

Export of live animals and the Protection of Calves (Export) Bill [Bill 27, 1994/5]

Research Paper 95/11

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The trade in live animals throughout Europe has become one of the most important farm animal welfare problems. Recent concern has centred upon the export of calves to go into veal crates, and this paper describes the Protection of Calves (Exports) Bill. The paper describes the background and discusses whether a ban on the export of calves would be compatible with EU law. Other issues in this area are also discussed.

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I. The Background to the Problem

Whereas some farm animal welfare problems are becoming less serious because of better technology and more consideration - for example the reduction of suffering in slaughterhouses - the transport of live animals is becoming more of a problem. Not only has the trade increased, but there is greater public awareness of transport methods and more public sympathy with the animals. The number of cattle exported from the UK did not greatly increase over the 1989 to 1993 period, rising only from 330,000 to around 400,000. Exports of pigs have been lower, mostly under 150,000 a year, although more than doubling in 1992 and 1993, then returning to their earlier levels. Exports of sheep soared from just under 600,000 in 1989 to over 1,400,000 in 1992, falling to under 700,000 in 1993, and retaining this level in the first half of 1994, the latest period for which figures are available.¹

The cattle figures are dominated by the export of calves. Thus, in 1993 out of 366,300 cattle exported, 314,200 were calves. Most of these went to Belgium/Luxembourg (148,300) or to the Netherlands (132,100)². Probably most of these went into veal crates, although we do not know.

There are, therefore, two animal welfare problems. The veal calves go into veal crates, but do not travel very far. The sheep travel for long distances to slaughterhouses.

All transport of live animals for long distances simply for slaughter creates animal welfare problems, partly because there is little incentive for anybody to offer the animals food, rest and water at suitable points in the journey. Within the UK such journeys are controlled by domestic legislation. The most serious problems arise when the animals are being sent abroad. The journeys are far longer and national law in some other countries is far less strict. In any case, there is evidence that little supervision of welfare provisions actually takes place. To cap it all, conditions in slaughterhouses in many countries leave much to be desired.

Many people wonder why this trade continues. It costs considerably more to transport a live lamb to the Continent than to send a carcass. With modern transport and chilling techniques there is no difficulty in providing fresh meat at the destination. However, in practical terms there is a demand for live animals for slaughter, and British farmers legitimately make money out of satisfying it. In addition, some Continentals believe that the British concern about animal welfare is an excuse for really wanting to keep for itself the profits of the abattoir business.

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²Meat and Livestock Commission UK Handbook Information & Statistics 9/94p.17.

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Some British, equally cynically, believe that the French like to pass off British lamb as French-grown lamb if it is imported live. The Independent (12 November 1993) reported that the Sisteron abattoir in the south of France was under investigation by the French equivalent of British Trading Standards Officers on suspicion of selling imported lamb as French after its throughput increased from around 150,000 lambs to 566,000 lambs in one year. It also reported French claims that half of the lamb sold under French brand names in two regions was imported from Britain, the Netherlands or Poland.

In recent months, the continuing EU failure to reach agreement on resting and watering intervals has led to a strong campaign in the UK against the trade in live animals. In the autumn of 1994, the ferry companies which had carried the animals one by one decided to concentrate on carrying people and stop carrying animals. The decision can be seen positively as a case of commercial decisions reflecting public wishes via possible loss of passenger trade. Alternatively it can be seen negatively as a reaction to threats from animal extremists of putting bombs on ferries, thereby endangering crews and passengers.

II Veal Crates and the Protection of Calves (Export) Bill (Bill27)

(a) The law on veal crates and the European Commission review

The recent problems have concentrated upon the export of veal calves, and this has resulted in large, well-publicised demonstrations in several ports such as Shoreham. The impact has probably been increased because the ferry ban has led operators to use ports that are primarily used for other purposes, such as Brightlingsea, where the local residents are unused to live animal exports.

Dairy farmers need their cows to produce calves, partly to stimulate milk production and partly to produce more cows. However, there is little demand for the male calves, other than for veal, the meat from calves, normally slaughtered at about six months old. There are different ways of keeping calves for this purpose, and the method favoured on the Continent, using veal crates, is no longer allowed in the UK.

