, causing cost delays (evidence of this is in Port of Brisbane email of 21 Feb 19:

"BMSB impacted Vessels

Every endeavour will be made to berth vessels on arrival however for the remainder of the BMSB season the following change will apply to the Australian Amalgamated Terminals Fisherman Islands Berths 1-3 / Grain Berth, Berth Priority Arrangements.

PCC/PCTC and RORO vessels that need to have a "seasonal inspection" prior to discharging cargo will lose the priority of "8 hours at the pilot station over a vessel of lessor priority".

This change has not been taken lightly however it needs to be taken to ensure the port and more importantly the AAT facility can be operated in the most efficient manner possible while dealing with the BMSB problem."

- b. the cost of a 4- 6 hour inspection with 4-6 departmental officers,
- c. the cost of an average 12 hour delay in cargo operations and the cost of additional fuel usage for faster steaming on the ships route in order to make up for the lost time and return to scheduled service. These costs exceeding \$30,000 for the ship – and are entirely due to inconsistent and illogical policy of DAWR.
- d. Additionally, labour for unloading must be booked 24-48 hours in advance and then paid for if a ship fails an inspection and cannot be worked, also there are potentially the costs of additional pilotage, tugs and port entry and departure charges.
- e. Importantly, the imposition of this more stringent inspection regime did nothing to reduce the risk of infested cargo being shipped to Australia.

12. IAN16/2019 also over-ruled the new, unused and not field tested (NUFT) exemption from BMSB treatment for all cargo from target risk countries. After further consultation with Shipping Australia

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Limited DAWR did reinstate the NUFT exemption by replacing IAN16/2019 with IAN20/2019 on 13 Feb. However, IAN20/2019 remains illogical – as it still subjects ships who have embarked any untreated cargo, even cargo from BMSB-risk free regions (such as tropical Thailand and Malaysia) to Seasonal Pest Inspections on arrival – there seems no logic or justification for this costly impediment.

13. The DAWR decision to increase inspection of cargo rather than place mandatory treatment requirements on cargo from known BMSB source countries was both illogical, and unfair – it imposed substantial additional costs on carriers rather than requiring cargo interests to present clean cargo.

Inspection anomalies /Inadequate record keeping / Inconsistent DAWR interpretations

14. In cases where a vessel has had a positive BMSB detection, then has taken measures which have allowed the cargo to be declared clean and discharged, it seems that the ship is 'blackmarked' and treated as a high risk vessel on subsequent voyages – even when it has not even visited a target high risk country in the interim.
15. On at least one occasion a vessel which was subjected to a Seasonal Pest Inspection at first port of entry, Brisbane, then discharged cargo in Brisbane and Port Kembla without any BMSB detections, was then subjected to a second Seasonal Pest Inspection on a long weekend on arrival in Melbourne. Such action is illogical and can only be assessed as either a staff training exercise or Sunday overtime for DAWR staff – at the expense of the ship.
16. DAWR inspectors do not seem to accept that when break bulk cargoes are treated, dead stinkbugs will drop off vehicles. In the case of *Lake Como 1951* the cargo was 100% treated, the ship reported three dead stinkbugs and the vessel was delayed for further inspection and lost a working day.

Berth congestion and DAWR imposed inspector limitations

17. DAWR will not carry out RoRo Seasonal Pest inspections at anchor except when there is strong biosecurity imperative to keep the ship outside BMSB flight distance. At first point of entry ports for RoRo (primarily Brisbane and Fremantle, but may include Townsville and Darwin) this restriction adds to the likelihood of berth congestion. The main concern in Brisbane where stevedores will prioritise ships which have permission to discharge cargo ahead of those requiring inspection (see para. 10a above). This is because conducting the inspection alongside will tie up the berth unproductively for around half a day, losing revenue for the stevedore and incurring costs for the ships and cargo interests. These costs and consequent berth congestion leading to further ship delays and costs could be reduced if Seasonal Pest Inspections could be routinely conducted on arrival at a safe protected anchorage.
18. A recent case of refusal of DAWR officers to descend ladders into a lower deck whilst conducting an inspection alongside in Townsville is another example of inconsistent practices between different DAWR locations.

