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The Independent Chair
The Technical Advisory Committee
Review of the Australian Standards for the Export of Livestock
Department of Agriculture and Water Resources
GPO Box 858
Canberra ACT 2601

Review of the Australian Standards for the Export of Livestock

Introduction

The Pastoralists and Graziers Association of WA (Inc.) (PGA) has become aware that the Commonwealth Department of Agriculture and Water Resources are conducting a review into the Australian Standards for the Export of Livestock (ASEL).

The PGA is a non-profit industry organisation established in 1907, which represents primary producers in both the pastoral and agricultural regions in Western Australia.

As a state farming organization, the PGA supports its membership in the operation of profitable farm businesses.

The PGA declares at the outset that it vigorously and unequivocally supports the export of livestock to other sovereign nations for feeder or breeder purposes.

The Current Legislative Animal Welfare & Livestock Export Regime

The Australian Standards for the Export of Livestock set the standards for the conduct of the livestock export trade, as required by the Australian, state and territory governments.

These standards have been written after many years of research and development on behalf of industry and government. They are endorsed by livestock producers, depot owners, exporters, transporters and territory, state and federal governments. They

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have been revised (major and minor revisions) five times since their adoption in July 2005. Clearly, the standards are under continuous review and improvement.

It is important to note that ASEL are not just standards. They are given the force of law by being proclaimed as Orders (regulation) under the *Australian Meat and Livestock Industry (Export Licensing) Regulations 1998* and the *Export Control (Animals) Order 2004*.

The current legal framework for livestock export is a product of Australia's federal system of constitutional government.

This system recognizes the division of powers between the Commonwealth and the State governments, where certain powers are exclusive to the Commonwealth, others are concurrently exercised, and the remainder are held by the States.

The division of regulatory function between the Commonwealth and the states simply recognizes the powers of each level of government. That is, the right to export animals is regulated by the Commonwealth and the welfare of animals is regulated by state law.

In Western Australia, the welfare of animals is regulated by the *Animal Welfare Act 2002*.

Although the animal welfare act is administered by the state Department of Primary Industries and Regional Development (DPIRD), it gives power to appoint as general inspectors those members of the staff of the RSPCA nominated by the RSPCA. These general inspectors have considerable powers including search, entry, inquiry, and seizure.

Part 3 of the Act, Offences against animals, section 19, states, "a person must not be cruel to an animal". The PGA believes that the position cannot be stated any clearer than that.

With certain exceptions, state government legislation prevails up to the limits of low water along the coast.

Clearly then, there is sufficient legislation and regulation and organizations with credible powers of enforcement at the state domestic level that can police the welfare of animals awaiting export at domestic sea and airports.

With respect to livestock export, ASEL is only a small part of a multi-faceted licensing system that controls the export of livestock.

This system includes holding a valid licence granted by the Secretary of the administering department, in this case the Commonwealth Department of Agriculture and Water Resources (DAWR). The Secretary cannot grant a licence unless he or she is satisfied that the applicant "is competent to hold the licence and is (and is likely to continue to be) able to comply with licence conditions". The Secretary can announce any licensing conditions he or she considers appropriate, provided that they are not inconsistent with the regulations. The exporter must comply with any conditions

imposed on the licence. An export licence holder who intentionally or recklessly contravenes a licence condition commits an offence. The Secretary may also decide to cancel, suspend or not renew the licence in the event of non-compliance with conditions.

A licence holder must apply for a permit to ship a particular consignment of animals. The Secretary may grant a permit to export after he or she has considered the applicant's compliance with licence conditions. An exporter must submit a Notice of Intention to export (NOI) and a Consignment Risk Management Program (CRMP) to the Secretary. The NOI must detail the type of animals to be exported, from where the animals will be sourced and where they will be kept while waiting for permission to leave for loading. The dates of transport, departure and arrival must also be included.

The animals must then be inspected by a veterinarian and a health certificate must be issued to the effect that an authorised officer has inspected the animals portside and is satisfied that they meet the standards of the importing country. If the health certificate is not issued, the animals cannot be exported. After the health certificate is issued, the exporter must apply for permission to leave for loading. Permission will be granted if the animals remain fit to travel. Once these conditions have been met, the Secretary may grant an export permit.

At any point, the would be exporter could fail to meet any one of these conditions.

In addition, it is a licence condition that the holder of a livestock export licence may only export livestock in accordance with ASEL.

The ASEL provide animal welfare standards that must be met at each stage of the live-export process. They are prescribed by the government. These standards expressly incorporate the Australian Position Statement on Live Export and state based animal welfare legislation. Therefore, an exporter must comply with the ASEL if they are to retain their licence.

ASEL apply to the sourcing and on-farm preparation of livestock, the land transport of livestock, the management of livestock in registered premises, vessel preparation and loading, and the onboard management of livestock.

Whilst the current legislative situation is a mosaic of state and commonwealth law, when considered in toto, it succeeds in its objective of underpinning the animal health and welfare of livestock for export.

In the Western Australian context, as shown above, there exists modern animal welfare legislation that can be enforced up until the port side and beyond. This legislation is currently being strengthened by the Australian Animal Welfare Strategy, where the Model Codes of Practice are in the process of being updated and converted into Australian Animal Welfare Standards and Guidelines. These new documents will incorporate both national welfare standards and industry 'best practice' guidelines for each species or enterprise, and under the COAG process, will be referenced in each state and territory's animal welfare act as regulation to give them the force of statute law.

With respect to animal welfare, the PGA sees no need for the State of Western Australia to extend its own powers and encroach upon the powers of the Commonwealth of Australia to administer external affairs.

Specific Comment on the Review:

The livestock producers are not expert in the application of ASEL. This is best left to the livestock export industry itself.

However, ASEL Standard 1. Sourcing and on-farm preparation of livestock does have relevance to livestock producers.

The fundamental nature of these standards means that whatever livestock a livestock producer presents, the buyers' agent can only source them if they comply with ASEL.

As ASEL expressly incorporates state based animal welfare legislation, both the livestock producer and a buyers' agent are acting in compliance with them when livestock are presented for sourcing.

Concluding Remarks:

Within the Commonwealth of Australia and its States and territories, there is a comprehensive legal framework for both animal welfare and livestock export. The PGA supports it.

The animal husbandry and livestock production industries are already well regulated at many levels.

Consequently, the objective of regulation review should be to simplify the process so that the livestock export industry can go about its legitimate business activities, with clear regulatory guidance from governments.

Government will always be responsible for agreed community standards, through legislation and regulation. Systems need to be brought about that fit the commercial setting and meet community expectations.

Yours faithfully



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