15. Chronological account of specific Northern Ireland issues

15.1 Because of its geographical and historical differences, Northern Ireland traditionally had considerable autonomy in animal health matters, including having a different 'status’ for some diseases.\(^{566}\) It also had its own close-knit nexus of Departments which in some cases operated at first hand with agriculture and industry, and performed functions that were carried out elsewhere in the UK by local authorities. It was not surprising therefore that, before BSE spread to Northern Ireland, consideration was given to going a different way from the rest of the United Kingdom, in particular in the banning of meat and bone meal. Later, as its sales abroad were threatened, Northern Ireland sought a separate status for its cattle and beef for export purposes.

15.2 This chronological account does not cover every stage of action in response to BSE but looks at specific parts in the story where Northern Ireland considered, or took, independent actions. It also reviews how far Northern Ireland was kept in touch and consulted about the disease, and the extent to which delays in bringing in safety measures introduced elsewhere in the UK were justifiable.

15.3 The incidence of BSE remained low in Northern Ireland in comparison with the rest of the United Kingdom. During the period covered by the Report, Northern Ireland had a total of 1,710 cases, of which 1,062 were home-bred animals and 648 were purchased from elsewhere. Just 4 per cent of herds were affected by March 1996, compared with nearly 36 per cent in Great Britain. The incidence of BSE peaked in 1993, when 460 cases were confirmed,\(^{567}\) the same year as the peak in Scotland but a year later than in England and Wales. (See paragraphs 1.3–1.4 for some epidemiological comparisons with England, Wales and Scotland.)

15.4 One of the earliest confirmed cases of vCJD was in a man from Belfast, who died in November 1995.

Emergence of BSE

15.5 Mr Ron Martin was Deputy Chief Veterinary Officer for Northern Ireland during 1985–90, and CVO until 1996. He told the Inquiry that he heard about BSE via ‘the veterinary grapevine’ and informal discussions with colleagues in the Veterinary Service, probably during 1987. His first direct involvement came in the spring of 1988, when MAFF officials including Mr John Wilesmith (Head of the Epidemiology Department at the Central Veterinary Laboratory in England) visited Northern Ireland to explore why the disease had not appeared there.\(^{568}\)

\(^{566}\) Eg, making them notifiable or not. Scrapie, for instance, was notifiable in Great Britain from 1993, but not in Northern Ireland

\(^{567}\) Northern Ireland figures say 487 cases in 1993, rather than 460: DN01 tab 4 para. 13

\(^{568}\) S278A Martin R para. 2
15.6 Dr William Jack, Permanent Secretary to DANI until his retirement in 1989, said that he first heard about the disease in 1987 via the agricultural press. The first formal notification from MAFF came when a copy of a submission dated 16 February 1988 being prepared for the MAFF Minister was sent to Mr D Hirrell, Assistant Secretary at DANI with responsibility for the Livestock and Meat Marketing Division. Mr Hirrell informed Dr Jack. The submission advised that the origin of the disease was not known and that options being considered by MAFF were making the disease notifiable and introducing a policy of compulsory slaughter with compensation. DANI was also later given copies of the minutes of a meeting of MAFF senior officials and the MAFF Parliamentary Secretary on 26 February. These referred to the need to consult the CMO (England) on the question of human health and noted that, as the evidence on the link with feedstuffs had been ‘firmed up’, it was possible that the disease could still be contained so that a slaughter and compensation policy would not be necessary immediately.

15.7 On 29 February Dr Jack took part in his first formal discussion about BSE at a meeting of senior DANI staff. At this time, he decided that no action was necessary in Northern Ireland, since there was no record of the disease there and the incidence of scrapie was very low. The following month Sir Donald Acheson (CMO, England) minuted his Ministers in the Department of Health to alert them to the new disease and to seek agreement to the setting up of an expert group (the Southwood Working Party) to advise on any risk to humans. Dr Jack told the Inquiry that he was not consulted by MAFF about the terms of reference or composition of the Working Party.

15.8 Dr McKenna (CMO, Northern Ireland) said that he was first alerted to the existence of BSE during April 1988, when he received a copy of a note from MAFF to Sir Donald Acheson.

15.9 In the same month Dr Jack and Mr Bill Sullivan (then CVO for Northern Ireland) had a meeting with the MAFF CVO, Mr William Rees, at which they were ‘given an indication of the position in GB’. At this stage no cases of BSE had as yet been reported in Northern Ireland, so DANI’s primary interest lay in protecting the NI cattle population from the risk of horizontal transmission of BSE from cattle imported from Great Britain, while maintaining cattle exports. Mr Gregg Shannon of DANI’s Animal Health Division explained to the Inquiry:

During the early stages the major policy aspect demanding attention was the protection of Northern Ireland from inclusion in the stricter health certification demanded from Great Britain for meat and live animal exports. At that time the risk to human health was not apparent. All our efforts were concentrated on reducing and eliminating the disease in animals. Our interest was in agreeing adequate certification of imported animals to minimise the risk of importing the disease if it was eventually to prove contagious.
15.10 On 16 May DANI received a copy of another submission by MAFF to Ministers, which concluded by recommending that urgent discussions take place with the affected parties (ie, industry and farmers) about a temporary and voluntary withdrawal of meat and bone meal from use in animal feed, making BSE notifiable and introducing a slaughter and compensation policy.577 Ten days later Dr Jack put a submission based on this to Lord Lyell, Parliamentary Under-Secretary (Lords) at the Northern Ireland Office with responsibility for Agriculture.578 Dr Jack’s submission informed Lord Lyell of the position in Great Britain, the setting up of the Southwood Working Party and the circumstantial evidence that suggested there was a direct link between affected animals and the consumption of meat and bone meal (MBM) which had not been subjected to sufficient processing to render the scrapie agent inactive.579

15.11 Dr Jack concluded that the Minister should agree that, in the event of MAFF banning the use of MBM in ruminant feed and making the disease notifiable, ‘the Department should enter into immediate discussion with the Ulster Farmers’ Union and animal feed industry with a view to introducing similar controls in NI’. He felt that if a ruminant feed ban was introduced in Great Britain, or if BSE was made notifiable there, Northern Ireland would have ‘little option’ but to take similar action.580 He also observed that in the event of a compensation scheme being instituted in Great Britain, Northern Ireland would have to consider something along the same lines. The Minister agreed to this course of action on 31 May 1988.581 Dr Jack told the Inquiry that although the first concern behind his statement was that the NI export trade in beef might be affected if they did not follow suit with the ruminant feed ban, he was also concerned with protecting animal health.582

