

EU's live exports – ignoring the Treaty, the ECJ, EU law and international standards

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The EU exports over two million cattle and sheep a year to the Middle East, North Africa and Turkey.

The long journeys from Europe by road and sea take a terrible toll on the animals. All too often the trucks carrying them to Turkey or ports in southern Europe are overcrowded, poorly ventilated and filthy. The animals become increasingly exhausted, hungry and distressed as the long journeys wear on. Some collapse, others get injured. In the worst cases many die. For those that survive, the worst is still in store. Slaughter practices in this region are deeply troubling.

Often a chain is attached to a rear leg of conscious cattle; the animal is then hoisted up, dangling upside-down from one leg, ready for slaughter. This is a distressing and painful position for the animals. Our films show EU cattle being roughly slaughtered on the pavement outside butchers' shops in the West Bank. In Egypt cattle often have their leg tendons severed with a knife in order to control them.

Some EU cattle are placed in boxes that turn them onto their backs for

slaughter; immediately after throat cutting they are ejected from the box while still conscious and fall onto the bodies of other dying animals.

Many slaughtermen are too frightened to get close enough to cattle to perform one deep throat cut. Instead the slaughterman stays at arm's length and simply stabs the knife into the neck. The animal bellows in pain and distress and struggles powerfully against the rope which restrains it. Even after several such stabs, the animal remains standing on all four legs while it slowly bleeds from the neck. Eventually it collapses to the ground but even then a protracted period may elapse before it loses consciousness.

Ignoring international standards on welfare at slaughter

These and other terrible slaughter practices are in breach of the international standards on welfare at slaughter of the OIE (the World Organisation for Animal Health).¹ We have regularly informed the European Commission, the exporting Member States and the exporters about the cruel slaughter practices awaiting EU animals sent to this region. We have argued that it is

unacceptable to send animals to be slaughtered in ways that breach agreed international standards but they refuse to halt the trade or to take any steps to ensure that exported EU animals are slaughtered in accordance with the OIE standards.

Australia has for many years been notorious as having the world's worst live export trade, much of it to the Middle East. After many scandals Australia introduced the 'Exporter Supply Chain Assurance System'.² This requires livestock exporters to ensure that when Australian animals reach the importing country they are handled and slaughtered in conformity with the OIE standards on animal welfare. The EU trade

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¹ http://www.oie.int/index.php?id=169&L=0&htmfile=chapitre_aw_slaughter.htm

² <http://www.agriculture.gov.au/export/controlled-goods/live-animals/livestock/information-exporters-industry/escas>

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should be ended but in the meantime the EU should adopt Australia's practice and take steps to ensure that EU animals are treated in accordance with the OIE standards on welfare during transport and slaughter once they reach third countries. We have urged the Commission to propose a scheme similar to Australia's but they refuse to do so.

While the Australian scheme is far from perfect and is regularly breached, it at least establishes the principle that exporters continue to be responsible for the welfare of the animals even when they leave Australia. The EU declines to accept this responsibility.

Regular breaches of EU Regulation on welfare during transport

Investigations carried out by animal welfare NGOs show regular breaches during the long export journeys of Council Regulation 1/2005 on the protection of animals during transport.³ Space allowances and available headroom are often less than those required by the Regulation. The Regulation requires that after 29 hours travel, animals must be unloaded at a control post and given food, water and 24 hours rest. This requirement is often ignored. The Regulation's provisions on ventilation, bedding and the

availability of water and food on board the truck are often breached. The Commission and most exporting Member States make no serious attempt to enforce the Regulation.

Court of Justice judgment

In April 2015 the Court of Justice of the EU delivered a potentially game-changing judgment in the *Zuchtvieh* case (C-424/13).⁴ It ruled that in the case of exports to countries outside the EU, EU law on the protection of animals during transport (Regulation 1/2005) continues to apply even after the animals leave the EU – it applies right through to the final destination in Turkey or the Middle East. Many Member States and exporters simply ignore the Court's ruling.

Treaty on the Functioning of the EU

Article 13 requires the EU and the Member States, in formulating and implementing EU policies on agriculture and transport, to “pay full regard to the welfare requirements of animals”.