Veal crates are narrow stalls in which calves are kept and they have become notorious because the calves cannot turn round. Veal calves are often also fed on a diet deficient in nutrients, such as iron, because white veal is considered a special delicacy. Iron is needed, for instance, to produce haemoglobin, the component of blood that carries oxygen. In a normally exercising and fully nourished calf the animal's meat will be red because the muscles will be doing work and will thus require an energy, oxygen and food supply. Starved of movement and nutrients, the meat will remain white. Veal crates were banned in the UK by the **Welfare of Calves Regulations 1987 (SI 2021)** which came into force on 1 January 1990. Regulation 2 provides that :

No person shall keep, or knowingly cause or permit to be kept, a single calf in a pen or a stall on any agricultural land unless the following requirements are complied with -

- (a) the width of the pen or stall is not less than the height of the calf at the withers;
- (b) the calf is free to turn round without difficulty;
- (c) the calf is fed on a daily diet containing sufficient iron to maintain it in full health and vigour; and
- (d) if the calf is more than 14 days old, it has access each day to food containing sufficient digestible fibre so as not to impair the development of its rumen.

However, the use of veal crates is allowed on the Continent. An EC Directive of 19 November 1991 laid down minimum standards for the protection of calves (91/629/EEC), but these are much less strict than the rules in the UK. Veal crates are not banned, but in Article 3(1)

where calves are housed in individual boxes or by tethering in stalls, the boxes or stalls the boxes or stalls shall have perforated walls and their width must be no less than 90 cm plus or minus 10% or 0.80 times the height at the withers.

Although this applies to all holdings newly built or rebuilt after 1 January 1994, it only applies to all holdings from 1 January 2008. The general provisions in the Annex are similar to those for pigs including :

- 7) The accommodation for calves must be constructed in such a way as to allow each calf; to lie down, rest, stand up, and groom itself without difficulty; to see other calves.
- 8) Where tethers are used, they must not cause injury to the calves and must be inspected regularly and adjusted as necessary to ensure a comfortable fit. Each tether must be of sufficient length to allow the calves to move as stipulated in paragraph 7. The design must be such as to avoid, as far as possible, any risk of strangulation or injury.

The European Commission had planned to review the use of veal crates in 1997, but the EU Agriculture Commissioner Fischler has decided to accept the suggestion of the UK Agriculture Minister Waldegrave to bring the review forward. The Minister commented: "When the review takes place I shall be urging my colleagues to ban this harsh and much disliked form of production" (MAFF News Release 20 January 1995). The issue was raised at the 23 January Council of Agriculture Ministers where apparently no Ministers supported

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the use of veal crates, according to the British Minister in a television interview (News at Ten 23 January 1995).

A Press Notice from the European Commission (24 January 1995) notes that out of about 30 million calves born in the Community each year, about 6 million are reared and slaughtered for veal, mainly in France, Netherlands, Belgium and Germany. It adds that veal crates have been banned in Austria, Denmark, Finland, Germany and Sweden as well as the UK. It continues:

Community Legislation on the Protection of Calves

The Commission made a proposal, in 1989, for a Regulation which would have ended the rearing of calves in narrow boxes. This was blocked by France, Spain and Italy.

The Commission proposal to amend Directive 91/628/EEC on the protection of animals during transport is back on the Council agenda in February.

There are 3 Possible Ways Measures to Improve the Situation

- (a) Adoption by the Member States of the transport/welfare Directive.
- (b) Adoption by the Commission of a Recommendation by the Scientific Veterinary Committee on the protection of calves kept for farming purposes.
- (c) Possible guarantees from transporters and fatteners on the continent that the calves to be transported will be fattened in group pens and not crates.

(b) The Protection of Calves (Export) Bill (1994/95 Bill 27 introduced by Mr Martlew)

This Bill would make it an offence for any person to export calves from the UK "except where he is satisfied" basically that the calves would be kept in line with the British rules (in 1987 SI 2021). The question of whether this was in breach of EU law is discussed in subsection (d). The question of how to make an offence based upon what is going to happen in another country is also difficult, but has been partly tackled in the new British legislation on journey times. In that case, the exporter has to make a declaration about the journey plan along with the resting and watering intervals. It is a criminal offence to make a false declaration in this way.

(c) The Export Ban from 1973 to 1975

The Conservative Government stopped issuing licences for the export of animals, except for breeding, on 13 July 1973 although a very few animals continued to be exported from licences issued before that date (HC Deb 29 January 1974 c.77w). The following statement was made on that day (MAFF Press Notice 13 July 1973).

