



15 July 2011

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Independent Livestock Export Review
GPO Box 858
Canberra ACT 2601

and via email: livestockexportreview@daff.gov.au

Dear Sir/Madam

SUBMISSION FOR CONSIDERATION – Term of Reference (c)

The Animal Law Committee of the Law Society of South Australia (the ALC) would like to thank you for the opportunity to comment on the Independent review into Australia's live export trade. This submission addresses the term of reference marked (c) namely, the adequacy and effectiveness of current Australian regulatory arrangements for the live export trade.

This submission does not seek to address the regulation of the industry in Australia, which we note is the subject of State and Federal legislation and regulation. On the whole, we believe that this works effectively. We will however address our ability to regulate beyond our shores.

The Australian Position Statement on the Export of Livestock, first published in 2006, was developed as a response to the Keniry Review.¹ The Keniry Review was commissioned by the Federal Government following the adverse animal welfare outcomes that ensued when the *Cormo Express* was unable for some weeks to dock and unload its cargo of some 100,000 sheep.

In its current form, the Australian Position Statement on the Export of Livestock provides:

*The export of animals obliges all participants in the trade to ensure that the animals' health and welfare is protected to the greatest extent possible and reflects Australian community expectations.*²

However, the Position Statement recognizes that:

'the government of the importing country sets its own requirements in regard to the import of livestock³...after disembarkation, the health and welfare of the livestock is the responsibility of the

¹ Senate Select Committee on Animal Welfare, Parliament of Australia, *Export of Live Sheep from Australia* (1985).

² Paragraph 3.1, page 7, http://www.daff.gov.au/data/assets/pdf_file/0010/1904365/australian-standards-v2.3.pdf

³ Paragraph 3.1, page 8 http://www.daff.gov.au/data/assets/pdf_file/0010/1904365/australian-standards-v2.3.pdf

importer, under the authority of the importing country".⁴

The stated commitment of the Australian Government and the Australian Livestock Industry to furthering the health and welfare of livestock in importing countries by the *'fostering of cooperation and goodwill, the sharing of Australian technical expertise, the provision of educational and training opportunities and support for infrastructure'*⁵ unfortunately, whilst commendable, does not afford protection to the exported cattle such as those who were subjected to the horrendous slaughter practices revealed by the investigation aired on Four Corners on the 30 May 2011.

Once animals leave Australia they are no longer subject to the protection of animal welfare laws or the *Australian Standards for the Export of Livestock* ("ASEL"). The standards set out in ASEL are referenced in the *Australian Meat and Livestock Industry (Export Licensing) Regulations 1998* and the *Export Control (Animals) Order 2004* which came into effect on 1 December 2004. These Australian Government Laws only apply to the exporter and even then, questions have been raised as to their enforceability.

None of the countries to which Australia sends animals for slaughter has equivalent animal welfare protection laws, and the vast majority, particularly in the Middle East, has either no animal welfare legislation or inadequate and poorly enforced animal welfare legislation. Indonesia, by contrast, drafted animal cruelty legislation in 2009, which is yet to be implemented.⁶ The memoranda of understanding (MoU) signed by the Australian Government with United Arab Emirates, Kuwait, Saudi Arabia, Jordan and Eritrea provide assurances only.

The ALC acknowledges that the aim of the review is to 'assist the Australian Government establish safeguards to ensure there is verifiable and transparent supply chain assurance up to and including the point of slaughter for every consignment that leaves Australia'. The ALC acknowledges the importance and role of traceability of Australian animals, but notes however, that tracing of itself does not ensure the welfare of the individual animal or provide any means by which appropriate welfare standards can be enforced in another jurisdiction. Traceability may result in the detection of animal cruelty or abuse but can do nothing to prevent it.

In this regard, although many countries are signatories to the World Organisation for Animal Health (OIE)⁷, including Indonesia, these standards are unenforceable and do not provide the same level of protection as Australian animal welfare laws. The OIE Code is generally not supported by a locally enforced code governing animal welfare practices. Most importantly, these standards do not mandate the use of pre-stunning, the absence of which highlighted the inhumane practices documented in Indonesia. As recently as 2011, the industry itself has stated that expanding the use of stunning in

⁴ Paragraph 3.2, page 10, http://www.daff.gov.au/data/assets/pdf_file/0010/1904365/australian-standards-v2.3.pdf

⁵ Position statement, paragraph 3.2, page 10.
http://www.daff.gov.au/data/assets/pdf_file/0010/1904365/australian-standards-v2.3.pdf

⁶ AFP, 'Indonesia To Investigate Animal Cruelty Claims', *The West Australian*, 1 June 2011.
<http://au.news.yahoo.com/thewest/a/-/world/9559485/indonesia-to-investigate-animal-cruelty-claims/> viewed 13/07/2011

⁷ Contained in the World Organisation for Animal Health's Terrestrial Animal Health Code, Chapter 7.5 Slaughter of Animals

Indonesia would be extremely difficult, if not impossible to achieve.⁸ In addition, the design of the Mark I, II, and III restraint boxes is in direct contravention of the OIE Code which, states that "methods of restraint causing avoidable suffering should not be used in conscious animals because they cause severe pain and distress".⁹

The Australian Government cannot enforce stunning in Indonesian abattoirs, nor does it have any right to inspect those outlets to identify poor welfare practices. An Australian review team, including Australia's chief veterinary officer and a member of the Australian Veterinary Association, was recently barred from inspecting Indonesian abattoirs.¹⁰ In countries with no enforceable animal welfare regulations or penalties, adherence to animal welfare standards is not an attainable goal.

There is no doubt that Australia has little or no power to regulate outside its own borders. As a starting point, all countries who import live animals for slaughter should be required to enact animal welfare legislation. Whilst recognising that this is not as simple as it sounds, direct submissions to these countries should be made as well as a review of existing MoU's undertaken. This could occur in the context of existing trade discussions or forums. Some countries are recipients of substantial aid from Australia. We must adopt a more robust practice of ensuring that the provision of aid is tied to improvements in areas such as animal welfare.

Ultimately, the call for the banning of live exports from Australia will continue to gather momentum and the economic consequences of such a step will be substantial. This is a two-way street as some recipient countries are equally dependent on our exports. To source meat from countries other than Australia may not only be impossible but also far costlier. These consequences can also be used as leverage to require the introduction of appropriate legislation/regulation. It is therefore incumbent on the Australian Government to take all steps possible now to require receiving countries to adopt an appropriate legislative regime otherwise those that do not may well be excluded from the market.

I trust these comments are of assistance. Please do not hesitate to contact me, should you require any further information.

Yours sincerely



Ralph Bönig
PRESIDENT

⁸ RSPCA Australia and Animals Australia, May 2011, 'Response to the Australian livestock export industry's *Indonesia animal welfare action plan – May 2011* <http://www.banliveexport.com/#downloadFactsheets> viewed 13/07/2011

⁹ World Organisation for Animal Health's Terrestrial Animal Health Code, Chapter 7.5 Slaughter of Animals http://web.oie.int/eng/normes/mcode/en_chapitre_1.7.5.htm viewed 13/07/2011

¹⁰ Richard Willingham, 'Call For Restraint Box Ban', *The Age*, 28 June 2011. <http://www.theage.com.au/national/calls-for-restraint-box-ban-20110627-1gnha.html> viewed 13/07/2011.