

The Senate

Rural and Regional Affairs and
Transport Legislation Committee

The Australian meat industry consultative
structure and quota allocation

Second report: Existing government advisory
structures in the Australian meat industry

December 2002

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Table of Contents

MEMBERSHIP OF THE COMMITTEE	iii
TABLE OF CONTENTS.....	v
ABBREVIATIONS	vii
CHAPTER ONE	1
THE COMMITTEE’S INQUIRY	1
Origin of Inquiry	1
Consideration of the Committee’s Report.....	2
Acknowledgments	2
CHAPTER TWO	3
GOVERNMENT ADVISORY STRUCTURES	3
Introduction	3
Recent history of meat industry government advisory structures.....	3
Red Meat Advisory Council (RMAC)	5
Criticism of the RMAC structure	6
Restricted membership of the RMAC Board	7
The RMAC consultative role	8
RMAC’s capacity to represent industry	9
RMAC’s response to changes in the industry	10
Meat and Livestock Australia (MLA).....	11
CHAPTER THREE	13
THE RED MEAT INDUSTRY RESERVE FUND	13
Origin of the Fund	13
Investment of the Fund.....	13
Disbursements from the Fund	14
Accountability processes.....	16
Accountability from Peak Councils to RMAC	17
Accountability of Peak Councils to the Commonwealth	18
Accountability of Peak Councils to industry.....	19

CHAPTER FOUR	21
CONCLUSIONS AND RECOMMENDATIONS	21
Conclusion.....	21
Investigation of industry advisory arrangements	21
Functions of reformed or new advisory body	21
Membership of a new or reformed advisory body	22
Funding of the advisory body.....	22
The MLA Board election process	22
Disbursements from the Reserve Fund	23
APPENDIX ONE	25
SUBMISSIONS	25
APPENDIX TWO	27
WITNESSES	27

ABBREVIATIONS

ABARE	Australian Bureau of Agricultural and Resource Economics
ABA	Australian Beef Association
ABBA	Australian Branded Beef Association
AFFA	Agriculture, Fisheries and Forestry Australia
ALFA	Australian Lot Feeders' Association
AMC	Australian Meat Council
AMH	Australian Meat Holdings Pty Ltd
AMLC	Australian Meat and Livestock Corporation
CAAB	Certified Australian Angus Beef Pty Ltd
CCA	Cattle Council of Australia
CMG	Consolidated Meat Group
MLA	Meat and Livestock Australia
NMAA	National Meat Association of Australia
RMAC	Red Meat Advisory Council
USMIL	United States Meat Import Law
TRQ	Tariff Rate Quota
VFF	Victorian Farmers' Federation

CHAPTER ONE

THE COMMITTEE'S INQUIRY

Origin of Inquiry

1.1 On 27 June 2002 the following matters were referred to the Senate Rural and Regional Affairs and Transport Legislation Committee for inquiry and report by 31 October 2002:

- a) the performance and appropriateness of the existing government advisory structures in the Australian meat industry; and
- b) the most effective arrangements for the allocation of export quotas for Australian meat, both to the United States and Europe.¹

1.2 Following the referral of the Inquiry, the Committee advertised the reference in both the *Australian* and *The Sydney Morning Herald*. The Committee also wrote to a number of key stakeholders inviting submissions. 29 written submissions were received. A list of written submissions is included at Appendix 1.

1.3 During the initial stages of the Inquiry, the Committee noted the 1 October 2002 reporting date for the Government appointed Quota Management Panel. As a result, on 28 August 2002, the Committee announced its intention to table an interim report (on the issue of quota allocation to the United States) in September, to allow the Panel the opportunity to consider the Committee's report as part of its process. The Committee tabled an interim report on 24 September 2002.

1.4 This report will consider those aspects of this reference which were not considered in the interim report; namely, the performance and appropriateness of the existing government advisory structures in the Australian meat industry.

1.5 The Committee held public hearings on the government advisory structures on Friday 27 September 2002 and Thursday 24 October 2002. The Committee heard evidence from a range of key organisations including the Australian Beef Association (ABA), the Cattle Council of Australia (CCA), the Australian Meat Council (AMC), the Australian Branded Beef Association (ABBA), and from the Board of the Red Meat Advisory Council (RMAC). The Committee heard evidence from organisations whose submissions supported the current arrangements, and from organisations who expressed criticism of the current arrangements.

1 Extract from *Journals of the Senate*, No. 21, 27 June 2002

1.6 Officers from Agriculture, Fisheries and Forestry Australia (AFFA) provided evidence at the 27 September hearing. A complete list of the witnesses who appeared at the hearings is included at Appendix 2.

1.7 Published submissions and the Hansard of the Committee's hearings are tabled with this report, together with all supplementary material provided to the Committee. The Hansard of the hearings is available at the Hansard site on the Parliament House homepage on the internet (www.aph.gov.au).

Consideration of the Committee's Report

1.8 The Committee met on 18 November 2002 and 12 December 2002 to consider its report.

Acknowledgments

1.9 The Committee acknowledges the assistance given to its Inquiry by all those who prepared written submissions at short notice. The Committee also acknowledges the assistance provided by all witnesses who attended the public hearings and the prompt provision of supplementary information requested by the Committee. The Committee also appreciates the assistance of the Department of the Parliamentary Reporting Staff in providing the Hansard transcript of proceedings within a short timeframe.

CHAPTER TWO

GOVERNMENT ADVISORY STRUCTURES

RMAC has the role of being a single source of industry advice on policy matters for Government. However, the increasingly diverse nature of the industry in terms of markets, segments within those markets, scale and specialisation of processors and livestock producers, and the multiplicity of industry bodies and agripolitical organisations represented on RMAC, means that it is increasingly difficult for such a body to successfully coordinate policy advice on all relevant issues.¹

Introduction

2.1 This chapter provides a short overview of development and operation of the current government advisory structures, and considers the submissions and evidence presented to the Committee in relation to those structures.

