

BUDGET ESTIMATES, 25, 26 MAY 2005 - ANSWERS TO QUESTIONS ON NOTICE

Department of Agriculture, Fisheries and Forestry

Market Access Division

Question: MA 03

Topic: MoUs

Hansard Page: 98

Senator O'Brien asked:

Are English language copies of these agreements able to be supplied to the Committee?

Answer:

As the Memorandum of Understanding (MoU) documents are bilateral agreements the Department of Agriculture, Fisheries and Forestry has commenced making representations to the Governments of Saudi Arabia, Kuwait, Jordan and Eritrea seeking confirmation that they are willing to provide the signed MoU documents to the Committee.

Consultations with the Government of Saudi Arabia indicate some sensitivities to the public release of the MoU on trade in Live Animals signed with Saudi Arabia on 4 May 2005. On the basis of Australia's broader national interest and bilateral relations with Saudi Arabia we are unable to provide a copy of the signed MoU. The Department of Agriculture, Fisheries and Forestry is willing to brief the Committee *in camera* on the content of the MoU if desired.

Kuwaiti government officials have advised that they have no concerns with providing a signed copy of the MoU document to the Committee. Copies are attached for the Committee.

We are still waiting for a response by Jordanian and Eritrean Governments to our request to provide copies of the relevant MoUs to the Committee. Once further advice or agreement has been received from these Governments, the Department will respond to the Senator's question as appropriate.

A copy of the United Arab Emirates MoU was provided to the Committee in February 2005.

Memorandum of Understanding

**In the Fields of Agriculture, Fish and Animal
Resources**

between

**The Government of the State of Kuwait
Represented by the Public Authority of
Agriculture Affairs and Fish Resources**

and

**The Government of Australia
Represented by the Minister for
Agriculture, Fisheries and Forestry**

Memorandum of Understanding
between
The Kuwaiti Government and the Australian Government
In the fields of agriculture, fish and animal resources

The Government of the State of Kuwait and the Government of Australia, referred to hereinafter as ('the Contracting Parties') are willing to cooperate in the fields of agriculture, fisheries and animal resources.

The parties wish to encourage, in their common interests, a broadening of cooperation between them to include agriculture and fish resources and to develop bilateral relations in these fields.

Their common interest includes cooperation in the fields of animal health and safety, veterinary health in general, as well as the exchange of information to facilitate livestock export from Australia to the State of Kuwait, in a way that protects animal welfare and avoids infectious disease being transmitted from one district of the two Parties to the other Party, recognising that the health and safety of live animals in the trade is deemed to be the most important interest of the two parties.

The Parties have reached the following understandings:

SECTION 1
COOPERATION ON AGRICULTURE AND FISH RESOURCES

Article 1

The Parties seek to:

1. Develop their relations in various fields of agriculture and fish resources;
2. Cooperate in research projects to facilitate development in agriculture and fish resources;
3. Facilitate training and exchanges of expertise and information; and
4. Collaborate on the implementation of mutually determined programs.

Article 2

The Parties will cooperate and exchange information, scientific publications, expertise and other relevant material on:

1. Agricultural quarantine inspection and protection measures and related import quality issues;
2. Application of early warning technologies in monitoring desert locust movements;
3. Implementation of relevant agricultural programs, strategies and systems;
4. Natural resource management, including land, water and marine resources;
5. Afforestation and restoration of wildlife, desert plants and biodiversity;
6. Animal diseases, particularly during outbreaks, including design of epidemiological surveillance and control, and relevant diagnostic techniques;
7. Compliance with the World Trade Organisation (WTO) Agreement on Sanitary and Phytosanitary Measures (SPS Agreement) and the WTO Agreement on Technical Barriers to Trade (TBT Agreement);
8. Conservation and management of fish resources, including protection and fish stock assessment; and
9. Activities relating to aquaculture development, both marine and farm-based.

Article 3

The Parties will consult and cooperate with each other in international organisations concerning agriculture and fish resources on matters that are determined to be in their mutual interest.

Article 4

The Parties will encourage private sector investment in both countries through joint ventures in the areas of agriculture and fish resources.

SECTION 2 THE TRADE IN LIVE ANIMALS

Article 5

1. This Part will provide the framework for the export of Live Animals from Australia to the State of Kuwait.
2. The paragraphs of this Part are intended to be read consistently with relevant international science-based standards and guidelines, including those of the World Organisation for Animal Health (OIE) and the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (the "SPS Agreement").
3. The paragraphs of this Part are subject to the applicable domestic laws and regulations of the countries of the Parties.

