



Animal &
Plant Health
Agency

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[REDACTED]
{By Email}

Our Ref: ATIC1181

26 October 2017

Dear [REDACTED]

PROVISION OF REQUESTED INFORMATION

Thank you for your request for information about a live animal export which we received on 5 October 2017.

Parts 3, 4, 6, 8, 10, 11 and 12 of your request do not fall within the definition of a request made under the Freedom of Information Act (FOIA) or the Environmental Information Regulations (EIR). They have therefore been responded to as general correspondence.

Parts 1, 2, 5, 7 and 9 have all been treated in respect to the Freedom of Information Act 2000 (FOIA).

The information you requested and our response is detailed below:

1. "If animals are exported but not going direct to slaughter facilities, how many days between arrival at facilities and slaughter are allowed before they are classed as fattening not slaughter when issuing the correct ITAHC?"

This information is publically available within Article 4b(5) of Council Directive 91/68/EEC here:

<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A01991L0068-20131220>

As this information is reasonably accessible to you by other means, it is exempt from disclosure under section 21 FOIA.

2. Please provide definitions for: Assembly centre / Dealers Premises / Holding.

Article 2(b) of Council Directive 91/68/EEC on animal health conditions covering Intra-Community trade in ovine and caprine animals provides definitions for an

Approved Assembly Centre, Approved Dealer's Premises and Holding of Origin.
This is publically available here:

<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A01991L0068-20131220>

As this information is reasonably accessible to you by other means, it is exempt from disclosure under section 21 FOIA.

3. This consignment was not inspected at loading but was classed as 'High' risk on the WIT 59. Why therefore did no inspection take place at loading?

APHA did not have sufficient resource available to carry out a supervised loading inspection for this consignment.

4. On the WIT 59, Section, 'Vehicle Details', there is a total of 6 omissions, why didn't APHA complete the WIT 59 fully at the port, considering there was no inspection at point of loading? Why was the second page of the WIT 59 not completed with the ITAHC reference number or total number of animals?

The WIT59 was completed to reflect the welfare and technical check that was carried out by APHA at the Port. The documentation was not inspected, hence the omissions to which you refer.

5. Where (e.g. Assembly centre) was it determined that two animals would not be exported due to lameness? At what time on 22/08/17 were the animals inspected, resulting in the two lame animals being rejected?

It was determined at the point of certification by the Official Veterinarian (OV) at the approved Assembly Centre that the animals listed on the ET54 were not eligible for export due to being lame.

Following a search of our paper and electronic records, the time you have requested is not held by APHA. The Intra Trade Animal Health Certificate (ITAHC) only requires the OV to certify the date of inspection, not the time of inspection.

Veterinary certification of sheep for export must take place within 24 hours of export.

6. Why is time spent on the Joline classed as rest? 1/2005 states time on a ro-ro ferry is not rest.

The background to calculate a journey time at sea can be found in the European Court of Justice Judgment of October 2008 (Case C- 277/06) relating to a refusal by the German authorities to grant export refund payments to a company (Interboves GmbH) exporting cattle by road and by sea to the former Yugoslavia.

The case centred on various possible interpretations of the rules for calculating journey times and rest periods as set out in Council Directive 91/628 on the protection of animals during transport (the forerunner to the current EU Council Regulation (EC) No 1/2005). In terms of the rules on journey times and rest periods at sea, there is essentially no difference between the two pieces of legislation.

This ruling (the Interboves ruling) sets out a series of different scenarios in which competent authorities should calculate journey times and rest periods in different ways. The finding of most significance for the cross-channel trade from Dover/Ramsgate to Calais, was that if the time at sea is less than the total permitted journey time (which is 28 hours for adult ruminants) then the calculation of the overall journey time should discount the time spent at sea. Only the time taken to transport the animals, both prior to and following their time at sea, should be counted as constituting the journey time.

This ECJ finding is directly applicable in Member State law. We have received confirmation from the Dutch authorities that they apply this ruling to their own transporters. In effect, what this means is that the majority of consignments transported on the MV Joline will be able to reach their final destination without there being any legal requirement for a mid-journey break, as the first leg of the journey (14 hours) will not be exceeded once the time spent at sea has been excluded from the overall journey time calculation.