2.2 At the outset, the Committee wishes to state that its terms of reference were to examine the government advisory structures themselves, and not the performance of any participant in those structures. While the Committee may, in this report, comment on the performance of the advisory structures, the Committee remains firmly convinced that the Peak Industry Councils, in particular, make every effort, in good faith, to represent the best interests of their members and their industry. The question before the Committee is whether the institutional arrangements assist, or inhibit, the success of these efforts.

Recent history of meat industry government advisory structures

2.3 The *Meat and Livestock Industry Act 1995* established three statutory authorities, with 1998 sunset clauses, and a review to be conducted in 1997. The three authorities and their functions were:

- the Meat Industry Council (MIC), to provide policy oversight and strategic directions;
- the Australian Meat and Livestock Corporation (AMLC), to improve production, consumption and sales of Australian meat; and
- the Meat Research Corporation (MRC), to plan and conduct research and development for the industry.

1 Submission 3, AMH, p.3

2.4 On taking office in early 1996, the Government brought forward the 1997 review, and formed the Meat and Livestock Industry Reform taskforce, which reported in October 1996. Its report, *Australian Meat and Livestock Reform for the Future*, proposed the abolition of the three statutory authorities established by the 1995 Act, and the division of their powers among three agencies:

- the Department of Primary Industries and Energy (now AFFA), which was to take on the regulatory functions of the former organisations; and
- two separate, non-statutory, non-profit corporations to be established to undertake market services, quality systems services, and research and development functions. One of these would represent the interests of beef producers; the other would represent sheepmeat producers.

2.5 Informed by *Australian Meat and Livestock Reform for the Future*, the government introduced, and Parliament passed, the *Australian Meat and Livestock Industry Act 1997*. In his second reading speech, the minister, the Hon. John Anderson MP, stated:

... the task force report offered a wide range of recommendations based on two underlying principles. The first was that the meat industry in Australia must move towards a more self-regulated, responsible and market-driven operation. The second was that the role of government must move to one side, with a more clearly defined set of core functions for industry, while at the same time improving strategic alliances with and within industry for the delivery of these functions.²

2.6 This Act led to the establishment of an advisory body, the Red Meat Advisory Council (RMAC) and three incorporated companies, limited by guarantee:

- Meat and Livestock Australia (MLA), which is responsible for research and development, marketing, and market intelligence for producers;
- The Australian Meat Processors Corporation (AMPC), which undertakes similar functions for meat processors; and
- Livecorp, which focuses on the live export industry.

2.7 These are the arrangements which have been referred to the Committee for inquiry and report. The Committee has not received evidence regarding the Australian Meat Processors Corporation or Livecorp. As a result, these companies will not be separately considered in this report. However, any recommendations the Committee may make with regard to the current arrangements as a whole, may have an impact on the operations of AMPC and Livecorp.

2 House of Representatives *Hansard*, 1 October 1997, p.8846

2.8 Submissions and evidence before the Committee focussed on the role and structure of RMAC and MLA, and these are considered in detail below.

Red Meat Advisory Council (RMAC)

2.9 RMAC has two principal founding documents. The first, as noted above, was the *Australian Meat and Live-stock Industry Act 1997*. The second was a Memorandum of Understanding (“the MOU”) concluded on 27 April 1998 between Minister Anderson for the Commonwealth, and:

- Cattle Council of Australia (CCA);
- Sheepmeat Council of Australia (SCA);
- National Meat Association of Australia (NMA);
- Australian Meat Council (AMC);
- Australian Live Exporters’ Council (ALEC);
- Australian Lot Feeders’ Association (ALFA);
- Meat and Livestock Australia (MLA);
- Australian Meat Processor Corporation (AMPC); and
- Australian Livestock Export Corporation (Livecorp).

2.10 The first six of these are the members of RMAC. The MOU establishes, in accordance with the *Australian Meat and Live-stock Industry Act 1997*, the responsibilities of the five parties: the Commonwealth, MLA, AMPC, Livecorp and RMAC. RMAC’s structure, role, and funding are detailed in Schedule 1 of the MOU.

2.11 The objects of RMAC, as outlined in Schedule 1 of the MOU, can be summarised as follows:

- Policy advice to the Commonwealth Minister for Agriculture, Fisheries and Forestry on matters including matters arising out of licensing and quota administration;
- Provide a forum for cross sector issues to be resolved;
- Trustee of the industry reserves, including MLA financial support; and
- Review and assist the effective workings of the MOU (with AFFA) and the Meat Industry Strategic Plan (MISP).

2.12 RMAC, and its members, have a broad responsibility to represent the interests of the entire industry. Peak Councils represented on RMAC are required to consult with, and represent, the views of organisations, companies and individuals outside

their own membership. In his second reading speech, Minister Anderson outlined this responsibility as follows:

The new arrangements will empower the industry peak councils to take leadership roles. The peak councils are expected to be as broadly representative of their sectors' interests as possible, bearing in mind that there will always be dissenters and detractors of any systems put in place.

Under voluntary systems, it is rarely possible to have full representation. Members of each sector should seek to make their views and concerns known to the peak councils. It is the responsibility of each and every participant of the industry to make their views known and seek to influence industry representation where appropriate. A requirement of what we are doing is that the relevant representative bodies be open to all views and embrace genuine representative responsibility.³

2.13 Membership of RMAC is prescribed in schedule 1 of the MOU, which states that each "Peak Industry Council" will be a member of RMAC (s.3.1(a)) and that the directors of RMAC will be the presidents of the Peak Industry Councils (s.3.1(b)).

