

Barristers Animal Welfare Panel

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Senate Inquiry: Improvements in animal welfare for Australian live exports and related bills

Introduction

1. The *Live Animal Export (Slaughter) Prohibition Bill 2011* and the *Live Animal Export Restriction and Prohibition Bill 2011 [No. 2]* provide respectively for the immediate prohibition or phasing-out by mid 2014 of the live export of animals for the purpose of slaughter overseas. The Bills were introduced by respectively Senator R. Siewert of Western Australia and Senator N. Xenophon of South Australia, and initiated in response to strong community concern about the treatment of Australian cattle in Indonesia arising from the broadcast of the Four Corners program on 31 May 201, ‘A Bloody Business’. Indeed some 250, 000 Australians signed a petition within days to ban live animal exports.

2. Paragraph 1 of the Terms of Reference focuses upon the role and effectiveness of government and industry bodies ‘*in improving animal welfare standards in Australia’s live export markets...*’. The first short point of this submission is that endeavours of government and industry bodies to improve animal welfare standards have been manifestly inadequate and have failed. This is not just because any endeavours historically have been cosmetic. For the second short point is that such endeavours are bound to fail in any event by reason of in particular the insuperable cultural attitudes to animals in foreign markets; the insuperable obstacle of the absence of Australian jurisdiction once the animals are disembarked dockside; the ‘culture’ within the federal department of agriculture that, in the case of animal welfare standards , it is the ‘friend of industry’; and the fact that the mainspring of the federal department’s co-

regulator of the live animal trade, LiveCorp (and, for that matter, associated industry bodies such as Meat & Livestock Australia), has been the perpetuation of the trade, no matter the consequence for the animals' welfare. The question for the Committee must be whether humane outcomes in foreign markets can be secured. It should not be whether unsatisfactory welfare standards in foreign markets have been, or can be, rendered less inhumane. To suggest otherwise would be to feign concern about welfare standards and defy notions of the public interest and obvious public concern.

3. Government and industry bodies in Australia have not acted, let alone attempted, to secure humane outcomes. Instead, all that has been sought in some undefined degree is *improvement* in existing *inhumane* procedures in foreign markets. Sadly, it is thought that if even a cosmetic public image of some concern about welfare can be imparted, then strategically that should help maintain public support for the trade's continuance. Further, it is all too plain from recent events that, first, government and industry have long known of the inhumane and often barbarous treatment of Australian animals in foreign markets, and, second, in that knowledge they have nonetheless only acted to secure the trade's perpetuation, and thus the perpetuation of the animals' awful plight.. The public interest question is this: why do we export live animals to foreign markets where the absence of any prospect of proper protection derides the very moral norm which animates and underpins the enactment of Australian animal protection statutes and standards ?
4. This in turn raises the further question of whether the relevant benchmark for judging '*animal welfare standards in Australia's live export markets*' should be the OIE standards, or Australian standards. This is dealt with below, including in respect of the important question of whether pre-stunning should accompany slaughter. The final question under paragraph 1 of the Terms of Reference must be whether the standards provided for in the relevant benchmark adopted by the Committee can be achieved in any event, and within a short time frame. It is submitted below that they cannot. The recent announcement by the federal minister for agriculture and the attendant export control orders for the resumption of live cattle trade to Indonesia fail to provide for even the most rudimentary welfare protections. The public interest and obvious community concern should have been honoured with stipulation of pre-stunning as a minimum requirement. But they were not. No steps were even specified for

“*encouraging pre-stunning*” in Indonesian abattoirs in acknowledgement of the Labor caucus motion passed unanimously shortly before the Minister’s announcement.

5. Further, the Minister’s announcement for resumption of the trade and the export control orders failed to address or extend any protection to the some 100,000 cattle presently on the ground in Indonesia but exported before June’s trade suspension. It is a test of the bona fides of government and industry bodies as to whether steps are taken to secure the humane slaughter of this substantial number of animals. Failing such intervention, there can be little doubt that many of these cattle stand to be slaughtered in facilities of the kind depicted in the Four Corners program, with their attendant inhumanity. It is understood that Australian cattle under Indonesian regulations cannot be slaughtered before 60 days after their arrival from Australia.
6. *The Australian* reported on Monday 11 July 2011 that in a joint statement by Meat & Livestock Australia and the Indonesian Beef Producer and Lot Feeder Association (in Jakarta on Friday night, 8 July, shortly before the Foreign Minister, Mr. Rudd’s talks with his Indonesian counterparts) they announced that they would upgrade abattoir practices to include stunning. However, the relevant part of the statement only said :

“Australian and Indonesian industry is committed to ensuring that approved supply chains supporting live cattle imported from Australia will meet and exceed OIE guidelines. The industry expects that these improvements in facilities will include appropriate technical devices, including stunning.

To this end, Australian and Indonesian industry is rapidly increasing the number of facilities which use stunning and other devices, ensuring they meet halal requirements...” [emphasis added]

No time-frames are specified for when it is only “expected” stunning devices will be employed. An expectation is not an assurance. Nor does it suggest a wish to be bound by a public commitment. No assurance is even offered that stunning devices will be employed in *all* abattoirs to which Australian cattle may be sent. Rather , it is said that the “*number of facilities*” with stunning devices will be *increased*. The word “rapidly” was employed rather than a time-frame specified. This statement was issued .in the face of then crucial talks by the Foreign Minister with his Indonesian counterparts for Indonesia to re-open the trade by the issue of import permits. The

joint statement was no more than a piece of ‘public relations’, and should carry little weight. In any event there remains beyond that the cultural challenge of prior sympathetic handling of the animals stipulated by OIE standards and recommendations. And there remains too all the other unsatisfactory features of the live animal export trade chain which impugn rudimentary animal welfare.

7. As to paragraph 2 of the Terms of Reference, it is difficult to appreciate how the economic impact of the abolition of live exports should weigh in deliberations on whether they should cease on moral and humanitarian grounds. When the great English parliamentarian, Lord Wilberforce, in former times sought adoption of a Bill to end the slave trade, the economic impact upon employment, and investment in docks, ships and warehouses, was argued to be a sufficient reason to oppose its passage. Ultimately, of course the slave trade was abolished in 1807 by the English parliament, despite fierce opposition based upon the economic impact.

There have been a number of reports on the domestic economic impact of abolition of the live export trade within Australia, ranging from Hassel (July 2006, prepared for MLA and LiveCorp)¹, to WSPA (2009) and RSPCA (Australia) (2009).

