

# **Live Animal Exports Regulatory Capability and Culture**

## **The Moss Review 2018**

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### **Summary of Main Recommendations**

1. Regulatory powers available in the legislations the regulations, and the permit conditions needs to be strengthen, with significant increases in penalties for non-compliance. Animal welfare science principles, which underpin the legislations and regulations, must be updated and vigorously monitored.
2. The Department's role as Regulator needs to be overhauled and reset to better and more accurately undertake this role rather than to act as a protector and an advocate of the trade and the industry. Greater focus on inspection and more specific reporting on the welfare status of the animals should be in practice.
3. Independent veterinarians to be empowered to undertake more extensive inspections and reporting for all on-board aspect of the trade with much greater attention by the Regulator to the veterinarians reports, comments and advice.
4. Regulator investigations (complaints, mortality, welfare incidences etc.) to be undertaken without delay, with full and complete transparency and without fear or favour. Outcomes and conclusions to be effectively enforced.
5. Penalties and punishment for breaches and non-compliance to be effectively applied including financial and custodial punishment. Punitive action must be clearly seen to be enforced and serve as a deterrent.
6. An Inspector-General for Live Animal Export to be established with wide-ranging powers relating to the oversight and auditing roles of, the Regulator, the inspections, and reporting. The Inspector-General role should also include the capacity to provide advice to Government and reassurances to the Australian public.
7. Involvement of a wider spectrum of stakeholder in all discussions and plans to amend conditions, provisions, regulations or legislations is essential. Where the welfare of animals is involved, it is also essential to involve veterinarians and pther scientists experience in this field.
8. Funding model to be developed to ensure a User Pay principle that should cover all Regulatory costs including remuneration of inspectors, veterinarians and other service providers required for the regulation of the industry. This is an essential element to demonstrate and protect the independence of inspection and reporting.
9. Increase transparency of industry operations and Regulator role is paramount.

### **Introduction**

I welcome this review recognising that this is one of three valued reviews that the Minister has commissioned or influenced since the 60 minutes TV program exposed significant animal welfare issues involving live animal export trade. The first being the McCarthy review that looked at scientific facts about two very specific and crucial animal welfare parameters, namely Heat Stress in sheep and Stocking Density. The second is this review of the Regulatory Capabilities and Culture while the third is the review of the ASEL Standard which commenced some time ago but has now been expedited and will need to be completed by the end of 2018.

My interest in the live animal export trade is primarily related to the welfare of the animals involved.

I recognise the complexities of the live animal export industry in as much as:

- It extends from the original farm gate to the slaughtering place in the importing countries.
- The process, the vulnerability and the risks along the entire chain of events.
- The Trade and its international agreements and consequences
- The fact that many countries around the world cannot produce enough meat to feed their populations and therefore must rely on imports of live, frozen or chilled meat.

- The difficulties associated with safeguarding the welfare of the animals involved while trying to maintain the financial viability of the industry with minimal or no compromises to the welfare of these animals.
- The conclusions of the first review regarding the inability to effectively regulate some inherent risks, particularly those associated with the stress of prolonged transport in high heat and high stocking density, and at times catastrophic, climatic conditions that are not uncommon at certain season of the year. I acknowledge that the recent McCarthy report and the AVA scientific review of this issue recommended that at times of high probabilities for such risks to occur, they have recommended the suspension of the trade as a means of safeguarding the welfare of the animals to minimise stress, suffering and high mortality rates.

### **Item 1.Regulatory Powers**

*The Regulatory powers available to the Department to ensure compliance with the Australian Standards for the Export of Livestock (ASEL) and animal welfare standards, how effective those powers are to ensure compliance by the live animal exports industry, and how effectively the Department uses those powers.*

The Regulatory powers are much wider than the question seems to imply so we need to ensure that we have the full picture in focus.

The current Regulatory controls involve several legislative heads of power and multiple enforcement authorities and reporting requirements.

- 1 Australian Meat and Livestock Industry Act 1997 (AMLI Act) and the Standards related to it  
The Australian Meat and Livestock Industry (Standards) Order 2005  
The Australian Standards for the Export of Livestock (Version 2.3) 2011(ASEL).
- 2 Export Control Act 1982 (EC Act) and the Animals Order underneath it  
The Export Control (Animals) Order 2004 (EC (Animals) Order)
- 3 The Commonwealth Navigation Act 1912 and in particular Marine orders  
The Marine Orders, Part 43: Cargo and Cargo Handling – Livestock
- 4 State-based animal welfare legislation (POCTAA and Regulations), which also play a part in the regulation of the trade. Variations between states are recognised
- 5 In addition, since 2012 exporters must also comply with the Exporter Supply Chain Assurance System requirements (ESCAS), which focuses on the welfare and handling of animals in the importing countries including slaughter.