Ruminant feed ban, notification, and slaughter and compensation

15.12 On 1 June 1988 MAFF announced its intention to make BSE compulsorily notifiable and to introduce a ruminant feed ban.583 The next day the DANI CVO chaired a meeting to discuss the implications of the MAFF announcement, at which DANI’s AHD and VRL staff were present. Dr Robert McCracken, Head of the VRL’s Pathology Department, expressed concern that ‘the action in GB, limited to clinically affected cattle, was scientifically inadequate to prevent the spread of disease which could be incubating in other animals (and progeny if it turned out that vertical transmission was possible)’. He reported that there was no evidence of BSE in Northern Ireland from laboratory material received to date and that scrapie was present in NI sheep at low levels. However, given the volume of imports from Great Britain, there was a possibility that NI cattle could be incubating the disease.584

15.13 Mr Rutherford Armstrong, Assistant Secretary (Grade 5) responsible for DANI’s Animal Health Division, stressed the need for Northern Ireland to act to protect its animal health status by avoiding importing BSE either in infected animals or in suspect animal protein feeds that were no longer permitted in Great Britain. He
said the decision to act in parallel with MAFF could be supported by the presence of scrapie in Northern Ireland sheep and ‘similar risk factors to those in GB in relation to the handling of animal by-products’. However, Mr David Carnson, the Under Secretary (Grade 3) responsible for animal health policy, joining the meeting late, said that he considered that ‘DANI should not announce any action immediately in the wake of MAFF and should listen to the views of the NI industry in the planned consultations before making any statement’.  

15.14 At the end of the meeting, a decision was taken to delay introducing any ban in Northern Ireland. Mr Carnson had just spoken to the Revd Ian Paisley MP on the telephone regarding the latter’s concerns about the implications of the GB ban for the Northern Ireland beef industry, in particular for its exports. In a statement to the Inquiry, Mr Carnson said that it would be inaccurate to draw a causal connection between the Revd Paisley’s telephone call of 2 June 1988 and the later advice not to recommend an immediate ruminant feed ban. His recollection of the call was that the Revd Paisley was seeking information only and he was satisfied that no decisions were reached on the basis of that call.

15.15 On the same day, 2 June 1988, DANI officials met representatives of the feed and rendering industries, accompanied by the Revd Paisley. The industries were informed of MAFF’s decision to introduce compulsory notification of the disease and a ruminant feed ban in Great Britain. It was noted that there were two main issues to be considered: protecting animal health status in Northern Ireland and safeguarding the export trade. DANI officials emphasised that the incidence of scrapie in Northern Ireland was much lower than in Great Britain, but that the Province was not scrapie-free and indeed that one case had been diagnosed that week. They also pointed out that as scrapie was not notifiable in either Northern Ireland or the Republic of Ireland, it was difficult to assess the level of the disease accurately. As regards BSE in Northern Ireland or the Republic of Ireland, the meeting was assured that it had not yet been found, but over 600 cattle had been imported from Great Britain into Northern Ireland in the previous year.

15.16 Industry representatives expressed a number of concerns in relation to the ban, including the danger that unsaleable MBM in Great Britain would be ‘dumped’ in Northern Ireland. Questions were also asked about what should be done with animal by-products if they could not be made into MBM.

15.17 Mr Armstrong, who chaired the meeting, stressed that if DANI did not follow the MAFF approach, import controls would be difficult and that Northern Ireland’s export markets could be affected, since scrapie was already present in the Province. Either way there would be serious implications for renderers as it seemed that most of their MBM was either exported or used in concentrate feeds. It was conceded by the trade that renderers were already in a serious position as a result of MAFF’s decision, and that whatever action was taken by DANI would have comparatively little further effect.

15.18 On 13 June 1988 Mr Carnson minuted Lord Lyell to inform him of developments since the minute of 26 May, notably that MAFF was likely to delay the introduction of the ruminant feed ban until later in the summer but was to go

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585 YB88/6.02/11.1–11.3
586 T75 p. 85
587 S541 Carnson para. 7
588 YB88/6.02/13.1–13.6
ahead and make BSE notifiable. He noted that this would allow further consideration to be given to the implications of the ban before implementing it in Northern Ireland.\textsuperscript{589}

15.19 Mr Carnson also outlined the concerns of the Northern Ireland feed and rendering industries’ representatives as expressed at the meeting with DANI officials on 2 June, not least the severe restrictions they faced on what they could produce and sell following MAFF’s decision. They also felt that their product was less at risk than the GB product. Mr Carnson noted that at another meeting with DANI officials on the same day, the Ulster Farmers’ Union (UFU) had accepted the need to make the disease notifiable even though no cases had occurred in Northern Ireland.

15.20 The BSE Order 1988 (SI 1988/1039), making BSE notifiable, came into force in Great Britain on 14 June 1988, save for the provisions relating to the ruminant feed ban, which were to come into force on 18 July 1988.

15.21 On 28 June Mr Shannon of DANI’s AHD attended a MAFF meeting in London with representatives of the GB cattle industry, to discuss the introduction of the ruminant feed ban.\textsuperscript{590} At the meeting Mr Alan Lawrence of MAFF’s Animal Health Division explained that from 18 July to 31 December 1988 the use of ruminant protein in ruminant feeds would be prohibited, but that in the meantime MAFF teams would investigate the protein-processing plants to see which processes could destroy the infective agent. The legislation would be reviewed in the light of what was discovered.\textsuperscript{591}

15.22 During June, following advice from Sir Richard Southwood, MAFF decided to introduce a slaughter and compensation scheme for infected animals, with compensation set at 50 per cent of market value. The approval of the Treasury was obtained early in July and the Orders implementing the scheme in England, Scotland and Wales came into force on 8 August.\textsuperscript{592}

15.23 Dr Jack met Mr Carnson on 1 July to discuss the implications for Northern Ireland of the actions being taken by MAFF. Taking into account the fact that there had still been no cases of BSE in Northern Ireland and that, on current knowledge, the risks of scrapie infection from MBM produced in Northern Ireland were lower than in Great Britain, they came to the conclusion that a ban on the use of animal protein in animal feed produced in Northern Ireland would not be justified on animal health grounds at this point. However, it was also agreed that this decision was to be reviewed immediately if BSE occurred in Northern Ireland. During this meeting, Dr Jack concluded that action was needed to close the door on any further risk of importing the disease from GB sources, via either ‘at risk’ cattle or infected feed. This would involve stricter import controls for cattle and the suspension of import licences for animal protein produced in Great Britain.\textsuperscript{593}

15.24 In oral evidence Dr Jack explained this apparent change of mind (ie, to delaying the introduction of a ban locally) by saying that he was wary of damaging the favourable perception which the Northern Ireland public had of his Department.

