

Maritime Summary Note n°233 – September 2021

« Live Animal Transport : Ethical questions and maritime safety »

The sinking of the Queen Hind in November 2019 (resulting in 14,600 dead sheep), as well as that of the Gulf Livestock 1 in 2020 which caused the deaths of 41 mariners and 5,800 cattle, followed by the months-long wanderings in the Mediterranean Sea of the Elbeik (2020) and the Karim Allah (2021), have dramatically brought the maritime transport of live animals into the spotlight. On a maritime scale, live animals are integrated into a complex transnational logistics system where the respect due to their welfare (although regulated at the European level) is subject to violations, or even maritime casualties, due to a lack of homogeneous enforcement of European regulations, sufficient inspections, and effective sanctions. These inadequate practices are not exclusive to maritime transport but fit into a continuum with land transport, where animals may have traveled several thousand kilometers before arriving at the port¹. Beyond economic outlets and cultural practices, a whole ethical relationship linked to the respect for animal welfare² is shaken, at a time when it corresponds to a strong expectation from European civil society³. What are the ins and outs of the live animal trade by sea?

Perspective and context

The maritime meat trade has relied on refrigeration methods for a century. Today, around thirty million tonnes circulate primarily in reefer containers. Nevertheless, a substantial maritime traffic of live animals remains. The reasons are diverse: an absence of livestock in certain countries due to unfavorable climatic conditions, global specialization of regions in breeding and fattening, logistical advantages of local slaughtering, a lack of domestic commercial outlets (cull cows, dairy breed bull calves, or beef breed heifers), cultural dimensions (ritual slaughter), and sanitary conditions of slaughterhouses in exporting nations that are not certified to the standards of the importing country.

It is complex to obtain a comprehensive overview of this maritime traffic. Export data are nevertheless available, showing that cattle, sheep, and goats constitute the vast majority of transported animals⁴. According to the United States Department of Agriculture (USDA)⁵, the main exporting countries of cattle by sea are Mexico (1.5 million), Australia (1.1 million), the EU (1 million), Canada (0.7 million), and Brazil (0.3 million). The large importing zones for cattle are primarily the Near East, the Middle East, North Africa, and Southeast Asia (Australia's traditional stronghold)⁶. For sheep and goats, the EU exports around 2.5 million heads to nearby countries (Libya, Jordan, and Israel). Australia is linked to the Middle East with around 1.1 million animals, a market that is also supplied by India (1 million). In 2021, the global fleet of livestock carriers is estimated at approximately 150 units. From an operational standpoint, exports are conducted almost exclusively on an outbound sales model known as FOB (Free on Board). The seller is a third party to the contract of carriage but must deliver the animals on board the vessel. They will subsequently travel at the buyer's expense and risk.

¹ European legislation sets no maximum limit on transport duration. It provides only for sequences that can be renewed indefinitely.

² According to the World Organisation for Animal Health (WOAH), 'an animal is in a good state of welfare if it is healthy, comfortable, well-nourished, safe, able to express innate behavior, and if it is not suffering from unpleasant states such as pain, fear, and distress.' In France, the Rural and Maritime Fishing Code sets forth a similar definition.

³ According to a March 2016 Eurobarometer study, 57% of Europeans consider it 'very important' to protect the welfare of farmed animals, and 37% find it 'fairly important'.

⁴ On a much more marginal scale, pigs, horses, camels, and alpacas are also transported by sea.

⁵ Livestock and Poultry: World Markets and Trade - January 12, 2021 | World Production, Markets, and Trade Report, USDA

⁶ Market Information Meat & Livestock Australia

Maritime safety and the marine environment

According to the 2020 annual report of the Paris MoU, livestock carriers constitute the vessel category that exhibits the highest number of deficiencies and detentions under Port State Control. In 2020, 95% of the inspections carried out resulted in one or more non-conformities.

Their detention rate stood at 11%, compared to an average detention rate of 2.5% across all inspected vessels combined⁷. These are substandard, aging vessels averaging around forty years of age⁸, operating under open registries and placed on the black list of the Paris MoU⁹. Their classification societies are not members of the IACS (International Association of Classification Societies); the vast majority are converted vessels (former general cargo ships) whose layouts are sometimes poorly adapted to their new function.