However, in this context it is pertinent to note that during the last 20 years or so the beef industry progressively shut down processing plants in Australia’s north in order to earn about 10 cents a kilogram more from live exports, no matter the consequence for the animals’ welfare. The Northern Territory abattoirs at Tennant Creek and Katherine were closed, with the one at Katherine closing more than a decade ago. There are only four small abattoirs in the Territory, but with a capacity of fewer than 50 animals a week.

8. In any event, as a matter of basic welfare, the place of slaughter should be close to the point of production. By far the best solution, it must be said, lies in re-establishment of abattoirs in Australia’s north. Presently, there does not appear to be an abattoir above a

¹<http://www.liveexportcare.com.au/LatestNews/Archive/Live+exports+vital+to+economy+and+rural+communities.htm>

line drawn from Townsville in the east down to Perth in the west. The major cattle live exporter, AAco, has flagged establishing an abattoir in Darwin.² The Queensland minister for primary industries has also flagged the necessity to re-establish abattoirs in Australia's north. By media release dated 6th July 2011³ Tim Mulherin said:

Over-dependence on a single export market and the lack of competition for meat processing capacity in northern Australia are significant issues for the industry... The suspension of the live export trade by the Federal Government highlighted these problems and put more than 60,000 tonnes of beef a year at risk.

... strategically-located abattoirs could have access to over 3 million cattle in north and northwest Queensland.

An enormous swathe of Australian cattle country currently isn't served by local meat processing facilities - if you draw a line diagonally from just above Townsville to Perth, you would find no abattoirs north of this line.

A new abattoir could reduce the need to truck cattle large distances to southern processing plants and provide alternative markets for producers.

Last year about 100,000 head were exported from Queensland ports while about 3.5 million head were processed at Queensland abattoirs.

9. As to paragraph 3, 'Other related matters', the case is briefly put as to why live animal exports should cease immediately, having regard to our conclusion that satisfactory animal welfare standards cannot be secured in foreign live export markets.

Paragraph 1, Terms of Reference

The Keniry Report, and amendments to the Commonwealth legal regime

10. In August 2003 the *Cormo Express* sailed haplessly in steamy Middle Eastern waters (after a long journey), unable for some weeks to dock and unload its cargo of some 100,000 sheep. Following this calamity the Keniry Review was commissioned by the federal government, and announced by the federal minister for agriculture on 30 March 2004. Indeed, prior to the *Cormo Express* incident, LiveCorp was substantially more responsible for the conduct of the trade. The Keniry Report, in broad summary, recommended greater federal government involvement in regulation of the trade. The Government's response was to amend the *Australian Meat and Live-Stock Industry Act*

² <http://www.theaustralian.com.au/business/aaco-mulls-building-top-end-abattoir-as-southeast-asian-nations-stop-taking-live-cattle/story-e6frg8zx-1225942435246>

³ <http://www.mysunshinecoast.com.au/articles/article-display/queensland-welcomes-lifting-of-live-export-suspension,22122>

1997 and the *Export Control Act* 1982. These amendments were made by the *Agriculture, Fisheries and Forestry Legislation Amendment (Export Control) Bill* 2004 to provide, in summary, for increased government regulation of the live animal export trade.

LiveCorp and Meat & Livestock Australia: animal welfare expenditure

11. Yet thereafter LiveCorp's sole focus remained the perpetuation of the trade. And it is contended that industry has only engaged in nominal gestures to improve handling and slaughter practices in Indonesia and, for that matter, the Middle East, having regard to the scale and acuteness of animal maltreatment.

12. The 4 Corners program footage showed how industry endeavours to improve practices have been but cosmetic (eg. a restraining box), and have patently failed to secure even the most rudimentary welfare standards, let alone an end to barbaric handling and slaughter practices. By a media release dated 6 June 2011 Meat & Livestock Australia, Cattle Council of Australia and Australian Livestock Exporters' Council could only nominate five Indonesian facilities '*...as using stunning effectively...*', despite claiming a preliminary audit of the 100 processing facilities. The Indonesian Beef Producer and Lot Feeder Association and Meat & Livestock Australia were reported in *The Australian* , p.2 on 11 July 2011 as claiming there are now 11 facilities that use stunning. The live cattle trade with Indonesia has subsisted for some 20 years. Yet a doubling of the processing facilities using stunning only occurred within the few weeks following the suspension of the live cattle trade with Indonesia.

13. The history of expenditure and efforts to promote or improve animal welfare standards in all Australian live export market countries appears to have been more directed to appeasing public concerns and drawing a veil over the welfare consequences of the trade than any endeavour to address the welfare challenges in a meaningful manner. These concerns first arose in particular with the expose by '60 Minutes' in early 2006 of the treatment of live cattle exported to Egypt for slaughter at Cairo's major abattoir, Bassateen. The public outcry was significant. We examine below the case example of the trade in live sheep and cattle to Egypt. It is instructive as to the role and

effectiveness of industry bodies and government. The history in broad terms is not dissimilar to that now evident in Australia's live cattle trade with Indonesia. It will be known that eventually live animal exports to Egypt were banned, save for one internationally supervised abattoir at Ain Sukhna, where the unloading, handling and slaughter of cattle can be monitored as one.

14. The meagre expenditure by Meat & Livestock Australia on promoting animal welfare in foreign live export markets has been well canvassed in the Australian press. It is not proposed to re-iterate the examples given, unless the Committee should invite the Panel to do so. One example should illustrate the complaint. Meat and Livestock Australia spent about \$900K in 2009-2010 promoting live Australian cattle and processed beef throughout the Indonesian market place, which takes 520,000 Australian cattle each year at a value of \$300M. But only \$380K of Meat & Livestock Australia funds was directly employed in 2009-2010 to purportedly endeavour to make slaughter practices more humane: see *The Australian*, Thurs 2 June 2011, p.8.
15. One of the abattoirs in Gondrong featured in the Four Corners program had been visited on no less than six separate occasions by MLA personnel in the last 14 months.⁴ Despite concerns about adequate training, export of live cattle to this abattoir continued.⁵ No public expression of concern was made by MLA.
16. LiveCorp has committed \$1M over the next year to improve animal welfare in Indonesia. Over the last ten years LiveCorp has invested almost four million dollars.⁶ In the Four Corners program LiveCorp claimed it had been promoting animal welfare standards by way of programs from shortly after the time the export of live cattle to Indonesia commenced in 1993. The fact that only five abattoirs were identified '*...as using stunning effectively...*' in the media release dated 6 June 2011 referred to above, points up, without more, the failure of such programs to achieve rudimentary welfare protection.

