Ethics Over Economics: The twilight of Australia's live sheep exports (The moral and legal context of the Export Control Amendment Act)

Anikó BUCSI*

Abstract

This study examines the forced economic and social transformation of Western Australia, a region compelled to redesign its economic model from the ground up due to the complete ban on live sheep exports by sea by 2028. It analyses the constitutional issues raised by local farmers and the process through which the modern legal system attempts to resolve the tension between economic interests and evolving social ethics. Specifically, the research explores how the legislature responds to public expectations and shifting moral standards in the wake of documented abuses within the Australian live animal trade. The research describes the immediate antecedents of the amendment to the Export Control Act 2020, and presents the process that resulted in an entire industry being banned from 1 May 2028. It examines the process that was able to adapt to changing social expectations and push profit interests into the background. The study explores the legislative and legal technical tools that serve to enshrine a final and irreversible ban on a given sectoral activity. The study draws attention to the consequences of the legislative amendment, in particular the difficulties affecting farmers, disputes over jurisdiction and issues of property rights. Ultimately, this study shows how a modern legal system can actually dismantle a profitable industry to force a complete structural reset. At its core, this research highlights something powerful: how shifting ethical standards can reshape the law. It is a perfect example of how public morality can successfully push economic profit into the background – all while playing strictly by the rules of the legal and constitutional framework.

Keywords: *animal exports; Australia; animal welfare; Export Control Act; constitutional law*

* PhD Student, Deák Ferenc Doctoral School of Law and Political Sciences, University of Miskolc, Foreign Affairs and Integrity Advisor, European Union Specialist, Hungary, Corresponding author: aniko.bucsi@gmail.com

Copyright: © 2026 by the authors.
Open access publication under the terms and conditions of the Creative Commons Attribution (CC BY) license
https://creativecommons.org/licenses/by/4.0/

1. Introduction

With its decision on July 1, 2024, the Australian Federal Parliament put an end to a debate that had been ongoing for years. Following a four-year transition period, the legislature will permanently ban the export of live sheep by sea, effective May 1, 2028. The legislative amendment sparked serious tension between animal welfare groups and agricultural lobbyists representing commercial interests. With this move, the government has taken a clear stance in the long-standing moral and economic policy conflict.

According to the Parliament of Australia (Zhou, 2024), the live sheep export industry has experienced a long-term structural decline, now accounting for less than 2% of the nation's 4.5-billion-dollar sheep meat export market. While federal reports emphasize the alignment with shifting public morality and animal welfare standards (Independent Panel, 2023), regional assessments warn of significant supply chain disruptions and economic vulnerability for specialist sheep farms in Western Australia (Western Australian Government, 2023).

While the livestock industry has traditionally prioritized economic returns and market access, the scientific literature suggests that sheep are exposed to extreme physiological stress and microclimatic changes (e.g., heat stress) during sea voyages to the Middle East, lasting up to several weeks, even under current standards (Carnovale & Phillips, 2020). Furthermore, legal scholars have noted that the Australian animal rights framework has historically been characterised by tensions between the commercial status of livestock as property and changing public morals (White, 2013). Reports on events in the Middle East and official investigations factually revealed the unlawful practices of the abattoirs. Public outrage increasingly shifted overall societal expectations, which the legal system could no longer ignore. (Towie, 2025).

This study highlights the predicament in which Western Australia is compelled to completely abandon its old economic model in order to reshape it and build an entirely new one. In my analysis, I examine how the legal system attempts to balance corporate profits against changing social expectations. The novelty of this research lies in drawing attention to the process through which shifts in societal ethical norms result in the complete transformation of an export sector. Ultimately, this analysis can serve as a case study for future policymakers on how to effectively integrate public morality into international trade law.

2. Vulnerable Export Model And Forced Market Transition In Western Australia

Australia's livestock industry is characterized by significant structural differences. In the east (New South Wales, Victoria, and Queensland), climatic conditions and favorable soil quality support diverse, mixed farming, dominated by cattle raising, beef exports, and crop production.

A significant portion of production is primarily consumed domestically. The economy of the western region is based on a much more vulnerable, specialized system (a model oriented toward live animal exports). In the west, the live animal export sector, refined over decades, is not merely a chosen business model but also a necessity dictated by environmental conditions; consider the vast distances and the isolated, expansive agricultural areas.

