



Live Animal Export Taskforce
Australian Government Department of Agriculture,
Fisheries and Forestry
GPO Box 858
CANBERRA ACT 2601
By email: liveexporttaskforce@daff.gov.au

24 January 2012

Dear Taskforce,

Lawyers for Animals Inc. (“**LFA**”) is a not-for-profit incorporated association run by a management committee of lawyers, based in Melbourne. Its objectives include: alleviating the suffering of animals by engaging with those who create or administer laws in Australia to strengthen legal protection for animals; promoting better animal welfare practices amongst animal-related industries in Australia; and undertaking educational activities in an effort to dispel myths and increase awareness relating to animals and the law.

In principle, Lawyers for Animals strongly opposes any live export of animals. We consider live export both extremely cruel and wholly unnecessary given the availability of viable alternatives such as onshore abattoirs and a frozen carcass trade; or increased reliance on plant protein with its incidental benefits to the environment and to human health.

Lawyers for Animals adopts an incrementalist approach towards alleviating and eliminating the suffering of animals. Therefore, despite our principled stance against all live animal export, we welcome the opportunity to comment on the Government's proposed new regulatory framework for future live exports. However, due to the tight time constraints imposed on this 'public consultation' – of which we first became aware on 17 January, thanks to Voiceless – our submission will necessarily be brief. We will simply list the

reasons we believe live export to be irredeemably cruel; make two recommendations to alleviate further animal cruelty, and finally, highlight one point for commendation among the proposed changes.

Lawyers for Animals submits that extreme cruelty inevitably arises from the following aspects of live export:

1. Intensive confinement of animals prior, during and after transport; which prevents animals from exhibiting normal behaviours or eating a fulfilling diet, while simultaneously subjecting them to extraordinarily high levels of stress over sustained periods.
2. Motion sickness, also known as seasickness, may be suffered by any vertebrate animal with a functioning vestibular system (for balance) – including cows, pigs, horses, goats and sheep. Such sickness – the intensity of which can probably only be understood by experience – is far more terrifying for animals who lack comprehension of its cause, or an understanding that their suffering will eventually ease. In his 1956 book, *A Sailor's Life*, Jan De Hartog wrote: 'My worst memories of life at sea have to do with cattle. Two things no sailor will ever forget after such an experience are the pity and the smell... cattle get seasick, and the rolling of the ship terrifies the wits out of them... five hundred head of cattle in the throes of seasickness are a nightmare...'.
<http://www.archive.amieu.net/wa.amieu.asn.au/printout717f.html>
3. Unhygienic living conditions for animals aboard ship owing to difficulties in sanitary waste management and exposure to weather extremes – including high heat within extremely confined and non-mechanically ventilated spaces – and prolongation of extreme suffering when quarantine issues (genuine or otherwise) make delivery impossible, as in the case of the *MV Cormo Express* in 2002. [See: 'Sydney Morning Herald background coverage articles on the Live Export Trade' available at: [archive.amieu.net/wa.amieu.asn.au/printout717f.html](http://www.archive.amieu.net/wa.amieu.asn.au/printout717f.html)]
4. Close confinement of large numbers of animals means that desperately sick and ailing animals sometimes remain undetected and/or untreated by the limited veterinary staff aboard, who (in any event) have very limited resources for treatment.
5. Handling and slaughter of animals by Australian or non-Australian workers – whether aboard ship or in destination countries – who may display no awareness or concern for animal suffering (sometimes, quite the opposite, as seen on 4Corners 30 May 2011); yet will very likely be immune from any prosecution for cruelty, once outside Australia's jurisdiction. In fact, liability for cruelty committed by corporations or individuals within the context of live exports remains questionable even within Australia's jurisdiction, as a result of the 2008 Western Australia Magistrates' Court decision in Department of Local Government and Regional Development v Emanuel Exports Pty. Ltd. & Ors. We note that the decision is non-binding at common law since an appeal against this judgment was withdrawn on Ministerial instructions, contrary to advice from the State Solicitor.
6. OIE regulations are by their own definition mere 'recommendations [that] apply to the slaughter in slaughterhouses' of certain types of animals [Article 7.5.1.1]. Once an animal leaves Australia's territory it is no longer protected by Australian laws, nor will any breach of OIE recommendations be punishable under international law.