\textsuperscript{589} YB88/6.10/11.1–11.2
\textsuperscript{590} YB88/7.5/3.1–3.7
\textsuperscript{591} YB88/7.5/3.1–3.7
\textsuperscript{592} The Bovine Spongiform Encephalopathy (Amendment) Order 1988 and the Bovine Spongiform Encephalopathy Compensation Order 1988
\textsuperscript{593} S252 Jack paras 29–30
He had thought that this damage might occur if MBM were banned without firmer evidence of the risks it posed, particularly in view of the different conditions in Northern Ireland. He was concerned that acting without apparent justification could lead to public suspicion that the Department was withholding information.

15.25 On 6 July Dr Jack put a submission to Lord Lyell setting out the agreed line, which advised against the ban but recommended that import licences for animal protein from Great Britain should be suspended and that BSE should be made a notifiable disease in Northern Ireland. The submission stated that MAFF was ‘pressing NI to implement this measure’. The advice to the Minister was that:

As part of a Member State which has BSE elsewhere, we consider this to be a sensible step to maintain consumer confidence in local meat products and to ensure continued access for NI livestock and produce to export markets. This move already has the support of the UFU.594

15.26 DANI officials, including the CVO and Mr Shannon, met with the UFU and representatives of the feed and rendering industries again on 14 July 1988. Mr Shannon announced that the Minister had decided that BSE was to be made notifiable in Northern Ireland in early August, but that there should not be a ban on the use of locally produced animal protein in ruminant feed rations. However, import licences for MBM from Great Britain would be suspended. It was DANI’s understanding that such imports were extremely small in quantity, and the impact on the industry would therefore be minimal.595 In response to a question from representatives, Mr Shannon said that it had not yet been proved that the causal agent of BSE was to be found in MBM, but that this was the strongest theory on the current evidence available to the experts. Should cases of BSE appear in Northern Ireland, the decision not to introduce a feed ban would immediately be reviewed and a slaughter and compensation policy imposed to mirror that of Great Britain.

15.27 The administrative arrangements to stop the export of MBM and greaves from Great Britain to Northern Ireland were implemented on 18 July 1988, providing for the suspension of import licences for proscribed animal protein produced in Great Britain with effect from 25 July 1988. Feed for ruminants manufactured in Great Britain in accordance with the BSE Order 1988 was not affected.596

15.28 On 5 September Dr Jack put a submission to Lord Lyell reporting progress and inviting the Minister to agree to the making of legislation to provide, on a contingency basis, for slaughter and compensation for any BSE cases in Northern Ireland. Such a move would form part of a package of NI legislation on BSE, revised to reflect later GB proposals, and allow for legislative differences in the Northern Ireland enabling legislation.597 The recommendations in the submission were accepted by Lord Lyell.

15.29 On 14 November 1988 Dr Jack was informed about a suspected case of BSE in Northern Ireland that had been diagnosed by a VRL pathologist.598 Material from

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594 YB88/7.06/6.1–6.5
595 YB88/7.14/6.1–6.3
596 S252 Jack para. 32
597 YB88/11.05/1.1–1.4
598 S252 Jack para. 40
the animal was sent to the Central Veterinary Laboratory at Weybridge in England, and the diagnosis was confirmed on 20 November. DANI issued a news release on 28 November confirming that a 5-year-old Friesian cow had been diagnosed with BSE, the first case to be confirmed in Northern Ireland.599 The Republic of Ireland reported its first case of BSE just over two months later, on 25 January 1989, and its second case the day after.600

15.30 It was initially proposed to introduce compulsory notification of BSE and the slaughter and compensation policy in a single Statutory Instrument. However, under the enabling Northern Ireland legislation, the Diseases of Animals (NI) Order 1981, the provisions were subject to different forms of parliamentary scrutiny and so could not be contained in a single Order. Accordingly on 28 November 1988 two Orders were made: the Diseases of Animals (Modification) Order (NI) 1988 placed BSE on the list of notifiable diseases and provided for compulsory slaughter with compensation for suspected cases;601 while the BSE Order (NI) covered movement controls in relation to affected or suspected animals, prohibition of disposal of carcasses except by burial or incineration, and arrangements for valuation, slaughter and compensation.602 Both of these Orders came into effect the following day.

15.31 As in Great Britain, the level of compensation was set at 50 per cent. Compensation levels for previous schemes had differed in some instances between the two parts of the UK, largely on the basis of local market conditions and the nature of the infection. When the UFU had been approached in July 1988 about the possibility of making BSE notifiable in Northern Ireland, they had raised the question of compensation,603 aware as they were of negotiations being held between MAFF and the National Farmers’ Union in Great Britain. The UFU asked for similar compensation to apply in Northern Ireland if there were an outbreak. The NI Department of Finance and Personnel gave its approval in early July 1988 for compensation to be paid in Northern Ireland at the same percentage as in Great Britain.604

15.32 On 29 November Dr Jack put a submission to Lord Lyell confirming that the first case of BSE in Northern Ireland had been diagnosed and that a press release had been issued to this effect. He sought Lord Lyell’s agreement to the introduction of a ruminant feed ban in the Province.605 Dr Jack advised that MAFF had extended the time limit of the ban in Great Britain until the end of 1989 because ‘the scrapie or scrapie-type agent hypothesis remains strong and . . . researches in GB have not yet produced a definitive heat treatment to eliminate the highly resistant scrapie organism during commercial manufacturing of [MBM]’. The Minister was also told that the GB authorities planned to ban the sale or use of milk from suspect animals for human or animal consumption (except for cows’ own calves). This had been recommended by the Southwood Working Party. The first case of BSE in Northern Ireland, which had been in a home-bred animal, indicated that the whole Northern Ireland bovine population was at risk and not only imported animals. A ruminant

599 YB88/11.28/3.1
600 S252 Jack para. 50
601 L8A tab 1
602 L8A tab 2
603 YB88/07.14/6.1–6.3
604 YB88/07.15/4.1
605 YB88/11.30/6.1–6.8; S252 Jack paras 41–3
feed ban in Northern Ireland was now ‘essential to avoid increasing the risk to the NI bovine population, whether it comes from GB, NI, or any other ruminant protein source’.  