Following on the vote in the House of Commons last night after the debate on the export of live animals, the Rt Hon Joseph Godber MP Minister of Agriculture, Fisheries and Food, announced today that the Government will issue no new licences for the export of cattle or pigs. The existing licences are all due to expire within a matter of weeks. The Government will reconsider the whole question in the light of the report of the independent inquiry.

In the meantime, the Government will continue to discuss with its European partners the improvements in standards of welfare in transit and avoidance of cruelty at slaughterhouses throughout the European Economic Community. The Government continues to believe that it is through joint action in the Community that the greatest safeguards against cruelty to animals can be achieved.

Their terms of reference for Lord O'Brien and his Committee were (HC Deb 25 July 1973 c.481w) :

To review the export trade in live animals destined for slaughter; to consider whether the welfare of such animals is properly safeguarded both in transit and at the place of slaughter; and to report with recommendations.

The O'Brien Report was debated in the House of Commons on 16 January 1975 (cc 696-818). There was a Government motion but apparently a free vote. The motion paid tribute to the work of the Committee,

and considers that, in view of the progress made in establishing international welfare safeguards and of other relevant considerations, the export trade in animals destined for slaughter should now be resumed under close control to member countries of the European Economic Community and to such other countries as can provide adequate safeguards for the animals in question.

The Minister (Mr Peart) summed up the report (c.700) :

The O'Brien Committee reached three main conclusions : first, that a permanent ban on the export of live animals for slaughter would be unjustified on either welfare or economic grounds; second, that the implementation of common European welfare regulations covering transport and slaughter conditions would be the most effective means of safeguarding the welfare of animals in intra-Community trade : third, that safeguards for non-EEC

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countries should be no less stringent if trade in food animals were to be permitted. The Government agree with each of those conclusions.

The motion was carried by 232 votes to 191. The trade was then resumed.

(d) Could the Government Stop the Trade under current EU law?

The RSPCA has recently claimed that the Government could stop the export of live animals under Article 36 of the Treaty of Rome.

Article 36

The provisions of Articles 30 to 34 shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy or public security; the protection of health and life of humans, animals or plants; the protection of national treasures possessing artistic, historic or archaeological value; or the protection of industrial and commercial property. Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between Member States.

On the face of it, this Article could only be used to stop the trade if the judges were willing to take a favourable interpretation of it. One would think that, in view of Continental public opinion, such a favourable view would not be forthcoming. In addition, the judges might be reluctant to interpret broadly an Article which might be used to restrict trade in the future.

Any decision would be taken by the judges of the European Court of Justice. However, a general view came from the new Agriculture Commissioner, Franz Fischler, in his confirmation hearings at the European Parliament. Agra Europe (13 January 1995 E/2) reported :

The new Commissioner expressed his determination to bring the long-running dispute over the welfare of animals in transport to some sort of speedy conclusion. "Animal transport is not simply a question of animal welfare, although that aspect does take priority for non-farmers. We must also look at what effect the problem is having on consumption." Discussions at the farm Council on February 13/14 would hopefully "be the last discussion of the issue for some time."

On the specific question of veal crates, Fischler said that it would be impossible to ban trade in calves because of the large market for veal in the EU, but did press the need for standards. "This is not a political but a scientific question." If minimum amounts of iron and roughage were to be

required in calves' diets, consumers might have to accept veal as red meat, he said. Alternatively, calves would have to be slaughtered before weaning to ensure that veal maintained its traditional white colour.

A recent PQ (HC Deb 19 January 1995 c.626w) raised the possibility of using Article 36 of the Treaty of Rome to prevent the export of calves.

Mrs. Browning : Legal advice is that recourse to article 36 would not be possible for this purpose. There is Community legislation occupying the field and a ban on the export of calves for veal production would not be justifiable as proportionate in relation to animal welfare objectives.

It is worth noting that this part of the Treaty of Rome follows almost exactly the wording of Article XX of the Gatt. In other words, the EU rules that do not allow a ban on exports are free trade rules rather than a product of the common agricultural policy. The relevant part of the Gatt reads as follows.

Article XX

Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, nothing in this Agreement shall be construed to prevent the adoption or enforcement by any contracting party of measures :

- (a) necessary to protect public morals;
- (b) necessary to protect human, animal or plant life or health;

The chance of being taken to a Gatt panel on a ban on the export of animals is probably much less than the chance of being taken to the European Court.

(e) Why could the UK ban the export of animals in 1973 but not now ?

