



Submission by Animals Australia
to the

Quarantine and Biosecurity Review
April 2008

Animals Australia appreciates this opportunity to provide a submission to the Review. Animals Australia is a peak animal protection organisation representing over 40 member associations.

Introduction

The terms of reference of the Panel charged with conducting the review include providing recommendations on “governance and institutional arrangements to deliver biosecurity, quarantine and export certification services”. The Issues Paper associated with the review includes the questions “are the arrangements for export inspection and certification effective?” and “do any conflicts result from AQIS’ joint responsibilities of facilitation and regulation?”

The following submission addresses those matters in the context of regulation by AQIS of the export of live animals from Australia.

In recent years Animals Australia has had a particular focus on the live export of animals from Australia. Part of that focus has identified chronic and repeated failure by AQIS to enforce the law relating to the live export trade and evidence which could be said to indicate a culture within AQIS of seeking to conceal evidence of law-breaking or at best a refusal to fully report on those matters.

By virtue of the effect of section 109 of the Commonwealth Constitution, it appears to Animals Australia that the Commonwealth legislative scheme governing the live export of animals¹ leaves virtually no room for the operation of States legislation relating to animal cruelty insofar as it relates to the activity of live export. In the view of Animals Australia, this places a particular onus on AQIS to rigorously enforce the Commonwealth live export legislation relating to live export. AQIS is failing to discharge this duty.

In failing to carry out its duty, AQIS is not only failing to protect the animals which the legislation clearly seeks to protect from harm, but it is engendering the very situation which the recommendations of the Keniry Report² sought to prevent – that is a disaster associated with a live export voyage (as occurred with the voyage of the Cormo Express to the Middle East in August 2003) which would potentially damage Australia's reputation as an exporter. Indeed, in one example discovered by Animals Australia (see Appendix 1), there is evidence that not only did the export of goats to Malaysia breach the conditions of the exporter's licence, but that it also failed to meet Malaysian import requirements.

1 *Export Control Act 1982; Export Control (Orders) Regulations 1982; Export Control (Animals) Order 2004 Australian Meat and Live-stock Industry Act 1997 (“AMLI Act”); Australian Meat and Live-stock Industry (Export Licensing) Regulations 1998; Australian Meat and Live-stock Industry (Standards) Order 2005 (AMLI (Standards) Order).*

2 *Livestock Export Review - a report to the Minister for Agriculture, Fisheries and Forestry (2003).*

Animals Australia submits that this unsatisfactory state of affairs arises in large part because of AQIS' conflict of interest, whereby it has duties as a facilitator of live export and as a regulator of live export. Animals Australia recommends that the regulatory responsibility should be taken away from AQIS and should instead be the responsibility of an independent body constituted by statute.

Details

An export licence is subject to the condition that the licence holder must comply with the *Australian Standards for the Export of Livestock*.³ The seriousness with which the legislature views a breach of an export licence condition is indicated by the fact that intentional or reckless contravention of a licence condition is punishable by imprisonment for 5 years.⁴

Animals Australia has obtained documents⁵ after applications under the *Freedom of Information Act* 1982 (Cth) which provide, in our view, good evidence of breaches of export licence conditions, some of which may be intentional or reckless. Some of these matters are referred to in Appendix 1.

To our knowledge, AQIS has not initiated prosecutions of an exporter in relation to any of these possible breaches. In a meeting held on 7 March 2008 between representatives of Animals Australia and senior AQIS officers, these matters were raised and the question was asked in what circumstances AQIS would initiate a prosecution for a breach of a live export condition. The reply (by Dr Greg Read of AQIS) was that a prosecution would be considered when a breach led to an "event". None of the AQIS officers present defined what was meant by an "event". However, the failure so far as we are aware of AQIS to prosecute any licence holder indicates that none of the events described in the Appendix to this document (or indeed any other live export voyage) constitutes an "event" so far as AQIS is concerned.

It appears to Animals Australia that AQIS has a policy of not prosecuting live export licence breaches. This view is enforced by an AQIS "Export Advisory Notice" (Number 2007 – 16) which talks in terms of audits of live exporters, identification of shortcomings in those audits and requests for "corrective action". There appears to be provision for the rating of audit reports as "acceptable", "marginal" or "unacceptable". It appears from that note that the sanction applied with marginal or unacceptable audit outcomes is an increase in "audit frequency and supervision of consignments". In our view, this is a complete subversion of the relevant statutory requirements and its substitution by a regime which has no statutory basis.

