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LAWYERS FOR ANIMALS

Comments on Version 2 of the Australian Standards for the Export of Livestock

General Comments

Live export should be prohibited

1. It should be stated from the outset that Lawyers for Animals (LFA) is fundamentally opposed to live export and believes it should be prohibited entirely. LFA concurs with the Senate Select Committee of Inquiry into Animal Welfare in Australia (Senate Select Committee), which concluded over 21 years ago that that the live export trade should be phased out altogether because of its unavoidably adverse impact on animal welfare (Senate Select Committee, 'Export of Live Sheep from Australia', Report, 1985).
2. There is irrefutable evidence that long distance sea transportation of animals causes stress, distress, injuries and illness. Animals exported in this manner are cruelly exposed to:
 - overcrowding;
 - oxygen deprivation;
 - heat stress;

- pneumonia;
 - trauma;
 - diarrhoea;
 - blindness and
 - ammonia poisoning which causes respiratory ailments.
3. Economic arguments in favor of live export are without merit. According to the Heilbron Report, the cessation of live export wherein Australian animals would be slaughtered in Australia (pursuant to Australian animal welfare standards) and the meat products then exported overseas, would in actuality, increase Australia's gross domestic product by approximately \$1.5 billion and create approximately 10,500 jobs. According to the AMIEU, live exports are actually directly responsible for the loss of approximately 20,000 jobs and the closure of approximately 70 regional abattoirs. In this time of industrial unrest, LFA suggests that these statistics alone are an important consideration for the Federal Government.
4. The current prosecution by the West Australian (WA) Government and the Office of the WA State Solicitor against Emmanuel Pty Ltd, a leading WA live export company, for multiple breaches of the WA Animal Welfare Act, is encouraging and reflective of current community standards. What remains is for our legislature to demonstrate that it too is in touch with notions of a civilised and humane society by taking prompt and decisive action to ban live export and ensure animal welfare standards are properly protected by law.

Importing countries have inadequate animal welfare standards

5. Importing destinations for live export, which include Bahrain, Egypt, Jordan, Kuwait, Lebanon, Oman, Qatar, Saudi Arabia, UAE and Yemen have negligible or non-existent animal welfare standards. In actuality, the treatment the animals endure at the importing destination, were they to occur in Australia, would be considered illegal.
6. An important principle of international law is that of non-refoulement. This provides that no person should be forcibly returned to any country where he or she is likely to

face persecution or torture. This principle acknowledges the fact that to force a person to return in such circumstances would be tantamount to the expelling jurisdiction committing the prohibited acts themselves. Australia has indicated its support for this long-standing customary rule of international law by becoming a signatory to the *1951 Convention Relating to the Status of Refugees* (see Article 33). LFA submits that the same legal principle should apply in respect of animals where we know export standards would be in contravention of our own laws.

There are viable alternatives to live export

7. As noted above, the Senate Select Committee argued that live export should be phased out as far back as 1985. It proposed that the Federal Government promote and encourage alternatives to live sheep export, a step towards eliminating live export entirely.
8. Arguments for live export based on cultural preferences are weak. In 1991-2000, during the ban on live export of sheep and cattle from Australia to Saudi Arabia, the exports of chilled and frozen mutton and lamb increased three fold, demonstrating that alternatives to live export were acceptable to the Saudi Arabian market.
9. Furthermore, the common misconception that the middle Eastern custom of eating freshly slaughtered meat or animals slaughtered pursuant to Halal methods, therefore necessitating live export of sheep and cattle, is a fallacy. Halal slaughter requires that:
 - (a) the animals be faced to Mecca;
 - (b) the animal be dedicated verbally to the prophet prior to having its throat cut;
 - (c) the animal not to be killed in the presence of others;
 - (d) the animal not to be bound before slaughter;

