

20 May 2024

Minister Thoko Didiza
Department of Agriculture, Land Reform and Rural Development (DALRRD)
600 Lilian Ngoyi Street, Pretoria, 0001

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**OPEN LETTER TO THE DEPARTMENT OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT
REGARDING THE PROHIBITION ON THE EXPORT OF LIVE ANIMALS BY SEA**

Dear Minister Didiza,

We write to you as a group of organisations that actively work to improve the welfare of animals. This letter specifically addresses the cruel live export of animals by sea that the South African government has failed to prohibit, despite the numerous harms inflicted and growing public outcry against the trade. It is crucial for South Africa to elevate its reputation as a conscientious and responsible trade partner. We thus urge DALRRD to fulfil its mandate to promote the welfare of animals and prohibit live export by sea.

Live export by sea is associated with numerous harms and a significant number of the animals die during transport. This suffering is due to various factors, including, but not limited to, heat stress, failure to adapt to unfamiliar feed,¹ an inability to access sufficient water and/or food, suffocation due to failed ventilation systems, motion sickness, injury, cruelty at their destination, and catastrophic events such as ships sinking, cyclones, and livestock being rejected by importers upon arrival at their destination.²

Welfare Mandate

Our South African courts have in recent years made some monumental animal-related rulings. In 2016, the Constitutional Court held that “the rationale behind protecting animal welfare has shifted from merely safeguarding the moral status of humans to placing intrinsic value on animals as individuals.”³ The court furthermore quoted a 2015 Supreme Court of Appeal rhino poaching case, *Lemthongthai*, with approval, which held that “constitutional values dictate a more caring attitude towards fellow

¹ Malcolm Caulfield, *Live Export of Animals, Animal Law in Australasia* 153 (Peter Sankoff & Steven White eds., 2009).

² *Id.*, at 155; Nicola van Wyk, *Lost at Sea: Australia’s Live Export Trade (2022, Updated 2024)* <https://www.linkedin.com/pulse/lost-sea-australias-live-export-trade-nicola-van-wyk-szaaf/?trackingId=TGIHQMHWQLqOJ672D3NbeA%3D%3D>.

³ *National Society for the Prevention of Cruelty to Animals v Minister of Justice and Constitutional Development and Another* [2016] ZACC 46, Para 57.

humans, animals and the environment in general”.⁴ The Constitutional Court also established that “[A]nimal welfare and animal conservation together reflect two intertwined values’.⁵

In addition, the High Court ruled that the government is legally obligated to consider animal welfare in its decision-making.⁶ While it is generally accepted that DALRRD is mandated with the welfare of animals in South Africa, in light of the aforementioned rulings, all departments and spheres of government have a responsibility to consider animal welfare when exercising their respective animal-related competences and functions.

Animal Welfare Concerns Associated with the Live Export Trade

Objective scientific studies⁷ show that long-haul voyages are stressful for livestock, who are terrestrial animals. They experience suffering for the entire duration of these journeys, which is usually at least several weeks. The factors that contribute to the suffering of the animals include the release of ammonia due to the animals urinating in high-density, poorly ventilated spaces, which causes mucosal irritation and pulmonary inflammation; heat stress due to environmental factors and high stocking density; inability to access sufficient food and water; an inability to lay down and rest; seasickness; failure to adapt to unfamiliar feed;⁸ suffocation due to failed ventilation systems; and catastrophic events such as ships sinking,⁹ cyclones, and livestock being rejected by importers upon arrival at their destination.¹⁰ Poor stockmanship can also contribute to poor animal welfare at various stages of the supply chain, such as a failure to ensure that females loaded onto the ships are not pregnant. Pregnant animals are likely to give birth on the ships, which may lead to the offspring being trampled, or thrown overboard to mask the presence of pregnant livestock on board. Animal welfare problems also arise at some export destinations, where the industry might employ inhumane methods of handling, further transportation, and slaughter.¹¹

Transporting live animals over long distances subject the animals to additional suffering that could be avoided by slaughtering the animals within South Africa’s borders. At their destination, these animals might be handled in a manner that would constitute an offence under South African law. South Africa thus cannot be sure that the animal welfare standards of destination countries are sufficiently rigorous and enforced. Destination countries furthermore often implement cruel slaughter methods, such as Halal or Kosher killing, which might be performed without stunning the animal prior to slaughter.¹²

⁴ S v Lemthongthai [2014] ZASCA 131; 2015 (1) SACR 353 (SCA) (Lemthongthai) at para 20.

⁵ *National Society for the Prevention of Cruelty to Animals v Minister of Justice and Constitutional Development and Another* [2016] ZACC 46, Para 58.

⁶ *National Council of the Society for Prevention of Cruelty to Animals v Minister of Environmental Affairs and Others* (86515/2017) [2019] ZAGPPHC 337; 2020 (1) SA 249 (GP) (6 August 2019), para 67; Nicola van Wyk, *Lost at Sea: Australia’s Live Export Trade* (2022, Updated 2024) <https://www.linkedin.com/pulse/lost-sea-australias-live-export-trade-nicola-van-wyk-szaaf/?trackingId=TGIHQMHWQLqOJ672D3NbeA%3D%3D>.