Furthermore, the high frequency of "heat stress" related mortality and the repeated arbitrary response to those mortality events of modifying conditions pertaining to subsequent voyages to provide extra space clearly, in our view, points to a failure of the "heat stress model" used by AQIS to set stocking densities. This is hardly surprising, given that the majority of the parameters in this model are not based on actual experience and observations, but on guesses.

This is but one of several inadequacies of the *Australian Standards for the Export of Livestock* ("ASEL"); compliance with ASEL is a condition of a live export licence. For example, despite the acknowledged high risk of shipping live goats overseas and shipping heavier sheep to the Middle East in the second half of the year, AQIS has failed to amend ASEL. ASEL is created by AQIS; it is not subject to parliamentary review. This is contrary to what was recommended by the Keniry Review.

Finally, AQIS claims to have made "full reports" of its high mortality investigation reports available on its website. This claim is untrue, as corresponding documents obtained by Animals Australia under applications made pursuant to the *Freedom of Information Act* 1982 indicate the removal from the

3 s17 AMLI Act; AMLI (Standards) Order, order 3.

4 s54(3) AMLI Act.

5 Reports of investigations carried out by AQIS into live export voyages in which "high mortality" events occurred.

reports published on the website of what appears to be some evidence of licence breaches. In the meeting on 7 March 2008 between AQIS officers and representatives of Animals Australia, the AQIS officers first maintained that the deletions only involved relatively inconsequential matters; when it was pointed out to them that this was not the case (and they did not disagree with the examples which were presented), the AQIS officers stated that they had no intention of rectifying those deletions. From this, Animals Australia concludes that AQIS has a policy of suppressing what it may regard as sensitive information and maintaining the misleading impression that it is making full public disclosure on these issues.

Conclusion

In the opinion of Animals Australia the failure by AQIS to enforce the law relating to live export is very probably a result of the conflict which exists between AQIS' responsibility to its "clients" (the holders of live export licences) and its responsibility to prosecute those same persons for breach of their licence conditions.

Animals Australia submits to the Panel that it should consider recommending the creation of an independent statutory body, to be charged with investigating and enforcing relevant breaches of the law. This is consistent with the general recommendations of the earlier Nairn report.

Ends.

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APPENDIX 1

AQIS investigations into high mortality livestock shipments in 2006 including identified possible breaches of Australian Live Export Standards

1. Shipment under Licence L024, February 2006 (Roberts Ltd) - MV Al Messilah

Devonport, Tasmania to the Middle East (Bahrain, Kuwait & Qatar)

71,309 sheep exported - 1,683 died (representing 2.36% of sheep loaded);

The AQIS investigation report noted / concluded that the high level of deaths were due to inanition (animals failing to eat) caused by 'a number of different factors that combined together resulted in an increase in the stress experienced by the sheep'.

The AQIS report noted the following factors:

- Tasmanian sheep have greater problems with heat stress. Sheep sourced from Tasmania are not as adapted to adverse climatic conditions experienced crossing the equator as sheep sourced from the mainland.
- Unfit animals (pink-eye) were allowed to enter the feedlot
- Disease outbreak – keratoconjunctivitis 'pink-eye' developed from day 2 throughout the vessel. The AQIS vet had treated animals in the feedlot for this highly infectious disease.
- Sub-clinical heat stress over an extended period of time. The mortalities increased significantly as the temperature and humidity on board increased.
- Duration of the voyage and multiple discharge ports. (25 day voyage)
- Inadequate resources to properly maintain the welfare of the sheep. Treatment of sheep was delayed due to the vet, stockmen, and crew having to focus on welfare issues with the cattle on board.
- There was inadequate fodder on board – resulting in fodder being rationed at the end of the voyage.

Australian Live Export Standards (ASEL) possibly breached - as revealed by AQIS reports:

Insufficient resources on board - failing to inspect/treat/euthanase sick/injured animals

- 5.2 Any livestock for export identified after loading as being sick or injured must: (a) be given immediate treatment; and (b) be euthanased humanely and without delay, where euthanasia is necessary.
- 5.6 Livestock and livestock services on the vessel must be regularly inspected (day and night) to ensure that the health and welfare of the livestock are maintained while the livestock are on the vessel:...
- (b) Livestock must be systematically inspected to assess their health and welfare...
- (d) The pen stocking density must be checked regularly throughout the voyage and adjustments made as required.
- 5.7 Any livestock identified as being sick or injured must:
- (a) be given prompt treatment;
- (b) be transferred to a hospital pen, if required; and
- (c) if necessary, be euthanased humanely and without delay...