The region is the continent's largest wheat exporter, producing almost exclusively for export. No large-capacity slaughterhouses have been built in the West, as maintaining them is expensive. In addition to the costly transportation factor, the high cost of labour, with workers being employed as seasonal workmen, cannot be overlooked. The Merino sheep breed is primarily raised for its wool; its meat does not compete with that of premium Australian meat sheep, so the animals are kept for live export.

The legislative amendment marks the end of a sector that has developed over decades.

2.1. Economic ties with the Middle East and the Cultural Background

Australia has one of the world's largest sheep herds. Since the continent's population is relatively low, the domestic market cannot absorb the volume produced, which is approximately 70 million animals. This structural surplus led to export-oriented farming, which found an ideal partner in the Middle East.

Demand for fresh meat in the region surged in the 1970s, and Australia, with its vast livestock population and stable political environment, became a reliable and dependable supplier.

The economic relationship between the two parties was made truly solid by the close intertwining of cultural and religious traditions. After the 1973 oil crisis, demand from countries that had grown wealthy from oil exports suddenly surged. In Middle Eastern markets, especially during important religious holidays such as Eid al-

Adha, consumers still prefer to buy fresh meat rather than frozen products due to traditional Halal slaughtering practices.

Since desert agriculture cannot meet local demand on its own, and building modern cold-chain infrastructure is too expensive and complicated due to the heat, importing live animals has been the only economically viable solution for the Middle Eastern market for decades.

2.2. Western Australia: The strategic hub of exports

The hub of the live animal trade is Fremantle, the busy port of Perth, the capital of Western Australia. Its location offers strategic security, as the Persian Gulf is most quickly accessible from here. Time is a critical factor in live animal exports, as weather conditions and transport conditions pose a constant risk to the animals' health.

Over the past few decades, Merino sheep farmers in Western Australia have staked their business model and livelihood on this single export market. The infrastructure of the city of Fremantle clearly reflects this specialization: within the port's catchment area, massive, modern rest stations, professional penning systems, and veterinary inspection stations have been built, while the world's largest livestock carriers come and go at its docks.

2.3. Economic constraints and social impact

The legislative amendment adopted in 2024 will have a major impact not only on trade policy but also on the entire future of the western region. The sudden disruption of the export supply chain affects not only large corporations but also generations of family farms, local freight forwarders, and the livelihoods of all rural communities. This radical shift forces the western region to make a critical choice: either they manage to rapidly transform their daily practices and technology, or the livelihood security they have built up over decades will collapse for good.

3. The Fundamental Reasons for the Legislative Amendment

Animal welfare considerations were the primary motivation behind the legislative amendment adopted in 2024, with heat stress being one of the most critical factors.

Temperatures in the Persian Gulf often exceed 40 degrees Celsius, and the extreme humidity that accompanies this is life-threatening for animals transported in cargo holds. During the lengthy sea voyage (which usually lasts two to three weeks), extreme conditions prevail in the holds of cargo ships. Furthermore, the scientific

dispute over temperature limits on export ships remained a major issue. Animal welfare groups strongly criticized government regulations, arguing that trade interests were still favoured over animal well-being (RSPCA Australia, 2022).

Exporters who pack the holds of ocean-going vessels to full capacity are unable to ensure proper hygiene for the livestock during the journey, posing a high risk of disease spreading during transit. An ethical concern is the animals' vulnerability, against which the exporter has no means of protection. Live animal exports, particularly trade to Saudi Arabia, have been marred by numerous serious scandals and tragic incidents in recent decades. Several cases have resulted in mass animal deaths, highlighting the unsustainability of the system.

The McCarthy report (McCarthy, 2018) clearly highlighted that live animal exports have reached a crossroads. The report categorized risk factors into two main categories. It called for immediate action regarding shipments occurring between May and October. During these months, sheep are exposed to critical conditions.

