ISSN 1751-6072

JOURNAL OF ANIMAL WELFARE LAW

June 2007

www.alaw.org.uk

FARM ANIMAL WELFARE EDITION

Association of Lawyers for Animal Welfare

CONTENTS

1 The legality of factory farming under UK law

4 EC legislation on the welfare of farmed animals on-farm

7 Legislation

8 Media watch

8 EC legislation on the welfare of farmed animals during transport and slaughter

12 Welfare-related controls on trade in farm animals: the scope for unilateral action by EU Member States

14 World trade law and the welfare of animals

Address: Springfield, Rookery Hill, Ashtead Park, Ashtead, Surrey KT21 1HY
Email: info@alaw.org.uk **Website**: www.alaw.org.uk

Directors: Alan Bates, Jeremy Chipperfield, Simon Cox, Joy Lee, Andrew Lutley, Paula Sparks
Editor: Christine Orr

The Association of Lawyers for Animal Welfare (ALAW) would like to thank Compassion in World Farming Trust for its generous support of this Journal.

The views expressed in this Journal are those of the authors and do not necessarily represent those of ALAW.

Registered Office: Springfield, Rookery Hill, Ashtead Park, Ashtead, Surrey KT21 1HY. A company limited by guarantee (No 5307802 – England). Registered Charity Number 1113462.

The legality of factory farming under UK law

Debbie Rook
Principal lecturer, School of Law, Northumbria University

"All animals are equal but some are more equal than others". When George Orwell wrote these words in *Animal Farm* they formed part of his satirical allegory of the Russian Revolution and had nothing to do with farm animals. Ironically, his words provide a succinct appraisal of the current law governing farm animals in the UK. This article submits that the law protecting domestic animals from unnecessary suffering does little to assuage the suffering of intensively farmed animals. Farm animals reared in intensive systems constitute a category whose suffering is deemed of less importance than that of other domestic animals. Bearing in mind the astonishing numbers of animals involved this is a serious flaw.[1]

The offence of unnecessary suffering

It is a criminal offence to cause unnecessary suffering to domestic animals. Section 4 of the Animal Welfare Act 2006 (AWA 2006) provides that a person commits an offence if his act or failure to act causes a protected animal to suffer unnecessarily.[2] At first sight it would appear that a pig living on a farm enjoys the same protection from unnecessary suffering as does a dog living in a family home. Significantly, section 4 does not prohibit necessary suffering. The crucial question is "what suffering is necessary and who decides?" This article will consider the courts' approach to determining the issue of necessity. It will be argued that, where they refuse to consider the legality of the farming practices themselves, courts fail to fully address the necessity of the suffering of farm animals. By this refusal, any suffering that a farm animal endures as a direct consequence of intensive farming practices is excluded from the scope of the AWA 2006. There is no express exclusion in the AWA 2006 to this effect, as there is for animals used in experimentation. Consequently, on what basis have courts inferred this significant exclusion?

The welfare regulations

The Welfare of Farmed Animals (England) Regulations 2000 stipulate the minimum standards for meeting the welfare concerns of farm animals.[3] Any person who, without lawful authority or excuse, contravenes the regulations is guilty of an offence. Regulation 3 states that all "reasonable steps" must be taken to ensure, firstly, the welfare of the animal and, secondly, that the animal is not caused unnecessary pain, suffering or injury. Schedule 1 sets out general conditions under which all farm animals must be kept. Schedules 2 to 7 relate to specific animals.

The problem is that if the suffering caused by the farming practice itself is excluded by the courts, the regulations have only a very limited practical effect in alleviating the animals' suffering.[4] For example, Schedule 1, paragraph 9, states that the freedom of movement of animals "shall not be restricted in such a way as to cause them unnecessary suffering". Under intensive farming methods pigs are kept in densely stocked, barren units and consequently their freedom of movement is severely restricted. Having regard to the natural behaviour of pigs as exploratory animals, pigs that spend their entire lives in barren, cramped units are likely to suffer. But is this suffering necessary? There are alternative free-range methods for rearing pigs that do not so severely restrict the pig, but is that a relevant consideration? According to the decision in *Roberts* v *Ruggiero*,[5] it is not.

[1] Approximately 900 million in the UK each year.
[2] The AWA 2006 came into force on 6 April 2007 and repealed the Protection of Animals Act 1911 and Part 1 of the Agriculture (Miscellaneous Provisions) Act 1968.

[3] SI 2000/1870.
[4] In *R (CIWF)* v *Secretary of State for the Environment, Food and Rural Affairs* [2004] EWCA Civ 1009 the regulations, which require broiler chickens to receive a "wholesome diet" and "in sufficient quantity to maintain them in good health" (Schedule 1, paragraph 22), did not prevent the use of a restricted feeding regime which left the breeder chickens chronically hungry.
[5] QBD, 3 April 1985 (unreported).

The narrow approach

In *Roberts* v *Ruggiero*, the Court stated that the legislation could not be used to challenge the intensive farming practices themselves. The case concerned the use of veal crates. It was alleged that keeping veal calves continuously chained by the neck in small, individual stalls in which they were unable to turn around, with no bedding and only a liquid diet, constituted an offence of cruelty. The magistrates held that no offence had been committed and the appeal was dismissed by the High Court. Stephen Brown LJ observed that "the magistrates did not find that suffering was caused to any of the calves beyond that which was general in animal husbandry" (emphasis added).[6] In fact the magistrates were applying a much narrower category than "animal husbandry". The suffering of the calves was not beyond that expected in *this particular type* of animal husbandry i.e. the veal crate. Alternative systems of raising calves for veal were not considered to be relevant. But if the test was whether the calves had suffered "beyond that which is general in animal husbandry" then surely alternative methods of raising calves would be a relevant consideration?[7] On the basis of this decision, avoiding "unnecessary suffering" does not mean using farming practices which cause the least suffering to the animals. No offence is committed even though there may be alternative methods which cause less suffering but nevertheless achieve the same end. Similarly, in *R (CIWF)* v *Secretary of State for the Environment, Food and Rural Affairs*, the Court accepted that the intensive farming of chickens of fast-growing genotypes was legal without any detailed consideration of the alternative i.e. the use of slower-growing genotypes which would have prevented the need for restricted feeding.[8]

It is likely that any challenge to the intensive farming of pigs using Schedule 1, paragraph 9, which seeks to prevent pigs suffering from severe restrictions on their freedom of movement, would suffer the same fate. Following *Roberts* v *Ruggiero*, a court may accept that the pigs suffer but that the suffering is not unnecessary since it is not beyond that which is expected in intensive pig farming. Thus it is legal to severely restrict the movement of pigs in spite of paragraph 9. One wonders what exactly paragraph 9 achieves since it seems to have very little practical effect?

