



BOWMANS

THE VALUE OF KNOWING

SEA CARRIAGE OF LIVESTOCK : LEGITIMATE BUSINESS OR ANIMAL CRUELTY?

Marine Forum 2021

Jeremy Prain



THE GOOD



National Council of SPCAs

THE BAD



THE INDIFFERENT [?]



agriculture, land reform & rural development

Department:
Agriculture, Land Reform and Rural Development
REPUBLIC OF SOUTH AFRICA

SNAPSHOT OF THE MARKET

- **Nearly two billion live animals were exported in 2017 (approximately USD \$21 billion).**
- **Most of the live animals were exported by road transportation, but sea transport, as a specialised and dedicated transport specialty, is also used**
- **The Food Agricultural Organization (FAO) has reported a rise in the global trade of livestock**
- **Australia is one of the largest exporters of live animals by sea:**
 - **In 2016: exported 1,331,745 live cattle, 1,959,761 live sheep and 89,145 live goats for feeder/slaughter purposes, mostly by sea or air (Australian Livestock Exporters' Council)**
 - **In 2015: agreed a deal to export live cattle to China, which is estimated to be worth up to \$1.5bn a year**

SNAPSHOT OF THE LIVE ANIMAL MARKET

- The EU also has a large export trade, mainly to the Middle East and North Africa
- UK: at one point in the 1990s the UK was exporting approximately two and a half million animals a year to continental Europe – by sea and land – but by 2012 that number had dropped significantly to around 55,000
- The biggest exporters of live cattle in 2015, in terms of monetary value, were France, Canada and Australia, followed by Mexico

LIVESTOCK CARRIERS

- **Two types of vessels that are usually employed :- open and closed livestock carriers**
- **Most are converted carriers rather than purpose-built vessels**
- **Capacities range from a few thousand cattle (or the equivalent for sheep which is about four times that of cattle) up to around 20 000 cattle**

LIVESTOCK CARRIERS

- **There are a number of parameters that need to be strictly designed (when converting a vessel) and then controlled and monitored on board to create the necessary living environment for the well-being of animals:**
 - **water and food**
 - **suitable bedding**
 - **available space per live animal**
 - **ventilation to avoid high ammonia levels**
 - **a suitable cleaning plan for the duration of the voyage**
 - **allocation of hospital pens and medicine to care for sick animals during the voyage**
 - **experienced stock handling crew and, ideally, a veterinarian.**

TIGHTENING GOVT. POLICIES ON LIVESTOCK CARRIAGE

- **Australia**
 - Ban on the export of live sheep by sea during the summer months because of the impact of heat stress
- **New Zealand**
 - Banned the export of livestock for slaughter in 2008 but continued to allow the export of livestock for breeding or dairy production purposes
 - Has now banned on live cattle exports by sea with effect from April 2021, with a two-year phase out period
- **European Union**
 - Not banned by regulated by Council Regulation (EC) No 1/2005
- **UK**
 - A ban on sending live animals abroad for slaughter and fattening is set to be in place in the UK by the end of 2021

AL MAWASHI (PTY) LTD

- **Al Mawashi Group has been transporting livestock for the past 45 years**
- **Their ships are owned / operated through Livestock Transport and Trading Company, based in Kuwait**
- **2018: formed a subsidiary in South Africa, Al Mawashi (Pty) Ltd, to direct its buying and transport operations here**
- **Coincided with the Australian ban on the export of live sheep by sea during the summer months**
- **End 2019, commenced buying and transporting in SA**
- **First shipment: October 2019; second in February 2020; then March 2020**
- **They claim to be the largest buyer and exporter of South African sheep**
- **Claim that the industry has the potential to inject R 1 billion per year into the Eastern Cape agricultural economy**

AL MESSILAH

(85,000 LIVE SHEEP CAPACITY)