Article 6

Definitions:

1. **AQIS** refers to the Australian Quarantine and Inspection Service, the Australian Government agency responsible for issuing certification attesting to the health status of consignments and granting of permission to export.
2. **Assembly Point** refers to a registered premise, or place registered by AQIS for the purpose of holding Live Animals prior to export.
3. **Consignment** refers to Live Animals intended to be exported to one destination and may be described by reference to the Exporter, the consignee, method of transport, kind of animals, the number of animals, the weight of the animals and any other characteristic of the animals.
4. **DAFF** refers to the Australian Government Department of Agriculture, Fisheries and Forestry.
5. **Exporter** refers to a person or entity that holds a valid licence to export Live Animals issued by AQIS and intends to export the Live Animals.
6. **Export Permit** refers to the official document issued by AQIS to the Exporter.

7. **Health Certificate** refers to the official document issued by AQIS in accordance with the Australian Government obligations under OIE attesting to the health status of the Live Animals.
8. **Importer** refers to a person or entity that intends to import the Live Animals, and holds a valid Import Permit.
9. **Import Permit** refers to the official documentation issued to the Importer by PAAF in the State of Kuwait specifying the health and welfare requirements for importing a consignment as contained in the Annex.
10. **Live Animals** refers to an animal or group of animals that is intended to be exported alive to a country that requires certification as to any matter in relation to that animal or group of animals.
11. **OIE** refers to the World Organisation for Animal Health.
12. **PAAF** refers to the Public Authority of Agriculture Affairs and Fish Resources in the State of Kuwait.
13. **Shipment** refers to the sum total of animals in one or more consignments intended to be exported on one vessel.
14. **Quarantine Holding Facility** refers to a land-based operational facility within the territorial jurisdiction of the State of Kuwait that meets the requirements specified in Article 7 of this Memorandum of Understanding.

Article 7

Provisions regarding the protection of health, welfare and safety of live animals and the trade in live animals.

General Assurances

1. Details of the specific import provisions regarding the protection of health, welfare and safety of Live Animals and the trade in Live Animals from Australia for the State of Kuwait are contained in the Annex.
2. Australia will implement quality assurance and audit systems to meet the import requirements of the State of Kuwait as contained in the Annex.
3. The State of Kuwait will accept at the port of destination any consignment that meets the requirements contained in the Annex and specified in the Import Permit and that has been certified by AQIS to meet those requirements.
4. Where the State of Kuwait suspects there are grounds for possible rejection of a Consignment, the Parties will initiate the consultation process outlined in paragraph 13 of this Article before a formal rejection is issued.

5. PAAF in the State of Kuwait will not, except in circumstances outlined in paragraph 13 of this Article, accept a consignment on a vessel originating in Australia unless it has issued an Import Permit for that consignment and an Export Permit has been issued by AQIS for that consignment for the State of Kuwait.

Specific Assurances

6. Import Permits on individual consignments issued by the State of Kuwait will be in accordance with the specific provisions contained in the Annex.
7. The State of Kuwait will provide to AQIS and any other relevant parties a copy of the Import Permit in sufficient time to allow the sourcing and preparation of Live Animals to meet those specified requirements.
8. Notification of the Import Permit will be accepted as being given at the time it is actually received by AQIS.
9. Australia will facilitate any visits requested by veterinary officials from the State of Kuwait (or their nominated qualified representatives) to inspect Live Animals being held at relevant Australian ports or Assembly Points prior to embarkation on a vessel. The State of Kuwait will notify AQIS or the Australian Embassy accredited to the State of Kuwait of any proposed inspection to provide adequate time to allow AQIS to facilitate the inspection. All costs associated with this inspection process are the responsibility of the Government of the State of Kuwait.
10. For each consignment, AQIS will issue:
 - a. A Health Certificate attesting to compliance with the State of Kuwait's import requirements as contained in the Annex and as notified in the Import Permit provided by PAAF; and
 - b. An Export Permit in accordance with relevant Australian legislation and in accordance with the import requirements of the State of Kuwait as contained in the Annex.

