



SENATOR THE HON. CHRISTOPHER ELLISON

Minister for Justice and Customs
Senator for Western Australia
Manager of Government Business in the Senate

Ministerial No: 90939

28 NOV 2006

Ms Angela Radich
Chair,
Animal Rights Committee
NSW Young Lawyers
Level 6
170 Phillip Street
SYDNEY NSW 2000

Dear Ms Radich

Thank you for your correspondence of 6 November 2006 on behalf of the Animal Rights Committee for NSW Young Lawyers, calling for a ban on all fur imports from unregulated jurisdictions.

I have noted your request seeking the introduction of import controls under Section 50(2) of the *Customs Act 1901*. However, as you would appreciate, the matters raised in your correspondence involve Australia's relations with important international trading partners, particularly China. Any decision that may vary current import/export controls on fur goods needs to be examined within the broader context of international trade.

I recently sought advice on similar concerns raised by Lawyers for Animals, from the Deputy Prime Minister and the former Minister for Trade, the Hon Mark Vaile MP, who had policy responsibility for trade negotiations.

The Minister advised that he has concerns about the suggestion of a ban on fur imports and noted that if Australia was to impose a ban, Australia could suffer retaliatory action.

Further, any additional control measures on fur imports generally also would have to be considered within the context of Australia's obligations under the World Trade Organisation (WTO), the General Agreement on Tariffs and Trade (GATT) and the Agreement on Technical Barriers to Trade.

As you would be aware, the import/export of cat and dog fur is controlled under the *Customs (Prohibited Imports) Regulations 1956 and Customs (Prohibited Exports) Regulations 1958*. If the Australian Government were to consider extending these controls to include the import of all fur products, a detailed assessment of the domestic and international trade implications of these controls, including their consistency with Australia's WTO obligations would be necessary.

As part of the whole-of-government approach, particular account would need to be taken of Australia's obligations under the GATT to accord no less favorable treatment to imported products than that accorded to like domestic products (Article III:4 GATT 1994) and to eliminate quantitative restrictions in accordance with Article 11 GATT 1994.

The GATT also provides for a range of exceptions (under Article XX GATT 1994) which permit Members to derogate from substantive GATT commitments – including where a member takes measures necessary to protect animal health.

Article XX requires that relevant measures must be considered necessary, and that they cannot be used as a disguised restriction between countries where the same conditions prevail. There is substantial WTO jurisprudence on the application of Article XX, and detailed analysis would be required to assess whether any measure proposed to introduce controls on imports of fur materials might fall within the exceptions offered under Article XX.

Given the advice received, I agree with the views of the Deputy Prime Minister that the best approach in progressing animal welfare issues in the future is through direct negotiation.

I trust this information is of assistance.

Yours sincerely



CHRIS ELLISON
Senator for Western Australia