The 1973 ban was never challenged in the European Court of Justice, so we cannot be certain whether or not it was legal. The basic position of EC law remains the same as it was in 1973 and the Single European Market implemented in detail what had already been stated as aims in the 1957 Treaty of Rome. However, for many years, many of the Treaty provisions were openly flouted. For example, exchange controls were almost universal until the late 1970s. Governments act in all sorts of ways, and it is only really decided whether it is contrary to the Treaty of Rome if a case is brought before the European Court, which did not happen with the 1973 export ban. This issue was not seen as a priority and there was probably little

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pressure to challenge what was, in any case, likely to be a temporary ban. In those days, the European Court was less used to rule against Government practices in order to bring free internal trade. In addition, the ban related to an area where there was no EEC law in force. The conditions of rearing calves is now covered by EC law so it is harder to argue that it is contrary to public morality.

Annex 1 to the report of the Committee on the Export of Animals for Slaughter (Cmnd 5566) of 1974 discusses the legality or otherwise of the ban, concluding that it could not be decided without a reference to the European Court, but included the following comments.

13 It is thought that if any justification for a total ban can be found under Community law, it must come from Article 36 of the Rome Treaty...The words "the protection of health and life...of animals" may provide that justification, or may be intended merely to safeguard the right of Member States to take precautions to prevent the transmission of disease across frontiers. Alternatively, measures taken for the promotion of animal welfare and prevention of cruelty may be "justified on grounds of public morality...[or] public policy..." With regard to the interpretation of Article 35 generally, the following extracts are taken from the analysis of this Article in "Le Droit de la Communauté Economique Européene" by Mégret, Louis, Vignes and Waelbroeck (Brussels 1973) Volume 1 pages 114-120 : -

"3 It is generally admitted that the concepts mentioned in Article 36 are to be interpreted according to the legal systems of the individual Member States. Ideas may differ from one Member State to another. Thus, it is possible that in one Member State, a ban on imports may appear necessary on grounds of public policy or public morality, whereas such a ban would not appear necessary on such grounds in another Member State...Nevertheless, Member States are not free to give an arbitrary extension to the concepts contained in Article 36. A State cannot, for instance, attempt to justify by considerations of public policy measures which are foreign to this concept, and in particular cannot attempt to justify by this means measures which have an economic aim. Accordingly it may be said that, if it is true that Article 36 remits to the legal systems of the Member States the determination of the content of the concepts which it enumerates, the limits of this remission are to be derived from Community Law or, more precisely, from the generally recognised interpretation of these concepts in the legal systems of the Member States.

4 For a restrictive measure to be permissible under Article 36, it is not enough that it should be based upon a ground which is mentioned in that Article, it must also be justified by it."

Whether that interpretation of EC law - with its cautious sympathy for a ban - would be repeated today is another question. Although this part of the Treaty has not been changed, a considerable body of case law has since built up, in which the Court of Justice ruled against attempts to use Article 36 in this way. Thus, the Encyclopedia of EC Law (B10-084) notes:

It should, of course, be remembered that throughout Art 36 a proportionality test is applied. Thus in case 104/75, *de Peijper*, the Court of Justice said measures could not fall within this exception "if the health and life of humans can be as effectively protected by measures which do not restrict intra-Community trade so much"...The protection of animal health was considered in case 40/82, *Commission v. United Kingdom* [1982] E.C.R. 2793 which concerned the Newcastle Disease regulations. The British claims in justification of the regulations were treated with scant respect as it was evident that they were merely designed to protect the British chicken and turkey producers...The UHT milk case (case 124/81), *Commission v. United Kingdom* [1983] E.C.R. 203 is an excellent example of the use of the principle of proportionality to defeat alleged justifications under this heading.

In addition, as noted, the introduction of EU standards for veal production - albeit weaker than in the UK - makes it even harder to justify a ban under EU law.

(f) What would happen if the calf export trade did stop ?

It is perfectly possible that the calf export trade might stop, even without a change in the law. The demonstrations might have the effect of increasing costs to the port authorities and creating local ill-will to the point where they are no longer to allow their ports to be used for this purpose. If the whole export of animals trade were stopped, farmers would lose around £200 million a year - £90 m for the veal calf trade, £90 m for lamb and £20 m for pigs.