According to a report by the NGO Robin des Bois, out of 78 livestock carriers approved by the EU, 64 (82%) officially belong to a shell company care of (*aux bons soins d'*) another corporation. These shell companies are primarily registered in jurisdictions with attractive taxation frameworks: Panama, the Marshall Islands, Liberia, and the Seychelles. They are also single-ship companies, thereby avoiding the potential seizure of another vessel in the fleet in the event of a fine or a commercial dispute.

The shipowners are established within EU countries, Turkey, Jordan, Lebanon, Libya, the UAE, and Australia, typically operating between one and three vessels. Their limited financial resources sometimes prevent them from ensuring proper vessel maintenance. One may question the lack of due diligence exercised by exporters when selecting shipping lines. Relying on more conscientious shipping companies is far more expensive than hiring companies that invest no resources (whether in equipment or competence) to improve their practices.

According to a report by Robin des Bois, more than half of the EU-approved vessels have been reported as non-compliant with the MARPOL Convention for the prevention of pollution¹⁰. From an environmental standpoint, the primary issue is the disposal of animal carcasses, which is authorized by Annex V of the MARPOL Convention (Regulation 4) provided it is carried out as far as possible from the nearest land and does not take place within a "Special Area." However, the Mediterranean Sea and the Black Sea, which concentrate a large share of traffic departing from Europe, are designated as "Special Areas." News headlines occasionally mention the presence of cattle carcasses washed ashore on the beaches of Israel, Denmark, or Sweden, whose ear tags (identification numbers) have been intentionally cut off. There is very little feedback from third countries, the carrier, the vessel operator, or its master regarding the welfare, health status, or mortality rate of the animals once they arrive at the port of destination¹¹. According to the livestock welfare association Welfarm, between 2013 and 2016, an estimated 24,500 cattle and sheep carcasses were dumped into the Mediterranean Sea. Beyond the uneven enforcement of EU rules regarding maritime safety and environmental protection, the moral respect for animal sentience during transport phases is also a matter of fierce debate.

A limited European regulatory framework

The EU recognizes animals as sentient beings (Article 13 of the TFEU). The EU legislative framework on the protection of animals during transport is governed by Council Regulation (EC) No 1/2005 (entering into force in 2007). This regulation comprises an animal welfare component and a technical component, with enforcement monitored by the veterinary services of the Member States. Regarding animal welfare, and applicable to all modes of transport, Article 3 stipulates: "*No person shall transport animals or cause animals to be transported in a way likely to cause injury or undue suffering to them.*"

The regulation sets forth the following core principles:

- The duration of transport must be as short as possible.
- The needs of the animals must be met.
- The animals must be fit for the journey.

⁷ Port State Control Dealing with the pandemic, Annual report, 2020

⁸ This implies that they only have to comply with older SOLAS versions that are far less demanding in terms of technical requirements. On a marginal scale, there are also more recent vessels (such as those owned by Vroon, Netherlands)."

⁹ In 2015, 54% of livestock carriers departing from the EU were featured on the Paris MoU black list, and only 24% were on the white list.

¹⁰ 78 livestock carriers approved by the European Union," Robin des Bois, AWT, TSB, p. 16, June 2021.

¹¹ Australia publishes its data every year. For 2017, the mortality rate stood at 0.71% for sheep and 0.1% for cattle.

- The means of transport as well as loading and unloading facilities must be designed, constructed, maintained, and operated so as to avoid injury and suffering and ensure the animals' safety.
- Personnel in charge of handling the animals must have received appropriate training and must not resort to violence.
- The transport must not be delayed.
- Compliance with animal welfare must be regularly checked; floor area and height space must be sufficient for the animals; finally, water, feed, and rest periods must be offered at regular intervals.

Regarding the technical component, livestock vessels must receive a certificate of approval granted by the Member State in which the applicant or their representative is established. This application for approval can only be submitted in a single Member State. The vessel must comply with specific technical requirements¹², such as the strength of the pen barriers, the performance of the ventilation system, freshwater supply, drainage system capacity, sufficient lighting, and a firefighting system. For journeys exceeding 24 hours, vessels must take on board sufficient bedding, feed, and water to cover the animals' daily requirements. This approval is valid for a maximum duration of 5 years.