This is a complex Regulatory system requiring various communications and reporting regimes and different levels of inspection and verifications.

The role of the independent veterinarians in the export trade is not yet enshrined in mandated legislations or fully utilised in practical realities. Veterinarians are the only true experts in the health and welfare of animals and their operative role in the live animal export trade urgently needs to be appreciated utilised, and effectively legislated.

In many respects there are considerable aspects of self-regulation in the current arrangements.. Plans to set up an Industry QA program under the Livestock Global Assurance Program to minimise the Regulatory control of ESCAS is likely to further reduce the Regulator role and to increase the industry self-regulation aspect which, on past experience, has been detrimental to the welfare of the animals involved.

The powers relating to the legislation and regulations need to be strengthened with significant increases in penalties for non-compliance. Financial as well as custodial penalties must be included in the legislations to reflect the attitude of the Australian community to any breaches or disregard for the welfare of the animals involved.

The punitive aspect of the Regulatory actions and the way it is currently being enforced is weak and ineffective especially if we consider the large number of animals that are involved with any breach. It needs to be reassessed reviewed and re set at a higher and more effective level. Such action would benefit the animals subjected to the regulations as well as acting as an educational tool and a deterrent factor to transporters and exporters.

Finally in this regard, there must be an increased transparency about breaches of the permit arrangements and animal welfare provisions. Accountability must be seen to be important and effectively addressed. The Regulator needs to act without fear or favour in investigating suspected breaches and punishing offenders for non-compliance, which at the current time is not obviously evident and appears not to be taking place.

## **Item 2. Regulatory Conditions**

*ASEL and animal welfare standards, and how those conditions are communicated and enforcement of them verified and measured.*

The issue of transparency and better communication is paramount in this regard, as is the question of how the Department undertakes the assessment of the Regulatory provisions generally.

ASEL and the Welfare Standards are one aspect of the overall Regulatory requirements (as is identified in to an earlier answer) and there are other important Regulatory elements, which should also be under constant review. E.g. the regulations, which legalise the extremely old and poorly fitted vessels that are still operating by the industry (AMSA, Marine Order 43). Facilities in use, which are often ineffective and poorly maintained. Stocking densities that are unscientifically determined and that are set at extremely high levels resulting in overcrowding with difficult access to food, water and no capacity for the animals to lie down and rest. Breach of conditions related to the ESCAS reporting requirements which are also ineffective and often go unresolved.

With regard to the specific ASEL Standard review which is currently under discussion (the reporting date of which was brought forward by the Minister to the end of 2018), it will be extremely important to widen the scope of this review and to ensure the inclusion of all stakeholders. Attention to details including Animal Welfare Science facts is very urgently required. Consequently, cutting short the reporting timeframe may not provide the time required to address the issues effectively.

The role of animal welfare science in underpinning the Standards has recently been reviewed with regard to Stocking Densities and Heat Stress with sheep (AVA review, McCarthy Report). There is an urgent need to assess and review other vital parameters e.g. ventilation, food and water accessibility, capacity and space to lie down and rest, including taking into account the behavioural expression of the animals on-board as a reflection of stress, anxiety and reduced welfare status. CCTV or other forms of visual recording can easily demonstrate status of welfare, particularly during an increased risk and distressed situations. These visual signs are clearly evident well before animals die as a consequence of these stressors. (Heat, deprivation of food and water, overcrowding etc.)

It is also important to apply the two Welfare Science principles that were used with sheep transport to other classes of exported animals. It is not unlikely that data currently in use to underpin the standards for other animals is scientifically not correct, or optimal. The current ASEL review should at least identify the gaps and deficiencies and if not able to correct them now, it should set in place further processes to assess and rectify them.

The current review of the ASEL Standards should also properly assess the role of the on-board veterinarian, clearly define the vet's responsibility and determine the number of vets required per shipment based on the ship's conditions and facilities, the number of animals involved and the anticipated risk and weather factors for the intended journey. The review should clearly specify and qualify the independence of the veterinarians and observers and ensure that their independence is not compromised by the fact that they are employed and/or remunerated by the exporters or transporters. Veterinarians' involvement must be truly independent and mandated.

## **Item 3. Investigation of reportable mortality events and complaints**

*The process for investigating reportable mortality events and complaints received about industry compliance with the ASEL and animal welfare standards.*

Mortality events and permit compliance complaint are reactive reports that generally takes the Regulator considerable time to investigate and report. They should be investigate promptly and with full disclosure and transparency through out the process.

