

GUEST EDITORIAL

FURS, TRAPS AND EUROPE – ARE THE FOXES IN CHARGE OF THE GEESE?

If we agree that improvements in animal welfare should be determined primarily through legislation, we would probably also agree that it is important not to disregard an issue merely because laws have been changed and solutions appear to have been found. As in all contracts, it is vital to read the small print and to follow an issue right through to the end. The saga of improving global trapping methods provides a salutary lesson for both.

In 1991 the European Parliament, Commission and Council all agreed that the use of the leghold trap was unacceptable and should be prohibited. Since then the chequered history of implementing this simple aim has highlighted the strong negative effects of international trade legislation on improving animal welfare standards, and, perhaps a more pertinent topic at present, the powers of the different Community institutions.

The House of Lords' Select Committee on the European Communities has considered these two issues in detail over the past four months. The Report of their findings has recently been published. These point to the wider implications of the uneasy relationship between trade legislation and improvements in animal welfare in the future. The Report also contains a none too faintly damning of the Commission's actions in trying to avoid implementing legislation to ban the leghold trap, primarily to stop possible trade sanctions.

The leghold trap has long been acknowledged as causing welfare problems and more humane alternatives have been regularly sought. Indeed in 1886, the Royal Society for the Prevention of Cruelty to Animals (RSPCA) held competitions to invent a humane trap. The leghold trap was finally banned in England and Wales in 1958, after pressure from the Universities Federation for Animal Welfare (UFAW) and the RSPCA. In 1991 the European Community, after four years of discussion, also agreed to prohibit its use in all 15 Member States when they adopted Regulation 3254/91. This finally occurred in 1995. However, the Regulation also attempted to influence the use of the leghold trap in other countries, by prohibiting the import of certain furs into the European Union (EU) if this trap was still used in those exporting countries or if their trapping methods did not meet international standards.

It was these extra-territorial powers contained in the attempted export of European welfare standards which proved contentious. Any chances of success were reduced when it was clear that Canada and the USA, the two major exporters of furs to the EU, wanted to continue using the leghold trap. The Commission, which had the task of implementing the import ban, initially placed all their hopes in the International Organization for Standardization (ISO), which was at that time looking at trapping standards. If ISO agreed on a humane trap it would avoid the need for a trade ban and any confrontation with the World Trade Organization (WTO), which manages international trade laws. In 1994, to buy more time, the Commission postponed the implementation date of the fur ban by one year to 1 January 1996. They were entitled to do this under the terms of the Regulation, and the House of Lords' Report agrees that these actions were probably justified.

However, when the ISO process ended in stalemate without any agreed standards, the Commission was suddenly faced with the dilemma of either implementing the legislation as agreed, or facing the threats from Canada to take the issue to the WTO if an import ban was imposed. They chose to unilaterally suspend the implementation of the import ban and informed the enforcement agencies of all Member States to ignore this part of the legislation. In an attempt to get round this impasse, the Commission also started their own talks with fur exporting countries to find a humane trapping standard that would alleviate the need for trade

measures. The people involved in these discussions were mainly those whose interests were with the trapping rather than the welfare of animals. Their aim was, not surprisingly, to achieve as wide-a-ranging humane standard as possible. This was, as one member of the Committee remarked, like leaving the fox in charge of the geese.

The House of Lords' Committee examined the actions of the Commission in detail, to determine if there was a need to improve the way the Community institutions handled potential conflicts between trade obligations and animal welfare legislation. A wide spectrum of views was taken, including oral evidence from the Commission, the Department of Environment, the fur trade and welfare organizations such as the RSPCA.

The Committee Report reserved some of its strongest language for criticizing the Commission in not implementing the import ban. They felt that the Commission's actions and responses were tardy and their consultations with Parliament, who are after all Europe's elected representatives, were ambiguous to the point of being misleading. They felt that the Commission did not take the threat of a WTO challenge seriously until too late and once it was clear that there were real problems with a possible escalating trade war, they postponed the legislation. This was despite reassurances from the British trade Commissioner, Leon Brittan, to the European Parliament four months previously, that this would not happen, and despite there being no scope in the legislation for any future postponement.

The House of Lords' Report also criticizes the Commission's solution to this problem. In confirming that the overriding aim of the Regulation was the abolition of the leghold trap, and that a definition of humane standards which included the leghold trap would be a contradiction in terms, they implicitly confirm the original aim of the legislation which appears to have been lost in all the subsequent discussions and trade-offs.

But it is the wider implications behind the history of this Regulation which are more instructive than its original aims. The actions of the Commission have undoubtedly been dictated by the threat of a challenge to WTO and the possibilities of sanctions. Despite the Commission representative confirming to the House of Lords that the EU defends any WTO challenge, in this case they seemed determined to avoid such a challenge.

Yet attempts to influence other countries' standards are not new: in 1979 the EU banned the import of certain seal products due to welfare concerns, and more recently confirmed its ban on importing beef containing hormones from the USA. The USA itself has not been slow to export its values through unilateral bans. It has prohibited imports of British beef since 1989 and more recently adopted even more radical extra-territorial legislation in preventing any European companies who have invested in Cuba from operating in the USA.

Where does this leave attempts to raise animal welfare standards through trade mechanisms? The relationship between animal welfare and international trade laws is confused and murky. However, if any lessons can be gained from the leghold trap saga, it is that if a country does not like a particular piece of animal welfare legislation which impinges on its own ideals, the mere threat of a challenge to the WTO will cause it to be postponed or weakened. The legislation's primary objective, to improve animal welfare standards, is thus lost. However, the final conclusion of the House of Lords' Report does state, 'the task for the Community now is to pursue its underlying policy objective as effectively and as expeditiously as possible – to eliminate the use of leghold traps throughout the world.' The next few months will reveal if these words will be reflected in real progress or if they will also fall on the stony ground of international trade considerations.

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