Although there is no legal requirement for a mid-journey break in most cross-channel trade from Dover/Ramsgate for the reasons given above, nevertheless where the total journey time including the time spent at sea exceeds the mid-journey point, APHA will not approve a journey log unless there is an indication that a mid-journey rest is to be taken at some point in the completed journey. However, APHA has no legal power to enforce this requirement.

7. What was the reason for a 3 hour 'rest' at Calais?

This information has been provided to you in a previous FOI response (ATIC1158). It can be found in section 4 of the journey log (Appendix 1), under 'Reason' in the Actual Itinerary.

This part of your request has fallen within section 14(2) of the FIOA which means APHA does not have to comply with it as it is identical, or substantially similar to a previous request submitted, which provided you with the information.

8. Do APHA consider it possible for animals to become lame during a live export journey? If yes, please provide an explanation and provide the rules for treating lame animals.

Annex I, Chapter I, paragraph 4 of Council Regulation (EC) No 1/2005 states the following on fitness for transport:

When animals fall ill or are injured during transport, they shall be separated from the others and receive first-aid treatment as soon as possible. They shall be given appropriate veterinary treatment and if necessary undergo emergency slaughter or killing in a way that does not cause them unnecessary suffering.

9. As per the ITAHC, please provide the route plan of this export. The complete journey states 13 hours. The trucks did not reach French shores until 13 hours later, before continuing the journey to Belgium.

Please see Appendix 1 for the Trade Control and Expert System (TRACES) Route Plan.

Information has been redacted in Appendix 1 under Section 38, and Section 40(2), read in conjunction with 40(3)(a)(i) of the Freedom of Information Act (2000). Please see below for further details.

The TRACES Route Plan populates from the ITAHC and is an electronic version of the Journey Log in the Appendix to Annex II of Council Regulation (EC) No 1/2005. APHA do not use the TRACES Route Plan as the approved Journey Log due to the requirement for the organiser to submit a signed copy of Section 1 of the Journey Log in accordance with Annex II of the Regulation.

10. Why did APHA accept 13 hours for the full journey?

APHA calculated the journey time for JL12120 (Appendix 1 of ATIC1158) to ensure the times submitted on the Section 1 Planning for this Journey Log were in accordance with Article 14 and Annex I, Chapter V of Council Regulation (EC) No 1/2005. The times calculated by APHA were in accordance with the Regulation and therefore the proposed Journey Log submitted by the organiser was approved.

11. On the original Journey log, not the actual journey log, APHA approved the transportation of 350 animals in a 33m² area. This equates to 11 animals per m². Why was this provisionally approved?

APHA would usually request the organiser to amend the Section 1 Journey Log submitted for approval with the correct total space provided for the consignment in m². On this occasion APHA have not noted this when approving this Journey Log so did not request the organiser to resubmit the Section 1 Journey Log. Journey Log approval is provided provisionally on the basis that the vehicle being used for the journey can adhere to the technical rules set out in Annex I of Council Regulation (EC) No 1/2005.

Article 6(3) of Council Regulation (EC) No 1/2005 requires the transporter to transport animals in accordance with the technical rules set out in Annex I of the Regulation. This would include the transporter being required to adhere to the space allowances for the relevant species of animal in Chapter VII of the Annex.

On perusal of the returned Journey Log form the transporter the space allowances for this journey were adhered to as the vehicle was loaded with 219 animals which were transported in a total space allowance of 105m² thus providing each animal with 0.47m².

12. Section 2 'Place of departure', is not signed off by an official body, please explain the reason why not"

Section 2 questions 8 to 11 of a Journey Log must only be completed by an OV at the place of departure if the OV is present at that time of loading. An OV is not required to be present during loading.

Section 38

Section 38 refers to the exemption from the duty to provide information if it would, or would be likely to affect anyone's health or safety.

The exemption in Section 38 is subject to a Public Interest Test to ensure it is being appropriately applied.

Public Interest Test

We recognise that there is a general presumption in favour of transparency and openness concerning our work, and providing the general public with the right to request access to information held by public authorities.

We also recognise that there is a public interest in disclosure of this specific information in order to increase this transparency and aid well-informed debates concerning the welfare and transportation of animals, and the individuals associated with them.

However, we feel that there is a stronger public interest in withholding the information as the full addresses, including the county of origin, the destination and/or rest stops, transporter details and individual names would identify further information and would, or would be likely to, endanger the health and safety of staff. This poses a substantial risk to the health and safety of individuals associated with the transportation of animals that would be of significant severity and is likely to occur in some cases. We consider this to be a significant factor in favour of maintaining the exemption.