It seems that, it generally takes a terrible catastrophe (e.g. like the Awassi voyage or others before ) or a whistle-blower exposure to wake up the Regulator and seek redress. Following such horrific incidences, we

generally have a short period of activity and response only to return to complacency and indifference until the next horrific episode takes place.

As identified elsewhere in this submission the welfare of the animals on board needs urgent considerations and appropriate reporting regime to ensure and safeguard the animals involved .

### **Mortality**

Under current arrangement mortality is to be reported daily by vets and or observers and at the end of the journey by the Captain of the ship. Where no vets or observers are involved or where exporters employ the veterinarians there could be a compliance issue which needs to be addressed .

The threshold for mortality investigation is mandated, based on % of total animals in the shipments. These are set to the same level for all shipments , all weather etc. This should be set individually for each shipment based on considerations of parameters like state of the ship and the facilities on-board, season of the year ,anticipated weather along the journey, conditions of the animals etc.. In any event the current percentages should be reduced.

Results of Mortality investigations are listed on the Department web site. It is recommended that mortality records of all shipments be listed per voyage to increase transparency and accountability.

While Mortality figures are important, confirmed cause of death is more important in-order to establish what occurred and how to try and prevent it. Mortality is not a welfare measure; indeed it is the end point of welfare. There are no records of welfare situations during the journey and all current Regulatory investigations begin and end with Mortality. The dead animals, one can argue, are fortunate in as much as they need not suffer any longer while the rest of the shipment will continue to struggle for further hours or days before they recover or indeed die themselves.

It is the 'welfare' that the regulation needs to be focused on thus providing a better outcome for the animals involved. There is plenty of observational evidence that can be utilised. There is a great need to add to the trip planning a considerations of welfare risk, individually assessed for each and every voyage.

### **Compliance Complaints**

These are provided under the ESCAS requirements Looking at the reporting table on the Department's website it is clear that a variety of persons and organisations have identified various deficiencies and breaches of compliance ever since 2012 when this reporting requirement was introduced. There is no specific requirements or format for this report and there could well be many more breaches that take place with no one reporting them.

It appears that if there are any regular assessment /inspections by the Regulator particularly at facilities overseas (reactively or proactively) the result is not being published or is transparent to the public.

### **Punitive Actions**

It is disturbing to recognise that punitive action is rarely prescribed. Outcomes of investigations were generally aimed at consequences other than the punishment of offenders, even when there had been repeated offending by the same permit holders. It is easily seen that effective punishment is not served and the role of punitive action as a deterrent has not been considered valuable enough by the Regulator or the Government.

## **Item 4. Effectiveness of reporting obligations**

### *The effectiveness of reporting obligations under relevant legislation.*

Evidence indicates that they are not as effective as they could be, had the Regulator taken more serious outlook and if the reporting personal are truly in-depended which they are currently not. The fact that welfare status of animals (in contrast to mortality) is not recorded, reported or investigated grossly reduce the effectiveness of this aspect .

Effective reporting must also consider the reactions and responses of the Regulator and include real-time assessment and capacity to institute effective changes to mitigate the deleterious factors and improve the welfare of the animals involved. This particularly applies to all on-board mortality and welfare reporting.

Investigation findings, particularly those where punitive measures were prescribed, should be promoted and publicised to help in education and by extension to effect cultural change and to act as a deterrent tool.

This issue has been also addressed in other sections of this submission

#### **Item 5. Department Structures and the Inspector - General .**

*Appropriate structures within the Department to ensure Regulatory responsibilities are met, including whether an Inspector-General of Livestock Exports would provide superior oversight of the Regulator.*

Current indications points to deficiencies in the Department's capacity to regulate the industry and to investigate in timely manner breaches and export permit violations. Without clear knowledge of the resources the structures and with so many of the actions and activities undertaken by the Regulator with a lack of transparency, it makes it difficult to be specific in reply.

From report that the public can get access to i.e. Mortality Reports and ESCAS Breach Complaint investigations, one can get a distorted picture of the situation. These are reactive reports, often taking a long time to investigate and to be put on the public record. At times some of these reports were, found to be inaccurate, or not including all the facts and finding. Proactive inspections of facilities or shipments are not reported to the public. We know that the Regulator undertakes some scheduled examinations of facilities overseas, reports of which are not common knowledge.

Transparency of the Regulator's actions is deficient and inefficient .