The report recommends that "the industry should move away from mortality-based metrics toward indicators that reflect animal welfare." The recommendations include several proposals that address animal welfare during the hot summer months: providing more space for the flock; establishing stricter risk thresholds regarding heat stress risk levels; subjecting the air exchange and ventilation of ships to independent audits; ensuring mandatory automatic watering systems on all ships, and more.

Until the 2000s, the populations of major cities knew almost nothing about the fate of animals destined for export or the conditions of their transport. In Australia, livestock farming takes place on rangelands far from major cities. Geographical distance, closed industrial ports, and distant markets all contributed to processes that concealed the true facts from animal welfare organizations and the public.

The events on the Cormo Express were the first to bring this systemic problem to the public's attention. Subsequently, numerous cases came to light that shocked the public and sparked the moral shift that led to the 2024 legislative amendment.

3.1. Historical Scandals and Rejected Shipments

Below, I highlight the most significant of these tragedies from the perspective of our topic:

The Cormo Express affair stands as one of the greatest diplomatic and ethical failures in the history of Australian live exports. The national political crisis - still talked

about today - began in August 2003, when the Cormo Express, a cargo ship converted from an oil tanker, set sail for Saudi Arabia with 57,000 sheep on board. It is worth pausing for a moment to consider the reasons behind the ship's technical conversion: Was the assumption that an originally hermetically sealed oil tanker could ever be made suitable for transporting live animals well-founded? Can economic interests and increased market demand override fundamental ethical standards? Almost miraculously, the shipment arrived safely at its destination, but the Saudi authorities, citing suspicions of foot-and-mouth disease, did not allow the animals to disembark.

Although Australian veterinarians confirmed that the infection rate was very low (less than 0.3%), the professional dispute escalated into a diplomatic and political conflict.

The situation was further exacerbated by the fact that no neighbouring country would accept the shipment, so the sheep spent 80 days in the sweltering heat on the open sea. The tragedy ultimately led to the death of 6,000 animals, and one can only imagine the condition of the surviving flock. In a final act of desperation, Australia offered the entire shipment to Eritrea free of charge.*

The legal lesson of this case is that, due to the general nature of international law, live animals can become pawns in the political games of distant countries, while the exporting state's jurisdiction effectively ceases to apply on the high seas.

In 2012, the Ocean Drover (now the S. Aras), at the time the world's most modern and largest livestock carrier, arrived in Bahrain with 21,000 Australian sheep. The authorities also refused to accept the shipment, citing infection concerns. Learning from the tragedy of the Cormo Express, the Australian exporter rerouted the shipment to Karachi, Pakistan.

In Karachi, events spiralled out of the Australian party's control in the blink of an eye.

Since the exporter concealed the true reason for the Bahraini rejection from Pakistani authorities, local officials felt they had been deceived. Subsequent investigations into the case revealed serious abuses, including forged shipping documents. The resulting crisis of confidence proved fatal for the animals: the Pakistani authorities

* Although the Cormo Express incident did not directly result in judicial proceedings, the scandal triggered a defining legislative process in Australia that ultimately led to the Export Control Amendment (Ending Live Sheep Exports by Sea) Act 2024 and the complete ban on live sheep exports by sea by 2028.

cruelly slaughtered all the animals, disregarding the reports from British experts on site that confirmed the herd's good health.

The Karachi incident highlighted one of the greatest diplomatic risks of live animal exports: the problem of "rejected shipments." In such cases, the exporter is forced into a difficult position and often attempts to sell the livestock in countries where the receiving authorities, due to political or epidemiological mistrust, do not guarantee compliance with Australian animal welfare standards (ESCAS)*. Under Australian regulations, animals must be spared from pain, and therefore stunning is required before slaughter. During the incident known as the "Karachi slaughter", Australia was unable to enforce its animal welfare standards outside its own borders.

Finally, we must mention the case of the Awassi Express (now known as the Anna Marra), which highlighted the tragedies arising from technological shortcomings and the inadequacy of the system. In May 2017, the Awassi Express set sail with 63,000 sheep on board. While it was already winter in Australia, the Northern Hemisphere was experiencing a scorching summer.

The humidity and heat led to extreme conditions that exceeded the animals' biological tolerance limits. More than 2,400 sheep perished in the ship's hold amid horrific suffering: "they were practically boiled alive under their own wool." (Emanuel Exports Pty Ltd v Secretary, Department of Agriculture, 2021, para. 4).