APHA has balanced the real threat to the health and safety of individuals which disclosure of the requested information would be likely to cause, against the public interest arguments in favour of disclosure. In this instance the APHA does not consider that disclosing the information requested in order to inform public debate and to promote accountability and transparency would justify the risk to individuals' health and safety.

Section 40

Some of the information contained within the requested documents have been withheld under section 40(2), read in conjunction with 40(3)(a)(i) (third party personal data), of the FOIA as the information constitutes personal data relating to a third party. Section 40(2), read in conjunction with 40(3)(a)(i), of the FOIA provides that personal data relating to third parties is exempt information if disclosure would breach the Data Protection Act 1998 (DPA).

APHA consider that disclosure of this information is likely to breach the first data protection principle in Schedule 1 of the DPA, which relates to the fair and lawful processing of personal data, in two ways. First, disclosure would not constitute 'fair' processing of the personal data, second, disclosure would not satisfy any of the conditions for data processing set out in Schedule 2 to the DPA. Therefore, we have concluded that this information is exempt from disclosure under section 40 of the FOIA.

Information disclosed in response to this FOI request is releasable to the public. In keeping with the spirit and effect of the FOIA and the government's Transparency Agenda, this letter and the information disclosed to you may be placed on GOV.UK, together with any related information that will provide a key to its wider context. No information identifying you will be placed on the GOV.UK website.

I attach an Annex which explains the copyright that applies to the information being released to you and contact details should you be unhappy with the service you have received.

If you have any queries about this letter, please contact the Access to Information Team at the email address below or postal address at the top of this letter.

Yours sincerely

ACCESS TO INFORMATION TEAM

Email: enquiries@apha.gsi.gov.uk

Annex

Copyright

The information supplied to you is Crown copyright, unless otherwise stated, and is protected by the Copyright, Designs and Patents Act 1988. You are free to use it for your own purposes, including for the purposes of news reporting. You can find details on the arrangements for re-using Crown copyright information at:

<http://www.nationalarchives.gov.uk/doc/open-government-licence/open-government-licence.htm>

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Complaints

If you are unhappy with the result of your request for information you may request an internal review within 40 working days of the date of this letter.

If you wish to request an internal review, please contact: The Access to Information Team at enquiries@apha.gsi.gov.uk or at the postal address at the top of this letter, who will arrange for an internal review of your case.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. Please note that generally the Information Commissioner cannot make a decision unless you have first exhausted APHA's own complaints procedure. The Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

PLANNING

1.1. ORGANISER name and address (a) (b) [REDACTED]		1.2. Name of the person in charge of the journey transporter			
		1.3. Telephone / Fax [REDACTED]			
2. TOTAL EXPECTED DURATION (hours / days)		13.0 hours			
3.1. Place and country of DEPARTURE [REDACTED] GB United Kingdom		4.1. Place and country of DESTINATION [REDACTED] BE Belgium			
3.2. Date 23/08/2017	3.3. Time 03:00 (UTC +0100)	4.2. Date 23/08/2017	4.3. Time 16:00 (UTC +0100)		
5.1. Species 010410 - Sheep	5.2. Number of animals 219	5.3. Veterinary certificate(s) number(s) INTRA.GB.2017.0023941			
5.4. Estimated total weight of the consignment (in kg)		5.5. Total space foreseen for the consignment (in m ²)			
6. LIST OF FORESEEN RESTING, TRANSFER OR EXIT POINTS					
6.1. Name of the places where animals are to be rested, or transferred (including exit points)	6.2. Arrival		6.3. Length (in hours)	6.4. Transporter name and authorisation N° (if different from the organiser)	6.5 identification
	Date	Time			
RAMSGATE TO CALAIS	23/08/2017	08:00 (UTC +0100)		[REDACTED]	[REDACTED]
7. I, the organiser, hereby declare that I am responsible for the organisation of the above-mentioned journey and I have made suitable arrangements to safeguard the welfare of the animals throughout the journey in accordance with the provisions of Council Regulation 1/2005					
8. Signature of the organiser					

(a) Organiser: see definition laid down in Article 2(q) of Council Regulation 1/2005
 (b) If the organiser is a transporter the authorisation number shall be specified