An alternative: the broad approach

In *Roberts* v *Ruggiero* the Court would not question the farming practice itself nor would it consider the availability of alternative methods of farming that involved less suffering. But the case of *Ford* v *Wiley*[9] offers a different approach. In this case 32 young cattle at a farm in Norfolk had their horns sawn off very close to the head using a common saw. It was accepted that the cows suffered extreme pain. The farmer sought to justify this procedure on a number of grounds including profit and convenience. In deciding the question of necessity the Court stated that the suffering must be in pursuit of a legitimate object, but also that there must be proportionality between the suffering and the objective to be achieved.[10] Hawkins J concluded that "to put thousands of cows and oxen to the hideous torments described in this evidence in order to put a few pounds into the pockets of their owners is an instance of such utter disproportion between means and object, as to render the `practice as described here not only barbarous and inhuman, but I think clearly unlawful".[11]

What is interesting about this case is that the Court agreed to decide the broad question of whether the practice of dehorning was illegal rather than look at the narrower issue of the particular actions of the defendant. There was expert evidence that the practice of dehorning had been discontinued in the county of Norfolk more than 30 years beforehand, and had only been renewed a few years prior to the trial.

[6] Ibid, at paragraph 203.
[7] Veal crates were in fact banned in the UK in 1990.
[8] See footnote 4.
[9] (1889) 23 QBD 203.
[10] Proportionality is now a statutory consideration under section 4(3) of the AWA 2006.
[11] Page 215.

It was no longer an established farming practice although 11 of the defence witnesses admitted that they still dehorned their cattle. Significantly, the Court was prepared to consider alternative, comparatively painless, methods of achieving the objective sought and this was a relevant factor in considering the necessity of the suffering. Using this broad approach the Court held that the practice of dehorning was illegal.

In *Roberts* v *Ruggiero,* Stephen Brown LJ said that alternative systems of raising veal were irrelevant and he sought to distinguish the case from *Ford* v *Wiley* on the basis that the veal calves had not suffered beyond that which was general in animal husbandry. Presumably he felt that the dehorned cattle had. But this distinction is meaningless. If the practice of dehorning had still been widespread at the time of the trial the court could have excluded the suffering of the cattle as being no more than that which would be expected from his particular type of animal husbandry. On Stephen Brown LJ's reasoning the "hideous torments" of dehorning would not have been illegal. Fortunately for cattle, the judges in *Ford* v *Wiley* looked to the actual suffering of the animals and assessed the question of necessity by reference to alternative farming practices that caused less suffering.

An example: adopting a narrow or broad approach?

Male chicks are an unwanted by-product of the egg production industry and most are killed shortly after birth. It is legal for chicks to be killed by exposure to gas mixtures in a chamber. The chicks are hatched in incubators and then sorted into males and females. Sometimes the male chicks are put into large plastic containers to be transported to the gas chamber. Until the container is full the chicks at the bottom may be crushed and suffocate. Is the suffering of these chicks proportional to the object to be achieved? If this question came before a court for determination in a case alleging an offence of cruelty it is arguable that it would have two very different approaches at its disposal. If it adopted a narrow approach following *Roberts* v *Ruggiero* it would not consider the suffering of the chicks that arose as a direct consequence of this farming practice. Nor would it consider any alternative methods that may achieve the same end but cause less suffering. However, if it adopted the broad approach taken in *Ford* v *Wiley*, it would be free to consider whether the means are so disproportionate to the object as to render the practice illegal. Central to this consideration would be the availability of alternative methods for transporting the chicks.

The relevance of alternatives

In the 'McLibel trial'[12] the Court had to consider whether the practice of gassing unwanted broiler chicks was cruel. It is important to appreciate that this was not a case concerning the criminal offence of cruelty to animals but instead a civil action for defamation relating to a pamphlet which claimed, among other things, that McDonalds was cruel to animals. McDonald's argued that if the farming practice in question was shown to be a customary farming practice then the Court should conclude that the practice is acceptable and not cruel. This is rather like the *Roberts* v *Ruggiero* approach that only suffering beyond that which is general in the particular type of animal husbandry in question is relevant. In other words any suffering that is a direct consequence of the farming practice itself should be excluded from the assessment of cruelty. In the McLibel trial, the Court rejected McDonald's approach on the basis that this would give the food industry freedom to decide for themselves what constitutes cruelty. Bell J went on to conclude that: "In my view chicks … do suffer significantly, albeit for a short period, when gassed by CO_2 and when an alternative method of instantaneous killing is available … I find the practice cruel" (emphasis added).[13] What is interesting to observe here is that central to finding the practice cruel was the

[12] *McDonald's Corporation and McDonald's Restaurants* v *Morris and Steel*, High Court of Justice, Queen's Bench Division, 19 June 1997, unreported. The case is the longest in the history of the English court system.
[13] Ibid.

availability of alternative methods of killing the chicks that caused less suffering.

The wider implications of the narrow approach

What are the implications of excluding suffering caused by the farming practices themselves from the provisions of the anti-cruelty legislation? If farmers choose to introduce more intensive farming methods that further erode the welfare of farm animals will these methods also be excluded? For example, there is a new method of raising dairy cows, imported from the USA, which is now in use in the UK. This method is likely to cause further suffering for the cows which are permanently kept indoors and are denied the opportunity to graze. Could this be challenged in the courts or would the courts say that the suffering is necessary, being an inevitable part of this particular farming practice? If the courts adopt the narrow approach advocated in *Roberts* v *Ruggiero* there is clearly a risk that farmers will be free to introduce more intensive farming methods. The only restriction on this freedom would be the welfare regulations which, as demonstrated above, when detached from the concept of unnecessary suffering, lay down only very minimum standards that may have little practical effect on the animals' suffering.

Conclusion

In conclusion, the case of *Roberts* v *Ruggiero* seemed to close the door on any prospect of using the offence of cruelty to challenge the suffering of farm animals caused by intensive farming practices. It is submitted here that, relying on *Ford* v *Wiley*, the courts are able to take alternative methods, which cause less suffering, into consideration when assessing proportionality. This is, of course, only one factor to weigh in the balance but nevertheless it is a significant factor and should not be excluded outright. To ignore it would effectively give the farmers freedom to define what constitutes cruelty since only suffering above and beyond the farming practices they choose to use would be relevant. Such an approach would, in the words of Bell J, "hand the decision as to what is cruel to the food industry completely, moved as it must be by economic as well as animal welfare considerations".[14] Bell J found this unacceptable in a civil case and it is hoped that the criminal courts would find it equally unacceptable in any case of alleged cruelty to farm animals.