15.33 DANI officials met industry representatives on 2 December 1988 to inform them of the identification of BSE in Northern Ireland and the decision to introduce a feed ban. It was agreed at this meeting that, in order to allow the industry time to clear stocks, the ban would not take effect until early 1989. Dr Jack said in a written statement to the Inquiry that renderers had indicated to DANI that under a third of MBM production went into ruminant feed, and that the feed trade had only two weeks’ stock in the pipeline. It is not clear whether this information was given at the meeting on 2 December or subsequently. Dr Jack’s concerns about this had been that ‘if they had a lot of stock in the pipeline then obviously it was going either to have to be destroyed or it would slip out somehow or . . . it may well [have been] used in feed for pigs and poultry which was difficult to enforce’. In a letter to the industry to advise of the coming into effect of the ruminant feed ban, Mr Shannon pointed out that DANI inspectors were empowered to take samples of feedstuffs suspected of containing prohibited ruminant protein.

15.34 The Northern Ireland ruminant feed ban took effect on 11 January 1989 (almost six months after the GB ban), under the provisions of the Diseases of Animals (Feeding Stuffs) Order (Northern Ireland) 1989. The Order stipulated that it would cease to have effect on 1 January 1990. The ban was subsequently extended indefinitely.

15.35 Mr Shannon told the Inquiry that the feed ban did not come into force until this time because there were errors in the original drafts received from Great Britain. He said in evidence:

Those were sorted out. We put the stuff to our lawyers and we followed, more or less, the rules governing introduction of legislation including consultancy periods and periods for coming into force and that made it that the earliest date we did not transgress that was by 10 January.

Reasons for the delays in introducing notification and the ruminant feed ban

15.36 As the previous account shows, although the intention in Northern Ireland was to remain in step with Whitehall on the BSE issue, initially a different approach was adopted. According to Dr Jack, the decision not to follow MAFF precisely was based on the different conditions which applied in Northern Ireland. Not least among these was the fact that the local economy was heavily dependent on exports of livestock and beef. DANI was concerned that importing countries and the EU might have used the ruminant feed ban to forbid imports of animals and meat from Northern Ireland, with serious consequences for the whole industry.
Nevertheless, Northern Ireland relied ‘very much’ on the information it obtained from scientists in Great Britain and on close cooperation with MAFF officials. Dr Jack described this information as ‘all part of a very useful background to allow us to have a decent base on which we took our decision’. We set out below the detailed explanations we were given for the delay.

(a) Absence of BSE in Northern Ireland and the Republic of Ireland

15.37 The primary reason for the different approach was that the first confirmed case of BSE was not recorded in Northern Ireland until four months after the ruminant feed ban was in place in England, Scotland and Wales. This was nearly four years after the cows on Pitsham Farm in Sussex (England), one of which was later the first confirmed case of BSE, were beginning to show symptoms of the disease. Furthermore, when the ban was introduced in Great Britain, the NI farming industry and veterinary profession were already aware of the disease and would have been on the lookout for cases. Meanwhile, the Republic of Ireland had likewise not had any cases of BSE by the summer of 1988, and this fact was taken into account in assessing the risk factors for Northern Ireland. The Republic of Ireland had also not imposed a ruminant feed ban, and did not do so until 25 July 1990, a year and a half after its first case was confirmed.

(b) Low incidence of scrapie in Northern Ireland

15.38 Another factor which contributed to the decision not to implement the ruminant feed ban in tandem with MAFF was the very low incidence of scrapie in Northern Ireland between 1980 and 1987, with just over one case a year on average. Local farmers and vets were well aware of scrapie and, according to Dr Jack, his vets were confident that the incidence of the disease was low despite there being no formal procedure for its notification. In oral evidence, however, Mr Sullivan (the CVO) conceded that there would have been an incentive for farmers to conceal cases of scrapie so as to protect the health status of their stock.

15.39 Mr Sullivan said that when he was first told of the scrapie theory (as the original causal agent of BSE), he was ‘not 100 per cent sold on it’. It seemed to him surprising that only a few animals would become affected after being fed the ‘infected’ concentrate. Moreover, Great Britain had been exporting MBM for years and yet BSE had not been recorded in any other country. This was hard to explain even given the fact that the vast majority of MBM went into pig and poultry food. Dr Jack noted that at the time the decision was made not to introduce the ruminant feed ban, there was only circumstantial evidence that MBM was the cause of the outbreak of the disease. He had had reservations about the theory, though MAFF had not put forward any other means of transmission as a serious possibility.
(c) Different rendering processes

15.40 Mr Martin told us:

In early 1988 there was a visit to Northern Ireland by MAFF officials who were considering why Great Britain had the disease and Northern Ireland did not. They advised that while time, temperature and pressure of rendering procedures in Northern Ireland had reduced in the 70s and early 80s as elsewhere in the United Kingdom they had not fallen to as low a level in the plants in Northern Ireland as in parts of Great Britain. It therefore seemed that there was a much smaller risk of BSE being transmitted to cattle in Northern Ireland through feedingstuffs produced here.623

15.41 In oral evidence Mr Sullivan conceded that only one rendering plant in Northern Ireland had been visited by MAFF staff, but pointed out that at that time in Northern Ireland there were ‘not that many rendering plants’.624

15.42 Although DANI considered that the ban would affect the whole production chain from renderers to farmers to consumers, it predicted that the greatest impact would be on the renderers, who were already badly affected by the loss of their export trade to Great Britain.625 In addition, in the absence of a foolproof test for ruminant protein in feed (see paragraph 15.52), policing the ban would be extremely difficult.626

(d) Island status

15.43 In Dr Jack’s view the ‘sea boundary’ with Great Britain and relatively expensive cross-channel freight charges severely curtailed the movement of cattle, except for high-quality breeding stock. The quantity of cattle imported was very small in relation to both the total NI herd and the Great Britain herd, making the chances of the disease having entered Northern Ireland also very small.627 He told the Inquiry that, in addition, high-quality cattle would normally have been kept in herds where the farmer was very alert to any symptoms of disease and would have contacted a Veterinary Officer on noticing anything unusual. He therefore thought that DANI would have been quite quickly advised of new cases.