⁴ Four Corners Transcript with Cameron Hall, CEO Livecorp available at: <http://www.abc.net.au/4corners/content/2011/s3230842.htm>.

⁵ Ibid.

⁶ Four Corners Transcript with Cameron Hall, CEO Livecorp available at: <http://www.abc.net.au/4corners/content/2011/s3230842.htm>.

Another example is the program designed by MLA and LiveCorp for provision of cattle restraint boxes in Indonesian abattoirs. These restraint boxes were lauded as one of the pillars of the regime to improve animal welfare. Instead, the Four Corners program showed how these restraint boxes were used to torment the animals, leading to Professor Temple Grandin to describe slaughter involving their use as ‘atrocious and completely unacceptable’. The LiveCorp/MLA program established 103 restraint boxes in Indonesia since 2001.

17. Or gain by way of example, the boasts by MLA and LiveCorp in their 2009 report *Live Trade Animal Welfare Partnership 2009/10 Final report – Public Release Indonesian point of slaughter improvements*⁷ illustrate the margin between touted improved welfare and the later reality of abattoirs exposed in the Four Corners program. Their report also illustrates the veil the industry sought to draw over any concerns that welfare issues were not being addressed. Take the Executive Summary of this report:

Executive Summary

Indonesia is Australia’s largest live cattle export destination. A key focus of the MLA and LiveCorp Livestock Export Program (LEP) is to ensure that suitable facilities are available for the processing of Australian animals so that they are handled and slaughtered humanely. These are also key concerns of the livestock export industry and the Indonesian importers and feedlotters. Significant improvements have been made at the point of slaughter over the past 3 years through the installation of 96 restraining boxes and the development of Standard Operating Procedure (SOP) training modules. This project builds on the investments made by the Australia Government and the livestock export industry to improve animal welfare in Indonesia. It focused on reviewing and maintaining the existing restraining boxes, assessing the need for additional infrastructure to improve animal welfare including installation of 10 Mark I restraining boxes, delivering training in SOPs to 50 locations and investigating the feasibility of implementation of stunning. This project also conducted an independent assessment of the effectiveness of the projects delivered in South East Asia (to date) in delivering improved animal welfare outcomes; including facilitating a tour of the region by a team of independent animal welfare experts (4) to observe and report on improvements and the effectiveness of industry and government investments.
[emphasis added]

18. It is now apparent that the federal government, MLA and LiveCorp all knew of unacceptable animal welfare practices in the Indonesian live cattle market. It is thought

⁷ http://www.daff.gov.au/__data/assets/pdf_file/0005/1886477/indonesia.pdf

unnecessary to rehearse also the admissions by MLA and LiveCorp of their knowledge of barbaric practices in Egyptian abattoirs in respect of Australian cattle. These were well documented in any event after the '60 Minute' expose in early 2006. It will be recalled that these practices included tendon slashing and eye stabbing. These practices were redolent of practices employed in Indonesian abattoirs depicted in the Four Corners program.

19. The key criticism about monitoring and reporting structures in Australia's live export markets is that they are left, in effect, to industry. Those most concerned to perpetuate the trade are left to police it. The last 20 years of the trade with Indonesia, or for that matter with the Middle East, is a shameful record. Simply put, the monitoring and reporting processes have been used to conceal poor animal welfare so that public support for the industry is not imperilled.

Expenditure by the Australian government

20. The federal government 2009-10 budget provided for expenditure of \$1.6 million for improving animal welfare standards in overseas markets.⁸
21. Having regard to the scale of welfare challenges in Indonesia, such sums cannot be viewed as remotely adequate. Indeed, these sums would enable only cosmetic gestures to be made. The welfare challenge for live animals exported to foreign markets remains dire, and unaddressed.

The federal department of agriculture

22. We are unaware of any prosecutions or disciplinary proceedings or action taken of any substance by the federal department of agriculture or its delegate, AQIS in relation to breaches of welfare Standards prescribed by the department's Secretary. Indeed, AQIS documents obtained under FOI applications show that, despite AQIS claims in recent years that it had made "full reports" of "high mortality investigation reports" on its website, these claims were untrue. In fact, AQIS had 'sanitised' its reports by deleting

⁸ See <http://www.daff.gov.au/animal-plant-health/welfare/export-trade>.

evidence of export licence breaches by its “clients”, namely export licence holders. AQIS later rectified this. The difficulty for the department is that it suffers from the most self-evident conflict of interest. It views itself as ‘the friend of industry’. There is nothing wrong with that, so far as it goes. However, the most self-evident conflict of interest arises where the department is also the principal agency for administration and enforcement of animal welfare standards in Australia. It is a co-regulator of the trade with LiveCorp. It has power to enforce breaches of welfare standards prescribed by the Secretary. Indeed compliance with such standards is a condition of export license by operation of statute. This arises as follows:

- (a) the relevant *Australian Meat and Livestock (Standards) Order* as amended (and made by the Secretary under section 17 of the Act) provides:
“The holder of a live-stock export licence must not export live-stock except in accordance with the Australian Standards for the Export of Livestock...”
- (b) by section 17(1), *Australian Meat and Live-stock Industry Act 1997*, the Secretary may make written orders or given written directions not inconsistent with the regulations to be complied with by the holder of an export licence; and importantly, by section 17(5)(a) an export licence is subject to “the condition” that the holder of the licence must comply with orders made under this section;
- (c) accordingly, compliance with the relevant *Australian Meat and Livestock (Standards) Order* is a “condition” of any export licence;
- (d) further, section 8(3), *Export Control Act 1982* makes it an offence to export prescribed goods “in contravention of the conditions”, “sheep” for example having been declared to be prescribed goods under the *Export Control (Animals) Order 2004*, Regulation 1.04(a)); and we have concluded that the “conditions” referred to in section 8(3) can only be construed as including conditions to which a live-stock export licence under the *Australian Meat and Live-stock Industry Act 1997* is subject (see paragraph 52 below);

We can identify for the committee the source of statutory power to enforce these Standards if desired.