Dairy farmers will continue to have surplus calves born, until the day when there are practical technologies for controlling the sex of the new-born calves. That may be near but it is not yet the position for dairy farmers. There are three main options. First, the calves could be sold for veal in the UK. Second, they could be fattened for beef. Third, they could be slaughtered within ten days of birth. The first option would be convenient, but it seems to be agreed that the market demand is very limited. The second option would result in an oversupply of beef in about two years. Already this year there would be problems for other farmers. There would be greatly increased demands for beef special premium, but the total is cash-limited by the EU, so other farmers would be paid at a much lower rate. Under present arrangements, an increase in beef production would probably be the main destination for the calves. The third option of slaughter within 10 days of birth would destabilise the farming industry least but would not necessarily be economic on a large scale. One possibility is that farmers would be paid a subsidy for slaughtering male calves within 10 days of birth. That would be possible under EU law and was even considered as part of the

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1992 reform of the CAP. It would probably not be opposed by the industry but there might be adverse public reaction.

III. Attempts to Regulate resting, feeding and watering intervals for EU journeys.

(a) Deadlock in the Council of Agriculture Ministers

In terms of EC law the trade in animals is seen as similar to other types of trade and free trade rules apply throughout the Community. Indeed, the EC is strongly aiming at the complete removal of customs posts within Europe, and therefore would not want to allow particular restrictions on this category of exports. The move to complete the Single European Market by 1993 brought an obvious requirement for EC-wide laws covering the transport of animals. In a sense, this was achieved by Directive 91/628/EEC which came into force on 1 January 1993. The requirements are very general. For example, in Article 5(2c), "Member States shall ensure that the person in charge of the animal transport undertaking is able, according to the species transported and where the journey takes more than 24 hours, to demonstrate that steps have been taken to meet the animals' needs for food and water during the journey even where the route plan is changed or where the journey is interrupted for reasons beyond his control."

However, that Directive did not deal directly with many of the most contentious issues. In particular, it required the Commission, before 1 July 1992, to submit a report drawn up on the basis of an opinion from the Scientific Veterinary Committee, possibly accompanied by proposals, on maximum journey times, feeding and watering intervals, resting periods, space allowances and standards for livestock vehicles.

Originally it was hoped to reach agreement in these areas before 1 January 1993, but the draft proposals did not emerge from the Commission until several months after they had been expected. A compromise was put forward in December 1993. This was rejected, partly because of criticism from the British Government. A MAFF Press Release (15 December 1993) contained a statement by the Minister (Mrs Shephard) explaining the reasons :

I opposed the latest proposals because they would have extended the intervals between feeding and watering animals in some areas to 22 hours, and reduced rest periods from eight to six hours. This was totally unacceptable.

Our vets worked hard to try to establish satisfactory intervals for feeding, watering and resting animals during transport. They pressed for current UK national rules of 15-hour intervals to be adopted throughout Europe where the national maximum is 24 hours. They also pressed successfully to link health

certificates and journey plans so that national authorities can more easily enforce those intervals.

Going along with a package which was fundamentally flawed would have further prejudiced the welfare of those animals already at risk.

The June 1994 proposal, a compromise from the Greek Presidency, was viewed as an improvement, since it set a 15 hour maximum watering interval, compared with the 22 hours in the previous version. Initially, the UK planned to accept it, on the grounds that this was the best compromise that would pass. However, the Minister decided on a change in tactics during the actual negotiations, and opposed the proposal, in conjunction with Germany, Denmark, the Netherlands and Belgium. The German Presidency produced a further compromise in September 1994, but could not gain agreement. According to one version, nobody was satisfied with it. Apparently another compromise is to be presented to the council of Ministers in February 1995, but at the time of writing this paper, the compromise is not yet available.

(b) The New British Rules

On 14 September the Minister of Agriculture announced that new rules would be introduced to help enforcement of welfare rules on animal transport. In 1993 and 1994 the relevant law was the Welfare of Animals during Transport Order 1992 (SI 3304). However, on 23 January 1995 new legislation came into force. The problem usually comes when the animals have been taken abroad and enforcement is therefore the responsibility of the country where the journey is taking place. These are often Mediterranean countries where animal welfare is a much lower priority than in the UK. MAFF has therefore tried to deal with the matter under British law by forcing hauliers to make a declaration before the journey starts on welfare arrangements, and then prosecute them if the declaration is false. This is not an easy matter, and the new rules are designed to facilitate it. These rules will not alter the basic requirement that animals have to be rested, fed and watered every 15 hours.

The new rules were announced on 13 December 1994 (MAFF Press Notice).

