

Submission on phase out of live sheep exports by sea, May 2023

1. Mechanism

The Government should implement the ban on the live export of sheep by sea by amending relevant legislation and regulations. All legislation specific to this export should be repealed. There should be an explicit statement in legislation that it is illegal, with substantial penalties for breach.

There should be no exceptions for “special circumstances” given that export of sheep by air is to be permitted, and export of slaughtered sheep allowed.

No further licences should be granted, and outstanding licences (if any) would expire by statute.

If licensing provisions of any generic nature remain (e.g. live export of cattle) it should be clear from the statute that these cannot be applied to sheep under any circumstances. There should not be any residual administrative process that remains to allow “one off” exports.

If any residual statutory arrangements or provisions do need to remain for whatever reason, they should be subject to a sunset provision setting out when they will be repealed/amended to exclude live export of sheep.

The Government was elected on a policy of banning live sheep export. This commitment will only be honoured if there is a complete ban as outlined. The live sheep industry has relentlessly resisted repeated calls by ordinary Australians for a ban over many years. This matter must be resolved by the Parliament.

It remains Coalition policy to allow export. It is vital that there is no way that any subsequent Government could re-introduce it administratively (eg by permits, Orders, Regulations or any exemption powers), or using any generic permit/licensing provisions or continuing any existing licences.

If the door is left open at all, the Government will not be honouring its election commitment to the community. It would also be likely to hinder the transition away from export. The sector needs to know that export is over, and move on.

Suggestions for dealing with any continuing licences are outlined below (p.3).

2. Timeframe

It has been on the cards for a very long time that export would end. This was known since its inception. As the Commonwealth Parliamentary library website notes:

“In 1985, the Senate Select Committee on Animal Welfare in its report [*The Export of Live Sheep from Australia*](#) concluded that if a decision on the future of the trade were made on animal welfare grounds alone, there was enough evidence to stop the trade. Taking into account economic and other considerations, the Committee recognised that the trade would continue, and therefore called for animal welfare improvements. The Committee also recommended that the Government encourage the expansion of the refrigerated trade, with the aim of eventually replacing the live trade.”¹

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https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/BriefingBook44p/AnimalExports

That same Parliamentary library website also notes that consulting firm Tasman ACL found that “domestic processing contributes more to regional economic activity and employment than live exports”.

There have since been four reviews by different Governments over the last 20 years, highlighting ongoing problems that have not gone away. This is not surprising, as there is an inevitable difficulty in attempting to ship sheep on vessels to the Middle East for profit, when sheep are at such inherent high risk of suffering heat stress.

Sheep do not do well in even moderately high temperatures, especially when these conditions continue for a number of days, let alone when they cramped up in crowded vessels for weeks on the way to the Middle East.

The draft report made available by the previous Government to the public as part of the review about the revisions to the regulations in early 2022 demonstrated that the difficulties continued. It acknowledged significant problems with the data. For example (underlining added for emphasis):

“Reports from AAVs, IOs and stockpersons on board livestock vessels provide vital information about conditions experienced by livestock in transit to export destinations. However, the analysis was limited due to reporting anomalies identified during the assessment of these reports.”

“Recording of respiratory parameters and mortality causes varied widely, with some daily and end of voyage reports containing minimal data, and/or no data in fields including pant type, percentage of sheep affected per pen, number of mortalities, and daily temperatures. End of voyage reporting was occasionally inconsistent with details in the daily reports. For example, during one voyage, daily reports noted the presence of heat stress and panting with protruding tongues, yet the end of voyage report noted there was no incidence of panting with protruding tongues. There were indications of observer bias, with some AAVs consistently reporting lower incidence of heat stress and panting scores at WBTs where other AAVs consistently reported evidence of heat stress. Inter-observer reliability was also an issue with IOs and AAVs using different panting score scales which often did not correlate. IOs generally recorded higher panting scores than AAVs.”

“This review found the majority of LIVEXCollect reports contained limited information on heat stress management when compared to the records from before LIVEXCollect. The Moss Review noted that inconsistencies may also be attributed to an unwillingness to raise concerns by the person reporting. Moss noted that ‘AAVs appear to have an inherently conflicted role. While they are required to report to the department on animal welfare issues, they are either employed, or engaged by exporters or contracted on a consignment-by-consignment basis’ (Moss 2018).”

That draft report also noted that independent officers (IOs) observed heat stress in all of their journeys in which they were present.

The export industry has been on notice since its inception that the trade would end. Regulation has failed, and been known to fail, for 20 years now. That being so, a relatively short timeframe is warranted for introduction of the ban. There has been more than ample time to transition away to other forms of production.

Given the ALP’s election commitment, the industry has known definitely since May 2022 that the end of the trade was imminent. It has already had a year to think about the transition away. It had the export season in 2022 and the one that is about to commence this year. That ought to be

enough. If further time is really considered necessary, then the 2024 season must be the very last one. This is for three reasons:

- (a) The welfare of millions of sheep involved in this trade has been ignored for decades, despite repeated evidence of the suffering involved in transport, and the unregulated cruelty of slaughter at their final destination if they have survived the voyage.
- (b) The community are entitled to expect that the ban will take effect in this term of Government, given the election commitment. As the next election is due by May 2025 and could be held late in 2024, then the legislation making all the amendments must be introduced, debated, and passed by both Houses of Parliament before November 2024 at the latest so that it can take effect and be in operation before the election.
- (c) It is important that the mechanism for live export of sheep is removed entirely before the election, so that they cannot be reactivated in 2025, if the Coalition were to be re-elected. The ban must be watertight.

If the Government allows for a longer time period, beyond its current term of office, it will not be seen as making a genuine effort. Please do not be led into further delay by arguments from exporters - they have known what was coming for a long time. There are numerous export abattoirs across Australia, including in WA.

And whatever additional local employment is associated with shipping should be able to be absorbed into other work - given the employment opportunities that abound in WA.

There is no background information in the consultation paper about the legislative scheme or the number and period of operation of licences currently in force. If there are any current licences which are due to run beyond 2024, such licences should be deemed by legislation to expire. The community could reasonably expect that compensation for the shortening (if any) of the period of export in such cases would not really be necessary, given the findings in the various reviews about problems that have occurred with export. Nonetheless, if the Government thought it necessary, it could negotiate some compensation for the exporter's loss, but you may wish to consider whether this process should take into account the *degree of demonstrated compliance by the licensee with all licensing requirements based on performance audits by independent observers* (with accurate and sufficient data) covering the term of the licence. This would be fair.

If any exporter advises that it has entered into contracts that go beyond 2024, please query any assertions that they are binding, for the following reasons:

- (a) a contract should be subject to the licensing legislation that applies at any given time; and
- (b) it should be subject to a force majeure exception – as it impossible to be bound to do something that is prohibited/unlawful.

If you receive suggestions to the contrary, the contracts should be made available for independent expert assessment.

If you decide that some claims made to you in submissions will not be referred to in your report, because they have been marked commercial in confidence, please consider ways to verify the information, given that it will not be tested by public scrutiny. It may be appropriate to give less weight to it if it can't be analysed.

D Scott 28/05/23