23. The failures of the federal department are most recently distilled by a report on the front page of *The Australian* on 13 July 2011. The report noted that the present minister, Senator Ludwig, was warned in his first departmental briefing as agriculture minister about the failure of the live export industry to properly address concerns about animal welfare. Apparently, the Red Book recommended the government ‘exercise leadership and influence outcomes’ through its role as the live export trade regulator and its management of the country’s animal welfare strategy. The Red Book further noted that ‘if not appropriately handled’, animal welfare concerns could threaten the long- term viability of several livestock industries. The Red Book was handed to Senator Ludwig 8 months before the Four Corners program screened on 31 May 2011. The foregoing shows that the department looked to its political masters for a decision to address welfare standards instead of taking the initiative itself in fulfilment of its statutory responsibility. No doubt, the department’s sensitivity in this respect stems from its self-perceived role as a ‘friend of industry’. But it is a sad indictment of the department: it can only be taken to have abdicated its public responsibility.
24. Further, in Adelaide’s *Advertiser* on Thursday 14 July 2011, it was reported that the South Australian minister for agriculture, Michael O’Brien would put to a meeting of agriculture ministers in Perth that day a proposal for mandatory stunning of all livestock before slaughter in Australia, including for ritual slaughter such as halal and kosher slaughter.. *The Advertiser* reported that there are 250,058 animals slaughtered in Australian abattoirs each year without being stunned. Mr. O’Brien noted that the issue of stunning had been on the agenda of agriculture ministers (presumably the Australian Primary Industry Ministerial Council) ‘for several years without resolution’. He made the point that it was hypocritical to be criticising Indonesia for not stunning livestock imported from Australia when it’s not mandatory here. Such exemptions for ritual slaughter of animals without pre-stunning arose in recent years by reason of the exercise of federal power by the federal department of agriculture, although administration is and was left to local authorities, such as Primesafe in Victoria. It is understood that overall supervision exists under the auspices AQIS as the federal department’s delegate.

25. The short point is that the creation of these exemptions for slaughter of animals without pre-stunning arose from initiatives taken by the federal department of agriculture. The department's initiatives display an abysmal disregard for basic animal welfare, and the poor culture on animal welfare that exists within the department. It may have brought concerns about live export welfare to the notice of its minister some 8 months before the Four Corners program. But in doing so it only highlighted how the department had taken no steps to protect animals in the live export trade, and instead sought to buck-pass any action on animal welfare to its political head. Worse, the department has been aware of the animal welfare problems in the live animal trade for many years. This is taken up further below. Perhaps the most recent example of the department's failure to protect welfare was the grant of the export permit (as distinct from the annual export licence) for the *Hereford Express* to sail from Darwin's Easter Arm Wharf on Wednesday 1 June 2011 for Cilacap in South Western Java and a further export permit for the loading and departure from Broome WA of another full load of live cattle of *Sahiwal Express* on Thursday 2 June 2011. These shipments were undertaken before new orders could be prepared and take effect to suspend the trade in animals to 12 designated Indonesian abattoirs. Yet, according to the *The Australian* (2 June 2011, p.4), the federal minister refused to answer questions on whether he had authorised export permits for the two cattle shipments. The shipping agent, Dubai-based Gulf Agency Company, refused to comment on the *Hereford Express* shipment. The ship owner, Vroon, said the shipment was 'commercial-in-confidence';
26. Whilst Meat and Livestock Australia in particular has borne the brunt of much criticism, the federal department of agriculture is the cultural obstacle in Australia to the protection of animal welfare standards generally, and in particular in respect of animals in the live export trade. This will be illustrated further below in the context of the department's performance in failing to protect animal welfare in the trade of live sheep and cattle with Egypt.

Two formidable challenges to humane outcomes

27. Whatever maybe the expenditure on promoting animal welfare standards by industry bodies or government, there are two formidable challenges to any Australian endeavours to secure humane outcomes in Indonesian abattoirs. First, once the animals

are disembarked dockside in Indonesia, Australian jurisdiction ceases. In particular, it is understood that our cattle under Indonesian regulations cannot be slaughtered before 60 days after their arrival from Australia. The cattle are sent to feedlots before despatch to local abattoirs, where they cannot be traced. We are aware that it is now proposed that electronic monitors be employed to trace Australian cattle, but the purported ‘independent’ auditors stipulated in the minister’s recent announcement will be paid for by industry. They cannot therefore be viewed as independent, and thus the public interest has been failed. This is just more of the same cosmetic gestures that characterise regulation of the trade by the federal department of agriculture.

28. The second and almost insuperable difficulty is ‘cultural’. It is the same almost insuperable difficulty of a cultural and traditional attitude towards animals evidenced in the Middle East in respect of Australian exports of live sheep and cattle.

In Indonesia the ‘cultural’ difficulty was put in these terms by Muhammad Nur Hendri, the operator of an Indonesian abattoir at Gondrong (identified as unsatisfactory by the RSPCA and Animals Australia), namely-

It’s about culture but I don’t know how to explain: see The Age newspaper, 2 June 2011, p.6.

The ‘cultural’ difficulties were canvassed in an article in the *Courier Mail* on 4 June 2011, pointing up how workers at the Gondrong abattoir “*don’t appear to see anything wrong with their way of doing things*”.

Or again, Johnny Lian, head of the meat industry association, said workers focus on the Islamic halal killing and forget that it includes not making the animal stressful: see *The Age newspaper, 2 June 2001, p.6;*

29. Further, there are no satisfactory laws in Indonesia providing for the humane handling and slaughter of animals; no penalties for breach of such laws as do exist; and no enforcement. This must be taken to have been known by LiveCorp, the Meat and

Livestock Association, and the federal department of agriculture, alternatively, if not , it should have been;