15.44 In oral evidence Dr Jack said that, when making the decision not to implement the ruminant feed ban in July, his Department had certainly considered the risk of the BSE agent being recycled through locally produced MBM made from the carcasses of infected animals. However, he did not regard the risk as great – again because of the small number of cattle imported into Northern Ireland.628

(e) Alternative import measures adopted

15.45 At the time the ruminant feed ban was being considered, DANI had already decided on measures to minimise the risk of importing the BSE agent. These have
been discussed above (in paragraphs 15.26 and 15.27), but included a ban on the import of cattle which had moved through a herd in which BSE had been found, and a ban on the import of any progeny – not just in the first generation – of an affected female animal. 629

### Meat and bone meal (MBM) imports

15.46 As a result of its relatively large livestock industry (both sheep and cattle), Northern Ireland was more than self-sufficient in home-produced MBM at the time the BSE crisis was emerging. There had been no pressure from importers of NI animals and meat to ban the feeding of NI-produced MBM to NI ruminants. According to DANI officials, there had been no imports of MBM from Great Britain in the three years prior to 1988, and the batch of 200 tonnes mentioned in paragraph 12.15 above was in 1983. To minimise future risk, DANI was in the process of suspending licences for the import of all animal protein from Great Britain. 630

### Enforcement of the ruminant feed ban

15.47 The ruminant feed ban was enforced by DANI Fertilisers and Feeding Stuffs Inspectors. 631 The Feeding Stuffs Inspectorate was part of the Agri-Food Development Service headed by the Chief Agricultural Officer (CAO – see paragraph 14.25). Mr Martin explained why vets were not used for feed ban monitoring:

> The Veterinary Service is normally charged with implementing all matters veterinary. However, the judgement was made whenever the Order was brought in in 1990, that because the Department of Agriculture had other inspectors who were already there in feed plants to take samples [of] the fertilisers and feedingstuffs . . . they would do it rather than [duplicate] efforts by putting in vets one day and other inspectors the other day. So the checking of whether the ban was being applied at feedmill level was left to those inspectors. 632

15.48 Indeed, there appears to have been minimal input from the veterinary side on the enforcement of the ban, at least initially. Mr Sullivan had not heard of the UKASTA Code of Practice for Cross Contamination in Feedingstuffs Manufacture (first published in 1982) and therefore did not know if it was in use in feedmills in Northern Ireland. He was doubtful whether feedmills had a practice of purging the production lines between each ‘run’ of feed for a different species. 633

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629 S252A Jack para. 46
630 S252A Jack para. 46
631 S257 Toal para. 13
632 T80 p. 100
633 T133 pp. 84–5
15.49 Mr Martin said that he did not personally discuss the ruminant feed ban with the CAO, and that there was no resource input from the veterinary side. In his view, the ‘person responsible was the Principal Officer in the Animal Health Division on the administration side’, and it had been decided to leave enforcement to the CAO’s staff. The ‘Principal Officer’ in question was Mr Shannon. He told the Inquiry: ‘I was not concerned about their efficacy in carrying out their responsibilities largely because of the more direct control chain [that] operated in Northern Ireland.’ However, by ‘their’ he meant ‘the Chief Agricultural and the Chief Veterinary Officers’ (emphasis added).

15.50 Dr Jack himself said that, when the ban was introduced, he did not give any consideration to matters of enforcement:

I personally did not come to a view about enforcement, because that is the kind of detail that I would normally have left to my professional advisers. We had professional veterinarians, we had professional agriculture officers in and out of these plants. I am afraid I had a fairly wide range of duties and therefore I did not get into that kind of detail.

Cross-contamination

15.51 The issue of cross-contamination of feed had been raised in Northern Ireland as early as June 1988, before the introduction of the ban in Great Britain. It was accepted that some cross-contamination was inevitable, but at that stage it was generally believed by DANI that a considerable dose of infective material would have to be present in any MBM to cause BSE in another animal. It seems that it was not until cases in cattle born after the ban started to cause anxiety (see paragraphs 15.67–15.68 below) that the issue of cross-contamination began to be seriously discussed in Northern Ireland. When it became known in 1995 that less than 1 gram of infective material was sufficient to infect another animal, enforcement of the ruminant feed ban in feedmills was seriously addressed (as was enforcement of the SBO ban in slaughterhouses and rendering plants – see below).

15.52 Since no test for the presence of ruminant protein in feed was available when the ruminant feed ban was introduced, checking was initially done by examining the formulations for ruminant rations. In 1994, when MAFF began testing feedstuffs on farms using the ELISA test, DANI agreed to introduce its own checking system. Because the MAFF laboratory could not handle samples from Northern Ireland in addition to those from Great Britain, DANI decided to use a different test, the commercial CORTECS test, which could be processed by the NI Veterinary Service. DANI also decided to use samples of feed already being taken at feedmills in Northern Ireland by the Fertilisers and Feeding Stuffs Inspectors, instead of testing on farms. In early 1995 an initial set of 24 samples taken from 15 feedmills all tested negative. A further 74 cattle feed and 63 sheep feed samples taken between March 1995 and March 1996 also proved negative. A year later, as a result of European Commission Decision 95/287/EC, routine monitoring using the

634 T80 pp. 101–2
635 S256A Shannon para. 4
636 T75 p. 96
637 YB88/06.02/13.5;
638 T133 p. 82
639 S278 Martin R para. 17
640 S255A McKay para. 15
641 S278A Martin R para. 31
ELISA test became compulsory. Northern Ireland began more regular testing, including on home-mixer premises.

Introduction of the SBO ban for humans

15.53 The Northern Ireland ban on the use of Specified Bovine Offal (SBO) in human food was implemented some three months later than in England and Wales, but simultaneously with Scotland, under the Bovine Offals (Prohibition) Regulations (NI) 1990 (SR(NI) 1990/30). Mr Martin told the Inquiry that this delay was due to the normal time-lag between the adoption of Northern Ireland legislation and its counterpart in Great Britain:

The drafting of Northern Ireland legislation generally cannot begin until the Great Britain legislation is in its final form. In any event, the SBO ban had been applied administratively in Northern Ireland from November 1989.