2.14 For another organisation, not currently a Peak Industry Council, to become a Peak Industry Council for the purposes of the MOU, they must clear two hurdles⁴:

- they must be appointed by the Minister to the list of Prescribed Industry Bodies contained in Regulation 4 of the *Australian Meat and Live-Stock Industry Regulations 1998*. This regulation relates to s.59 of the *Australian Meat and Live-stock Industry Act 1997*, and is a disallowable instrument; and
- they must become a signatory to the MOU

2.15 An organisation can only become a signatory to the MOU in accordance with clause 10.3(b)(2) of the MOU, which states that:

A body that becomes a Peak Industry Council ... may, if the signatories of the MOU agree, become a party to this Statement of Principles and any relevant Schedule.

Criticism of the RMAC structure

2.16 The Committee received some submissions expressing concern about the structure and performance of RMAC. These concerns include:

- The restricted membership of the RMAC board;

3 House of Representatives *Hansard*, 1 October 1997, p.8847

4 These are contained in clause 1.1 of the MOU, "Definitions", under the definition of "Peak Industry Council."

- RMAC's consultative role;
- RMAC's capacity to represent the whole industry;
- RMAC's ability to adapt to changes in the market;
- RMAC's administration of the Red Meat Industry Reserve Fund.

2.17 The first four of these concerns will be considered below. The final concern, relating to the Red Meat Industry Reserve Fund, will be considered in Chapter Three.

Restricted membership of the RMAC Board

2.18 It is difficult for non-member organisations to obtain membership of the RMAC board. The Minister can decline to appoint an organisation as a Prescribed Industry Body, and the existing members of RMAC can deny their consent to the creation of a new signatory to the MOU.

2.19 The Committee heard evidence from two organisations, the Australian Beef Association (ABA) and the Australian Branded Beef Association (ABBA). Both organisations have sought greater involvement in RMAC, and attribute their failure to achieve this goal to the opposition of current board members.

2.20 The ABA describes its experience as follows:

We have asked the Minister and we have had one discussion with the Cattle Council and two with ALFA. Each time they were not in favour of ABA becoming a member. The Cattle Council offered us associate membership without voting power, which meant that, if we paid \$2,500 to the Cattle Council, we would be able to sit at their meetings and have no vote, which of course is quite unacceptable. ALFA has not been interested in us becoming a member of RMAC. I understand that RMAC voted unanimously against us becoming members when the minister approached them earlier this year.⁵

2.21 The Australian Branded Beef Association (ABBA) has not formally sought membership of RMAC; formal membership appears less important to ABBA than having some facility to engage with RMAC's deliberations. ABBA expressed to the frustration at being unable to participate in RMAC's deliberations:

[W]e have never had a formal reply to our formal request to them for consultation. We actually nominated a number of issues that we were aware that RMAC was going to be discussing that were of direct relevance to our members' activities. The only correspondence we have had as a consequence of that is the email that we received that I have quoted two or three times already. [...] Our members are quite willing and happy to fund our organisation, but we want our view put on the table, heard and debated.

5 *Evidence*, RRA&T, 27 September 2002, p.145/146

We would like our view to be accepted but we recognise that that might not happen all the time.⁶

2.22 The email referred to by ABBA, dated Tuesday 3 September 2002, included the following:

The [RMAC] Board view was that the most sensible view of the ABBA of maintaining an ongoing liaison with RMAC would be through CCA. At the meeting CCA undertook to keep you fully informed and to ensure your views are put to RMAC as needed.⁷

2.23 Despite this apparent assurance, in evidence to the Committee some three weeks after the email, the Cattle Council stated:

We have not had an approach from them [ABBA]. Until we saw the list of participants in this inquiry, we did not know that there was such an organisation.⁸

The Committee finds it difficult to understand how CCA could have agreed to liaise between RMAC and ABBA, if it was unaware of ABBA's existence. However the Committee noted the evidence presented at its hearing of 24 October 2002, by Mr Keith Adams, Chairman of the CCA, who stated that "We met with them here on the last day of the hearing, when we were all present. We have undertaken to meet with them further. The next meeting will be within a fortnight in Brisbane, when we are all at an industry venue."⁹

2.24 The Committee is pleased that its inquiry has prompted and facilitated this increased contact between the CCA and ABBA.

The RMAC consultative role

2.25 The advisory function of RMAC is prescribed in Schedule 1, Clauses 3.2 of the MOU, in the following terms:

- (a) to consult with the Minister on agreed whole of industry matters including matters arising out of licensing and quota administration;
- (b) to respond to the Minister on issues the Minister raises with it.

2.26 Subclause (a) therefore provides RMAC with a general consultation role, while subclause (b) provides a more specific instance in which that role would be undertaken – that is, on request from the Minister. The Committee received contrary evidence regarding the advisory role RMAC plays. Some RMAC members provided

6 *Evidence*, RRA&T, 27 September 2002, p.183 & 185

7 Submission 27, ABBA, p. 3

8 *Evidence*, RRA&T, 27 September 2002, p.160

9 *Evidence*, RRA&T, 24 October 2002, p.198

evidence that RMAC responds only to Ministerial requests, and that for all other matters of consultation, the various peak bodies and lobby groups are able to represent their views directly to the government. For instance the Cattle Council, which is a member of RMAC, stated:

The impression has been gathered that everything we do finishes up at RMAC; that is not right. The only thing that goes to RMAC is if the minister requests advice. Most of our policy making is dealt with at the peak council level.¹⁰

2.27 Some non-members organisations advised the Committee that RMAC's activities, and its level of influence, extend beyond the relatively narrow function of responding to Ministerial requests. The Committee heard evidence that RMAC seeks to maintain a virtual monopoly over representation to the Minister:

Nothing in the [MOU] could or should preclude the Minister from considering the legitimate interests of all members of the industry, and taking into account the advice of his Department and the interests of the nation as a whole. However RMAC endeavours to assume the position of principal adviser to the Minister on these issues ... the approach taken by the RMAC attempts to effectively impose a compulsory unionism requirement on members of the industry to become members of the existing peak councils if they wish to have their voices heard by government.¹¹

2.28 In the Committee's view, reality lies somewhere between these two extremes. Confusion does arise, however, because the Peak Councils' role on RMAC requires they represent the interests of the industry generally, whereas in their ordinary capacity as Peak Councils they represent the views of their members. This wider representational role, when put into practice, may appear as an attempt by RMAC to monopolise consultation with the Minister. This "monopoly" perception may also be enhanced by the restrictions on membership of RMAC.