Unfit animals accepted at the feedlot (pinkeye)

- 1.7 Livestock sourced for export must be fit to travel.... (Rejection criteria includes pink-eye.)
- 3.13 ...Livestock must be individually inspected at unloading [ie from trucks to the feedlot] to determine whether they are suitable for preparation for export.
- 3.17 Any livestock identified at unloading as being...unsuitable for export must be...isolated...Criteria for rejection are...in Appendix 3.1 (and include pink-eye).

Fodder had to be rationed at the end of the voyage

- 4.14 ...suitable feed to satisfy the energy requirements of the livestock for the duration of the voyage and statutory reserves as specified in Appendix 4.2 must be loaded (Appendix 4.2 includes allowance for a further 3 days ration above the expected duration).

Unfit animals loaded?

Animals that had pink-eye in the feedlot and had responded to treatment were loaded. However, this disease is highly contagious and on Day 2 an outbreak of pink-eye spread throughout the vessel, remained untreated due to lack of personnel resources, and is listed by AQIS as a contributing stress factor leading to the deaths.

- 4.8 ...only livestock that are healthy and fit to travel must be loaded.

2. Shipment under Licence L363, October 2006 (LSS) MV Maysora

Portland, Victoria & Fremantle, Western Australia to the Middle East – (Israel, Jordan and Egypt)

7,805 cattle were exported from Portland, Victoria (4,657) and Fremantle, Western Australia (3,148) to the Middle East (Eilat, Aqaba and Adabiya) starting on about 12 October 2006.

247 cattle died during the 25 day voyage, a mortality of 3.18%

The AQIS investigation report states the main causes of death were:

- Septicaemia caused by leg infections, in turn resulting from lameness and incoordination in the many Friesian cattle loaded;
- an outbreak of pneumonia, which may have been present in the feedlot ;
- infections and stress made worse by heat stress, particularly of the Friesian cattle.

Australian Live Export Standards (ASEL) possibly breached - as revealed by AQIS reports:

Abrasive flooring

- 4.1 A vessel to be used for the export of livestock must comply with all Australian...requirements for the safe carriage of livestock [which includes Marine Orders Part 43 - 9.2 A ship to be used for the carriage of livestock must be provided with durable fittings so manufactured, assembled or positioned as to protect the livestock from injury, avoidable suffering and exposure to weather and sea.

Note: an abrasive floor on the Maysora was reported as problematic on its maiden voyage in 2000 – AA records.

Delayed reporting of reportable event

5.11 If a notifiable incident occurs at any time, the relevant Australian government agency must be advised as soon as possible and within 12 hours....

Note:..the 1% mortality level was 'likely' reached on 3 November, but AQIS was not advised until 6 November

Failure to give immediate treatment/euthanase.

(The report indicates only 30-40 cattle were euthanased, though 247 died on the ship)

5.2 Any livestock for export identified after loading as being sick or injured must: (a) be given immediate treatment; and (b) be killed humanely and without delay, where euthanasia is necessary.

5.6 Livestock and livestock services on the vessel must be regularly inspected (day and night) to ensure that the health and welfare of the livestock are maintained while the livestock are on the vessel:

(b) Livestock must be systematically inspected to assess their health and welfare...

(d) The pen stocking density must be checked regularly throughout the voyage and adjustments made as required...

5.7 Any livestock identified as being sick or injured must:

(a) be given prompt treatment;

(b) be transferred to a hospital pen, if required; and

(c) if necessary, be euthanased humanely and without delay...

The AQIS Accredited Veterinarian (AAV) departed the vessel before the last port (Aqaba/Jordan, instead of Adabiya/Egypt)

5.1(b) An accredited veterinarian must accompany each consignment of livestock where required by the relevant Australian Government.

Other relevant issues/possible contraventions:

Insufficient bedding?

4.15 Bedding must be provided in accordance with specification in Appendix 4.3 - ...cattle...must be provided with sawdust, rice hulls or similar material to be used exclusively for bedding at a rate of at least seven tones of twenty-five cubic metres for every 1000 sq m of cattle pen space.

Note: It is ikely this was not provided or insufficient ,given the 'abrasive floor' problems.

Over 72,000 sheep were also on board the Maysora, and included a consignment due for delivery to Eilat/Israel which was rejected. 'Rejection' is a 'notifiable' incident' and ASEL 5.11 indicates it should have been immediately notified to AQIS. It is unlikely this occurred (given the cattle deaths were not notified).