EC legislation on the welfare of farmed animals on-farm

Peter Stevenson
Chief Policy Adviser, Compassion in World Farming

Most calves, pigs and poultry in the EU (including the UK) are farmed industrially. EC legislation has made some significant progress in that it has prohibited some of the worst aspects of factory farming. This is important not just for animals in the EU but because, at a time when industrial farming is spreading throughout much of the world, it is valuable to be able to point to one major jurisdiction that is prepared to prohibit certain practices even though they are widely used. However, there is a very long way to go before the EU has in place comprehensive legislation that requires industrial livestock production to be replaced by humane, sustainable animal farming.

A helpful cornerstone in this field is the Protocol on protection and welfare of animals that was annexed by the Treaty of Amsterdam[15] to the EC Treaty. The Protocol is legally binding as the EC Treaty stipulates that "The protocols annexed to this Treaty ... shall form an integral part thereof".[16] The Protocol provides that in formulating and implementing the Community's policies on agriculture, transport, the internal market and research,

[14] Ibid.
[15] Treaty of Amsterdam amending the Treaty on European Union, the Treaties establishing the European Communities and certain related acts, OJ C 340, 10.11.1997, p. 1.
[16] Article 311.

the Community and the Member States "shall pay full regard to the welfare requirements of animals" (emphasis added).

EU legislation has prohibited what are arguably the three most inhumane of industrial farming's rearing systems: veal crates, sow stalls and battery cages.

Veal crates

Veal crates have been prohibited in the EU since 31 December 2006 (having been banned in the UK since 1990). In this system the calf is kept in a solid-sided crate of wood, which is so narrow that he cannot even turn round from the age of about two weeks.

A distinctive feature of EC legislation on farmed animal welfare is that it is based on scientific evidence. Each proposal for a new directive is based on a report by a body that was initially called the Scientific Veterinary Committee (SVC), then the Scientific Committee on Animal Health and Animal Welfare and now the Scientific Panel on Animal Health and Welfare of the European Food Safety Authority.

A 1995 report by the SVC[17] was highly critical of the veal crate system, concluding that the welfare of calves kept in crates is "very poor". On the basis of this report the 1997 Calves Directive amended the 1991 Calves Directive and prohibited veal crates.[18]

The other essential characteristic of the veal crate system, in addition to the narrow crates themselves, is that, in order to produce the "white" veal prized by some gourmets, the calf is fed on an extremely unhealthy diet deficient in iron and roughage; indeed, many crated calves are given no solid food at all. The SVC report also condemned this aspect of the veal crate system and accordingly a 1997 Commission Decision amended the 1991 Calves Directive to require all calves to be given a certain amount of fibrous food and dietary iron.[19] The required quantities are insufficient but the Directive establishes an important principle and the next goal is to secure an increase in these quantities when the Directive is reviewed; a review was due in 2006, but is now scheduled for 2008.

A crucial difference between UK and EC legislation is that in the UK calves have to be given "appropriate bedding" until the age of six months,[20] whereas the EC Directive only requires the provision of bedding for the first two weeks. As a result many continental veal crates have been replaced by extremely barren systems in which calves are kept on concrete or slatted floors without any straw or other bedding.

Sow stalls and pig welfare

Sow stalls are metal-barred stalls that are so narrow that the sow cannot even turn round. She is confined in the stall throughout her 16½-week pregnancy – and for pregnancy after pregnancy, i.e. for most of her adult life. Sow stalls have been prohibited in the UK since 1999. The 1997 SVC report on pigs condemned sow stalls on welfare grounds.[21] Pursuant to this report the 2001 Pigs Directive amended the 1991 Pigs Directive to prohibit sow stalls from 1 January 2013.[22] Regrettably the Directive permits the keeping of sows in stalls for the first four weeks of pregnancy. One helpful aspect of the EC Directives on farmed animal welfare is that they tend to contain review clauses which afford an opportunity to try and secure strengthened provisions. The Pigs Directive was due for review in

[17] Report on the welfare of calves by the Animal Welfare Section of the SVC, 9 November 1995.

[18] Council Directive 97/2/EC of 20 January 1997 amending Directive 91/629/EEC laying down minimum standards for the protection of calves, OJ L 25, 28.1.1997 p. 24.

[19] Commission Decision 97/182/EC of 24 February 1997 amending the Annex to Directive 91/629/EEC laying down minimum standards for the protection of calves, OJ L 76, 18.3.1997 p. 30.

[20] Welfare of Farmed Animals (England) Regulations 2000 and similar legislation in the other parts of the UK.

[21] Report on the welfare of intensively kept pigs by the Animal Welfare Section of the SVC, 30 September 1997.

[22] Council Directive 2001/88/EC of 23 October 2001 amending Directive 91/630/EEC laying down minimum standards for the protection of pigs, OJ L 316, 01.12.2001 p. 1.

2008 (although the European Commission has now scheduled this review for 2009); when the Directive is reviewed, it should be amended to prohibit the use of sow stalls throughout the pregnancy as is the case under UK legislation.

In a similar system, sows are tethered by a chain to the ground or the stall. The tethering of sows has been prohibited in the EU since 1 January 2006.[23]

The food provided for pregnant sows is usually much less than that which they would choose to consume so the animals are hungry throughout much of their lives.[24] The 2001 amendments to the 1991 Pigs Directive seek to address this problem by stipulating that "to satisfy their hunger and given the need to chew, all ... pregnant sows ... must be given a sufficient quantity of bulky or high-fibre food as well as high-energy food".[25]

So far we have been looking at the breeding sows whose role is to produce large numbers of piglets. It is these piglets that provide meat; they are fattened to the age of 5-6 months when they are slaughtered. Nearly all these fattening pigs are factory farmed both in the UK and the rest of the EU. They are kept in overcrowded, barren, often unhygienic sheds. They live on bare concrete or slatted floors with no straw or other bedding. In these bleak conditions there is nothing for these lively young creatures to do. Bored and frustrated, they begin to chew and bite the only other "thing" in their pens: the tails of other pigs. To prevent tail-biting farmers slice off (dock) part of the piglet's tail.

The 2001 amendments contain two provisions designed to partially address these problems:

- they require that, to enable proper investigation and manipulation activities, all pigs must have permanent access to a sufficient quantity of material such as straw, hay, wood, sawdust, mushroom compost or peat,
- they prohibit routine tail docking and stipulate that this procedure may only be carried out once other measures to prevent tail biting, such as improving the pigs' conditions, have been taken.

Unfortunately, in most Member States including the UK, many farmers are ignoring these provisions which, if complied with, could produce real welfare benefits.