Establishing new investigation protocols based on greater and more specific welfare parameters, and setting clear and defined timelines for reporting investigations and publication of outcomes is needed. Maintaining real-time assessment by the Regulator of situations unfolding at sea until animals are disembarked at the importing country is essential. Ensuring animal welfare based procedures are followed and establishing functional, operational plans to overcome any deficiency or to rectify and mitigate any situations, is vital. I suspect this may lead to the need to increase resources, personnel and skills to undertake these vital tasks.

Australia can no longer leave animals to suffer horrifically as they do, or die at sea for want of attention.. If Australia cannot secure the welfare of the animals involved, then Australia should not permit their departure.

Effective enforcement of welfare-specific permit conditions is a prerequisite to stronger penalties and more effective and transparent investigations which should vigorously applied. Australia can no longer rely on non-specific regulations, an ineffective Regulator and a non- existent punitive platform for offenders.

It would be of great benefit to the trade, the industry and indeed the Department it self, if there was to be an Inspector-General of Livestock Exports to oversee the operation of the Regulator and to provide advice to governments and reassurance to the public. The issue of how to safeguard the welfare of the animals involved, and how to improve the system and control of the trade, must be the main roles of the new Inspector-General.

The terms of reference of such a body would have to be examined but the concept appears to be a very good one.

#### **Item 6. Regulatory culture**

*The development and maintenance within the Department of an effective Regulatory culture that delivers on animal welfare standards and the ASEL and in doing so supports a sustainable live animal exports industry.*

Responses provided elsewhere in this submission also reflect on the Regulatory culture and this will not be repeated here.

However, it is interesting that the notation for this issue is flawed and seems to support the strongly held view in the community that the Department puts the industry's economic sustainability ahead of animal welfare considerations.

The Department's role as Regulator must be focused on animal welfare and enforcement. Industry sustainability must not be placed ahead of or considered in preference of animal welfare. Indeed many in the community recognise the Department's activities in aiding and promoting the industry in many different ways including posting staff members and "advisors" to countries around the world in efforts to try to convince and influence them to import Australian animals despite the considerable suffering and high mortalities involved in such long, risky and practically unregulated journeys.

Historical evidence suggests that the Department does not have the culture or commitment to animal welfare.

#### **Item 7. Skills of the Regulator**

*The requisite skills, capabilities and systems for regulating the live animal export trade, as well as any improvements to support Departmental officers in their Regulatory capacity.*

I am not privy to many operational details that are needed in order to provide a more comprehensive and effective response. Number of staff, locations of employment, structure, resources in dollars and provisions allocated to tasks and the diversity of skill sets required for the Regulator roles at its various levels are not common knowledge. The current state of Regulator action can be considered to be either lacking of skills or deliberate policy by the Government, in both cases a lot more needs to be done to promote and protect the welfare of the animals involved.

It is also important to assess the capacity of the Department or the Regulator to undertake (or to collaborate) some research into various aspects of live animal export. There is a need for considerable observational data and scientific assessment for several aspects of the industry. The Regulator should set the priorities into the future in this regard. Establishing the position of Inspector-General of Livestock Exports to oversee welfare considerations and provisions should also help in these areas.

It was very pleasing to see the skill's and knowhow of the Australian Veterinary Association, who produced the vital literature review that exposed the inadequacy of the current Stocking Rates in summer voyages and the application of Heat Stress Model to the planning of the shipment in summer. The scientific facts that underpin this review had been known for some years and should have been incorporated into the standards in the past thus minimising and preventing suffering and mortality. Applications of this science into current operational protocol is urgently needed (per McCarthy conclusion) delays or postponement into the future as is the government intentions is not justifiable.

#### **Item 8. Interaction with State and Territory Authorities**

*The effectiveness of the Department's interaction with relevant State and Territory authorities (and applicable State and Territory legislation) as well as improvements to ensure the best level of Commonwealth/State and Territory cooperation can be achieved.*

I am not privy to communications, discussions or interactions between the Regulator/Government and the relevant State and Territory authorities, who administers the State and Territory legislation.

Neither have I personally been involved in any discussions or practical involvement in recent years (I was many years ago).

The State and Territory authorities do play their part in this important aspect of the export trade, especially while the animals involved are under the State /Territory jurisdiction. (farm gate to loading on ship).

There are variations in State POCTAAs, and with animal welfare legislations. The harmonisations of Livestock Road Transport Standards and Guidelines is also not complete across all states. It is interesting to note that public opinion against the trade is highest in WA and SA, where most of the sheep trade currently takes place.