⁷ Michelle Sinclair et al., *Australian Public Opinions Regarding the Live Export Trade Before and After an Animal Welfare Media Exposé*, ANIMALS (BASEL), VOL. 8, NO. 7, 2018, 106, at 2.

⁸ *Supra*, note 1, at 155.

⁹ *New Zealand Suspends Live Animal Exports After Ship Sinks*, AUSTRALASIAN BUSINESS INTELLIGENCE (Sept. 3, 2020) (last visited March 9, 2022)

¹⁰ *Supra*, note 1, at 155.

¹¹ https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=s1412; Lyle Munro, *The Live Animal Export Controversy in Australia: A Moral Crusade Made for the Mass Media*, SOCIAL MOVEMENT STUDIES, 14:2, 2015, at 215; Nicola van Wyk, *Lost at Sea: Australia’s Live Export Trade* (2022, Updated 2024) <https://www.linkedin.com/pulse/lost-sea-australias-live-export-trade-nicola-van-wyk-szaaf/?trackingId=TGIHQMHWQLqOJ672D3NbeA%3D%3D>.

¹² Jacqueline Dalziel and Dinesh Joseph Wadiwel, *Live Exports, Animal Advocacy, Race and ‘Animal Nationalism’*, *Meat Culture*, 73-74 (Annie Potts ed., 2017); Nicola van Wyk, *Lost at Sea: Australia’s Live Export Trade* (2022, Updated 2024) <https://www.linkedin.com/pulse/lost-sea-australias-live-export-trade-nicola-van-wyk-szaaf/?trackingId=TGIHQMHWQLqOJ672D3NbeA%3D%3D>.

Despite the vessels leaving South Africa's shores, permitting or failing to prohibit live export by sea might amount to complicity on the part of DALRRD, as South African livestock are subjected to hazardous journeys during which several contraventions of the *Animals Protection Act 71 of 1962* are known to routinely occur.

Human Welfare and Public Health Risks

Live Export creates greater potential for the occurrence of more zoonotic diseases such as COVID-19. Zoonoses are diseases transmissible between animals (domestic and wildlife) and humans. Approximately 75% of emerging infectious diseases are zoonotic.¹³ Zoonoses have considerable impacts on human health, livelihoods, and ecosystems.¹⁴ The health and well-being of crew members aboard live export vessels are thus at risk due to working conditions that have the potential to harbour rapidly spreading zoonotic diseases. The risk of another global pandemic can be mitigated by eliminating the practice of exporting live animals by sea. Importing countries are furthermore exposed to public health risks, as the conditions during the voyage increase the chances of animals being infected with Salmonella or E. coli.¹⁵

Foreign Jurisdictions, Economic Gain and Employment

In contrast to South Africa's failure to end the cruel trade, New Zealand banned the export of livestock for slaughter in 2008, while continuing to allow the export of livestock for breeding and dairy production purposes.¹⁶ In 2019, New Zealand began a review of the livestock export trade and then placed a suspension on the live export of cattle, deer, goats, and sheep by sea in 2020. In line with New Zealand's ambition to be reputed as the most ethical producer of food in the world, New Zealand's Animal Welfare Amendment Bill was introduced on 21 September 2021, to ban the export of cattle, deer, goats, and sheep by sea.¹⁷ This Bill was enacted on 30 September 2022, cementing New Zealand's position against the cruel practice of exporting live animals by sea.

Furthermore, in line with the recommendations made by an Australian Independent Panel to their Minister of Agriculture, Fisheries and Forestry, following extensive consultation with stakeholders, the Australian Government announced on 11 May 2024 that the export of live sheep by sea will end on 1 May 2028. Legislation will be introduced in this term of the Australian Parliament to end the trade in law.¹⁸ On 14 May 2024, the U.K.'s Animal Welfare (Live Exports) Bill also received approval from the House of Commons and House of Lords to proceed to Royal Assent. The Bill will end the export of bovines, equines, sheep, goats, pigs and wild boars for fattening and slaughter from and through England, Wales, and Scotland.¹⁹

Economic gain and job creation are go-to arguments for industries that utilize animals. However, despite Australia's history of live export by sea, rebuttals to the economic arguments exist that suggest

¹³ Taylor et al., 2001; Woolhouse and Gowtage-Sequeria, 2005.

¹⁴ Grace D., *Infectious Diseases in Agriculture*, Encyclopedia of Food Security and Sustainability, Volume 3, 2019, at 439-447 (<https://doi.org/10.1016/B978-0-08-100596-5.21570-9>).

¹⁵ <https://www.animalsaustralia.org/features/more-reasons-to-ban-live-export.php>

¹⁶ *NZ Bans Cattle Exports by Sea, With Two-Year Phase Out*, Beef Central (April 14, 2021) <https://www.beefcentral.com/live-export/nz-announces-ban-on-live-cattle-exports-with-two-year-phase-out/>.