RMAC's capacity to represent industry

2.29 The RMAC board represents a cross section of the industry, but within the board there are three quite separate sets of interests: beef producers, sheepmeat producers, and meat processors. Clearly, there will be many instances in which the three sets of interests coincide. However, there are likely to be occasions where an issue of vital interest to one group is of marginal or no interest to another. The Hunt Partners' submission to the Committee suggested this represents a weakness in the RMAC structure::

RMAC is constituted by representatives from diverse agricultural political organisations and is structurally ill-equipped and lacking the necessary resources and technical skills to provide sound advice to the Minister on

10 *Evidence*, RRA&T, 27 September 2002, p.167

11 Submission 29, letter of Wednesday 19 June 2002, p.2

contentious issues involving the legitimate competing vested interests such as the allocation of quota.¹²

2.30 In evidence, they expanded on this point as follows:

[RMAC] is a body that is made up of industry organisations which represent butchers, retailers, brokers, livestock exporters, feedlotter, and sheep, cattle and goat farmers, and they all have a right to vote on each other's issues—it was doomed from the outset¹³

2.31 RMAC members stated in evidence that RMAC members without an interest in a decision did not in practice influence debate, but rather supported the consensus view which emerged from the debate. The Cattle Council stated:

If I can refer to the quota debate: they (the Sheepmeat Council) listened to the debate at RMAC and they formed a view. Although no vote was taken, they were part of the consensus view at the end of the day.¹⁴

2.32 However, Mr Bill Whitehead, Chairman of RMAC and of the Sheepmeat Council, suggested that the Sheepmeat Council had been somewhat more active in the discussion:

Having the sheep industry as part of the US quota issue added balance to the debate; because of that industry's involvement, there were some questions asked which might have been overlooked by the others who were involved in that debate.¹⁵

2.33 It is the Committee's view that RMAC provides useful advice to the Minister on issues which affect the entire industry.

2.34 However, evidence to the Committee would suggest that RMAC is less capable of effective representation on issues where an industry-wide consensus is not possible.

RMAC's response to changes in the industry

2.35 The Committee recognises that the red meat industry, like any other industry, is dynamic. Factors such as consumer attitudes, international trade arrangements, and technological development will continue to have an impact on the industry's performance. In the Committee's view, it is inevitable that this constant process of change will place pressure on the industry's institutional arrangements. Current peak bodies may decline, and new bodies emerge to represent new market interests, or new perceptions of existing market interests.

12 Submission 29, letter of Wednesday 14 August 2002, p.1

13 Evidence, RRA&T, 27 September 2002, p.151

14 Evidence, RRA&T, 27 September 2002, p.165

15 Evidence, RRA&T, 24 October 2002, p.200

2.36 The ABBA advised the Committee that RMAC is incapable of responding to dynamic changes in the industry. The Committee has noted above that ABBA approached RMAC about increasing the consultation between RMAC and ABBA, and was denied an opportunity to participate directly in RMAC's deliberations. Instead, RMAC instructed ABBA to engage with RMAC indirectly, via the Cattle Council of Australia:

We were handballed aside to the Cattle Council who, on the one hand, say that they have undertaken to keep us fully informed and represent our view and, on the other hand, they come into this meeting and say that they have never heard of us.¹⁶

2.37 The Committee understands the ABBA is frustrated that it was directed to engage with RMAC via the Cattle Council, despite the fact the Cattle Council is primarily a producers' association, while ABBA's constituency is engaged in the production and processing of branded beef. The current make-up of the RMAC board does not easily accommodate a cross-sectoral interest such as the ABBA.

Meat and Livestock Australia (MLA)

2.38 While the focus of evidence and submissions before the Committee was clearly RMAC, the ABA raised particular concerns about the governance of Meat and Livestock Australia. As noted in para 2.6 above, MLA was established under the *Australian Meat and Livestock Industry Act 1997* as a company limited by guarantee. Its governance arrangements are set out in a Memorandum of Association.

2.39 MLA is governed by a board of directors, whose appointment, duties and remuneration are set out in Article 4 of MLA's Articles of Association. According to Article 4.1(c), directors are appointed by resolution of the company (in effect, at the annual general meeting (AGM) of the company). However, according to Article 4.1(o)(2), candidates cannot be nominated for election at the AGM unless "the person has, before that meeting, been endorsed for re-election or election to the office of director by the Selection Committee."

2.40 The Selection Committee referred to in Article 4.1(o)(2) is described in Article 5. Its purpose is to "[report] to the members of the company on the suitability of candidates for re-election or election to the office of director at general meetings."¹⁷ It is comprised of three persons elected by Producers, three persons appointed by Peak Councils, and three directors, including the chairperson of directors.