An official investigation by the Ministry of Agriculture and Water Resources concluded that, regardless of any technological improvements made to the vessels, transport during the summer heat exceeds biological tolerance limits, which cannot be eliminated through technical improvements†.

Many other examples justify the 2028 export ban, but for us, the most interesting aspect is the legal solution that radically transforms Western Australia's economy.

* ESCAS: Exporter Supply Chain Assurance System. A strict regulatory framework introduced by the Australian Government in 2011–2012, which requires Australian exporters to guarantee and verify compliance with animal welfare standards up to the point of slaughter in the importing country. (Department of Agriculture, Fisheries and Forestry, 2023).

† Emanuel Exports Pty Ltd; EMS Rural Exports Pty Ltd and Secretary, Department of Agriculture, Water and the Environment (2021) AATA 4242. The judicial review and legal challenges regarding the suspension of live export licenses following the Awassi Express incident are publically accessible via the Australian legal database CaseChat: https://casechat.au/cases/au/emanuel-exports-pty-ltd-ems-rural-exports-pty-ltd-and-secretary-department-of-agriculture-water-and-the-environment

4. From the Export Act to the 2028 Ban: The Method of Legal Regulation

Before the 2028 ban, live sheep exports were regulated by a strict animal-welfare and licensing framework, which was directly supervised by the Federal Ministry of Agriculture.

The basis for the regulation was provided by the Export Control Act 2020, which provided a flexible framework for the issuance of export licenses.

The following context can be mentioned as the background to the legislative amendment:

In addition to the cases previously described with examples, the local press reported on numerous similar incidents and it is clear that there were countless more cases that did not reach the public. The case that caused a huge outcry in 2018 can be seen as a turning point.

The transport moratorium introduced for the northern hemisphere summer period immediately reduced export figures. When it became clear that the government was going to completely phase out live sheep exports by sea, in addition to the reaction of farmers (depleting flocks), trading partners also looked for new suppliers (e.g. Romania).

According to data from the Australian Department of Agriculture, Fisheries and Forestry (DAFF) and Meat & Livestock Australia, live sheep exports will have decreased from the 2018 figure (approximately 1.9 million live animals) to just 334,491 sheep by 2025.

The 2020 Export Control Act Amendment gave effect to the government's commitment to ban the export of live sheep by sea from Australia from 1 May 2028, in the interests of sheep welfare and in the public's moral support.

The amendment to the law was preceded by a wide-ranging consultation, during which, among other things, an advisory board, professional recommendations and analyses helped the government in its work.

The Export Control Amendment (Closing Live Sheep Exports by Sea) Act of 2024 provides a transitional period for farmers to properly prepare for the entry into force of the ban. Trade is currently taking place without restrictions or quotas. All stakeholders involved in the process must consider their own living conditions and make their decisions, which will be decisive for their future.

The government has now increased its initial grant of $107 million to $139.7 million. This budget will help farmers restructure their economies during the transitional

four-year period. This funding can be used in a variety of ways, including business advice, transition to new farming methods, construction of slaughterhouses and cold storage facilities, and modernization of transport vehicles. It is worth noting that farmers can also use the support for market promotion, a trade policy tool that can help farmers to gain acceptance for new technology-processed goods in the Middle East or North Africa region.

However, success is far from guaranteed. The big question is whether the capital invested in huge fleets and ports can be so suddenly shifted towards land-based processing. In addition, the reaction of the Middle Eastern market is a significant source of uncertainty: will consumers' cultural and religious preferences be flexible enough to accept frozen meat instead of live animals, or will Australia be forced to seek entirely new markets?

It is also necessary to mention the legal technical mechanism, which ensures that the elimination process is irreversible in a particularly precise and strict manner:

Instead of creating a completely new law, the legislator directly overwrote the general export provisions of the *Export Control Act 2020* (Textual Amendment: *Schedule 1, Item 1 of the Amendment Act*.).