OIE standards or Australian standards

30. The World Organisation for Animal Health (known as OIE) publishes a *Terrestrial Animal Health Code*. The aim of the Terrestrial Code ‘...is to ensure the sanitary safety of international trade in terrestrial animals and their products’. This is achieved, the Terrestrial Code notes in its introduction ‘...through the detailing of health measures to be used by the veterinary authorities of importing and exporting countries to avoid the transfer of agents pathogenic for animals or humans, while avoiding unjustified sanitary barriers’. These health measures in turn are set out in the Terrestrial Code in the form of standards and recommendations
31. Chapter 7.5, ‘*Slaughter of Animals*’, of the Terrestrial Code provides for recommendations. Article 7.5.2 provides for recommendations for the moving and handling of animals, nearly all of which under ‘*General Considerations*’ were seriously breached by Indonesian abattoirs as depicted in the Four Corners program . Article 7.5.7 deals with stunning methods. It would appear to be longest Article in chapter 7.5 and is replete with diagrams of methods of stunning. This emphasis cannot be thought to be unintended, given the length and detail of the treatment of stunning methods. Article 7.5.9 deals in tabular form with a summary analysis of slaughter methods ‘and the associated animal welfare issues’. The slaughter methods include bleeding without prior stunning. The Article here is directed to matters such as the employment of a sharp knife; avoidance of the use of the point of the knife to make the incision; and welfare implications arising from the failure to cut relevant arteries. The OIE is a world body comprising 178 members. It is not surprising therefore that it should list in chapter 7.5 methods of slaughter without pre-stunning, having regard to its broad membership and the use of slaughter methods without pre-stunning by member ‘developing’ countries. This is an acknowledgement of reality rather than preference. The preference of the OIE for the method of slaughter can be inferred from the heavy emphasis in chapter 7.5 upon stunning methods.

32. Regrettably these recommendations in chapter 7.5 have been ‘talked up’ by government and industry bodies as ‘international welfare standards’ with which the live animal export trade will comply in resuming the trade of live cattle to Indonesia. The notion of ‘compliance’ and the use of the phrase ‘international welfare standards’ are intended to convey the quite misleading impression that the welfare of the animals is thus protected. Yet no one from government or industry has been heard to say publicly that slaughter without pre-stunning is humane. Disingenuously, the Prime Minister and Dr Craig Emerson as government spokespersons have each stated publicly that ‘Australian standards’ do not mandate slaughter with pre-stunning. It would be appreciated that this can only be so in respect of the exemptions granted to enable halal and kosher slaughter without pre-stunning. This is referred to above in respect of the South Australian agriculture minister’s proposal to APIMC to stop ritual slaughter without pre-stunning in Australia.. The exemptions created for some 15 abattoirs for halal slaughter without pre-stunning is for the purpose of small export orders, and have only been created in recent years by the federal department of agriculture. Overwhelmingly in Australia humane procedures are employed for the slaughter of sheep and cattle.

The case example of live sheep exports to Egypt

33. Against this background, and in light of the reference in paragraph 1 of the Committee’s Terms of Reference to ‘...all Australia live export market countries’, we turn to the recent history of Australia’s trade of live sheep and cattle with Egypt. This case example illustrates how any object of securing humane outcomes is bound to fail. Even the slaughter of live cattle at the port of Ain Sukhna cannot be viewed as satisfactory as, so far as we are aware, no ongoing properly independent and public scrutiny exists, and it assumes all the antecedent steps in the live export chain can be viewed as satisfactory.

34. In February 2006, the federal minister for agriculture, Peter McGauran, suspended the live trade in animals to Egypt. This followed the public outcry generated by the ‘60 Minutes’ exposé of the brutal treatment of cattle prior to slaughter at Cairo’s major abattoir, Bassateen. Video footage broadcast by the program showed cattle subjected

by abattoir workers to the slashing of their flanks and leg tendons and the stabbing by knife of their eyes in order to render them more amendable to handling and Halal slaughter. There were media reports too on the abuse of Australian sheep in the lead up to the *Eid Al Adha (Feast of Sacrifice)* in Cairo, where sheep were shown trussed and loaded into car boots in a region known for soaring temperatures, or tied atop vehicles, before later having their throats cut by untrained and unskilled private purchasers.

35. In October 2006 the Australian Government recommenced live animal exports to Egypt on the basis that two Memoranda of Understanding had been signed by the two governments. The principal MOU was on Handling and Slaughter of Australian Live Animals. This MOU required that international animal welfare guidelines established by the World Animal Health Organisation, known as OIE⁹, apply to the handling of Australian livestock, namely, sheep and cattle. In addition, there were some specific handling requirements for Australian cattle, but not for sheep.

36. As noted above, the OIE recommendations do not as such require pre-stunning before killing. Killing, according to Halal prescription, is by slitting the throat and bleeding out the animal.¹⁰

37. By media release dated 13 February 2007, the Minister acknowledged there had been “some appalling cases of animal cruelty detailed in a report released late last year by

⁹ The OIE is based in Paris and represents 168 member countries, including Egypt (see www.oit.int). In 2006 the OIE adopted 4 animal welfare Guidelines under its Terrestrial Animal Health Code.

¹⁰ Halal slaughter requires that the animal:

- (a) be faced to Mecca;
- (b) be dedicated verbally to the prophet prior to cutting its throat;
- (c) not be killed in the presence of others;
- (d) not be bound before slaughter;
- (e) be killed with one swift cut to the throat, causing as little pain as possible; and
- (f) be treated kindly.

In Australia, Halal slaughter also requires the animals be stunned (rendered unconscious) prior to slaughter. In contrast, in larger Middle East abattoirs where approximately 2,000 to 3,000 sheep would be slaughtered each night, it is common practice to drag a sheep by its hind leg (away from a watching herd), turn the sheep upside down over a drain (often where other sheep lie whose throats have just been cut and are still writhing), cut the throat of the sheep (frequently taking three separate motions to sever the windpipe and major blood vessels), then leave the conscious sheep to “bleed out”. This falls greatly short of Halal requirements.

animal welfare group Animals Australia". This report documented eye witnessed breaches by the hundred of the provisions of the Australia/Egypt MOU¹¹. These breaches arose from the first and only shipment of sheep aboard the *Maysora* after resumption of the trade to Egypt. Destined originally for Israel, some 40,000 sheep were ultimately unloaded in Egypt. Only some 20,000 or so were sent to the abattoir, a shocking process as it was by reason of uncaring handling and Halal killing without pre-stunning. But worse, some 20,000 were sold to private purchasers. As a result, Mr. McGauran wrote to his Egyptian counterpart in March 2007 asking for a report on those alleged breaches. Some four months later, he was yet to receive a reply. As a result, the trade was informally suspended.