Cattle were treated with Micotil (antibiotic) as a preventative measure for respiratory disease in the feedlot prior to export. The report's language indicates this was a little surprising, indicating the cattle may have been suffering from a respiratory infection which was not reported (and if there was such an infection, the cattle suffering from it should have been rejected - ASEL 3.17 and Appendix 3.1 rejection criteria include any other condition that could be defined as an infectious or contagious disease...also requires the animal's rejection)

The report indicates some cattle may have been overweight – i.e. leading to greater problems with heat. This may be apparent from the heat risk assessment summary (an original attachment to the report - necessary for AQIS approval of a voyage).

Note: - Recommendation from the report is that AQIS not approve Friesian bull exports from southern ports to the Middle East.

3. Shipment under Licence L509, March 2006 (Ausko Livestock Pty Ltd) Buffalo Express

851 cattle were exported from Fremantle, Western Australia to Korea starting on 17 March 2006. The AQIS investigation report says:

- 11 cattle died (3 were euthanased because they could not stand) during the 16 day voyage, representing a mortality of 1.28%;
- Several cattle suffered traumatic injuries because of slippery decks

Australian Live Export Standards (ASEL) possibly breached - as revealed by AQIS reports:

5.7 Any livestock identified as being sick or injured must:

- (a) be given prompt treatment;
- (b) be transferred to a hospital pen, if required; and
- (c) if necessary, be euthanased humanely and without delay

4.1 Australian Live Export Standards (ASEL) possibly breached - as revealed by AQIS reports: must comply with AMSA monitored Marine Orders 43 - 9.2 A ship to be used for the carriage of livestock must be provided with durable fittings so manufactured, assembled or positioned as to protect the livestock from injury, avoidable suffering and exposure to weather and sea.

4. Shipment under Licence L203, Jan 2006 (Manana Export P/L) Buffalo Express

1,675 goats were exported from Geraldton, Western Australia to Malaysia starting 29 December 2005.

The AQIS investigation report says:

- there is a suggestion the goats may have been feral, rather than farmed goats and if so, they may not have been conditioned for a sufficient time;
- the majority (83) of the 87 deaths were from a consignment of 1358 goats from one feedlot - a death rate of 5.93% for those animals;
- of this consignment, many goats showed signs of illness in the feedlot (scouring) but were loaded;
- goats may not have been adequately adapted to the pellet feed;
- contrary to the 'Approved Export Program' the goats were not identified to property of origin;

- horned sheep on the shipment were penned with polled sheep.

ASEL possibly breached:

- 1.20 goats...if feral must have been conditioned to handling, eating and drinking from trough for 21 days.
- 4.8 only fit and healthy animals are loaded. Rejection criteria for sheep/goats in table A3.1.2 include dysentery (scours).
- 3.8 re feeding pellets only in last 3 days of preparation (though this is for southern goats – may not apply)
- 4.11 livestock for export must be ... penned on the vessel, in lines segregated by... presence/absence of horns...
- 1.3 all livestock must be identified to the property of source.

The goats were kept on board ship at Geraldton for 7 days before the ship sailed - the delay was because of "commercial problems with the letter of credit" - during this time 23 goats died. The delay in departure was probably in breach of the conditions of the export permit, which requires that (unless there is a special dispensation) the animals must leave Australia within 72 hours after the permit is granted.

5. Shipment under Licence L507, Feb 2006 (Roberts Ltd) – MV Al Messilah

(same shipment as sheep shipment above LO24)

320 cattle were exported from Portland Victoria (via Devonport to load sheep) to Kuwait and the United Arab Emirates, starting 10 February 2006.

The AQIS report notes.

- 6 cattle died during a 22 day voyage, a mortality of 1.88%;
- it appears likely that causes of death included stress induced by moving the cattle several times immediately before the voyage;
- the stocking density on board the vessel increased the stress;
- insufficient manpower resources available on board to deal with the animal health issues (see 4.3 of report);
- fodder on board the vessel was insufficient for the requirements of the voyage.

ASEL possibly breached:

- 5.2 Any livestock for export identified after loading as being sick or injured must: (a) be given immediate treatment; and (b) be killed humanely and without delay, where euthanasia is necessary.

Fodder had to be rationed at the end of the voyage

- 4.14 Supplies of feed and water – set out in Appendix 4.2, which includes allowance for a further 3 days ration above the expected duration.

There was insufficient space provided for hospital pens