The most important legal technical element is the withdrawal of discretion. In the previous regulation, if an exporter met the administrative and animal welfare conditions, the authority was obliged to issue the permit (limited power). The amendment prohibits the Minister or any other official from issuing a permit for the export of live sheep by sea after 1 May 2028 (*Export Control Act 2020, Section 23A, Subsection (2)*). The discretion has therefore been completely abolished. If a permit were to be issued, it would automatically be considered ultra vires by operation of law, i.e. an excess of powers, and would be null and void. At the same time, the goods were classified as a "prohibited export" (*Export Control Act 2020, Section 23A, Subsection (1))*, so there is no possibility of granting exemptions or exceptions by ministerial order in the future. Since the ban was incorporated into the main law (Act) itself, it could only be revoked in the future by another amendment to the law, which would go through a full parliamentary voting process. Finally, we should mention the gradual closure of the temporal effect (Sunset Clause inverse: *The Commencement Table (Section 2 of the Amendment Act)*), which creates legal certainty for those affected.

4.1. Public reception and rule-of-law dilemmas

The agricultural policy decision to ban the export of live sheep has divided Australian society. While city dwellers and animal welfare groups have welcomed the government's decision, rural farmers fear for their livelihoods and futures due to the ban.

This fear and uncertainty has given rise to the "*Keep the Sheep*"* movement, which sees the decision as an "open attack" on rural identity and traditional ways of life (cf. Domaniczky, 2018). Farmers fear for their livelihoods and multi-generational family farms. Their concerns are well-founded, as we are still at the beginning of the phase-out process, but the market price of sheep has fallen to an all-time low.

Several lawsuits are pending in the courts, seeking answers to fundamental constitutional questions: where is the line drawn between government intervention and the protection of private property? In 2020, the federal court ruled that the previous ban on live cattle exports to Indonesia was unreasonable and unlawful, resulting in a massive liability for damages†. This ruling thus serves as a guiding precedent for resolving similar legal disputes.

In applying the proportionality test, there is currently intense debate over whether the regulation complies with the principles of purpose and necessity.

Is it possible to enforce animal welfare considerations only with a ban, or would there have been a limited, restrictive alternative that would have been more gentle on local farms?

Does the support package offered by the federal government truly satisfy the constitutional requirement of "just terms,"‡ or does the extent of the damage caused by the legislative amendment far exceed that standard?

* "*Keep the Sheep*" is an Australian grassroots and advocacy campaign launched in May 2024 (when the Australian federal government introduced and passed the legislative amendment on the export ban) by Western Australian sheep farmers, agricultural organisations, and rural communities to protest against the planned export ban and to protect rural jobs. Official website: keepthesheep.com.au.

† *Brett Cattle Co Pty Ltd v Minister for Agriculture* (2020) FCA 842. The full legal summary, case proceedings, and judicial records of the Federal Court of Australia decision are publically accessible via the Australian legal database CaseChat:
https://casechat.au/cases/au/brett-cattle-company-pty-ltd-v-minister-for-agriculture

‡ Section 51(xxxi) of the Australian Constitution stipulates that the Commonwealth (the federal government) may only acquire private property or restrict vested rights on "just terms". According to the legal arguments of live animal exporters, the ban constitutes a de facto expropriation of their economic activity without adequate compensation. (Saunders, 2010).

Does this violate the provision set forth in Section 92 of the Constitution, which guarantees the absolute freedom of trade between the states, and can a provision that affects almost exclusively the economy of Western Australia be considered discriminatory (Saunders, 2010)?

It is questionable whether the executive branch is exceeding its authority and violating the principles of the rule of law by rendering an entire market sector non-viable through the tightening of regulations. Do the government's measures still fall within the boundaries of legitimate regulation, or does this already constitute an abuse of legislative power?

As a result of the concerns detailed above, lawsuits are already underway in the courts. Furthermore, the situation is complicated by domestic political uncertainty caused by the campaign promise of the opposition Liberal-National Coalition, which is promising to repeal the ban in exchange for voters' ballots.Events soon will not only determine the fate of a single industry but will also provide answers to fundamental questions regarding the rule of law: can a legal business sector be sacrificed on the altar of a current ethical goal? Where does the line lie between the common good (animal protection) and the protection of individual property rights?