In future, a journey plan will be regarded as a formal legal declaration by the transporter about proposed travel arrangements. Under the Order, transporters will be committing an offence, punishable in a court of law, if they fail :

to take all reasonable steps to ensure that the journey plan is adhered to;

to certify on the journey plan that it was adhered to or alternatively what arrangements were actually followed and why; or

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to return the journey plans to the Divisional Veterinary Officer covering the place of departure within 15 days of completion of the journey.

It will also be an offence to make a false declaration. The Government will be taking steps to establish what transport arrangements have been followed in the event.

IV. Journey Times and the RSPCA campaign

Many people believe that there should be an absolute limit on the maximum length of journey for animals. Journey times of animals slaughtered in the UK are relatively short. Warriss and others (Veterinary Record, 127,5) conducted a survey of 124,000 lambs slaughtered in two slaughterhouses in the South of England and found that 50% of them travelled up to 120 km and spent less than four hours in transport, while 75% travelled up to 300 km and spent less than six hours in transit.

Some overseas journeys are very long, particularly if the animals are brought from the north of Europe to the Mediterranean. RSPCA undercover investigations have shown both the length of journeys and the lack of attention to welfare needs (RSPCA Live Animal Transport Policy):

The RSPCA Special Operations Unit (SOU) have trailed numerous consignments of livestock during their journeys across Europe. Since the introduction of the Welfare of Animals During Transport Order 1992 (January 1st 1993) the RSPCA SOU have trailed 21 livestock vehicles during their journeys from the UK to their destinations throughout Europe. Of these, 14 exceeded the 15 hour journey limit without providing food, water or rest; one for 28 hours 41 minutes, breaching both UK and EU rules...In 1992 the RSPCA SOU...established clear evidence that regular long distance transportation of slaughter animals from Holland was being conducted with clear disregard for the animals' welfare and without regard to the feeding and watering requirements of the European Directive 77/489/EEC. In ten randomly selected trails, no attempt was made to provide either food or water to the animals even though all the journeys were in excess of 30 hours; the longest being 59 hours 20 minutes.

Apart from its complaints over the failure of operators to observe existing law, the RSPCA has been pressing for tighter laws in three areas (op. cit.):

- 1) All food animals to be slaughtered as near as possible to the point where they were reared; certainly no animal should travel longer than eight hours to a slaughterhouse;
- 2) All drivers and vehicles to gain a certificate that ensures animals will be properly cared for in transit;
- 3) Teams of trained inspectors to be appointed to monitor the enforcement of European transport laws.

In 1993 the RSPCA mounted a campaign in favour of a maximum journey time of 8 hours, supported by an extensive poster campaign. The scientific evidence for their choice of eight hours was research³ funded by MAFF

The research demonstrated that the gathering and the handling of lambs prior to transport is stressful, both physically and psychologically and the journey imposes further psychological and metabolic stress. Most importantly the work identified that after a journey of nine hours it takes 24 hours rest, food and water for the symptoms of stress and dehydration to disappear; four days for the animal to recover lost weight; and six days before signs of almost complete recovery are apparent.

However, the RSPCA has focused on one particular conclusion from the research findings. Some of the evidence from the same study suggests other conclusions. The researchers took two groups of lambs. One group was carried on lorries for nine hours and the other for 14 hours, before returning to undergo further tests. Much of the stress came from the initial handling and an important finding was that the duration of the journey was not a significant factor in determining the levels of stress. Indeed, the description in the paper does not imply that the journey itself was particularly stressful, although the authors concluded that "transport did appear to have an effect additional to that of gathering" (p.292):

³ Knowles, T.G. *et al* Long distance transport of lambs and the time needed for subsequent recovery. *Veterinary Record*, 133, 286-293.

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The journey did not appear to have been physically strenuous. The lambs lay down and ruminated during transport but did not lie down as much as when they were in lairage...Although the lambs were jostled by the motion of the lorry, they were not seen to fall or lose their balance. The PCV and plasma lactate levels had both decreased in the blood samples taken after the journey, indicating that the lambs had recovered to some extent from the adrenergic and exercise components of the pretransport stress. The results show that there were no measurable differences between the lambs' response to nine or 14 hours of transport and it would seem that it was transport itself rather than its duration, which affected them. However, there is presumably an upper limit beyond which the duration of a journey will have measurable effects.

One main concern of the researchers was that the lambs were subject to a noise of 90db(A) for a period that would be unacceptable for human beings - although whether the criteria for acceptability are really comparable is another question.