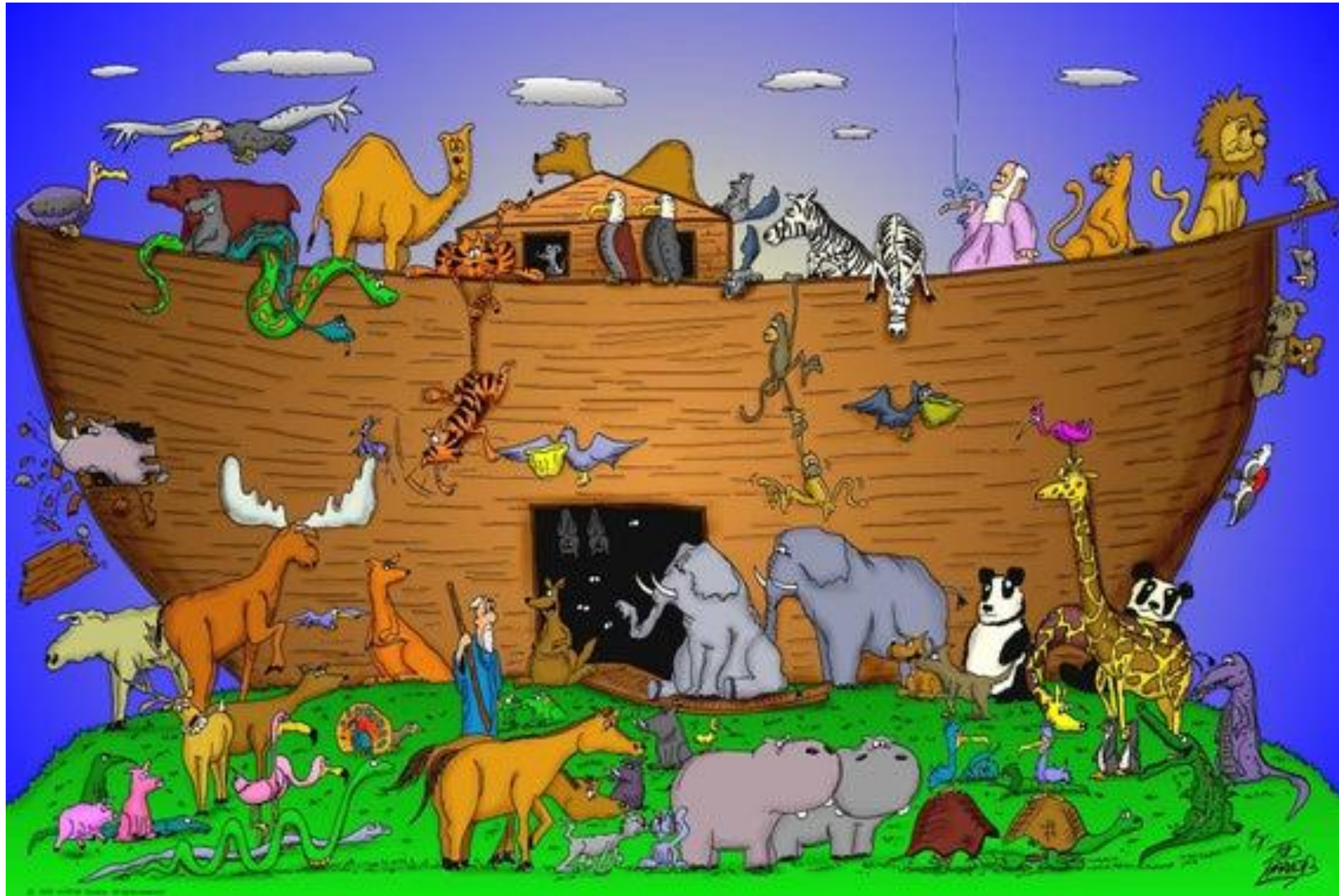
AL SHUWAIKH



AL SHUWAIKH [BANNED IN AUSTRALIA]



THE PICTURE THEY WANT YOU TO SEE











TRANSPORTATION CHAIN

FARMS (WHERE REARED)



CASTLEDALE FEEDLOT (BERLIN)



30 DAY QUARANTINE



CARRIAGE TO EAST LONDON PORT BY TRUCK (ONE HOUR)



SHIP LOADING (APPROX 4 DAYS)



SEA CARRIAGE TO KUWAIT (17 to 21 DAYS)

THE NSPCA JUNE 2020 COURT APPLICATION

Part A

- **An interdict**
 - preventing Al Mawashi (or anyone else) transporting sheep from the Castledale Feedlot in Berlin, Eastern Cape, to any port or harbour within South Africa or its borders;
 - Preventing Al Mawashi transporting sheep by sea on a boat, ship or vessel departing from any port in South Africa on route, directly or indirectly, to any destination in the Middle East
- **Pending the court's determination of Part B**