15.54 The policy lead in relation to the SBO ban was taken by DANI. Approval for the measures was given by the Secretary of State, Mr Tom King, on 29 June 1989. However, the DHSS had responsibility under the Food (NI) Order 1989 for the legislation necessary to implement the ban.

15.55 Consultation with interested parties was statutorily required before Regulations could be made. Consultation letters, based on their MAFF or DH equivalents, were issued to a regularly updated list of interested parties, and comments received were copied to MAFF and DH for consideration centrally. According to Mr Hamill, Head of the Medicines and Food Control branch (DHSS), ‘It was extremely unusual to receive requests to meet deputations from food trade interests in response to consultation.’

15.56 The consultation process was initiated on 31 July 1989, when Mr J McKenna, an official in the Food Control part of the branch, sent out a letter to interested organisations enclosing the proposals and requesting comments by no later than 13 September. This was in line with the consultation process undertaken by MAFF in England and Wales.

15.57 As a result of the insistence of the MAFF Minister, Mr John Gummer, on speed, the Regulations in England and Wales were signed and laid before Parliament on 9 November and came into effect on 13 November.

15.58 In the light of the late decision to include intestines in the ban, it was considered necessary to hold a further round of public consultation in Northern Ireland. Another consultation letter was issued on 9 November, to the same list of interested organisations, requesting comments by 23 November. On 7 December 1989, DANI sent a telex to MAFF advising that ‘the consultative period ended on...’
23 November 1989 and work is presently under way on the preparation of the Regulations which it is hoped can be made before the end of the year.\textsuperscript{650} However, there were further delays for some of the same reasons as in Scotland. In his statement, Mr Hamill explained that it was decided to hold back the introduction of legislation in Northern Ireland because:

- the England and Wales Regulations had been prayed against in Parliament (see paragraph 10.36), thus requiring a debate and raising the possibility of amendments to their contents; and
- at the end of November 1989, MAFF had advised that its Regulations as drafted were defective, and that other considerations had arisen, which made it necessary to consider amendments.\textsuperscript{651}

15.59 The debate on the SBO Regulations took place in the House of Commons on 14 December 1989. The DHSS maintained close contact with MAFF on the possible amendment of the Northern Ireland draft of the Regulations until the final England and Wales version, drafted by MAFF, became available on 26 January 1990. The Northern Ireland Regulations were made and brought into force on 30 January 1990.

15.60 As regards the SBO ban, Mr Toal stated:

The controls on specified offal for use in human food and animal feed were changed from time to time to reflect the policy decisions taken by MAFF on the basis of scientific advice. These changes involved the extension of definition of SBO, staining requirements and stricter controls on the collection, holding, processing and disposal of SBO.\textsuperscript{652}

The 1990 ban on SBO in feed for animals

15.61 On 21 September 1990 DANI officials attended a meeting in London with MAFF at which they were told, among other things, about a ban on the feeding of SBO from animals over six months to any animal or bird (ie, in addition to humans);\textsuperscript{653} and a ban on the export of SBO to EU Member States. There was to be no compensation given to the feed industry for losses suffered as a result of the new measures.\textsuperscript{654}

15.62 Like the Scottish officials, they had not been given advance warning, no doubt as a consequence of the minute Mr A J Lebrecht (Mr Gummer’s Private Secretary) sent to Mr Robert Lowson (head of MAFF’s Animal Health Division) on 17 September, which instructed:

As regards the question of informing the Territorial Departments, the Minister recognises that they must know of the situation in advance of the announcement. However, in order to minimise the risk of leakage, he would

\textsuperscript{650} YB89/12.7/8.1
\textsuperscript{651} S253A Hamill para. 4.iv
\textsuperscript{652} S257 Toal para. 12(b)
\textsuperscript{653} Following experimental evidence of the susceptibility of a pig to BSE under laboratory conditions
\textsuperscript{654} YB90/9.21/2.1
like them to be informed at the latest practicable moment and for this to be done at CVO level.655

15.63 Mr Lebrecht wrote to Mr Lowson again on 19 September to emphasise the point:

As regards the making of the relevant Order, the Minister wishes the Territorial Departments to be informed at the latest possible moment and in such a way that as few as possible people are in the picture.656

15.64 Following the meeting with MAFF, officials in DHSS and DANI met to agree a submission to Northern Ireland Ministers. They agreed it was essential to follow the ‘ultra-precautionary’ MAFF lead, although Northern Ireland would have difficulty with carcass/offal disposal, and that urgent consultation with industry representatives should be arranged.657

15.65 DANI officials met feed and rendering industry representatives on 24 September, the day of the press announcement of the measures. The meeting was chaired by the Minister, Lord Skelmersdale. Following the meeting Lord Skelmersdale issued a press statement which referred to the MAFF announcement. He concluded:

There is absolutely no risk to humans but the action we have taken is purely precautionary to make certain that a remote risk to pigs and other animals is neutralised.658

15.66 The Diseases of Animals (Feedingstuffs) Order (NI) introduced the new measures in Northern Ireland. The Order was made on 24 September 1990 and came into operation the same day.

Cases of BSE in animals Born After the ruminant feed Ban (BABs)

15.67 The first case of BSE in an animal born in Northern Ireland after the introduction of the Northern Ireland ruminant feed ban was confirmed in December 1992, well over a year after the first confirmed case in England.659 However, officials were not particularly concerned, as the animal in question had been born just a day after the NI ban came into effect and could be explained by carry-over of feed produced just before the ban. The next few BABs had likewise been born shortly after the NI ban, or had been imported from England. It was not until August 1993 that Northern Ireland had a case in a home-bred animal born more than a few weeks after the ban came into effect there.660 Nevertheless, Mr Martin told the Inquiry that he had become concerned in late 1992 about the numbers of BABs still being reported and he asked Mr Owen Denny, then DVO (Epidemiology) at DANI’s Veterinary Service headquarters, to investigate and predict future
incidence. Mr Denny replied that the actual incidence was not outside the range he had originally predicted.