<u>Battery cages</u>

The 1999 Laying Hens Directive bans conventional battery cages for egg laying hens from 2012.[26] The Directive requires the Commission to produce a report on the various systems keeping hens. That report, which is likely to be published shortly, is being seen by many egg producers and some Member States as an opportunity to obtain a lengthy postponement of the ban on battery cages. Compassion in World Farming (CIWF) is totally opposed to any postponement, believing that the ban must come into force on 1 January 2012, the date set by the Directive.

Unfortunately, the Directive permits the use of "enriched" cages. The floor space and height required by the Directive in "enriched" cages is only slightly greater than that required in conventional battery cages. The Directive requires "enriched" cages to provide a perch, a nest box and a littered area, which are largely inadequate to meet the hens' behavioural needs. CIWF believes that "enriched" cages fail to overcome many of the welfare problems inherent in the battery cage system.

<u>Meat chickens</u>

Broilers are by far the most numerous of Europe's farmed species; over

[23] Council Directive 91/630/EEC laying down minimum standards for the protection of pigs. OJ L 340, 11.12.1991 p. 33.
[24] SVC report on pigs, see footnote 21.
[25] Article 3(7) of Directive 91/630/EEC.
[26] Council Directive 1999/74/EC of 19 July 1999 laying down minimum standards for the protection of laying hens, OJ L 203, 3.8.1999, p. 53.

5 billion are reared each year in the EU (broilers are the chickens reared for meat). Despite this, until recently there was no species-specific Directive to protect broiler welfare on-farm. However, in May 2007 the EU agreed a Directive on broiler welfare.[27] The Directive is extremely disappointing and fails to tackle the core welfare problems of industrial broiler production. This is because a number of Member States in the south and in central and eastern Europe wanted either no directive or one so weak that it would deliver no worthwhile welfare benefits. A detailed analysis of the new Directive will be provided in the next issue of this Journal.

General Farm Animals Directive

In 1998 the EC adopted what is commonly referred to as the "General Farm Animals Directive" which contains provisions that apply to all farmed animals.[28] One fundamental Article requires EU Member States to "make provision to ensure that the owners or keepers take all reasonable steps to ensure the welfare of animals under their care and to ensure that those animals are not caused any unnecessary pain, suffering or injury".[29]

Another key provision stipulates that:

> "The freedom of movement of an animal, having regard to its species and in accordance with established experience and scientific knowledge, must not be restricted in such a way as to cause it unnecessary suffering or injury.
>
> Where an animal is continuously or regularly tethered or confined, it must be given the space appropriate to its physiological and ethological needs in accordance with established experience and scientific knowledge."[30]

These provisions could arguably be used to challenge the legality of certain industrial farming practices although the fact that many of the 1998 Directive's provisions are couched in broad terms does present difficulties. Indeed, a pessimistic view is that the Directive consists mainly of legislative rhetoric designed to give the appearance of addressing welfare concerns while in practice allowing industrial farming to continue without hindrance.

Note: Details of UK primary and secondary legislation and welfare codes relating to specific species of farmed animals and farmed animals generally can be found on the website of the Department for the Environment, Food and Rural Affairs.[31]

LEGISLATION

The Animal Welfare Act 2006 came into force on 6 April 2007 and has implications not only for the welfare of domestic animals but also for that of farmed animals. Although not specifically targeted at farmed animals[32] it does alter, to some extent, the previous regulatory regime under the Protection of Animals Act 1911 and the Agriculture (Miscellaneous Provisions) Act 1968. The Animal Welfare Act provides a broad framework for the protection of animals, and new regulations and codes of practice will be issued thereunder, subject to public consultation. Details of relevant recent and new consultations and further information can be found on the website of the Department for the Environment, Food and Rural Affairs.[33]

---

[27] Council Directive laying down minimum rules for the protection of chickens kept for meat production. Not yet published in the OJ.
[28] Council Directive 98/58/EC concerning the protection of animals kept for farming purposes, OJ L 221, 8.08.1998, p. 23.

[29] Article 3.

[30] Article 7.
[31] See: www.defra.gov.uk/animalh/welfare/default.htm.
[32] The explanatory notes state: "The Act aligns welfare standards for farmed animals, which have generally kept in line with developments in scientific understanding, and non-farmed animals which are largely protected by laws formulated in the early twentieth century."
[33] See: www.defra.gov.uk/animalh/welfare/consults/index.htm.

MEDIA WATCH

"Animal welfare", Solicitors Journal, Vol. 151, No 10 Supp., 2007

James Pavey considers how the Animal Welfare Act 2006 has altered the law relating to farm animal welfare. The article identifies those who have responsibility under the Act and considers the offences thereunder, as well as the new regulatory regime and sentencing powers, noting that the Act provides the courts with a range of additional and alternative post-conviction powers. The article also addresses the fact that in relation to the offence of causing unnecessary suffering under section 4(1) a person will be liable if he knew or ought to have known that his act or omission would cause a protected animal to suffer, thus importing an objective standard of knowledge. The author concludes that "It is unlikely that the new regulations on farm animal welfare and codes relating to specific animals will differ significantly from those currently in force: like the changes in the basic offences, revisions will be subtle. However the powers of central and local government to police animal welfare are significantly enhanced by the 2006 Act and it is in this way that [it] is likely to have most impact."[34]

EC legislation on the welfare of farmed animals during transport and slaughter

Peter Stevenson
Chief Policy Adviser, Compassion in World Farming

Transport

EC legislation contains some helpful provisions on the transport of farm animals, but sadly these do nothing to prevent animals being transported from one end of Europe to another on journeys which can last 70-90 hours or more.

The EC Transport Regulation[35] that came into force on 5 January 2007 lays down an overarching requirement that transporters must not transport animals, or cause animals to be transported, in a way which is likely to cause injury or undue suffering to them.[36]

I welcome the fact that under the new Regulation three core elements of transport have to be approved and certified, i.e.:

(a) the transport company has to be authorised;

(b) drivers and attendants transporting animals on journeys of over 65 km must undertake training, pass an examination and hold a certificate of competence;

(c) livestock vehicles for long journeys have to be inspected and hold a certificate of approval.

Authorisation of transporters

A detailed authorisation procedure for transport companies is laid down in Articles 10 and 11. Particularly welcome is the requirement for transport companies to show that they have sufficient and appropriate staff, equipment and, most importantly, operational procedures to be able to comply with the Regulation. A company's authorisation can be suspended or withdrawn in the event of failure to comply with the Regulation.[37]

Training of drivers

The Regulation requires all drivers and attendants transporting animals more than 65 km to undertake formal training, pass an examination and hold a certificate of competence.[38] The examination must be approved by the competent authority, which

[34] Page 4 of the Supplement.