THE JUNE 2020 NSPCA COURT APPLICATION

Part B

The total ban of the practice of transporting live sheep from anywhere in South Africa to anywhere north of equator by anyone on any vessel during any time of the year

SOUTH AFRICAN LEGISLATIVE FRAMEWORK

- **Animals Protection Act 1962**
- **Societies for the Prevention of Cruelty to Animals Act 1993**
- **Terrestrial Animal Health Code (2019 edition)**
 - published by the World Organisation for Animal Health (OIE)
 - chapter 7.2 of the OIE standards "*Transport of Animals by Sea*".
 - provides the welfare guidelines for the transportation of live animals by sea
 - although South Africa has not incorporated OIE standards into legislation, it is a member of the OIE and is bound by its standards

NSPCA CENTRAL ARGUMENTS

- NSPCA has a wide-ranging legal mandate to protect animals and to pursue legal actions to this end, including under the Constitution
- The practice of live export of sheep from SA to the Middle East by ship amounts to extreme cruelty
- Al Mawashi has engaged in animal cruelty practices at the Castledale Feedlot and while transporting them to the ship
- When inspected by NSPCA inspectors and vets, the ships were found to be wholly unsuitable for livestock carriage and animals were showing visible signs of distress
- These contraventions were observed by inspectors during between July and October 2019 and during the second shipment in March 2020

AL MAWASHI RESPONSE

- **Complaints about cruelty at the feedlot and from the feedlot onto the ship were irrelevant because:**
 - **The NSPCA could have reported these alleged cruel acts to the regulatory authorities**
 - **More significantly, the case of the NSPCA for the granting of both Parts A and B revolves around sea voyage up to north of the equator**
- **The complaints raised by the NSPCA refer to incidents which took place during 2019 whereas there have been two subsequent trips [February and March 2020] where the regulatory authorities - at the times they inspected the sheep - did not raise any queries**
- **They also raised disputes on the facts as to whether the heat stress is avoidable by modern technology; as well as the issue of constant noise and bright lights burning 24/7**

JUDGMENT [ON THE INTERDICT]

- The violation of the provisions of the Animals Protection Act, as alleged by the NSPCA, refers to the incident which took place in 2019
- The two occasions [in Feb and March 2020] when the sheep were inspected by the regulatory authorities passed muster to transport sheep from East London Harbour to the Equator
- There is no evidence indicating that what allegedly took place during 2019 is likely to recur in 2020. This is so especially when the regulatory authorities insist that the Al Mawashi adhere to the OIE standards
- The NSPCA has failed to show a “reasonable apprehension of harm”
- The NSPCA is a non-profit organisation that is unlikely to be able to meet what will be a substantial damages claim by Al Mawashi in the event of succeeding in Part B of the proceedings
- Interim interdict set aside [appeal attempts also failed]

COMMENTARY

- Last minute applications to obtain interdicts against alleged transgressors appears to be a long standing tactic of the NSPCA for maximum effect. While it gets a lot of publicity, it is not a tactic which has served them well in terms of obtaining the desired legal outcome
- The application for an interdict coupled with an outright ban is certainly a novel approach
- It is reasonable to suspect that the NSPCA was dissatisfied with the pace of change at government level (i.e. changes in policy and new legislation) and hoped that the court would solve the problem by simply banning the practice
- The difficulty is that it is not the job of the court to make law and certainly no case seems to have been made out in the court papers filed by the NSPCA for the basis on which the court could make such a ruling

DRAFT GUIDELINES FOR THE EXPORTATION OF LIVE ANIMALS BY SEA (DALRRD)

- Open for public comment until 30 April 2021



**agriculture, land reform
& rural development**

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GUIDELINES FOR THE EXPORTATION OF LIVE ANIMALS BY SEA

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MARINE INSURANCE FOR LIVESTOCK

- **Specialised / tailored cargo cover appears to be on offer in the major export countries – e.g. Australia**
- **But there is very little publicly available information on policies and cover conditions**
- **In essence, terms resemble standard cargo clauses but cater specifically for:**
 - **death; physical injury; slaughter for humane reasons; and theft**
 - **subject to the insured livestock being in a good state of health and fit for transport**





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THANK YOU



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