15.68 By 1994 concern was increasing across the UK that BABs were still occurring in substantial numbers. Maternal transmission seemed unlikely in Northern Ireland, and the cases there were generally considered to be the result of low-level contamination of feed. Mr Martin thought at that stage that there were three possibilities as to where contamination might be taking place: namely, in feedmills, in rendering plants or at slaughterhouses (if the SBO ban was not being properly enforced). His view, though, was that the SBO ban was ‘pretty good, pretty well applied’, and that the contamination was more likely to have occurred in feedmills or rendering plants. Mr McKibben told the Inquiry that implementation of the ban in Northern Ireland was supervised by Veterinary Service staff who were in turn monitored by audit checks carried out by veterinary headquarters staff. If there had been concerns about implementation, they would have been reported to him. He received no such reports between 1992 and 1994.

Further SBO controls in 1994–95

15.69 However, during 1994 MAFF identified problems with the handling, separation and disposal of SBO in slaughterhouses. At a meeting on 9 June, DANI considered the need for tightening up controls on SBO in line with MAFF’s approach, including the possibility of legislative changes. Mr W Orr and Mr C Hart of the Veterinary Service expressed concern that ‘they could not be entirely satisfied that all SBO material was treated as such’, and the meeting concluded that ‘it was therefore necessary to consider on-ground enforcement and the need for legislative changes in line with MAFF’. On 15 June 1994 Mr Toal of DANI’s Animal Health Division was sent a copy of a MAFF note about the strengthening and rationalisation of the SBO Regulations made by MAFF. Mr Orr and Mr Hart later drew up revised Staff Instructions on the disposal of SBO, aimed at ‘maximising the effectiveness of the existing controls’. Mr McKibben also wrote to meat plant operators and renderers reminding them of the main requirements in respect of the disposal of SBO.

15.70 Meanwhile, the result of a transmission experiment had shown that certain tissues could become infective in calves. On 27 June Mr Meldrum (CVO, England) telephoned Dr Robert McCracken (by now DCVO, Northern Ireland) to tell him that the thymus and intestines of all bovine animals were to be banned as SBO. Mr Toal briefed Baroness Denton, the Northern Ireland Minister with Health responsibilities, on 29 June, and the Permanent Secretaries of the DHSS (Mr Alan Elliot) and DANI (Mr John Murray) among others were sent a copy of this briefing. Mr Toal was worried primarily about the effect on Northern Ireland cattle exports.

661 S278 Martin R para. 18
662 YB93/09.03/5.1–5.5
663 Fewer than ten cases of BSE in Northern Ireland were the progeny of BSE-affected cows. Mr Denny believed that cow-to-calf transmission, if it occurred, did not play a major role in the epidemiology of the disease. S276 Denny para. 4.5
664 T80 p. 112
665 S255A McKibben para. 4
666 YB94/5.3/2.1–2.11
667 YB94/6.9/2.1–2.2
668 YB94/6.15/3.1–3.6
669 YB94/9.7/4.1–4.12
670 YB94/9.7/4.2
671 YB94/9.27/3.1–3.4
672 YB94/9.28/5.1
generally, and reiterated that the actual threat to human health was ‘minuscule’. He said:

    Northern Ireland has a substantial export trade in young calves to Europe. The effect of the extension of the SBO ban is likely to mean that this trade will cease . . . The combination of the extension together with the German announcement [of a ban on British beef] is bound to increase consumer concern about the safety of beef and add to the adverse trading conditions.673

15.71 On the same day Mrs Gillian Shephard (MAFF Minister from May 1993) sent Sir Patrick Mayhew (the Secretary of State for Northern Ireland) a copy of her proposed answer to a Parliamentary Question about the new developments,674 which was having to be handled in the context of the newly arranged German unilateral ban. Baroness Denton replied to this letter on 30 June, agreeing to the proposals and indicating that the appropriate Northern Ireland legislation would be introduced shortly.675 MAFF and DANI met industry representatives in London (including those from the Province) on the same day,676 and on 8 July a consultation letter was issued by DANI.677 The revised Order came into force on 27 March 1995, nearly five months after its GB equivalents.678

15.72 In 1995 DANI received advice from MAFF that 1 gram or less of infective material was sufficient to infect another bovine animal when transmitted orally. This information convinced DANI that contamination must be occurring either at feedmills or at rendering plants. At this stage there were no separate facilities for rendering SBO in NI rendering plants. Instead, the lines were ‘cleansed’ after processing SBO by sending ‘a load’ of bones down the same rendering line before processing began of non-SBO material.679 MAFF introduced legislation during the summer requiring dedicated lines for rendering SBO680 and, in late 1995, after initial reluctance, Northern Ireland followed suit.681

Other issues in Northern Ireland

Professor McFerran’s concerns

15.73 Between 1987 and 1992 Professor John McFerran was Chief Veterinary Research Officer at the Veterinary Research Laboratories in Belfast. As mentioned in paragraph 14.19, an early decision had been made, with which Professor had agreed, to leave all BSE research to scientists in Great Britain. However, he had considered the evidence about the disease himself and come to some conclusions of his own.
Professor McFerran was also a member of the Animal Health Section of the Scientific Veterinary Committee of the European Commission between 1981 and 1992. He told the Inquiry that BSE was discussed at many meetings of the group, and on several occasions Dr Richard Kimberlin of the Neuropathogenesis Unit and SEAC, and Mr Raymond Bradley of the CVL, gave presentations on BSE. Their theory of the origin of BSE was that it was caused by feeding scrapie-infected material to bovines. Professor McFerran said that he raised his concern, both publicly in these EU meetings and privately with Dr Kimberlin, that the cause of BSE might not have been scrapie. No one else supported his view.682

In 1990 Professor McFerran advised Dr McMurray, the Chief Scientific Officer at DANI, that in his view an urgent reconsideration of the BSE situation in Northern Ireland was needed. He suggested that this should be done by taking a new look at the evidence and ‘divorcing themselves from the GB input’. Among the questions that he proposed for consideration were: the uncertainty about the origin of BSE; whether the disease was being generated in Northern Ireland or imported from Great Britain; whether changes in the rendering process should be reversed; and whether progeny of BSE-affected cows should be bought by DANI and used for transmission experiments. He concluded that ‘a proper in-depth epidemiological investigation involving a number of people full time should be started’. He felt it essential that the correct scientific conclusions should be reached to allow the Permanent Secretary to judge the total picture.683

It appears that no action was taken to follow up Professor McFerran’s proposals. At an EU-sponsored seminar on Sub-Acute Spongiform Encephalopathies in Brussels in 1991, he again raised the possibility that the origin of BSE might not be scrapie. The participants at the conference included ‘most of the workers involved in research in encephalopathies in the medical, scientific and veterinary field’, but ‘few were interested in considering an alternative theory’. Senior members of the conference from the UK and the EU did not share his concerns.684