Although the British Government has pressed for stricter animal welfare controls, the RSPCA proposal went far beyond their position. After all, the journey time of animals coming from Scotland to the south of England can be long and the cross-channel crossing lengthens the journey further.

The position was complicated further with reports that Germany had proposed a maximum journey time of six hours, and that the UK Government had blocked the proposal. The German Government has supported the idea of a maximum journey time, but it has never committed itself to a particular figure. It is, in fact, extremely unlikely that Germany would press for such a short maximum as six hours.

The idea of a maximum journey time was rejected by the EC on the grounds that the definitions in Directive 91/628/EEC of "place of departure" and "journey" mean that it would be simple to evade a limit on a journey by using intermediate places of destination (Communication from the Commission to the Council in accordance with Article 13(1) of Directive 91/628/EEC).

V. The Exports of Animals to Spain

Until 1993, it was not possible to export live animals to Spain because of concern about conditions in their slaughterhouses, where it was alleged that animals were often killed without first being stunned - although that would be contrary to EC law. Clearly such restrictions could not be maintained after 1 January 1993 because of the Single European Market, but the Minister (Mr Gummer) explained what would replace them (HC Deb 16 December 1992 c.243W):

Under the current arrangements, licences for export of animals for rearing or slaughter in Spain have been withheld because of doubts about compliance with Community welfare legislation in that country. The licensing system will no longer apply from 1 January 1993, but these controls will be replaced by specific safeguards for ensuring that animals exported for slaughter in Spain are slaughtered in accordance with Community welfare legislation. Under these arrangements any animals from the United Kingdom for immediate slaughter in Spain will only be sent to slaughterhouses which have been confirmed by the Spanish authorities as meeting Community welfare requirements. These arrangements are the subject of a formal agreement between the United Kingdom and Spanish authorities and will be kept under careful review.

More than a year later, the allegations continue. A television programme in February 1994 apparently showed British animals being slaughtered in Spanish abattoirs which fail to comply with EC rules on pre-slaughter stunning (1993/94 EDM 543). Paradoxically it is sometimes easier for private organisations to find out what is happening on the ground in other countries than it is for the British Government which has to rely upon assurances and cannot very well use undercover agents or concealed cameras. However, the Government tries to see that the rules are not broken, as was noted in answer to a recent PQ (HC Deb 16 February 1994 c.847w), which described the January 1993 agreement, and continued:

In December the Government agreed further safeguards with the Spanish authorities. Details of all consignments are sent to Spain so the authorities may check that animals arrive at the destinations declared by British exporters. No consignments of animals have been sent to Spain for slaughter this year.

On two occasions last year consignments were exported where the agreed procedures to ensure that the slaughterhouses of destination were on the approved list, were not followed. This was due to a regrettable error. The procedures for authorising all export journeys have been reviewed and fresh instructions have been issued to the state veterinary service.

VI. Horses

Research Paper 95/11

The transport of horses is a particularly emotive issue. To the British, the idea of eating horses is repugnant, but on the Continent different ideas prevail. Under British law, through the Minimum Values Order, it has not been possible to export horses under a certain value. The purpose of this legislation is to allow the export of racehorses but to prevent the export of horses for slaughter. Such legislation is very much contrary to the spirit of the Single European Market, and it is doubtful whether the UK will be allowed to retain it in the long-term. For the moment, however, the UK has been allowed to keep this restriction.

One slight complicating factor is that the UK does export horsemeat to the Continent, albeit in small quantities. Some veterinary surgeons have expressed concern that since horses are classified by the EC as food, certain veterinary products will no longer be allowed to be used on them. There is an EC Regulation (2377/90) which requires that maximum residue levels of certain active ingredients are not exceeded in animals which might be used as food. Horses are included in this category because the UK exports about 1,000 tonnes of horsemeat each year, coming from old or worn-out horses. The European Commission has now said that if a horse is not destined for human consumption, maximum residue limits will not be required (HL Deb 3 March 1994 c.1128). One probable way forward is for the British Government not to set or enforce maximum residue limits for equine medicines, but simply to state that British horses are not destined for human consumption. That would probably lose a £2 million export trade in horsemeat, but it would offer protection against any future EC objection to the Minimum Values Order. Continental countries would not be able to buy British horses and then kill them for food, since they would be likely to contain medicines which had not been cleared for the maximum residue limits.

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Section Code: SES

**Research Paper 95/11
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