38. Mr. McGauran in his media release of 13 February 2007 also said that:

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- ¹¹● Individual Australian sheep selected by buyers were witnessed to be routinely dragged by one or more legs, horns, wool or head to be weighed by employees at all facilities.
- All sheep purchased by individual buyers had two front legs and one rear leg tied with rope/twine before being weighed.
 - Sheep were then routinely dragged by one or more legs, horns, wool or head; lifted by their trussed legs or by horns, wool or head and loaded in the vehicle of the buyer.
 - Trussed sheep were then shoved into car boots of buyers. On a number of occasions two or three sheep were shoved in small boots together. Through the assistance of their interpreter, investigators were able to ascertain that many purchasers were transporting sheep in their boots for one or two hours to homes in other cities.
 - On one occasion three trussed sheep were tied onto the roof rack of a car. Investigators followed the car and observed the sheep struggling and defecating whilst the vehicle travelled on a busy autostrad with horns blaring as is customary in Cairo. These sheep were being transported to Nasr City, 90 minutes from Cairo.
 - Selling facilities offered a delivery system for multiple orders which entailed sheep being trussed and crammed together on their backs with trussed legs in the air and then tied to the back of the tray of small trucks.
 - No selling facility had a loading or unloading ramp. Investigators witnessed that sheep being transported from one selling location to another would be tossed or manhandled onto the back of a truck and then pushed from the truck from a height of not less than one metre onto the ground. On one occasion this resulted in sheep falling onto their sides, panicking and running into the middle of a major freeway.
 - Australian sheep purchased were 'destined' to be slaughtered on the morning of the Eidal-Adha at the home of the purchaser who has had little if any training in slaughtering animals.
 - Neither a government official from Egypt or Australia, nor an Australian livestock representative, was seen at any selling point of Australian sheep in Cairo.
 - One of those primarily responsible for ill-treatment of Australian sheep and for continual breaches of the MOU was Ahmed Jalal of the Saedi International Livestock Corporation who told investigators that he was the importer of the Australian sheep. Jalal invited investigators to watch his slaughtermen kill Australian sheep on the morning of the Eid (30th December). Investigators documented the slaughter of three Australian sheep who were manhandled and dragged through the blood of other dying animals, before having their throats cut.
 - Whilst in Cairo, at different locations, investigators documented brutal abuse of cattle prior to and during slaughter, including having their leg tendons cut to disable them for the throat cut, proving that this practice is routine.

“a ban on exports of sheep to Egypt meant someone else would simply take Australia’s place”.

But the Minister was responsible for the welfare of Australian export sheep, which in Australia were required by law to be treated according to certain standards. Pausing there, it should be said here that his argument was not new. It had its antecedents in opposition to Wilberforce’s Bill for the abolition of slavery. Opponents of Wilberforce’s Bill suggested that the English supply of slaves if ceased would simply be replaced by France. With live cattle exports to Indonesia, we hear the same argument advanced that our cattle exports to Indonesia would be taken up by say Brazil.

First, Australia can end the suffering of these millions of animals each year. The power of our example will in time exhort others to do likewise. This is what happened around the world with the abolition of the slave trade by England first in 1807, and at a time when there were no instant and mass means of communication. Ultimately though, the short point is this: should a trade be maintained where it relies, as Lord Wilberforce put it, upon the ‘devastation of another’.

39. Returning to the minister’s media release of 13 February 2007, the minister continued:

“There are some appalling instances of sheep handling, no doubt about it at all”.

And then he added:

“We’re working with Egyptian authorities to better educate the population on how to more humanely handle sheep”.

In reply it can be said that, first, whether by reason of culture or otherwise, the attitude to animals in Egypt or other Middle Eastern countries is entirely at odds to those prevalent in Australia. For a start we have animal welfare laws, and we recognise in our treatment of them they can suffer pain, torment, fear and terror.

40. Second, Mr. McGauran also said in the media release that:

*“... a ban on livestock exports would remove any incentive for Egypt to work with Australia to improve animal handling standards”.*¹²

¹² Presumably in the case of a ban, the question of any incentive would not arise. It is for each exporting nation to squarely address the welfare question and cease the trade. It is difficult to appreciate the

In this respect, the Estimates hearing before the Standing Committee on Rural and Regional Affairs and Transport on 23 May 2007 is instructive. In answers provided by departmental officer, Mr. Morris, the limited means proffered by any Australian attempt to improve animal handling standards in Egypt was outlined., together with the almost insuperable difficulties perceived by the department to be posed by Egyptian sovereignty, and thus tacitly to be posed by Egyptian cultural attitudes to animals.

As to what Australia does to “try to influence the countries in the region to improve their handling conditions and the slaughter/feedlot conditions in those countries”, Mr. Morris continued (and for clarity his answer is interleaved with bullet points):

“We do that through a combination of:

- *“the efforts that Dr. Kiran Johar makes in terms of travelling around the region”;*
- *“the money we put in through the technical cooperation money”;*
- *“as well as working very closely with industry – Meat and Livestock Australia and LiveCorp, who also allocate money for doing technical cooperation activities and capacity building in the region”.*”

Finally Mr. Morris noted:

“It is very much a joint effort between us and industry in terms of trying to improve those standards.”

In this respect, a government is revealed which looked to work in tandem with an industry which had always sought to perpetuate the trade, no matter the welfare consequences. This was the government’s starting point.

41. The role of Dr. Kiran Johar, the person referred to as making efforts in terms of travelling around the region, was described a little earlier in Mr. Morris’ testimony (at page 30 of the transcript) in these terms:

“Mr. Morris:

mainspring of a suggested public duty or moral responsibility which dictates animals be exported to be subject to inhumane treatment, in the hope that an incentive will arise for less inhumane treatment by the importing country.

Kiran's job in the Middle East is pretty much the same as the job of our counsellors all over the world, and that is to represent Australia's interests and in particular the interests of this portfolio in advancing our market access and other issues in that region. Kiran represents our portfolio and the Australian Government on agricultural issues throughout the Middle East region. I think he covers about 15 countries. A lot of his work, to be frank, in the last couple of years that he has been there has been very much focused on the live animal issues because of the significance of those issues in the region. He has played a very important role in terms of the negotiations of the Memorandum of Understanding that we have been doing in that region. But his work is not exclusively limited to that. He does pursue meat, horticultural and other issues as they arise."

Accordingly, only some 4 years ago, Dr Johar's responsibility as Australia's representative to improve animal handling standards in Egypt was, without the slightest criticism of him, dealt with by him in the course of covering market access and other issues with some 14 or 15 other countries, apart from Egypt, right across the Middle East region. Having regard to the Egyptian Minister's failure to respond to the Australian Minister's letter handed over by our Ambassador in Egypt in March 2007, it is difficult to appreciate the Minister's assertion that:

"... a ban on livestock exports would remove any incentive for Egypt to work with Australia to improve animal handling standards".