The Commission's failure to take effective action in this matter is in breach of both limbs of Article 13. Its failure, following receipt of evidence of extreme animal suffering, to re-consider the EU policy of permitting, and indeed in some cases encouraging,⁵ the export of live animals to the Middle East and Turkey clearly does not pay full regard to animal welfare in the *formulation* of agriculture and transport policy.

The Commission's failure to take steps to reduce the suffering

experienced during the long journeys (by ensuring proper enforcement of Regulation 1/2005) and at slaughter (by striving to ensure that EU animals are slaughtered in accordance with the OIE standards) fails to pay full regard to animal welfare in the *implementation* of agriculture and transport policy.

The Commission argues that this trade is part of the EU's common commercial policy and as such not covered by Article 13. We have pointed out that while this trade may be part of the commercial policy it is also very much part of agriculture policy which is covered by Article 13. The fact that the trade has recently been referred to in a report by the Presidency to the Agriculture Council⁶ and is referred to in documents published by DG Agriculture of the Commission⁷ lends weight to the argument that this trade is part of EU agriculture policy and should therefore be conducted in compliance with Article 13. It is regrettable that the Commission, rather than respecting the Treaty provision on animal welfare, should try to side step it.

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³ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32005R0001&qid=1464952627119&from=EN>

⁴ <http://curia.europa.eu/juris/document/document.jsf;jsessionid=9ea7d0f130d51c70db7da94a43a4a62cbb21efbf8fda.e34KaxiLc3eQe40LaxqMbN4OchyNe0?text=&&docid=163872&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=950153>

⁵ Regarding the Commission's encouragement of the trade, see the next 3 endnotes

⁶ Note from Presidency to Agriculture Council, 10 February 2016. International agricultural trade issues <http://data.consilium.europa.eu/doc/document/ST-5888-2016-INIT/en/pdf>

⁷ European Commission. Short-Term Outlook for EU arable crops, dairy and meat markets in 2016 and 2017

http://ec.europa.eu/agriculture/markets-and-prices/short-term-outlook/pdf/2016-3_en.pdf

⁸ European Commission. Short-Term Outlook for EU arable crops, dairy and meat markets in 2015 and 2016 http://ec.europa.eu/agriculture/markets-and-prices/short-term-outlook/pdf/2015-03_en.pdf

This is unbecoming behaviour for a body that is the Guardian of the Treaties.

The Commission also states that the EU does not have the power to ban live exports. The Commission could arguably propose a suspension or ban of this trade under Article 207 TFEU. By way of analogy, Regulation 1523/2007 banned the export of cat and dog fur under Article 133 of the Treaty establishing the European Community; this has been replaced by Article 207 TFEU.

The Commission also suggests that the WTO rules prevent it from restricting or ending live exports. However, recent decisions by the WTO Appellate Body have been supportive of genuine animal welfare objectives e.g. the decisions in *US – Tuna II (Mexico)*⁹ and *EC – Seal Products*.¹⁰ These cases would suggest that the EU may well be able to justify export restrictions under the WTO public morality exception bearing in mind that slaughter conditions in the importing countries are not only inhumane but also in breach of the OIE international standards on welfare at slaughter.¹¹

Conclusion

EU live exports inflict immense suffering on animals. The trade is carried on in ways that breach the EU Treaty, EU law on the protection of animals during transport and internationally agreed standards on welfare at slaughter and that ignore a European Court judgment. The Commission's 2015 strategy document on trade is entitled *Trade for all: towards a more responsible trade and investment policy*.¹² The

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strategy highlights the need for trade to be consistent with European values. The live exports trade is neither responsible nor consistent with European values.

⁹ Appellate Body Report, *United States – Measures Concerning the Importation, Marketing and Sale of Tuna and Tuna Products*, WT/DS381/AB/R, adopted 13 June 2012

¹⁰ Appellate Body Report, *European Communities – Measures Prohibiting the Importation and Marketing of Seal Products*, WT/DS400/AB/R and WT/DS401/AB/R, adopted 22 May 2014.

¹¹For a full account of this see Stevenson P, 2015. The impact of the World Trade Organisation rules on animal welfare <http://www.ciwf.org.uk/research/animal-welfare/>

¹²http://trade.ec.europa.eu/doclib/docs/2015/october/tradoc_153846.pdf