2.41 According to Article 5.4(d), "The Selection Committee cannot endorse more candidates than the number of vacancies to be filled at an annual general meeting." It was put to the Committee that this process is undemocratic, because it effectively

16 *Evidence*, RRA&T, 27 September 2002, p.181

17 MLA Articles of Association, Article 5.1

removes the right of the annual general meeting to elect candidates to the Board. The ABA stated:

We believe that the correct means of giving advice to the minister is with a democratically elected Meat and Livestock Australia [...] Currently it is a form of compulsory unionism, where everyone must pay their levy but we are not allowed to stand for the board unless we go through a selection committee which is dominated by the peak councils and the MLA board itself. Only two of the nine members of the selection committee are not connected with the peak councils or the MLA board.¹⁸

2.42 The Cattle Council, which is represented on the MLA Board, considers the appointment process to be appropriate for the organisation's needs:

We do not see the need for a popularly elected board. For obvious reasons, we think there are certain skills that are needed at that level which cannot be guaranteed by putting a popularly elected board in place [...] We are not looking for representation on the MLA board; we are looking for skills. We need skills in research, marketing, finance—¹⁹

2.43 The Committee notes the Australian Beef Association's proposal to remove the Selection Committee or amend its power of veto.²⁰

18 *Evidence*, RRA&T, 27 September 2002, p.144

19 *Evidence*, RRA&T, 27 September 2002, p.157 & 159

20 *Evidence*, RRA&T, 27 September 2002, p.147

CHAPTER THREE

THE RED MEAT INDUSTRY RESERVE FUND

The terms of the council's custodianship of the industry reserves will be determined jointly by industry and government. The principal requirements will be that the funds be used for the benefit of the industry as a whole, be managed transparently in a manner consistent with an industry developed strategic plan, and be based on accepted commercial practice. It is envisaged the returns on investments would be used primarily to fund peak councils and, in a small part, to defray the costs of running the council.¹

Origin of the Fund

3.1 Paragraph 2.3 above described origins and purpose of the Meat Industry Council (MIC), the Australian Meat and Livestock Corporation (AMLC) and the Meat Research Corporation (MRC), which were established by the *Meat and Livestock Industry Act 1995* and abolished by the *Australian Meat and Livestock Industry Act 1997*. These organisations were funded from compulsory levies, and were responsible for maintaining a reserve of levy funds. These reserves were invested, and their returns added to the reserve.

3.2 When the MIC, AMLC, and MRC were abolished, they left behind reserves totalling approximately \$40 million from compulsory levies and earnings.² One issue for the development of the current arrangements was how these reserves should be utilised to benefit the industry participants who had paid the levies. The government determined that, under the new arrangements, industry peak bodies would no longer receive funding from compulsory levies, but would instead receive funding from the investment earnings of the reserve fund.

Investment of the Fund

3.3 Under Schedule 1 of the MOU, RMAC is responsible for investing the Fund. The guidelines contained in clause 3.2(d) of the MOU state that RMAC must:

Develop and keep current a reserves investment strategy which has regard to, among other things:

- (1) the need to fund Peak Industry Councils from income from net industry reserves; and

1 The Hon.. John Anderson MP, House of Representative *Hansard*, 1 October 1997, p.8848

2 Compulsory levies which formed the reserve did *not* include levies for research and development, which were eligible for Commonwealth matching funding. As a result, the current reserve fund does not include money from this source.

- (2) any other application of net industry reserves for the benefit of industry that is permitted under the conditions for transfer.

3.4 Until recently, funds were invested “in capital stable funds which provide a diversified range of investment types with emphasis on yield stability and longer term asset growth.”³ However during 2000/2001, RMAC, with the approval of the Minister, restructured the investment strategy to “provide for greater reliance on higher growth asset classes (e.g. equities). Over the medium to long term this will increase Fund growth potential, but with the risk of greater volatility.”⁴

3.5 This change of strategy occurred just prior to a period of market volatility. In its submission to the Committee, RMAC explained that “[The current] strategy factors in the likelihood of occasional periods of market weakness. This is one such period, albeit a significant one.”⁵ RMAC has provided the Committee with a copy of a letter sent on 6 September 2002 to the Minister for Agriculture, Fisheries and Forestry, which RMAC states that it will respond to the current poor market performance by reducing the disbursements to be made from the fund this year, thus providing a larger investment base when the market recovers.

3.6 Submissions and evidence before the Committee did not raise concerns regarding the investment strategy undertaken by RMAC.

Disbursements from the Fund

3.7 Disbursements are made from the fund to support the operations of the industry peak councils. In his second reading speech introducing the *Australian Meat and Livestock Industry Act 1997*, Minister Anderson stated:

To be able to effectively carry out the new responsibilities which will be required of them, the peak councils will need to be adequately funded so that they can have access to the professional expertise they will require. A primary new source of funding for peak councils will be income earned from investment of industry reserves. We must approach this issue practically and sensibly, according to the needs and responsibilities of each sector or agency.⁶

3.8 The formula for the disbursement of funds to each peak council is contained in Annexure E of the MOU. The first priority is the provision of operating funds for RMAC itself. Beyond that, the annexure states that the maximum total disbursement in any year will be \$2.5 Million (1998 dollars, indexed), and that this amount will be split as follows:

3 RMAC Annual Report 2000/2001, p.19

4 RMAC Annual Report 2000/2001, p.4

5 Submission 12, RMAC, p.5

6 House of Representative *Hansard*, 1 October 1997, p.8847-8848

- The first 25 percent of the total to be disbursed will be split equally among the five sectors: live exporters, cattle producers, sheep producers, lot feeders and processors;
- 4.3% of the remaining 75 percent of the total will be disbursed to ALEC;
- The funds remaining after the disbursement to ALEC will be distributed among the sectors as follows:
 - Cattle 31.3%
 - Sheep 13.5%
 - Processors 49.2%
 - ALFA 6.25%

3.9 During the past two years, disbursements from the fund have not reached the \$2.5 Million maximum. Disbursements for 2000 and 2001 were as follows:

Beneficiary	2001 \$	2002 \$
Red Meat Advisory Council	245,000	245,000
Cattle Council of Australia	492,958	572,996
Sheep Meat Council of Australia	260,432	302,732
National Meat Association of Australia	361,775	420,587
Australian Meat Council	361,775	420,587
Australian Lot Feeders' Association	170,256	197,959
Australian Livestock Exporters Council	147,624	171,548
Goat Industry Council of Australia	20,592	20,294
Total	2,060,412	2,351,703

Source: RMAC Annual Report 2000/2001, Note 5 to Financial Statements, p.42

3.10 The Committee notes the submission by the ABA linking the disbursement arrangement with RMAC's restricted membership:

If we [the ABA] were made a prescribed body by the Minister we could not go onto RMAC unless there was a unanimous vote by the members of RMAC to admit us. As they are sharing \$2 million between them, the possibility of them unanimously voting to reduce their income by allowing in a seventh body is very remote.⁷

3.11 The ALFA told the Committee the disbursed funds enabled it to make industry-wide representations:

⁷ *Evidence*, RRA&T, 27 September 2002, p.151

Peak councils have voluntary membership and they have to work with that. In the industry restructure, we were given the responsibility for representing the total industry. We have taken that on board. We receive \$200,000—which is close to a third of our income—each year, and we would miss it. If we did not have it, we would not be working for the industry; we would be working solely for our membership.⁸

3.12 Disbursements from the Reserve Fund appear to give RMAC member organisations a financial advantage over organisations not in receipt of funds. However, the Committee acknowledges it was intended for RMAC members to have their industry activities funded from disbursements. Organisations outside RMAC do not obtain the benefit of a fund disbursement, but do not have the corresponding responsibility to represent the industry as a whole.

3.13 The Committee concludes that concerns about the disbursement of the funds relate to two other issues: first, whether the membership of RMAC is un-necessarily restrictive; and second, whether the funds from the Reserve are being, in fact, transparently used for the benefit of the entire industry. Each of these concerns is dealt with elsewhere in this report.

Accountability processes

3.14 When the current arrangements were instituted, the Minister clearly intended that disbursements from the Reserve Fund, and the expenditure of those funds by the peak councils, would be characterised by transparency and accountability. The quotation from evidence to the Committee at the head of this chapter alludes to this need for transparency. In an attachment to the press release marking the commencement of the current arrangements, the Minister stated:

Peak Councils will need to justify use of monies received, based on a business plan. Expenditure will be required to be fully accounted for in a transparent manner.⁹

3.15 This need for accountability is expressed in Annexure E of the MOU as follows:

Use of funding [from the Reserve] for any purpose will need to be transparent with accountability back to RMAC and the Commonwealth through the conditions of transfer to RMAC. In the case of funding the Peak Industry Councils, each would be obliged to fully justify its claims through a business plan and to account for expenditure of these funds accordingly, to the industry sectors it represents and to the Commonwealth.

3.16 According to the above quotation, the MOU clearly requires three distinct lines of accountability, from the peak council to:

8 *Evidence*, RRA&T, 27 September 2002, p.171

9 Press Release *Meat Industry Reforms – The New Era Starts Today*, the Hon. John Anderson MP, 1 July 1998, p.6

- RMAC;
- The Commonwealth; and
- Its Industry Sector.

3.17 The balance of this chapter will consider whether these lines of accountability have been appropriately set in place, and whether they have provided an effective process of accountability.

Accountability from Peak Councils to RMAC

3.18 In its annual report, RMAC describes its accountability procedures (with respect to disbursements from the Fund) as follows:

The system should be based on objective assessment of funding applications within the framework of clearly defined parameters of a Business Plan. Funding approval by RMAC would be based on guideline compliance, not subjective assessment [...] Distributions from the Trust to Peak Council beneficiaries are, entitlements which are, however, conditional upon the RMAC Audit Committee being satisfied that the Peak Councils Business Plans submitted provided a clear statement of how industry services will be carried out on behalf of their sectors.¹⁰

3.19 The RMAC Audit Committee mentioned in the above extract is a subcommittee of the RMAC Board, and currently consists of representatives from the NMA, ALEC, and ALFA.

3.20 During its deliberations, the Committee was provided with the Cattle Council's and ALFA's business plans. These documents present a substantial body of work for each organisation in the current financial year. The proposed business is likely to be useful in advancing the cause of the organisations' members, and much of the business is likely to provide benefits to the wider industry.

3.21 The Committee found it difficult to identify industry-wide work as separate from the activities undertaken by these peak bodies in the course of their normal operations. As a result, the Committee is sympathetic to concerns the current system is not appropriately transparent. The Committee does not, however, find that Fund recipients are expending monies inappropriately.

3.22 The Committee received submissions and evidence suggesting the RMAC accountability processes also suffer from a series of possible conflicts of interest:

RMAC decisions are made by directors of RMAC who are also chairmen of industry organisations who are proponents of particular submissions before the RMAC Board.¹¹

3.23 As this report has noted, the RMAC board is comprised of the Presidents of the peak bodies; and the RMAC Audit Committee is drawn from the board. This effectively means that the board and the Audit Committee are required to audit the performance of their own organisation, and of others on the board. RMAC does not appear to have a truly independent process to assess Business Plans, or performance against those Business Plans.

3.24 Finally, RMAC stated in evidence that before peak bodies receive funds, they must provide an audited statement to demonstrate that they have spent funds in accordance with the business plan they submit:

[The peak councils] receive funds at the end of the financial year based on an independent auditor's certificate that that money has been spent in accordance with the business plan. So that, I think, is a much tighter process than has taken place historically in the industry.¹²

3.25 The difficulty with this process is that an auditor is only able to audit expenditure against a Business Plan. Another organisation (in this case presumably the Audit Committee of RMAC) must actually assess whether the Business Plans are appropriate. An audited statement certifying compliance with a flawed Business Plan is of little value.

Accountability of Peak Councils to the Commonwealth

3.26 The accountability arrangements quoted in para 3.14 above suggest two different lines of accountability to the Commonwealth. First, an indirect process involving "accountability back to RMAC and the Commonwealth through the conditions of transfer to RMAC"; and second, a direct process obliging peak bodies to provide their business plans, and justify expenditure against those plans, "to the Commonwealth."