- (e) the animal to be killed with one swift cut to the throat, causing as little pain as possible;
 - (f) the animal to be treated kindly; and
 - (g) Halal slaughter in Australia requires the animals to be stunned (unconscious) prior to slaughter.
10. In larger slaughter houses in the Middle East (where approximately 2000 - 3000 Australian sheep would be slaughtered per night), for example, it is common practice to drag a sheep by its hind leg (away from the herd that is watching and waiting), forcibly turn the sheep upside down over a drain (oftentimes lying on other sheep whose throats have just been cut and are still writhing), cut the throat of the sheep (oftentimes taking three separate motions to sever the windpipe and major blood vessels) then leave the sheep, writhing and conscious, to "bleed out" on the pile of dead and dying sheep. This practice is barbaric, contrary to Australian standards and moreover, fails to meet Halal requirements.
11. In addition, approximately 70% of exported Australian sheep which are killed in the MiddleEast, are refrigerated following slaughter and transported to butchers throughout the Middle East for sale, consequently undermining any argument based on cultural requirements.
12. In sum, therefore, LFA submits that it is impossible for anyone to argue legally, economically, morally or ethically that the current status quo is acceptable. It fails to align with current community standards and the public interest in avoiding cruelty to animals.

Comments on the Standards

The Standards perpetuate injustice

13. Recommendations made by the Keniry Report, following the Corno Express disaster of 10 October 2003, although encouraging, were limited by the Review's narrow terms of reference. Consequently, the recommendations within the Report failed to include mechanisms for eliminating the current unacceptable levels of suffering and mortality occurring on each live export shipment.
14. The Standards, based on Recommendation 1 of the Keniry report, are therefore also limited. As argued above, LFA recommends banning live export entirely. The Standards merely protect and perpetuate what is an unjustifiable practice.
15. The Standards, moreover, perpetuate a fundamental legal injustice: the fact that production animals, unlike companion animals, are excluded across Australia from the protection of proper anti-cruelty legislation. This situation is the result of the various state and territory animal welfare acts providing industries with an exemption from cruelty prosecutions if they follow a relevant Code of Practice. As stated in Standard 1, the Standards merely "cover relevant State and Territory animal health and welfare requirements and importing country requirements, and reflect relevant aspects of the National Model Codes of Practice for the Welfare of Animals for various species of livestock". They do not offer new, proper, enforceable legal protection for production animals that face live export. They merely reflect the legal status quo.
16. Codes of practice (sometimes known as 'guidelines') have proved to be a fundamental impediment to proper observance of animal welfare across Australia. Codes water down proper animal welfare standards to suit producer interests, and their terms make it clear that producer interests prevail in the event of conflict. Moreover there is minimal compliance with or enforcement of even the little protection that the Codes prescribe. LFA submits that all animals should be protected by proper, detailed anti-cruelty legislation – which might well contain a ban on live export. The Standards merely obfuscate the fact that Australian production animals are not protected by law.
17. In sum, therefore, LFA submits that the Standards are no replacement for a ban on live export and anti-cruelty legislation that protects all animals we use. However, if

the Standards must proceed, they should reflect the highest animal welfare standards possible, based predominantly on advice from independent experts and animal welfare groups, not producer groups who have a conflict of interest. The Australian community expects nothing less.

Enforcement

18. It is not clear how the Standards will be enforced. LFA recognizes that those involved in live export must have operational procedure manuals and quality assurance systems that comply with the Standards. However, there is little point in having Standards if they are not properly enforced. Having an operational manual that contains Standards is not the same as following them.
19. Lack of inspection at live exports wharfs results in increased mortality, morbidity and suffering of animals, both in the feedlots and in transit. Currently, the Australian Quarantine Inspection Service ('AQIS') is entrusted to inspect the animals on the wharf at loading. On 15 December 2003, however, AQIS advised that AQIS inspectors had not inspected animals at the wharf for the previous 6 years. The presence of inspectors at the loading and unloading of animals and during transport should be a strict requirement in the Standards.
20. Currently, the on-board management aboard live export shipments equates to intensive livestock production or less. By way of example, in November 2003, aboard the MV Al Kuwait, one experienced Australian stockperson was employed to supervise approximately 103,000 sheep. The supervision is clearly inadequate. Standard 5 should specify the minimum number of veterinarians and stockpersons required per animal.