Its validity ceases as soon as the means of transport is modified or refitted in a way that compromises animal welfare. In June 2021, 78 livestock carriers held a valid EU certificate of approval issued by a Member State under animal protection frameworks.

In addition to securing and maintaining the validity of this approval, alongside documentary checks prior to loading (stowage plans, crew changes, water and feed provisions, emergency plans in case of delays, etc.), competent authorities must conduct an *in-situ* inspection. This pre-loading inspection serves to verify that the vessel is properly suited for the specific animal species, that the components verified during the approval process remain in good working order, that the housing conditions for the animals are appropriate, and that feed is transported as planned.

Audit reports from the European Commission on compliance with Regulation (EC) No 1/2005 conducted across each Member State corroborate these observations. In 2020, the European Commission's DG Health and Food Safety published a report on the welfare of animals exported by sea, highlighting the primary strengths and weaknesses of the systems implemented by Member States to protect the welfare of livestock during transport from the EU to third countries. The countries audited between 2017 and 2018 accounted for 87% of port calls and 89% of the animals leaving EU ports in 2017¹³.

This report notes that the authorities of at least four Member States authorized the use of substandard vessels that did not comply with EU animal welfare rules. The list of approved vessels is shared among Member States. In its June conclusions on the welfare of animals during long-distance maritime transport to third countries, the Council of the European Union noted that: *"Multi-sectoral cooperation between competent authorities and relevant EU agencies, particularly the European Maritime Safety Agency, is necessary in order to develop tools to support inspections of livestock vessels conducted by Member States. The objective is to improve and harmonize inspection procedures across administrations (veterinary, maritime safety), increase the transparency of inspection results, enhance standards for vessels, and improve communication with third countries in order to obtain systematic feedback regarding livestock consignments from the Union (...)."*

EU Law: A regulatory grey area

Regulation (EC) No 1/2005 is neither sufficiently clear nor detailed. It leaves a wide margin of interpretation to state authorities in its implementation and enforcement, which can lead to a race to the bottom and distortions of competition between Member State ports. This soft law fails to incentivize operators (exporters, shipowners, state and port authorities) to improve their practices. By way of illustration, out of the thirteen EU livestock export ports, only six possess dedicated facilities for animals to rest prior to embarkation. These installations represent a cost for operators who lose competitiveness against ports that have not built them.

¹² See Annex I, Chapter IV, Section 1 of Council Regulation (EC) No 1/2005.

¹³ DG (SANTE) 2019-6835. The findings presented in this report published in early 2020 do not include the results of the audit of France (audited in late 2020). Slovenia, Croatia, Spain, and Romania were the nations audited.

A guide to best practices (non-legally binding) aimed at the competent authorities of Member States regarding animal welfare lists various control checkpoints to perform (authorizing a carrier to execute the sea voyage, granting vessel approval, approving scheduling, and verifying the vessel before and during loading), alongside standard templates designed to harmonize the application of Regulation (EC) No 1/2005. Avenues for improvement extending beyond the European Regulation are proposed, such as: accepting exclusively vessels featured on the white and grey lists of the Paris MoU; ensuring vessels are tracked by top-performing classification societies or approved bodies; reducing the validity duration of certificates of approval; implementing wheelhouse alerts connected to temperature and humidity sensors; requesting third-country authorities to provide a report on the condition of the animals upon arrival; and sharing certificate or loading refusal reports among Member States.

Arrival at the port is a critical moment for the animals. The organizers of land transport and maritime transport are at times not the same entity, which can trigger coordination failures within the logistics chain (road vehicles arriving all at once, delayed loading operations, etc.). The exporter (though not necessarily the logistical organizer) coordinates the transfer of animals from trucks to the vessel. At the port, no one is officially designated as responsible for coordinating the arrival of trucks with vessel loading schedules, nor for animal welfare in the event of vessel delays. Consequently, animals can endure long waiting times inside trucks, which is particularly detrimental when temperatures hover around 30°C. Legal liability for maintaining animal welfare is also not clearly established regarding the maritime segment of the transport. Once at sea, no official tracking of animal health and welfare is performed, even though the protection provided under Union law for animals during transport does not end at the external borders of the EU (Judgment of the Court of Justice of the European Union of 23 April 2015 – Case C-424/13).