3.27 The Committee heard that in practice the only measure of accountability between the peak bodies and the Commonwealth is an indirect one. AFFA described the accountability arrangements as follows:

Each of the peak bodies provides a business plan to RMAC and RMAC in turn provides those business plans to the Commonwealth. I believe RMAC monitors the performance against the business plans of each of the peak councils.¹³

11 Submission 29, letter of Wednesday 14 August 2002, p.2

12 *Evidence*, RRA&T, 24 October 2002, p.202

13 *Evidence*, RRA&T, 27 September 2002, p.190

3.28 The above evidence also suggests that the Commonwealth prefers to leave the detailed scrutiny of the peak councils to RMAC rather than undertaking such scrutiny itself. AFFA, while disagreeing with a suggestion that the business plans and progress reports “just gather dust,”¹⁴ clearly took the view that RMAC should bear the primary role in keeping the peak bodies accountable:

The government has overall responsibility because there are levy monies raised that underpin these arrangements. Part of the philosophy, including the structure of these arrangements [i.e. the accountability of disbursed funds], is that industry should be managing its own affairs. That is why the arrangements are structured in the way they are – through companies limited by guarantee and operating through arrangements such as MOUs.¹⁵

3.29 The accountability process undertaken by AFFA appears to operate on an exception basis – that is, if complaints are raised about the expenditure of disbursed funds, AFFA may respond to those complaints, but currently it is “are unaware of any complaints.”¹⁶ Such a process is appropriate if the RMAC accountability processes are effective. However, it is the Committee’s view that a more active involvement by AFFA may be desirable. Nevertheless, the Committee does acknowledge that industry self-management underpins the current industry arrangements.

Accountability of Peak Councils to industry

3.30 Annexure E of the MOU, as quoted above, requires each peak council “to fully justify its claims through a business plan and to account for expenditure of these funds accordingly, to the industry sectors it represents...” In the Committee’s view, this obligation goes further than simply reporting to the peak council’s members – the peak council is obliged to report to the whole industry, members and non-members.

3.31 The Committee’s research found that only one of the peak councils – the Cattle Council of Australia – has its business plan available on the world wide web. The Cattle Council provided the Committee with a further document entitled “Report to Industry on Cattle Council’s levy-related activities and expenditure against plans (July 2000 to June 2001)” which provided details of the CCA’s expenditure against its business plan, and made some attempt to indicate the outcomes achieved against the plan.

3.32 The Committee noted this report, but also noted that some of the outcomes were expressed in very general rather than measurable terms. Overall, the Committee is encouraged by the Cattle Council’s report. ALFA provided the Committee with its Business Plan, but did not provide any measures as to progress against the plan.

14 *Evidence*, RRA&T, 27 September 2002, p.191

15 *Evidence*, RRA&T, 27 September 2002, p.191

16 *Evidence*, RRA&T, 27 September 2002, p.188

3.33 The Committee heard evidence that some industry participants outside RMAC have had difficulty obtaining information regarding progress against the business plan. The ABA submitted:

[The CCA] generally don't respond to ABA correspondence and refuse to supply break up of how they use the annual \$600,000 of our industry reserve fund payment.¹⁷

3.34 However, the Committee notes the initial part of this quotation, suggesting that communication in general between the ABA and the Cattle Council is problematic. As a result, the Committee is unable to conclude that the difficulties reported by the ABA are characteristic of poor accountability procedures on the part of the Cattle Council. Notwithstanding this observation, the Committee takes the view that the responsibility of RMAC members to be accountable to industry is effective, and must be met, regardless of difficult working relations between organisations.

17 Submission 13, ABA, p.2

CHAPTER FOUR

CONCLUSIONS AND RECOMMENDATIONS

Conclusion

4.1 The Committee's general view is that current advisory arrangements are not delivering the maximum benefit to the Australian meat industry. However, the Committee does not believe it should propose a detailed prescription for any new industry consultative structure. In the Committee's view, for consultative arrangements to operate successfully, they must be developed through a broad, open and inclusive process of industry consultation. Were the Committee to attempt to prescribe a new set of government advisory structures, this prescription would inevitably pre-empt matters being properly resolved by the Minister, AFFA, and industry.

4.2 The Committee has identified some issues for consideration during the investigation of any new industry structure.

Investigation of industry advisory arrangements

4.3 The Committee considers that the existing RMAC structure inhibits its capacity to effectively represent the whole industry. The RMAC structure will continue to be challenged by the development of new organisations which emerge as the industry changes and the market evolves.

4.4 The Committee notes that RMAC members are required to undertake a representative role that extends beyond their own membership. The Committee also notes also that RMAC members have endeavoured to meet this challenge. However, the first duty of the peak bodies is to their own members, and the existing RMAC model can place these bodies in the position of simultaneously representing multiple constituencies.

Recommendation 1: The Committee recommends that the Minister initiate discussions with the signatories to the MOU concerning reformed advisory arrangements. The Committee recommends that following these negotiations the Minister engage in detailed and open consultation with all sections of the Australian meat industry on options for a reformed or alternative industry advisory structure.

Functions of reformed or new advisory body

4.5 The Committee concedes that, while RMAC does not currently exercise a monopoly on advice to the Minister, there is a perception that its influence extends

beyond the stated objective of responding to Ministerial requests for information. The committee does not propose restrictions on any reformed or new advisory body. The Committee has formed the view that any reformed or new advisory body must have the capacity to act proactively to advise the Minister on emerging issues without waiting for an invitation.

4.6 In the Committee's view, all industry participants, whether represented on the advisory body or not, retain the right and responsibility to approach the Minister separately on matters of concern.

Recommendation 2: The Committee recommends that any new advisory body established for the Australian meat industry be empowered to initiate advice to the Minister. Notwithstanding this, individual industry participants, whether represented on the advisory body or not, must retain the right to make representations to the Minister on any matter of concern.

Membership of a new or reformed advisory body

4.7 The Committee notes that the restricted membership of RMAC is a weakness, but also recognises that the absence of any membership restrictions would severely impact on operability of an industry advisory body and its capacity to deliver advice based on industry consensus.