¹⁷ *Bill Aims to Ban Sea Exports of Some Livestock*, New Zealand Parliament (Oct. 29, 2021) <https://www.parliament.nz/en/get-involved/topics/all-current-topics/bill-aims-to-ban-sea-exports-of-some-livestock/>; Nicola van Wyk, *Lost at Sea: Australia's Live Export Trade (2022, Updated 2024)* <https://www.linkedin.com/pulse/lost-sea-australias-live-export-trade-nicola-van-wyk-szaaf/?trackingId=TGIHQMHWOlQJ672D3NbeA%3D%3D>.

¹⁸ *Phase out of live sheep exports by sea - DAFF (agriculture.gov.au)*;

https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=s1412

¹⁹ *Animal Welfare (Livestock Exports) Bill - Parliamentary Bills - UK Parliament*; *Animal Welfare (Livestock Exports) Bill (parliament.uk)*.

that a shift to a carcass trade (exporting meat from animals slaughtered) would not dampen the Australian economy. South Australia's Australian Meat Industry Employees Union (AMIEU) calculated that, if all sheep were processed in the state's slaughterhouses, and then exported as chilled meat, it would be a win for the state's economy. In line with the findings of an independent report conducted by public policy firm Pegasus Economics, AMIEU furthermore insists that South Australia has the skill and capacity to slaughter all live sheep exported from South Australia annually. AMIEU has stated that "We have the capacity, we just need leadership from the government to make it happen."²⁰

In 2021, the gross value of sheep and lambs slaughtered on Australian soil was AUD 1.3 billion²¹ – more than 13 times as much as the AUD 92 million value of live sheep exports. Looking at these figures, it is clear that live sheep export pales in comparison to Australia's onshore meat production sector, and that a transition to exporting only chilled meat would further bolster Australia's onshore meat production sector.

These same principles apply to South Africa; By slaughtering within our own borders and exporting chilled products, the South African supply chain would expand, creating more jobs in transport, slaughter, packing, storage, retail, and export.

The inadequacy of the OIE (WOAH) and DALRRD Guidelines for Exportation by sea

The OIE Terrestrial Animal Health Code, 2023 (OIE Code) is not legislation, but rather a set of voluntary, minimum guidelines, providing some basic principles that might serve to guide national and/or corporate regulation of welfare at sea. Prof. David Favre, renowned professor of law from Michigan State University, has stated that "[A] review of the adopted OIE standards on live animal transport will reveal their significant limitations. The standards include no numbers, no prohibitions, no required inspections, and no limitations on operations."²²

Similarly, DALRRD's Guidelines for the Exportation of Live Animals by Sea signed by Dr. Molefe on 31 March 2023 (Guidelines), are woefully inadequate at ensuring that the welfare of animals is protected for the duration of transport by sea. Many animal welfare organisations and other stakeholders submitted comments to this effect during the public participation process, including the Livestock Welfare Coordinating Committee, the Muslim Judicial Trust, legal professionals, and concerned members of the public. Unfortunately, this substantial body of comments was not taken into account and the Guidelines were published regardless.

Despite attempting to ensure compliance with the Guidelines at the port of departure, once the livestock carrier leaves port what happens at sea goes unnoticed by DALRRD. There are no mechanisms for independent monitoring or repercussions for non-compliance at sea, rendering the Guidelines ineffectual. Thus, even if the Guidelines were to be enacted, they would not ensure the welfare of animals transported by sea.

²⁰ *No Need for Live Exports in SA Says Union*, SBS News (Apr. 20, 2018) <https://www.sbs.com.au/news/article/no-need-for-live-exports-in-sa-says-union/8g8jilwsgk>; Nicola van Wyk, *Lost at Sea: Australia's Live Export Trade (2022, Updated 2024)* <https://www.linkedin.com/pulse/lost-sea-australias-live-export-trade-nicola-van-wyk-szaaf/?trackingId=TGIHQMHWOlQOJ672D3NbeA%3D%3D>.

²¹ *Livestock Products, Australia*, AUSTRALIAN BUREAU OF STATISTICS (Feb. 16, 2022), <https://www.abs.gov.au/statistics/industry/agriculture/livestock-products-australia/latest-release>.

²² *Animal Law and Welfare - International Perspectives - Google Books*

Conclusion

Taking into consideration public opinion, the welfare of the animals, the poor economic arguments surrounding the live export industry, better potential for job creation through a carcass trade, public health concerns due to the spread of zoonotic diseases globally, and available alternatives to live export, we urge DALRRD to fulfil its mandate to promote the welfare of animals and prohibit live export by sea.

We look forward to receiving your response by email to x@stopliveexport.com and nicola.vanwyk@four-paws.org

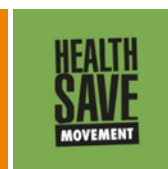
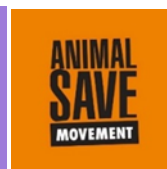
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