42. Further, asked by Senator O'Brien (at page 35 of the transcript) as to what is proposed for monitoring future shipments, Mr. Morris said:

"For cattle, we have a commitment in place that we will, for the first few shipments at least, if not beyond that, monitor very closely – that is, we will have people on the ground on arrival of those cattle to make sure that the new arrangements, particularly the specific ones for cattle, are being adhered to so that we can be assured that those measures are being met. We will do that at least for the first couple of shipments and then we will have to make a judgment as to whether we need to continue to do that in the future or whether we can rely on the systems in place."

Senator O'Brien then asked: what about sheep, to which Mr. Morris responded:

“In light of the reports that came out of the previous shipment [meaning here the Mysora shipment], I think we are going to have a look at what the Egyptians come back to us with and then we will have to make an assessment on how we manage that in the future. I should say, though, that because some of the sheep go to slaughter in an abattoir and some go to the private system they are fundamentally much more difficult to track and monitor than the cattle. There is always going to be much greater difficulty in monitoring what happens to the sheep than what will happen to the cattle.”

43. Senator O'Brien then asked whether it was possible for Australia to only permit the export of sheep for slaughter in acceptable facilities, as Australia did for cattle (at pages 35-6 of the transcript)¹³. Mr. Morris responded:

“That would be quite difficult, given the traditional marketing and trade patterns into that region. It would start to raise issues not just about Egypt but potentially about other countries as well, so in making a decision along those lines we would have to take into account what happens more generally in other parts of the world and consider the precedent that might set.”

Asked by Senator O'Brien whether Mr. Morris was saying that the issues about home slaughter would probably be the same in all of the markets, Mr. Morris responded:

*“There could be some issues in other markets; that is right.”*¹⁴

44. In summary then, this transcript enables it to be fairly concluded that, despite the cultural attitude in Egypt historically to animals and, for that matter, across the Middle East, the federal department of agriculture was prepared to only monitor at least “the first couple of shipments” of cattle under the MOU with Egypt, including the

¹³ For example, section 12 of the *Australian Meat and Livestock Industry Act* 1997 could be amended to provide it be a condition of an export licence condition that an exporter not sell animals to other jurisdictions without a contract with the importer guaranteeing slaughter will meet OIE standards, for instance. Penalties could apply to any Australian exporter who fails to secure or enforce such a contract.

¹⁴ Contrast the position with cattle. The Australian Government, Department of Agriculture, Forestry and Fisheries home page, ‘Frequently Asked Questions: Live Export Trade – Egypt’ states:

“... However, Australia will not export cattle until the Government and industry are satisfied that the necessary infrastructure and procedures outlined in the *MOU on Handling and Slaughter of Australian Live Animals* have been established and are fully operational.”

additional specific handling requirements of cattle agreed. This hardly equated to the long-term challenge of improving treatment of Australian export animals in Egypt. Nor, it seems, was this challenge to be addressed other than on a short-term basis.

45. More fundamentally, the then federal minister for agriculture said he only sought to “*improve*” animal handling methods, and for Egypt’s population to “*more humanely handle sheep*”. He did not seek secure humane outcomes as such. Yet publicly on its website the federal department of agriculture otherwise proclaimed in the context of the ‘live animal export trade’ that:

*“The Government does not tolerate cruelty towards animals and will not compromise on animal welfare standards. Our ongoing involvement in this trade provides an opportunity to influence animal welfare conditions in importing countries”*¹⁵.

46. As to sheep, Mr. Morris’ testimony exposed the reluctance to suggest the prohibition of home or private slaughter (by way of only authorising export to Egypt of sheep bound for abattoir slaughter). The reason? Because of the precedent it may set for trade with other Middle Eastern countries. The focus then was plainly on the dollar only, not welfare. Abattoir slaughter was agreed for cattle, but not for sheep. No intention existed on the part of the Australian Government to only authorise export of sheep which were bound for abattoir slaughter, despite the very substantial numbers and barbarity of private handling and slaughter. It is difficult to see on what basis this distinction in permissible treatment of two species of livestock is explicable other than by reference to money.

Asked about this by Senator O’Brien, Mr. Morris responded (at page 36 of the transcript), inter alia:

“Our approach generally in the region has been to ensure that the welfare of the animals is protected right up to the point of unloading and then to work with the governments in the region in terms of issues beyond the point of unloading. When it is the responsibility of the governments in those countries for the animal welfare

¹⁵ Australian Government, Department of Agriculture, Fisheries and Forestry Home Page, ‘Live Animal Export Trade’: http://www.daff.gov.au/_data/assets/pdf_file/0003/157422/faq_egypt_14feb07.pdf

generally in those countries, it is difficult for us to make demands on them which we do not have the power to enforce. Egypt is the somewhat unusual situation where we've gone one step further because of the problems that were raised there and we've sought to put additional requirements in place. But generally that is something that is very difficult to do in most countries because it goes beyond the powers we have to control those issues."

It is thus plain that the endeavours of the federal department of agriculture to improve the manner of treatment of Australian live cattle or sheep was an empty gesture, and that it all but acknowledged it was unlikely to produce improvements in the face of the importing country's sovereignty.

Paragraph 2, Terms of Reference

47. We refer to and repeat comments in paragraph 3 and 4 above.

We would only add a few brief salient points. First, Australia's meat processing industry is five times more lucrative than live animal exports. The direct and indirect value of the meat industry in Australia is approximately 17 billion dollars. It employs some 55,000 workers. The live animal export trade by contrast is some 1 billion dollars. Second, one report commissioned in 2010 by Australia's leading meat processors- Teys Brothers, Swift Australia and Nippon Meat packers Australia suggested the live export market is 'cannibalising Queensland's beef processing industry' worth 36,000 jobs. Third, new markets for a higher value chilled meat product would be found in the short to medium term.