When animal welfare laws do not exist in the destination country, or are inadequate/unenforced, it is impossible for Australia to guarantee any degree of welfare for animals subjected to live export. While the attractiveness of Australia's product – as one of few countries that has not banned live export – may generate a degree of ostensible co-operation among live importers, such economic leverage has not and will not prove adequate to secure significant reductions in cruelty.

7. At present the OIE recommendations under which live export permits are to be granted, specifically permit the slaughter of fully conscious animals. [Article 7.5.9: 'Bleeding out by severance of blood vessels in the neck without stunning'] Such actions cause agonising pain to mammals, since we each have large numbers of pain receptors in our necks to discourage serious injury. That level of pain, complicated by the stress of hypoxic spasm as bodily tissue loses blood and oxygen, may last up to 15 seconds in sheep and around 75 seconds in cows and calves. Animals may not exhibit observable signs of pain such as sounds of distress, choking or movement because their vagus nerve and/or trachea has been cut; their sudden loss of blood pressure makes movement more difficult; or because their immediate reflex is to freeze. Yet they may suffer intensely as pain signals flood their brains. [See: 'Pre-Slaughter Stunning – Why it is important' at <http://www.animalwelfareapproved.org/wp-content/uploads/2012/01/TAFS-18-Why-pre-slaughter-stunning-is-important.pdf>]

Further to this latter point: Australia currently permits conscious slaughter of sheep and post-slaughter stunning of cows in a small number of abattoirs as well as allowing slaughter without stunning in domestic situations – purportedly for religious and cultural reasons. In such circumstances, imposing a condition on live export that requires animals be stunned and insensible to pain prior to slaughter will not only be hypocritical, but will also likely breach our obligations under the Global Agreement on Tariffs and Trade (GATT). However, if it first outlaws the practice of conscious slaughter within Australia on ethical grounds, then imposes a condition on live export that requires animals to be stunned prior to slaughter, the Australian Government may be able to successfully invoke the morals clause [Article XX] under the GATT. It is Lawyers for Animals' strong recommendation that this course of action be taken as an interim measure, noting that Australia's liberal democracy relies on the separation of Church and State, and our reasoned approach to law, rather than on historic religious doctrine.

Our principal recommendation, however, is the prohibition of further live export, for the reasons of cruelty aforementioned. As New Zealand ended live exports for slaughter in 2007, and instead built up its frozen carcass trade while keeping processing jobs onshore, so Australia should follow. Moreover, we consider it is damaging to the future prospects of Australian animal farmers and to our national economy and international reputation, to maintain the uncertainty and squalor of live export, effectively 'propping up' a dying trade, rather than encouraging producers to seek alternative markets and/or transition to alternative agricultural products. [See, for instance: http://www.agric.wa.gov.au/PC_92133.html?s=0]

Lawyers for Animals commends the Government on its proposal to prohibit the sale (or re-sale) of Australian animals to private buyers (or non-abattoirs) in importing nations, where handling and slaughter cannot be monitored for OIE compliance, and where significant cruelty has anecdotally been reported. We presume this is the effect of new section 2.44(2A), to be inserted into the Export Control (Animals) Order 2004, which states:

'The Secretary may approve an ESCAS [Exporter Supply Chain Assurance System]

in relation to a proposed export if satisfied that the ESCAS will ensure that the live-stock will be transported, handled, slaughtered and subjected to any other related operations in accordance with relevant OIE recommendations.'

We note that it will not be possible for transport, handling and slaughter of animals to be assessed for compliance with OIE recommendations, if the practice of sale or re-sale to private individuals continues. We note that in taking this action, the Government may, at least, alleviate a portion of Australia's grave shame when the next Eid festival takes place in the Middle East, Malaysia etc...

Thank you for your consideration of our submissions. If you would like to discuss any of our comments or proposals, please do not hesitate to contact our organisation via our President, whose contact details are recorded below.

Yours faithfully,

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