4.8 The Committee supports the joint role of the Minister and the industry in the appointment of advisory body members. The committee can not however support the current veto power (but as yet unused) possessed by each individual board member.

Recommendation 3: The Committee recommends that any organisations appointed by the Minister to the list of Prescribed Industry Bodies be eligible for appointment to the industry advisory body, and that the view of existing advisory body members should not necessarily determine the success of the appointment or membership of the advisory body.

Funding of the advisory body

4.9 The Committee supports the current arrangements where the operating costs of the advisory body are funded by earnings from the Red Meat Industry Reserve Fund.

The MLA Board election process

4.10 The Committee notes and supports industry concern about the undemocratic process by which MLA Board members are appointed.

4.11 Changes to the appointment process may be accomplished by amendments to MLA's Articles of Incorporation, or by the replacement of MLA with another company, identical in all respects except for the omission of these articles from any new company's Articles of Association.

Recommendation 4: The Committee recommends that the MLA board consult with its membership on democratic reform of the MLA's Articles of Association. In the absence of progress on this matter before the 2003 MLA Annual General Meeting, the Committee recommends that the Minister engage in detailed and open consultation with levy payers on reform options for a more democratic board selection process.

Disbursements from the Reserve Fund

4.12 The current process for disbursing proceeds from the Red Meat Industry Reserve Fund are in accordance with the arrangements entered into under the MOU.

4.13 The rigid disbursement formula does not take into account actual expenditure of funds by the beneficiary organisations. Funds are not allocated in response to budget submissions by the organisation, but are determined by the success or failure of the fund's investment strategies for the year. In the Committee's view, a modern budgeting process would increase the efficiency with which disbursed funds are expended.

4.14 The Committee is not satisfied that organisations require substantial reimbursement for their efforts as members of the advisory body. Membership of the advisory body has substantial benefits, including the outstanding opportunity to represent members' views to government. The Committee considers membership of the any advisory body would remain attractive notwithstanding the absence of guaranteed funding. Nevertheless, Committee recognises that the current members of RMAC and the government have entered into an MOU establishing existing arrangements, and changed arrangements would require consultation with the MOU signatories.

4.15 The Committee has formed that view that a more competitive and responsive allocation formula may deliver greater benefits to the industry, and should be explored as part of negotiations for reformed or alternative advisory models.

Recommendation 5: The Committee recommends that the Minister negotiate with signatories to the MOU on alternative arrangements for the disbursement of earnings of the Red Meat Industry Reserve Fund.

Recommendation 6: The Committee recommends that the advisory body develop a detailed industry strategic plan, and that consideration be given to the use of competitive contracts to deliver elements of the strategic plan.

Recommendation 7: The Committee recommends that the selection committee for the contracts include an independent probity auditor and a representative of AFFA.

Recommendation 8: The Committee recommends that the size and recipient of these contracts, and outcomes delivered, be placed on the advisory body's web site, and reported by AFFA to the Minister.

**Senator the Hon Bill Heffernan
Chair**

December 2002

APPENDIX ONE

SUBMISSIONS

Submission No:	Author
1	Luttick Australia Pty Ltd
2	Weddel Swift (Australasia) Pty Lt
3	Australian Meat Holdings Pty Ltd
4	Northern Co-operative Meat Company Ltd
5	Hunt Partners on behalf of Consolidated Meat Group Ltd;H W Greenham & Sons Pty Ltd; Midfield Meat International Pty Ltd; Monbeef Pty Ltd and E C Throsby Pty Ltd
6	Hunt Partners on behalf of Bindaree Beef Pty Ltd
7	Cattle Council of Australia
8	Rockdale Beef Pty Ltd
9	Australian Meat Council
10	Naturally Australian
11	Towers Thompson (Australia) Pty Ltd
12	Red Meat Advisory Council Ltd
13	Australian Beef Association
14	Australian Lot Feeders Association
15	Sheepmeat Council of Australia
16	Kilcoy Pastoral Company
17	National Meat Association of Australia
18	Hines Group Australia
19	Consolidated Meat Group
20	Certified Australian Angus Beef Pty Ltd
21	Valley Beef, Stanbroke Pastoral Company & Stockyard Pty Ltd

22	Louis Dreyfus Australia Pty Ltd
23	Q-Exports International Pty Ltd
24	John Dee Warwick Pty Ltd
25	Norvic Food Processing Pty Ltd
26	H W Greenham & Sons Pty Ltd
27	Australian Branded Beef Association
28	The Midfield Group of Companies
29	Hunt Partners

APPENDIX TWO

WITNESSES

Canberra Friday 27 September 2002

Australian Beef Association

John Carter, Chairman

Hunt Partners

Norman Hunt, Principal

Cattle Council of Australia

Keith Adams, President
John Wyld, Vice President

Australian Lot Feeders Association (ALFA)

Rob Sewell, Executive Director

Australian Meat Holdings

John Berry, Joint Chief Executive Officer
John Keir, Joint Chief Executive Officer

Australian Branded Beef Association

Michael Pointer, Joint Convenor

Australian Meat Council

Bill Hetherington, Chief Executive Officer

Department of Agriculture, Fisheries and Forestry

Mr David Mortimer, Executive Manager, Food and Agriculture
Mr Greg Williamson, Ag General Manager, Meat, Wool and Dairy
Mr Roland Pittar, Manager, Meat and Livestock
Mr Jim Paradise, Executive Officer, Meat and Livestock

Canberra, Thursday 24 October 2002

Australian Meat Council

Roger Fletcher - Chairman, Australian Meat Council

Gary Hardwick - Chairman, National Meat Association

Keith Adams - Chairman, Cattle Council of Australia

Peter Lang - Chairman, Australian Livestock Exporters Council

Sandy Maconochie - Chairman, Australian Lotfeeders Association

Bill Whitehead - Chairman, RMAC and Chairman, Sheepmeat Council of Australia

Bob Coombs - Secretary, RMAC