Inspection

11. The State of Kuwait will inspect the Live Animals from Australia destined for the State of Kuwait on board the vessel within 12 hours of docking at the port of destination. Inspections will be conducted by appropriately qualified persons.
12. Where a consignment may not meet the requirements of the State of Kuwait as contained in the Annex, raising the possibility of a rejection of the consignment, the State of Kuwait will ensure that arrangements are made for timely and effective

13. If, after the initial inspection specified in Paragraph 11 of this Article, any Live Animals are suspected of not meeting the import requirements of the State of Kuwait as contained in the Annex:

- a. The State of Kuwait will notify AQIS immediately;
- b. Within 24 hours of the initial inspection, the State of Kuwait will require the Importer to commence transfer of the entire Shipment to a Quarantine Holding Facility approved by the State of Kuwait;
- c. Within 24 hours of the initial inspection, officials and relevant advisers from the Parties will meet to determine the condition of the Live Animals, their treatment and the timing of future meetings if necessary. This may include one or more of the following, as arranged between the Parties:
 - i. joint inspection by the State of Kuwait and designated representatives of Australia;
 - ii. a second inspection after a specified period;
 - iii. use of mutually determined diagnostic tests;
 - iv. repeat diagnostic testing and analysis at an independent OIE approved reference laboratory;
 - v. inspection by an independent party.
- d. The processes in this Paragraph will occur before final veterinary inspection and any determination of whether or not the Live Animals meet the import requirements of the State of Kuwait as contained in the Annex.

Quarantine Holding Facility

14. The State of Kuwait will approve a Quarantine Holding Facility to accommodate Live Animals suspected of not meeting import requirements as contained in the Annex.

15. The Quarantine Holding Facility will:

- a. be as close to port facilities as possible;
- b. provide sufficient isolation to avoid potential contamination of the Live Animals through contact or exposure to diseases of local animals and to avoid any contamination of local animals from any suspected diseases of the imported Live Animals; and

- c. protect fully the welfare of the Live Animals including the provision of adequate feed and water, shelter, shade and veterinary care.

16. The Quarantine Holding Facility:

- a. must be approved by the State of Kuwait and under its supervision;
- b. may be owned and operated by the State of Kuwait or the private sector.

Rejection of Consignments

17. The State of Kuwait may only reject a consignment if the consignment fails to meet the requirements contained in the Annex, and only after the completion of the processes outlined in Paragraph 13 of this Article.

18. If the State of Kuwait rejects the consignment, the Live Animals must be:

- a. expeditiously and humanely slaughtered in the Quarantine Holding Facility or other suitable facility within the territorial jurisdiction of the State of Kuwait; or
- b. dealt with by other measures as arranged between the Parties.

19. The Parties will ensure that the cost of holding, slaughtering or any other relevant activities will be covered by the Importers or Exporters or both.

Implementation

Implementing Agencies

20. The implementing agencies for this Section will be PAAF for the State of Kuwait and DAFF for Australia.

Communication

21. Both Parties recognise the fundamental importance of timely and effective communication and notification as soon as possible if practices are identified that are inconsistent with this Memorandum of Understanding.

22. The relevant representative of each Party for notification purposes pursuant to this Section will be:

- a. Director General
PAAF
(or as authorized); and
- b. Consul Agriculture (Middle East)
Australian Consulate
Dubai UAE

Consultative mechanism

23. With a view to further strengthening cooperation in animal health and welfare and safety matters as they relate to the live animal trade more broadly between Australia and the State of Kuwait, the Parties will meet for regular high level consultations covering animal health and welfare and safety matters of mutual interest, for the purpose of considering relevant policies, inspection and certification issues and cooperation activities, including but not limited to:

- a. training;
- b. exchange of information;
- c. research and development and technical development,
- d. application of international standards; and
- e. reciprocal visits.

24. These meetings will complement rather than replace other established bilateral meetings on these or other issues.

25. The Parties will fund their own participation in activities under this Memorandum, unless the Parties mutually decide otherwise.

SECTION 3 GENERAL RULES

Article 8

1. This Memorandum of Understanding supersedes all previous memoranda signed between the Parties dealing with substantially the same subject matter as this Memorandum.
2. The Annex attached to this Memorandum, including the requirements of animal and livestock, will be considered as an integral part of this Memorandum.
3. It is intended that in implementing this Memorandum the Parties will comply with their rights and obligations as members of the WTO and OIE.
4. A joint committee will be formed by the Parties and will undertake the following:
 - a. Ensure the effective implementation of this Memorandum;
 - b. Propose additions or expansions to the scope of this Memorandum when considered necessary by either Party; and
 - c. Consider other areas of cooperation for inclusion within this Memorandum.

5. The committee will meet as often as may be mutually determined, alternately in the State of Kuwait and Australia.
6. Both Parties will endeavour to settle by consultation without unreasonable delay any differences arising in relation to this Memorandum.
7. This Memorandum of Understanding and Annex may be amended by mutual arrangement in writing between the Parties.


Article 9

This Memorandum of Understanding will come into effect on the date of the last notification in which either one of 'the Contracting Parties' notifies the other one about the completion of necessary constitutional procedures for validity according to the recognized laws in the two countries.