**Waste disposal**

**BSE cases and suspect animals**

It was originally envisaged in Great Britain that the carcasses of all animals compulsorily slaughtered would be incinerated. However, in 1988 demand for the incinerators outstripped capacity and alternative methods were resorted to. These included incineration on farm, burial in approved landfill sites or even, as a last resort, burial on farm.685 In Northern Ireland, on the other hand, from the start of the epidemic all carcasses were incinerated. The Veterinary Research Laboratories purchased a new incinerator for this purpose, and since a relatively small number of animals were affected, sufficient incinerator capacity was maintained throughout the crisis.686

682 S452 McFerran para. 4
683 YB90/6.5/9.1–9.2
684 S452 McFerran paras 13–15
685 S94 Matthews D paras 74–80
686 S278 Martin R para. 13
Fallen stock

15.78 There were no licensed knacker’s yards in Northern Ireland during 1986–96. Instead, renderers offered a free collection service to farmers for disposal of fallen stock. However, in early November 1990, the decline in value of MBM as a result of BSE measures made this service uneconomical, and one of the main rendering firms in the Province refused to continue collecting fallen stock. DANI came under pressure from farmers to assist with the disposal of these animals and responded by issuing a news release on 8 November 1990 which suggested that farmers had three options:

- to bury the animals on their own land, complying with environmental requirements;
- to reach an arrangement with a registered protein processor; or
- to contact the local council with a view to disposal on its landfill sites.687

15.79 The Ulster Farmers’ Union told the House of Commons Agriculture Committee, when giving evidence on the disposal of fallen livestock in 1991, that this advice was unhelpful because:

- few farms had the space to bury cattle safely, and the accumulation of carcasses created health risks, in particular, the potential contamination of drinking water;
- none of the local councils contacted by the UFU was able to provide landfill space to farmers; and
- the second major renderer had stopped collecting fallen stock in mid-November, which effectively meant that there was no longer a fallen animal collection service in Northern Ireland.688

15.80 In the UFU’s view, the situation had resulted in illegal dumping of dead animals. There had also been a proliferation of new, unlicensed businesses offering removal of dead stock. District Councils formed the Northern Ireland Local Government Action Committee to deal with the crisis, which collected what it termed ‘persuasive evidence’ that some of the meat derived from fallen livestock and collected by unlicensed knackers had ended up in the human food chain. In 1991 one rendering firm recommenced its collection service but at considerable cost to the farmer. The service was therefore not well used at first. The recommendation of the Agriculture Committee was that the Government should guarantee, and if necessary underwrite, the survival of adequate rendering facilities accessible to all parts of Northern Ireland.

SBO

15.81 In Northern Ireland, as elsewhere, material derived from SBO was mainly disposed of by landfilling. As part of their response to the crisis in the rendering industry, DANI and MAFF began in 1991 to consider alternative uses for SBO, in particular, as fertiliser.689 Ultimately, the advice from SEAC was that such a use

687 YB90/11.8/10.1–10.2
688 M12 tab 22 p. 38
689 S486 Brooke para. 19q
would be inadvisable. Northern Ireland was singled out by SEAC as being at lower risk, but a decision was taken not to deviate from national policy.  

**Northern Ireland and trade with the European Union**

**15.82** During 1990 problems began to arise for the Northern Ireland beef industry. At that stage it was estimated that 80 per cent of Northern Ireland beef was exported. In late May, France imposed a ban on all imports of beef and live cattle from the United Kingdom, and other EU Member States were reported to be considering similar action. Germany had banned all beef except boneless beef from the United Kingdom, and Austria had banned certain products derived from cattle. At the same time the Great Britain market, which constituted 60 per cent of Northern Ireland exports, was depressed because of BSE scares, and demand in the local market had dropped. The meat industry indicated to Northern Ireland officials that it expected closures if the EU markets were lost.  

**15.83** At the time, Northern Ireland had a better animal health status than the rest of the UK (the incidence of BSE was proportionally 25 times lower than in Great Britain) and, according to Mr Peter Bottomley, then Northern Ireland Minister with responsibility for Agriculture, it had a common health status with the Republic of Ireland, which had no SBO ban at that stage. Northern Ireland had a long-standing separate 'status' from the rest of the UK as far as certain diseases were concerned, and it was a continuing aim to secure exemption from some of the export restrictions applied to the rest of the UK. Mr Bottomley considered that it would have been reasonable for Northern Ireland to be treated in the same way as the Republic of Ireland, which had not been made subject to the same restrictions.  

**15.84** According to Mr Toal's evidence, MAFF always took the lead on matters of an international nature, including dealings with the EU. However, according to Dr McKenna, 'We would have followed London where that was the sensible thing to do, but if there were specific problems in Northern Ireland we would have pursued our own agenda; and with communicable disease obviously there would be problems in Northern Ireland that would not exist in England and vice versa.'  

**15.85** Accordingly, the Northern Ireland Office began to argue that, should the measures by Germany and France continue, Northern Ireland should be free to make individual arrangements with the countries concerned to continue trading. This line of argument was based on considerations such as the lower incidence of BSE in Northern Ireland, the importance to the NI economy of the beef trade, the more traditionally grass-fed cattle population, the position in the Republic of Ireland, and the NI cattle-tracking system. The Secretary of State for Northern Ireland wrote to the MAFF Minister, Mr John Gummer, on this point in June 1990.  

**15.86** However, the Northern Ireland proposals met with resistance from MAFF. Ultimately a decision was made to operate, in effect, a UK-wide policy in relation to BSE and its elimination. In oral evidence, Mr Bottomley said that 'looking
back I think it would have been appropriate for me to have fought harder’. He went on to explain:

The choice I made at the time was to go quietly . . . The general decision was to treat us all together and not to go for derogations. From my responsibilities in Northern Ireland that was a wrong decision. From a UK responsibility one could see the logic.697

In the event, Northern Ireland export data show that, while the ‘Beef and Sheepmeat Subsector’ experienced quite a dramatic decline between 1989 and 1991, it recovered in the mid-1990s to higher levels than in 1989.698

697 T86 pp. 132–3
698 ‘The Size and Performance of the Northern Ireland Food and Drinks Processing Sector’, annual reports