

THE LAW SOCIETY OF NEW SOUTH WALES
youngLAWYERS



The Hon. Simon Crean MP
Minister for Trade
Parliament House
Canberra ACT 2600

28 September 2009

Dear Minister,

Re: Ban on import and export of fur produced in contravention of minimum animal welfare standards

We refer to the joint letter sent to your office and to The Hon. Bob Debus, Minister for Home Affairs, on 6 March 2009, by NSW Young Lawyers Animal Law Committee and Lawyers for Animals Inc. We note that neither the Animal Law Committee nor Lawyers for Animals has yet received your response to that letter and the legal proposal it contained. We are, however, in receipt of a letter from Minister Debus (ref: Ministerial No. 97169), dated 21 April 2009, which records his “understand[ing] that Mr. Crean will respond to the Trade related aspects of your submission.”

Unfortunately, the letter we received from Minister Debus appears to indicate a lack of understanding of our proposal. Minister Debus suggests that the import (and export) licensing scheme we have proposed in order to end the importation of fur produced in contravention of Australia's minimum animal welfare standards, will require a diversion of resources by Customs and Border Protection from “*searching for higher risk goods to detecting fur products*”. In fact, we envisage no greater commitment of resources from Customs and Border Protection than those already allocated to enforcement of the existing ban on the importation of dog and cat fur, and to detecting pest insects (etc...) in standard imports.

Further, in his letter dated 21 April 2009, Minister Debus expresses a concern that:

“the average traveller or clothing importer would have great difficulty in proving that their goods met the regulation's requirements [and] Customs and Border Protection officers would find that confirming the origins of the materials used in the production of goods, or of the conditions under which animals were raised prior to the use of their pelts excessively complex. In practice, it would be a very difficult regulation to enforce.”

We acknowledge that under our proposed scheme, site visits to various fur farms – particularly within China and Russia – would need to be undertaken by delegates of the Minister for Trade in order to satisfy the evidentiary requirements of the licensing system, namely: to substantiate a 'reasonable belief' that animals within such farms have 'adequate space' and are 'slaughtered in accordance with minimum animal welfare standards' (as defined with reference to specific Australian minimum standards). Delegates of the Minister may also require training to enable them to identify arctic (and possibly other) fox fur, since it is proposed that all farmed fox fur be banned from import. Undoubtedly, the Minister for Trade's budget would require a small increase to allow his delegates, among relevant Australian embassy staff, to undertake such site visits and training. Whether such additional funds might be generated by import licensing fees – making the scheme self-funding – or from public revenue, is a matter we leave to the Minister's discretion.

Under our proposed scheme, there is almost no perceived role for Customs and Border Protection officers in assessing the origin of particular fur products. That is because close to 100% of Australia's current fur imports are currently derived from fur farm animals, rather than from wild animals that have been hunted. Hunting techniques will ordinarily mark a fur, rendering it unsuitable for clothing, and the numbers of wild fur animals available for hunting have been radically depleted, in recent decades. Therefore, Customs and Border Protection's officers will ordinarily only be required to determine whether a licence has been granted for a particular fur import, and if not, to prohibit its entry. Should a clothing importer or traveller occasionally claim exemption from the import licencing scheme, on the basis that their fur has been sourced from wild rather than farmed animals, a certificate of provenance might be requested by the relevant officer, and the item held until such a certificate is produced and verified. In reality, such claims are unlikely to arise, given the nature of modern international fur production.

In view of the recent re-emergence of fur as a common trim on hooded coats and jackets in Australia (particularly in alpine wear), it is more urgent than ever that the Minister and his Government act to protect Australian public morals under Article XX(a) of the Global Agreement on Tariffs and Trade, by prohibiting the import of fur which contravenes minimum Australian animal welfare standards. The number of animals already suffering horrendously cruel lives, and deaths, is likely to increase if decisive Government action is not taken.

In light of the urgency of the matter, we would be grateful for your response within a short period.

Should you have any queries about any aspect of our proposal, please do not hesitate to contact the principal author via email: nichola@lawyersforanimals.org.au

Yours faithfully,

Stephen Lee
Chair
NSW YOUNG LAWYERS ANIMAL LAW COMMITTEE

Nichola Donovan
President
LAWYERS FOR ANIMALS INC.

cc: The Hon. Bob Debus MP
Minister for Home Affairs