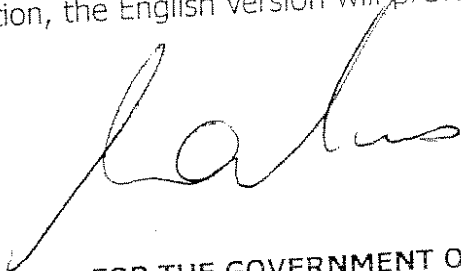
Article 10

This Memorandum of Understanding is valid for five years, commencing from the date on which it comes into effect and will be automatically renewed for subsequent five years period unless either Party notifies the other Party in writing at least six months in advance of the expiration of the relevant five year period of its intent to terminate this Memorandum. The Memorandum will cease to have effect six months after that notice has been received by the other Party, unless that notice is subsequently revoked.

SIGNED at CANBERRA on this 16th day of MARCH2005 in two original copies, one in each of the Arabic and English languages. In the event that there is a conflict in interpretation, the English version will prevail.



FOR THE GOVERNMENT OF
THE STATE OF KUWAIT
Fahad Salem Al-Ali Al- Sabah
Chairman and Director General
The Public Authority of Agriculture
Affairs and Fish Resources



FOR THE GOVERNMENT OF
AUSTRALIA
The Hon. Warren Truss M.P.
The Minister for Agriculture,
Fisheries and Forestry

ANNEX
HEALTH REQUIREMENTS FOR LIVESTOCK

HEALTH REQUIREMENTS FOR SHEEP

1. Health Certification

Country declaration

Australia is free from:

- Foot-and-mouth disease;
- Peste des petite ruminants;
- *Brucella melitensis* infection;
- Sheep pox;
- Sheep scab;
- Scrapie; and
- Screw-worm fly

Consignment declaration

- (a) The animals in the consignment have not been under quarantine restrictions for OIE notifiable diseases for the thirty (30) days prior to export.
- (b) Anthrax is a notifiable disease in Australia. The animals showed no clinical signs of anthrax on the day of export and the animals either:
- originated from a property or properties free from anthrax for the twenty (20) days prior to export;
- or*
- were vaccinated against anthrax not less than twenty (20) days and not more than six (6) months prior to export.
- (c) The animals were examined during the forty-eight (48) hours prior to loading for export and found to be free from evidence of disease and external parasites and fit to travel.

2. Transportation Details

Road transportation in Australia

Certification by AQIS that the animals were moved by the most direct and practical route and not permitted to make contact with any ruminants of differing health status.

Sea

Certification by AQIS that the decks and compartments of the vessel used for transporting the ruminants and storing feed have been thoroughly cleaned and disinfected.

3. Other Market Requirements

Nil

4. Ports Of Discharge Requirements

The State of Kuwait will accept direct shipments from Australia or consignments on ships that have transited other countries provided no animals have been loaded in these other countries.

HEALTH REQUIREMENTS FOR CATTLE

1. Health Certification

Country declaration

Australia is free from:

- Foot-and-mouth disease;
- Rinderpest;
- Contagious bovine pleuropneumonia;
- Rabies;
- Haemorrhagic septicaemia;
- Bovine brucellosis;
- Bovine tuberculosis;
- Bovine spongiform encephalopathy; and
- Screw-worm fly.

Consignment declaration

- (a) The animals in the consignment have not been under quarantine restrictions for OIE notifiable diseases for the thirty (30) days prior to export.
- (b) Anthrax is a notifiable disease in Australia. The animals showed no clinical signs of anthrax on the day of export and the animals either:
- originated from a property or properties free from anthrax for the twenty (20) days prior to export;
- or*
- were vaccinated against anthrax not less than twenty (20) days and not more than six (6) months prior to export.
- (c) The property of origin either:
- is located in a zone free from cattle tick and tick borne diseases and the cattle are free from evidence of cattle ticks;
- or*
- the cattle have been treated for ticks and are free from evidence of ticks.

- (d) The animals were examined during the forty-eight (48) hours prior to loading for export and were found free from evidence of disease and external parasites and fit to travel.

2. Transportation Details

Road transportation in Australia

Certification by AQIS that the animals were moved by the most direct and practical route and not permitted to make contact with any ruminants of differing health status.

Sea

Certification by AQIS that the decks and compartments of the vessel used for transporting the ruminants and storing feed have been thoroughly cleaned and disinfected.

3. Other Market Requirements

Nil

4. Ports of Discharge Requirements

The State of Kuwait will accept direct shipments from Australia or consignments on ships that have transited other countries provided no animals have been loaded in these other countries.

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