A neglected human factor

Another major vulnerability highlighted by the European Commission is the lack of technical qualifications among competent authorities (veterinary services) in ports to properly verify onboard systems and grant ship approvals. Physical checks on animals at departure remain succinct¹⁴, as most ports lack appropriate facilities to conduct these examinations, veterinarians are not permanently present during loading operations, and official logs—when they exist at all—are full of gaps. Consequently, there is a severe under-reporting of unfit animals. These inspections are sometimes confined to a mere documentary review (often using incomplete or incorrect papers), due to a lack of time and personnel resources required to conduct thorough, in-depth checks¹⁵. Furthermore, conducted audits report that intense pressure is exerted on veterinarians by exporters to approve shipments, accompanied by threats of legal action if the export is halted or delayed. The competence of crews is not officially recognized since there are no specialized diplomas, and the emergency contingency plans of the carrier or transport organizer are frequently incomplete.

An absence of sanctions

The results of authority inspections are rarely communicated among Member States, though efforts are currently underway to improve this. The exceptionally low rate of reported infractions under Regulation (EC) No 1/2005—ranging between 0% and 16.6% depending on the Member State—raises serious questions about the methods and resources implemented to ensure effective monitoring of animal transport conditions. The Commission has launched no formal infraction procedures on this matter since the Regulation entered into force, despite numerous irregularities being systematically observed. The only measure taken is typically sending a letter to the carrier, driver, farmer, or veterinarian. Following the capsizing of the *Queen Hind* at the berth in the Port of Midia, the European Commission threatened Romania with an infraction procedure but never followed through with the process. Nevertheless, certain countries are beginning to demonstrate a nascent commitment to changing these practices.

¹⁴ Documentary and physical inspections have been carried out on approximately 98% of vessels loading from France since 2019. Data from the Ministry of Agriculture and Food.

¹⁵ DG (Santé) 2019-6835, point 5.3.

Avenues for change

Ireland has taken concrete steps to protect itself from substandard livestock vessels. Certificates of approval will only be allocated to vessels that:

- Fly a flag featured on the "white" list of the Paris MoU.
- Are tracked by an EU-recognized classification society whose recorded performance level is ranked as "high."
- Are operated by a company whose performance level is not classified as "low" or "very low" in the Port State Control performance tables published by the European Maritime Safety Agency (EMSA).

However, the ease with which operators change corporate identities in the maritime sector sometimes allows certain managers to bypass domestic and European laws. In the Irish model, a maritime surveyor—and not a veterinarian—is tasked with performing the vessel's technical verifications (water supply systems, ventilation, drainage, etc.). A financial bond is required from the operator to cover inspection costs. During the pre-loading inspection, the authority issuing the clearance must verify that all onboard equipment is fully operational. Ireland also mandates the presence of an official veterinarian during the maiden voyage of any newly certified vessel, who will subsequently draft a report dedicated to animal welfare.

New Zealand intends to put an end to live animal exports by 2023. It exported 113,000 animals in 2020 (representing 0.2% of its primary market exports). England and Wales are following a similar path. Draft legislations are also under study in certain countries to progressively halt live animal imports and prioritize refrigerated meat instead, as seen in Israel. Beyond the effective enforcement of current regulations, an information report on the protection of animal welfare within the European Union, submitted to the French National Assembly in September 2020, proposes to:

- Fully integrate maritime transport into the TRACES system (*TRAdE Control and Expert System*, the Commission's expert control network for trade) to incorporate sea voyages into overall transit times and accurately target inspections.
- Establish a designated animal welfare officer on board livestock carriers, who must hold a qualified degree in veterinary medicine.
- Train crews on livestock vessels by implementing a certificate of professional competence similar to the one required for road transport drivers.
- Prioritize the transport of carcass meat over live animals.

Finally, in June, based on the observation that *"the competent authorities of the Member States still cannot guarantee or verify whether the segment of the journey taking place outside the borders of the European Union complies with EU rules,"* Germany, Luxembourg, and the Netherlands spoke out in favor of an EU-wide ban on long-distance livestock transport to third countries by both truck and ship, effective from the Council's next legislative revision.

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