[35] Council Regulation (EC) No 1/2005 of 22 December 2004 on the protection of animals during transport and related operations and amending Directives 64/432/EEC and 93/119/EC and Regulation (EC) No 1255/97, OJ L 3, 5.1.2005 p. 1.
[36] Article 3.
[37] Article 26(4).
[38] Articles 6 and 17 and Annex IV.

must ensure that examiners are independent. Annex IV provides considerable detail with regard to the required content of these training courses.

The training element in the Regulation is vital. Much of the potential success of the Regulation depends on its training requirements being carried out thoroughly and effectively.

Certification of vehicles for long journeys and the requirement for satellite navigation systems

Article 7 requires vehicles undertaking long journeys to be inspected by the competent authority and to have a certificate of approval ("long journeys" are those over 8 hours[39]). Such a certificate can only be granted once the vehicle has been inspected by the competent authority and found to comply with the standards laid down by the Regulation for vehicles used for long journeys.

The Regulation's main requirements for such vehicles are:[40]

(a) Bedding: Animals must be provided with appropriate bedding which guarantees their comfort and ensures adequate absorption of urine and dung.

(b) Ventilation: Vehicles must be equipped with a ventilation system. The system must be designed so that it can be used whether the vehicle is moving or stationary. This is crucial as if ventilation only works when the vehicle is in motion, the animals can suffer greatly in high temperatures when the vehicle is stationary either because the driver is taking a rest or due to heavy traffic or roadworks. The Regulation requires the vehicle to have a ventilation system which ensures that temperatures within the vehicle can be maintained between 5°C and 30°C (41°F to 86°F) for all animals, with a 5°C tolerance either way depending on the outside temperature. In my view, 30°C (86°F) is far too high and can lead to very poor welfare.

(c) Partitions: The vehicle must be fitted with partitions so that separate compartments may be created. This is to prevent animals being thrown about during the journey.

(d) Water supply: The vehicle must be equipped with a water supply in order to be able to provide water for the animals on board the vehicle.

(e) Food: The vehicle must carry food for the animals.

(f) Satellite navigation system: Vehicles used for long journeys must be equipped with a navigation system (by 2007 for new vehicles and by 2009 for all vehicles). A "navigation system" is defined in Article 2 as a satellite-based infrastructure providing global, continuous, accurate and guaranteed timing and positioning services or any technology providing equivalent services.

Other important provisions in the Regulation are as follows:

Fitness for transport

The Regulation prohibits the transport of animals that are not fit for the intended journey.[41] Annex 1 goes into considerable detail as to which animals shall not be considered fit for transport. It also provides that animals who fall ill or are injured during transport must receive first aid treatment as soon as possible; they must be given appropriate veterinary treatment and, if necessary, undergo emergency slaughter in a way which does not cause them any unnecessary suffering.

[39] Article 2(m).
[40] Annex 1, Chapter VI.

[41] Article 3 and Annex 1.

Annex 1 stipulates that when cows in milk are being transported they must be milked at intervals of not more than 12 hours.

Journey logs

In the case of journeys exceeding 8 hours where animals are traded between EU Member States or are exported to third countries, the transporter must draw up a journey log showing the places of departure and destination, the estimated journey time and the place(s) where the animals will be given rest, food and water as required by the Regulation for long journeys.[42] The transporter must then submit the journey log to the competent authority, which must check that the log is realistic as regards the estimated journey time and must reject the log if it does not show that the transporter intends to comply with the Regulation during the journey, for example, as regards the provision of food, water and rest.[43] This provision has been included because some Member States accept route plans that indicate that a journey can be completed in an unrealistically short time or that show there is no intention to rest, feed and water animals as required by EC legislation.

Journey times, rest, food and water

Animal welfare organisations have for a long time been pressing for an overall limit of 8 hours to be placed on journeys to slaughter or for further fattening. The European Parliament, in a 2001 report, voted for a maximum limit of 8 hours or 500 kilometres (311 miles) to be placed on journeys to slaughter or for further fattening.[44] Regrettably, however, the Regulation permits much longer journeys to be made.

The Regulation provides that journeys shall not exceed 8 hours, after which the animals must be unloaded and given food, water and at least 24 hours rest.[45] At first sight this appears welcome. However, the Regulation goes on to state that where certain (not particularly demanding) vehicle standards are met, animals can be transported for much longer periods.[46] Cattle and sheep can be transported for 28 hours (with a rest of at least one hour after 14 hours), after which they must be unloaded and given food, water and at least 24 hours rest. If the higher vehicle standards are attained, pigs and horses can be transported for 24 hours, after which they must be unloaded and given food, water and at least 24 hours rest. This pattern of travel and rest can be repeated indefinitely.

Treatment of animals

During transport, including loading and unloading, animals must not be suspended by mechanical means, nor lifted or dragged by the head, ears, horns, legs, tail or fleece.[47] In addition, the use of electric goads must be avoided as far as possible.[48]

Slaughter

The EC Slaughter Directive provides a detailed, relatively comprehensive set of provisions on welfare at slaughter.[49] The Directive applies to both animals and poultry.[50] It applies to the movement, lairaging, restraint, stunning, slaughter and killing of animals used for meat, skin or fur and to methods of killing animals for the purpose of disease control.[51]

The Directive contains an overarching provision that animals must be spared any avoidable excitement, pain or suffering during movement, lairaging, restraint, stunning, slaughter or killing.[52] It also

[42] Article 5 and Annex 2.
[43] Article 14.
[44] Resolution of 13 November 2001 on the Commission report on the experience acquired by the Member States since the implementation of Council Directive 95/29/EC amending Directive 91/628/EEC concerning the protection of animals during transport (2001/2085).
[45] Annex 1, Chapter V, points 1.2 and 1.5.
[46] Annex 1, Chapter V, points 1.3 and 1.4.
[47] Annex 1, Chapter III, point 1.8 and definition of "transport" in Article 2.
[48] Annex 1, Chapter III, point 1.9 and definition of "transport" in Article 2.
[49] Council Directive 93/119/EC of 22 December 1993 on the protection of animals at the time of slaughter or killing, OJ L 340, 31.12.1993, p. 21.
[50] Article 5.
[51] Article 1.
[52] Article 3.

provides that no person shall engage in the above activities unless they have the knowledge and skill necessary to perform the tasks humanely and efficiently.[53] The competent authority is required to ensure that persons employed for slaughtering possess the necessary skill, ability and professional knowledge.[54]

Stunning

The Directive requires all animals, including poultry, to be stunned before slaughter.[55] Stunning must cause immediate loss of consciousness which lasts until death.[56]

Unfortunately the Directive provides an important exception to the requirement to stun animals before slaughter.[57] It allows religious slaughter to be carried out without the animals being pre-stunned; this means that their throats are cut while they are fully conscious.