48. In this last respect, parts of a report which appeared in *The Australian* on 23 October 2010 under the heading "*AAco mulls building Top End abattoir as Southeast Asian nations stop taking live cattle*" bear repetition. Self-evidently, this report was published long before the storm which followed the screening of the 4 Corners program on 31 May 2011. Relevantly, the report noted:

But Indonesia is now following the lead of other Southeast Asian countries, such as

The Philippines and Thailand, in trying to build up its own domestic beef industry, and is cutting its imports of Australian cattle, large ones in particular. This move, in turn, is leading to moves to build a major new abattoir in Darwin to service the territory beef industry, which suddenly finds itself with a surplus number of large beasts. For more than a decade, Indonesia has had a ban on importing beasts weighing more than 350kg, but this has not been enforced until the past year...

The results of the Indonesian action have been immediate. While last year there were more than 500,000 live cattle exported from Darwin to Southeast Asian countries, this year the figure is expected to be below 350,000...

A briefing paper prepared by AAcO states that the company currently has 300,000 cattle in the territory and of those, about 40,000 head are cows or other cull cattle that require alternative marketing options.

If this is extrapolated across the whole of the Northern Territory herd of 2 million cattle, there are about 265,000 cattle every year in the territory requiring an alternative market, or 1200 cattle per day for 44 weeks of the year.

Northern Territory Cattlemen's Association head Luke Bowen said that more than 80 per cent of territory cattle were shipped live to Indonesia and as such the local industry was concerned about relying on the one market.

He said that an abattoir could create a new chilled and frozen meat trade for the territory.

"We've had problems in the past with continuity of supply as well as labour -- housing costs in the territory now are very high and that affects the number of people who've been available to work in an abattoir," Bowen said.

"But what's different now is that we have a lot of beasts being put on transport and taken interstate, and it's more economic to have them slaughtered here."

A new abattoir would cost \$35 million with land and other associated costs of about \$12.5m, while the company still needs to work out a deal regarding supplies of gas, electricity and water.

Farley[AAcO's ceo] said yesterday that if other cattle producers and the government came on board, the plant could be running by April 2012.

Paragraph 3, Terms of Reference

49. The Panel takes the view that the trade in live cattle to Indonesia should cease immediately. The welfare concerns are thought to be incapable of being addressed in a manner which secures humane outcomes. Indeed, beyond that, the trade in all live animals should be reviewed and ended.
50. The welfare challenges confronting the live sheep trade have been well documented over the years. As long ago as 1985 the Senate Select Committee of Inquiry into Animal Welfare in Australia published its first report 'Export of live sheep from Australia' and concluded that sufficient animal welfare grounds existed for the trade to be phased out.

51. Despite the Select Committee's recommendations for various reforms of the existing trade, it further concluded:

- reforms will not eliminate stress, suffering and risk during transport of sheep to the Middle East; and
- if a decision were to be made on animal welfare grounds, there is enough evidence to stop the trade.

52. Reasons the live animal trade generally should cease include:

- the mortality can be unacceptably high, and many sheep survive the voyage only to arrive in poor condition;
- approximately half of the mortality rate is due to inanition (lack of nourishment due to a failure to eat), where sheep are fed pulverised pellets after minimal time in feedlots to adjust, and as a result are vulnerable to salmonella infection and diarrhoea; salmonellosis (about a quarter); trauma (some 10 or more); and miscellaneous causes;
- the sea voyage of at least 10,000 kilometres subjects the sheep to stress and other suffering which are inhumane in kind and extent;
- prior to loading, many sheep are subject to prolonged periods of road and rail transport within Australia over sometimes many thousands of kilometres for up to nearly 2 days, without food and possibly without water, so that many more have suffered illness, stress or injury, and, either have been rejected for export prior to loading, or have survived to slaughter;
- conditions aboard a livestock carrier are similar to intensive livestock production with the deficiencies in humane standards that attend intensive systems;
- the consequences for the sheep of mishaps such as:
 - (i) fire in the feedlot;
 - (ii) ventilation machinery failure on the carrier;
 - (iii) carriers obliged to drift in the Middle East straits for several days in very hot weather; or
 - (iv) delays in discharging sheep in humid conditions in Middle Eastern ports;are inordinate numbers of sheep deaths, and animal suffering;

- with Halal slaughter, the animal has to die by bleeding and sheep are slaughtered in the Middle East without the benefit of pre-stunning: a religious slaughter ritual which, without pre-stunning, the British Government-appointed Animal Welfare Council recommended be banned on the grounds that it is particularly inhumane;
- generally abattoir conditions of slaughter in the Middle East are in too many instances barbaric and otherwise unsatisfactory by minimum Australian standards;
- the handling and unskilled purported Halal¹⁶ killing of sheep in very large numbers by private purchasers in the Middle East is brutal;
- further, unlike in the case of cattle (which are, in the case of Egypt, only permitted to be exported for abattoir slaughter), the Australian Government has abandoned sheep to private handling and slaughter in the Middle East;
- private slaughter apart, the Australian Government otherwise sought only less inhumane treatment of cattle in the case of Egypt, and not humane outcomes as such: the problems in respect of live animal exports to Egypt has been resolved by the refusal of the Australian Government to export any animals to Egypt other than cattle to the one port pursuant to the *Australian Meat and Live-stock Industry (Export of Live-stock to Egypt) Order 2008*;
- the Australian Government's endeavours in the case of Egypt (or for that matter other Middle Eastern importing countries) at *improvement* in some undefined degree of inhumane procedures comprise only a short-term and under-resourced gesture, and are bound to fail regardless in the face of the almost insuperable difficulties posed by Egyptian (or other countries') sovereignty.

(Not dissimilar problems confront other species of live animals exported from Australia.)

53. The live animal trade comprises:

- their long transport to dock;

¹⁶ Halal slaughter requires that the animal:

- (g) be faced to Mecca;
- (h) be dedicated verbally to the prophet prior to cutting its throat;
- (i) not be killed in the presence of others;
- (j) not be bound before slaughter;
- (k) be killed with one swift cut to the throat, causing as little pain as possible; and
- (l) be treated kindly.

In Australia, Halal slaughter also requires the animals be stunned (rendered unconscious) prior to slaughter.

- their conditioning dockside to pellet feed;
- their loading;
- their extended voyage with high mortality numbers, and even higher numbers of animals that survive the journey only to arrive ill or in a poor, sub-standard and emaciated condition;
- their manner of disembarkation;
- their manner of treatment upon being unloaded;
- their handling before slaughter; and
- the manner of their slaughter.

54. Goats, deer, buffalo and camels are also exported live. In 2009 for example 97,621 goats were exported, mainly to Malaysia (89,138) and to Singapore (6,894).

15 July 2011