Other BMSB vectors not given the same focus

19. There are other known BMSB risk vectors, such as in mail, personnel movements and air cargo which do not appear to have attracted the same focus as shipping. We do not like to see the

shipping industry hit with all the costs while BMSB are “flying in” through open doorways in other transport sectors.

Inconsistencies between Australia and New Zealand

20. Australia and New Zealand are both making substantial efforts to prevent the entry of BMSB however their rules vary significantly despite cargo from the same origins being carried on the same ships on the same voyage to both countries. This makes compliance challenging and increases the risk of cross contamination when less stringent rules apply to part of a cargo than to another. Even scientific requirements such as the temperature and durations of heat treatments differ – surely these can be aligned?
21. A further (unintended) consequence of the current BMSB protocol based only on country of origin is that a cargo of target risk goods manufactured in a target risk country which has been treated and imported to Australia or New Zealand would require to be treated again if subsequently re-exported between Australian and New Zealand. This seems unnecessary and illogical.

Part II – Recommendations

What, if any, improvements should be made to the current arrangements

1. DAWR must consult with and take notice of industry experts before promulgating policy. This will prevent the rapid series of policy corrections that have been evidenced in the current season.
2. The BMSB prevention protocols and treatment requirements for cargo bound for Australia and New Zealand should be aligned (as far as practicable) and mutual recognition of each other’s treatment /inspection regimes should be considered.
3. The focus of good BMSB policy must be to stop infested cargo being shipped to Australia – not try to contain potentially infested cargo on a ship (indefinitely).
4. Ensure resources are made available to facilitate 24/7 management of BMSB, just as international trade demands on industry stakeholders. DAWR officers must be available and able to conduct vessel inspections 24/7 and to conduct such inspections at a sheltered anchorage.
5. Ensure consistent application of inspection regime and practices across all ports of entry in Australia.
6. A BMSB treatment protocol needs to be approved for cleaning / clearing a ship which has embarked cargo which is fully compliant with DAWR requirement but later proves to be infested (see also point 14).
7. It is the climate/geographic location and exposure to BMSB, and not the country name or trading status that dictates the risk of BMSB.
8. Review BMSB risk modelling and close the holes in the patchwork of target risk countries / geographic regions. BMSB offshore treatment requirements for break bulk cargo must apply consistently to all BMSB risk countries/regions.
9. It is recognised that the BMSB risk within a BMSB risk country/region will vary depending on the cargo type and its exposure profile to BMSB sources in that country. Thus, different protocols for different goods are fully supported.
10. Ensure continuous monitoring of compliance and effectiveness of offshore treatment facilities.

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11. Safeguard pathways for regular cargo should be considered/approved but these must be proven safe and need to be audited and guaranteed. If they are not secure, they will have the effect of avoiding the treatment requirements for the exporter and transferring the risk onto the carrier, particularly for RoRo vessel cargo.
12. Consider a pathway for onshore treatment of breakbulk/vehicle cargo in Australia. Trade facilitation requires that Australia must also be prepared to do what we expect our trading partners to do. With regards to the cars and other breakbulk cargo imports this principle could present as a facility to treat imported vehicles onshore in Australia. The location/s would require consideration of several variables including: a secure pathway from the ship to the treatment facility, use of tropical port where BMSB cannot survive etc.
13. Establish an arrangement with trading partners to pre-certify the BMSB-free status of goods to be imported into Australia before loading at the port of origin.
14. Alternative BMSB treatments need to be identified as Methyl Bromide is not permitted in Europe and is being phased out in USA and Sulfuryl Fluoride is dangerous to humans and causes a significant risk to personnel in the supply chain.
15. Neither Methyl Bromide or Sulfuryl Fluoride are safe to use on ships and heat treatment is impractical as the required temperatures cannot be achieved onboard ships. Thus, unless DAWR offshore treatment policies are robust and prevent infested cargo being embarked, an alternative treatment regime needs to be identified / developed.
16. Ensure all BMSB protocols are clearly established and promulgated well ahead of the 2019/2020 BMSB season.

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