Bleeding

After stunning, animals are bled, i.e. their throats are severed (this is also known as "sticking"). It is the loss of blood which animals die from. Even an effective stun will not last for long; after a certain time the animal will begin to regain consciousness. Accordingly, it is important that animals are bled as quickly as possible after stunning; a protracted interval between stunning and sticking can result in animals regaining consciousness before death. In light of this, the Directive's provision that "bleeding must be started as soon as possible after stunning" is important.[58] It would, however, be more helpful if the Directive were to lay down a maximum stun-to-stick interval.

It is essential that animals are stuck in such a way as to lose blood rapidly so that they die as quickly as possible. If blood is lost slowly, animals are in danger of regaining consciousness as they bleed to death. The Directive stipulates that at least one of the two carotid arteries, or the blood vessels from which they arise, must be severed.[59] It also provides that sticking must be carried out in such a way as to "bring about rapid, profuse and complete bleeding".[60] It would, however, be much more helpful if the Directive required *both* carotid arteries to be severed as scientific research shows that it is essential to sever both carotid arteries to achieve a rapid bleed out, thereby minimising the risk of animals recovering consciousness.[61]

The Directive is helpful in stipulating that where one person alone is responsible for the stunning, shackling, hoisting and bleeding of animals, that person must carry out those operations *consecutively* on one animal before carrying them out on another animal.[62] This is important as if one person were to stun two or more animals before bleeding the first one, there would be an unnecessarily long stun-to-stick interval in respect of that first animal, thereby increasing the risk of its recovering consciousness.

Reforms needed

The Slaughter Directive is likely to be revised shortly. A number of reforms are needed. These include: (a) the severing of *both* carotid arteries, or the blood vessels from which they arise, should be required to ensure a rapid bleed-out and so reduce the risk of animals regaining consciousness before death; (b) training and the holding of a certificate of competence should be mandatory for slaughtermen: the certificate should be capable of being suspended or withdrawn in the event of breaches of the law. Finally, religious slaughter, where this involves animals' throats being severed without pre-stunning, should be ended. I, in common with many in the animal welfare world, have great respect for religious

[53] Article 7.
[54] Article 7.
[55] Article 5(1)(c).
[56] Article 2(5).
[57] Article 5(2).
[58] Annex D, point 1.
[59] Annex D, point 2.
[60] Annex D, point 1.
[61] Report on the welfare of farmed animals at slaughter or killing, Part 1: red meat animals, by the Farm Animal Welfare Council, June 2003, paragraphs 194-203.
[62] Annex D, point 3.

freedom, but believe that this cannot extend to permitting a slaughter method which scientific research shows leads to very considerable suffering.[63]

Welfare-related controls on trade in farm animals: the scope for unilateral action by EU Member States

Kate Cook
Barrister, Matrix Chambers

Notwithstanding many measures seeking to harmonise welfare conditions for farm animals across the EU, concerns about welfare standards in some countries remain: recently Compassion in World Farming has raised concerns about, *inter alia*, slaughter conditions for sheep in Greece and intensive pig farming practices in Eastern Europe.

This article examines the impact of EC rules on free movement of goods on the legality of national measures aimed at responding to such concerns by restricting trade in farm animals.

Article 28 of the EC Treaty prohibits, between Member States, "[q]uantitative restrictions on imports and all measures having equivalent effect". Article 29 makes similar provision in relation to export. Scope for justifying trade restrictive measures is afforded under Article 30: "The provisions of Articles 28 and 29 shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality or public security, the protection of health and life of humans, animals or plants ... Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between Member States."

An import ban would constitute a quantitative restriction on imports under Article 28 and would thus fall to be justified under Article 30. However, there is an important limitation on the right to rely on Article 30: the European Court of Justice (ECJ) has ruled that a Member State cannot rely on that provision once a measure adopting totally harmonised standards across all the Member States has been adopted.[64] If there is a directive setting welfare standards in respect of the conditions which are the cause for concern (and thus aimed at meeting the same objectives as the national measure), the UK will not be able to rely on Article 30 unless it can show that the directive only imposes minimum standards and leaves room for national initiatives.[65] In practice, this is likely to be difficult. Generally such measures will only permit Member States to adopt stricter standards in respect of animals remaining within their territory.

This was confirmed in Case C-1/96 *The Queen* v *Ministry of Agriculture, Fisheries and Food, ex parte Compassion in World Farming*,[66] where the ECJ rejected a justification based on public morality made under Article 36 (now 30) in respect of a ban on the export of live veal calves. The reliance on the public morality ground in Article 36 was, it was argued, effectively an attempt to get around the fact that a harmonising directive aimed at animal welfare had been adopted at Community level, leaving no scope for reliance on Article 36.[67] The fact that the directive authorised Member States to adopt, within their own territory, protective measures

[63] Farm Animal Welfare Council report, footnote 61 above.

[64] See Case C-5/94 *The Queen* v *Ministry of Agriculture, Fisheries and Food*, *ex parte Hedley Lomas (Ireland)* [1996] ECR I-2553.

[65] Even the mere fact of common organisation of the market in question precludes Member States from taking measures which might undermine or create exceptions to it, see the comments of the ECJ in Case C-1/96 *The Queen* v *Ministry of Agriculture, Fisheries and Food, ex parte Compassion in World Farming* [1998] ECR I-1251, paragraphs 41-46.

[66] See footnote 65.

[67] The Court held that the Community had exhaustively adopted common minimum standards and that it followed from the express terms of the directive that Member States were not allowed to adopt stricter measures for the protection of calves other than applying in their own territory. A Member State could not therefore rely on Article 36 in order to restrict the export of calves for reasons relating to the protection of health of animals which constituted the specific objective of the directive (paragraphs 60, 63-64 and 68 of the judgment).

stricter than those laid down in the directive did not mean that the directive had not exhaustively regulated the powers of the Member States in the area of protection concerned.[68] The ECJ held that public policy/public morality did not provide separate justification for the UK measure but was simply an aspect of the protection of animal health which was already the subject of the harmonising directive.[69] It did not however, as has sometimes been claimed,[70] rule that public morality and/or public policy could not form the basis for the justification of animal welfare measures under Article 36. The Advocate General advised:

> "The … task for the Court is to give an interpretation of Article 36 which removes from its scope domestic practices or domestic rules pursuing aims which clearly cannot be a matter of public morality.…the fact that a Member State should consider that harm unjustifiably caused to the life or health of domestic animals, even for economic purposes, through the use of a particular rearing method is a matter of public morality in that state does not appear to be manifestly contrary to Article 36."[71]

Thus the Advocate General accepted that concern about animal welfare was capable of falling within the public morality limb of what is now Article 30. Although it made no explicit comment, the ECJ did not reject this proposition. Further support for this interpretation is given by Advocate General Geelhoed in Case C-244/03 *French Republic* v *European Parliament and Council of the European Union*.[72] He confirmed that ethical requirements regarding respect for the life of animals constitute a valid objective of Community legislation[73] (the ECJ determined the case on different grounds). It would be anomalous if animal welfare were held to be a valid objective of Community legislation but not of trade restrictive measures adopted by Member States. What is relevant to the moral order of the Community is surely equally relevant to the moral order protected by the Member States.