5. Conclusion

The Australian sheep industry has reached a crossroads. The question is whether technological innovation and economic pressures can bridge the cultural and logistical gap that live animal transport has filled until now. There is a fear that, along with profits, a piece of Australia’s rural identity will be lost with the ban, as Australian history and economy have been built on livestock farming from the very beginning right up to the discovery of mineral resources (Domaniczky, 2018). The ultimate lesson of this process will be how, and at what cost, can balance be struck in modern legal systems between hard-nosed economic interests and changing social and ethical norms.

References

Brett Cattle Co Pty Ltd v Minister for Agriculture (2020) FCA 842.

Carnovale, F., & Phillips, C. J. C. (2020). The effects of heat stress on sheep welfare during live export voyages from Australia to the Middle East. *Animals, 10*(4), Article 694. https://doi.org/10.3390/ani10040694

Commonwealth of Australia Constitution Act 1900 (Cth).

Department of Agriculture and Water Resources (Cth). (2018). *Investigation into the export of sheep to the Middle East (Regulatory Compliance Report No. 118).* Australian Government.

Department of Agriculture, Fisheries and Forestry (Cth). (2023). *Australian standards for the export of livestock (ASEL)* 3.3. Commonwealth of Australia.

Department of Agriculture, Fisheries and Forestry (Cth). (2024). *Independent panel report: Phase out of live sheep exports by sea.* Australian Government.

Domaniczky, E. (2018). *Australia through Hungarian eyes.* Fakultás Publishing.

Dutton, P., Littleproud, D., & Hastie, A. (2024). *Joint media release: Commitment to reinstate live sheep exports.* Liberal Party of Australia; National Party of Australia.

Export Control Act 2020 (Cth).

Export Control Amendment (Ending Live Sheep Exports by Sea) Act 2024 (Cth).

Independent Panel. (2023). *Phase Out of Live Sheep Exports by Sea: Report to the Minister for Agriculture, Fisheries and Forestry.* Department of Agriculture, Fisheries and Forestry. https://www.agriculture.gov.au/biosecurity-trade/export/controlled-goods/live-animals/livestock/live-sheep-exports-phase-out/independent-panel-report

McCarthy, M. (2018). *Independent review of conditions for the export of sheep to the Middle East during the Northern Hemisphere summer.* Department of Agriculture and Water Resources, Australian Government.

Nielson, L. (2011). *Live cattle export - Background and issues (Research Paper No. 5, 2011-12).* Parliamentary Library, Parliament of Australia.

RSPCA Australia. (2022). *Submission regarding the review of live sheep exports by sea to, or through, the Middle East during the Northern Hemisphere summer.* RSPCA Knowledgebase. https://kb.rspca.org.au/assets/Downloads/Review-of-Live-Sheep-Export-to-ME-in-NHS-RSPCA-Submission.pdf

Saunders, C. (2010). The Australian Constitution and our rights. In H. Sykes (Ed.), *Future Justice* (pp. 117-135). Future Leaders. https://futureleaders.com.au/book_chapters/pdf/Future_Justice/Cheryl_Saunders.pdf

Towie, N. (2025, July 9). *„Serious animal welfare concerns": Australian authorities investigate alleged breach of livestock export rules.* The Guardian. https://www.theguardian.com/australia-

news/2025/jul/09/serious-animal-welfare-concerns-australian-authorities-investigate-alleged-breach-of-livestock-export-rules

Western Australian Government. (2023). *WA Government Submission: Live Sheep Export Phase-Out. Department of Primary Industries and Regional Development.* https://www.dpird.wa.gov.au/siteassets/documents/agriculture/livestock/live-export/wa-govt-submission---live-sheep-export---july-2023.pdf

White, S. (2013). Into the void: International law and the protection of animal welfare. *Global Policy, 4*(4), 391–398. https://research-repository.griffith.edu.au/bitstreams/9e31a50e-2984-5653-8929-0baebc69f1ce/download

Zhou, I. (2024). Export Control Amendment (Ending Live Sheep Exports by Sea) Bill 2024. *Bills Digest No. 77,* 2023–24. Parliament of Australia. https://parlinfo.aph.gov.au/parlInfo/download/legislation/billsdgs/9775790/upload_binary/9775790.pdf