Any discussion or reviews of arrangements for animal transport and /or export operations should include an independent veterinary opinion. Animal welfare science facts must underpin as much of the transport and trade provisions as is possible.

#### **Item 9. Community Expectations and Stakeholders' Engagement**

*The ability of the Department to assess community expectations and its cultural capacity to respond, including the manner in which the Department engages with key stakeholders, including the live animal exports industry and supply chain, animal welfare organisations, other Regulators, community stakeholders and international trading partners and governments.*

The Department is not assessing community expectations effectively or appropriately which is clearly evident from the public reaction and outrage to the ongoing animal welfare issues in this industry.

Community expectation is often identified as important in development of Standards and Codes of Practice to regulate the livestock industry and animal use generally in Australia. It is abundantly clear that the Australian community is very much against the industry in its present form. They are concerned and critical of the Regulator which does not effectively regulate the trade and the Government that continuously fails to implement changes and provisions which could improve effective regulation.

Engagement and communications with animal welfare organisations and community stakeholders is ineffective. Australians in general hold concerns to the welfare of the animals at very high esteem. The repeated display of horrific images of cruelty to animals in this industry outrage the community. Animal welfare organisations demand better care and they have been doing it for many years and often with little evidence of any success or better outcome to the animals involved.

There are growing reports in the Australian media that highlight this fact and call for drastic changes to the structure and conduct of the industry. Many of these commentators are not necessarily affiliated with the "radical" end of the welfare critic's spectrum.

As a veterinarian, the welfare of animals is very high on my conscience and day-to-day reality. I am very disappointed to see so little communication and discussions with vets as individuals or indeed with the associations that represent veterinarians and their collective opinion. Veterinarians often look at scientific justifications and there is plenty of animal welfare science evidence in current literature, which needs to be applied and followed if we are to maintain such a trade. The use of yesteryears' parameters and concepts with little or no scientific support or community acceptance is not tenable and indeed also lead to negative reflections on our Australian society and values.

Our international trade partners are not all driven by the same values that we hold. I have often been asked, when talking about live animal exports overseas, how does this trouble industry fit in with the Australian values?

## **Item 10 Related Matters**

### **10.1 Role of Veterinarians (AAV)**

The role of veterinarians has been addressed to a degree in various comments in this submission to ensure clarity on this issue please see the following points :

1. Independent from the exporter, importer and the shipping owner management is essential.
2. Reporting must be done electronically on a daily basis, in a secured format that is not able to be changed or modified in any way or by any person.
3. The number of vets on-board to be set up by the Regulator, based on vessels facilities and provision on board, the size of the shipment (number of animals), the anticipated weather conditions etc. Each shipment needs its own determination for each voyage.
4. Involvement of vets from commencement of loading to completion of disembarkation of the last animal at the last port of call.
5. Veterinarians' suggestions and recommendations related to the husbandry practice, safety concerns or welfare issues must be acted upon promptly including while still at sea, if necessary.
6. Regulator undertaking to act on reports and support the vet's role and actions with continued training and support of further development and evaluation of the tasks and the role of veterinarians.
7. Assurance for open line communications with the captain and the stock person supervisor is essential (should apply to observers as well).
8. Independent observers, if deployed, should preferably have a degree in veterinary science, be an experienced Australian stockperson or an expert in production animal welfare. The reporting and recording should be their responsibility so as to free up the AAV to perform the veterinary duties.

### **10.2 Regulatory Funding**

I am not privy to current funding arrangements relating to the regulations of the industry. I believe in user pay concept that should be used in this regard. I feel that unless this aspect is also addressed there may be difficulties in achieving the required changes to the independence of inspections and reporting operations. ( note: especially as the protocols specifically exclude government veterinarians from this role)

Exporters and transporters should pay prescribed fees which should reflect the expenses involved in servicing and monitoring their operations and their industry.

Fees should be paid to a fund specifically set aside to service this activity.

Government personnel assigned to provide service to the industry, as well as veterinarians, should be paid by the fund which should be independent of the industry, the individual exporters /transporters or the Regulator.

Independence of veterinary observers can then be assured from the financial aspect as well.

### **Summary of Main Recommendations**

1. Regulatory powers available in the legislations the regulations, and the permit conditions needs to be strengthened, with significant increases in penalties for non-compliance. Animal welfare science principles, which underpin the legislations and regulations, must be updated and vigorously monitored.
2. The Department's role as Regulator needs to be overhauled and reset to better and more accurately undertake this role rather than to act as a protector and an advocate of the trade and the industry. Greater focus on inspection and more specific reporting on the welfare status of the animals should be in practice.
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