In the Countryside Alliance case,[74] the High Court held (in a passage subsequently approved by the Court of Appeal[75]): "We accept the need for caution when public morality is advanced as an objective for a measure which infringes Community rights. But we reject any suggestion that, at least when founded in concerns for animal welfare, it cannot afford an additional basis of justification."[76]

This ruling indicates that those seeking to set up a false dichotomy between science and morality in order to undermine the possibility of justifying an animal welfare measure on grounds of public morality, will face difficulty. However, it will always be advisable to support any such measure with objective scientific evidence, even if defended primarily on morality grounds.

Thus a national measure aimed at protecting animal welfare could potentially be justified under both animal health and public morality grounds. The advantage of relying on the latter is that both the ECJ and the

---

[68] See paragraph 63 of the judgment, citing Case C-169/83 *Gourmetterie Van den Burg* [1990] ECR I-2143.

[69] Nor can a measure be justified on the basis that another Member State is not complying with Community standards, see Case C-5/94, footnote 64 above.

[70] In particular by the EU claimants in the *The Countryside Alliance and others* v *Attorney General and others* QBD [2005] EWHC 1677 (Admin), 29 July 2005, see paragraphs 325-327 of the High Court's judgment.

[71] See paragraphs 103-104 of the Opinion.

[72] [2005] ECR I-4021.

[73] He noted that the aim of reducing the pain inflicted on animals during tests corresponded to ethical requirements regarding respect for life, supported by public opinion and the European Parliament, and also referred to the Protocol on protection and welfare of animals annexed to the EC Treaty (paragraph 97 of the Opinion).

[74] See footnote 70.

[75] *R (Countryside Alliance and others)* v *Attorney General and others*; *R (Derwin and others)* v *Attorney General and others* [2006] EWCA Civ 817, 23 June 2006.

[76] See paragraph 325 of the High Court's judgment, subsequently approved by the Court of Appeal (paragraph 162 of the Court of Appeal's judgment).

European Court of Human Rights[77] have indicated that Member States are to be afforded a degree of latitude in such cases, as acknowledged by the Advocate General in Case C-74/99 *The Queen* v *Secretary of State for Health and others, ex parte Imperial Tobacco and others*,[78] Thus where a measure is genuinely based on ethical considerations relating to animal welfare it may be easier to justify than one which relates purely to animal health where the objective threshold is very high.

Not that Article 30 gives Member States carte blanche to adopt restrictive measures based on animal welfare considerations wherever there is a gap in the coverage of Community legislation. The Member State will also need to show that the measure is proportionate. This entails demonstrating that the measure: (a) is suitable to achieve the objective sought; (b) goes no further than is necessary in order to achieve that objective; and (c) does not impose burdens on individuals that are excessive in relation to the objective sought. The ECJ must also consider whether or not the measure breaches fundamental rights protected under Community law.

What about the scenario where there is compelling evidence that another Member State is simply not enforcing EU standards with the result that welfare conditions are inadequate? The case law on this point is clear: a Member State cannot rely on a possible infringement of Community law by another Member State in order to justify the adoption of measures which are not in accordance with Community law:[79] Where there has been harmonisation necessary to achieve the specific objective which would be furthered by reliance on Article 30, such as the protection of animal health/public morality, "the appropriate checks must be carried out and protective measures adopted within the framework outlined by the harmonising directive."[80] This means that the most effective strategy to address enforcement problems outside the UK will probably be to persuade the Commission to bring infraction proceedings against Member States which breach EU standards.

World trade law and the welfare of animals

Professor Robert Lee
ESRC Research Centre for business relationships, accountability, sustainability and society, Cardiff University

Last year the Department for the Environment, Food and Rural Affairs (DEFRA) introduced a feature on its website entitled "Your questions answered", which sought to answer the ten most frequent questions it received. The top question asked about government policies on animal welfare. This year the second top question is on animal welfare. Given the width of the DEFRA agenda, this should indicate the growing awareness of the UK public of the impact of animal breeding and production processes on the health and welfare of animals. One hopes that these concerns are reflected in consumer attitudes so that choices are made on the basis of welfare standards. This may be crucial in an era of global trade structures.

The World Trade Organisation (WTO) agreements that promote liberalised trade make no reference to animal welfare standards as a potential reason for restricting trade or labelling goods, not even the Agreement on Sanitary and Phytosanitary Measures (SPS) which deals in part with animal health. This paper hopes to explain why there is little scope for a WTO State to defend restrictive trade measures, expressing concern about animal protection, from challenge by States exporting foodstuffs whose method of production does not conform to appropriate welfare standards.

[77] See *Handyside* v *UK*, judgment of 7 December 1976, Series A No 24, paragraph 48 of the judgment.
[78] [2000] ECR I-8419, see paragraph 160 of the Opinion.
[79] See Case C-111/03 *Commission of the European Communities* v *Kingdom of Sweden* [2005] ECR I-8789, paragraph 66.
[80] See Case C-1/96, paragraph 47 (see footnote 65).

Famously under the General Agreement on Tariffs and Trade (GATT) not only tariff barriers but also equivalent quantitative restrictions are prohibited, having regard to Article I (equal treatment of like products irrespective of origin) and Article III (non-discrimination between domestic and other products). This might suggest that we could ban eggs from battery caged hens, but this is less than clear, because an import ban of a product must be based upon its characteristics and not its process or production methods (PPMs). Other types of restriction might offend the Agreement on Technical Barriers to Trade (TBT), which controls technical standards for products, but which dislikes non-product-related PPMs – those that have negligible impact on the nature of the product produced. So any animal welfare measure might fall foul of these agreements unless a less cruel method of production created a physically different foodstuff.

Readers may be familiar with earlier WTO case-law concerning the legitimacy of controls imposed by the USA to protect dolphins and turtles respectively. In the *Tuna/Dolphin I* case[81] the WTO Panel ruled that the US could not embargo imports of tuna products from Mexico simply because Mexican regulations on the way tuna was produced did not satisfy dolphin protection measures under US law. Such US measures were considered extraterritorial in attempting to force US domestic standards on other States.

In a later case the US failed in its efforts to use a ban on shrimp imports to protect sea turtles, but only because it applied the measure adopted in a discriminatory manner as against various States. In general terms the Appellate Body (AB) in the *Shrimp/Turtle* decision[82] seems to recant a little from the decision in *Tuna/Dolphin I*, making no complaint about extraterritoriality. The reason for this is that the measure was found to fall within one of the safeguard provisions of Article XX of the GATT as a measure "related to the conservation of natural resources" (Article XX(g)). This does not suggest, however, that a measure of a similar kind to protect farmed animals would succeed, and in pointing to sustainable development criteria in the preamble to the GATT, it seems that the AB categorised the measure as primarily environmental in nature.

Other safeguard provisions in Article XX include paragraphs (a), concerning the protection of public morals, and (b), concerning the protection of human, animal or plant life or health. The first of these has never been the subject of relevant argument, but the Panel might well shy away from arguments about where morality lies in relation to cultural and religious differences surrounding food production. Paragraph (b) was avoided in argument by the US in *Shrimp/Turtle* because of the difficulty in meeting the requirement that a measure must be "necessary", which is interpreted as imposing the tough test that no other GATT compliant measure is available to achieve the same objective.

In addition a real problem is that any animal welfare measure is likely to be seen as part of a framework that protects bio-security, so that it is not interested in animal health for its own sake, but seeks to prevent the spread of disease. It may be that one might defend an animal welfare measure under Article XX(b) of the GATT and under the SPS Agreement because it would help prevent the spread of disease but it is unlikely to be upheld in its own right.

As environmentalists have long complained the WTO agreements are highly anthropocentric in nature so that SPS measures (such as banning beef from animals fed with growth hormones (see *Beef hormones*[83]) are assessed only by

[81] *United States – restrictions on imports of tuna*, International Legal Materials, 1991, vol. 30, p. 1598.

[82] *United States – import prohibition of certain shrimp and shrimp products,* International Legal Materials, 1999, vol. 38, p. 121.

[83] *European Communities – measures concerning meat and meat products (hormones),* International Legal Materials, 1998, vol. 37, p. 749.

reference to the effect of the product on human health. Finally note that where a measure is taken to fall within the SPS Agreement, as will surely be the case for all animal health measures, then the Panel will decide any challenge under that Agreement (see the ruling on GM crops: *Biotech products*[84]). This may be important because it may cut down the scope for arguing the case for a legitimate exception to promote animal welfare either under the safeguard provisions of the GATT or the exceptions allowed in the TBT Agreement.

In the *Biotech products* case a moratorium on the approval of GM crops in Europe was struck down. To assuage the concerns of consumers the EU responded by introducing regulations on tracing and labelling of GM produce, but the US biotech industry is already lobbying against these rules, arguing that GM and non-GM products are "like" products so that, particularly in view of the lack of any human health risk, there is no need for the expensive tracing and labelling regimes. All of this shows the difficulty of adopting such regimes in the animal welfare context even though last year the EU formally proposed animal welfare labelling.

This raises the question of how best to proceed to gain better recognition of animal welfare issues in the WTO context. One possibility would simply be to amend the WTO agreements, but as far back as Seattle in 1999 the EU raised this issue. Little progress was made and from then on in the Doha Development Round so called "non-trade concerns" such as animal welfare have received little attention, as countries have concentrated on the thorny issue of agricultural subsidies. Under the Finnish Presidency of the EU a meeting was convened to promote an animal welfare code together with the World Organization for Animal Health, which has already adopted welfare guidelines on transport by land, transport by sea, slaughter and killing for disease control purposes. As the *EC sardines* case[85] illustrates, were countries to adopt measures in line with internationally agreed standards it would become much easier to defend technical standards adopted. This provides perhaps the better long-term route to progress.

In the meantime, this paper has tried to show that the WTO structures take little account of consumer views generally and has virtually no direct concern with animal welfare standards. In spite of its lack of democratic mandate, it proves enormously influential in governing patterns of production and consumption of food. On the other hand it cannot ultimately control our purchasing power. Food supply chains concentrate more and more around a small number of retail outlets. These are increasingly being forced to engage with a corporate social responsibility agenda within which animal welfare issues ought to be strongly represented. Our power to control trade globally in products that we would rather not buy might well be weaker under the model of trade liberalisation expounded by the WTO, but our power to make a difference by refusing to buy such products locally is stronger than it has ever been.

[84] *European Communities – measures affecting the approval and marketing of biotech products*, Panel Report, adopted 21 November 2006, WT/DS291/R, WT/DS292/R and WT/DS293/R.

[85] *European Communities – trade description of sardines*, AB Report, adopted 23 October 2002, WT/DS231/AB/R.

What is ALAW?

ALAW is an organisation of lawyers interested in animal protection law. We see our role as pioneering a better legal framework for animals and ensuring that the existing law is applied properly.

We believe that lawyers should, as well as interpreting laws, ask questions about the philosophy underlying them: they have always had a central role in law reform. There is also a real need to educate professionals and public alike about the law.

Animal cruelty, of course, does not recognize national boundaries and we are building up a network of lawyers who are interested in animal protection in many different countries.

What ALAW will do

ALAW will:

- take part in consultations and monitor developments in Parliament and in European and other relevant international institutions,
- highlight areas of animal welfare law in need of reform,
- disseminate information about animal welfare law, including through articles, conferences, training and encouraging the establishment of tertiary courses,
- through its members provide advice to NGOs and take appropriate test cases,
- provide mutual support and information exchange for lawyers engaged in animal protection law.

Who can be a member?

Solicitors, trainee solicitors, legal executives, barristers, pupil barristers, judges and legal academics are eligible to join and will receive regular issues of the Journal of Animal Welfare Law. Other interested parties can become subscribers to the Journal and receive information about conferences and training courses. Membership fees: UK and EU – £25.00; overseas – £35.00; concessionary (student/retired etc) – £5.00.

How can you help?

Apart from animal protection law itself, expertise in many other areas is important – for example, public law, civil liberties, environmental health, planning law, freedom of information, civil litigation, media law, company law, charity law and many others.

In addition, lawyers have well-developed general skills such as advocacy and drafting which will be useful in myriad ways. Help with articles and training will also be welcome.

How to contact us

Visit us at www.alaw.org.uk, email info@alaw.org.uk or write to Springfield, Rookery Hill, Ashtead Park, Asthead, Surrey KT21 1HY