



DFA 20

# **INTRODUCTION OF THE RUMINANT FEED BAN AND COMPULSORY NOTIFICATION OF BSE IN NORTHERN IRELAND**

**Draft Factual Accounts**

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# INTRODUCTION OF THE RUMINANT FEED BAN AND COMPULSORY NOTIFICATION OF BSE IN NORTHERN IRELAND

1. It is unclear precisely when the Department of Agriculture Northern Ireland (DANI) first became aware of BSE. In a statement to the Inquiry, Mr Ron Martin, (Deputy Chief Veterinary Officer (DCVO) DANI, 1985 - mid-1987, Policy, Mid-1987 - March 1990, Implementation), said:

‘In 1987 and 1988 we [DANI Veterinary Service] were aware that a new disease – BSE – had appeared in Great Britain’.<sup>1</sup>

2. In his oral evidence, Dr Bill Jack, Permanent Secretary of DANI from 1983 until mid-February 1989, said:

‘I am afraid it is not possible [to say] exactly when we became aware of it. I am quite clear in my own mind I was aware of it in about 1987.... I must have got that from some of my veterinary colleagues because we had lots of veterinary difficulties in 1987 and 1988 and I was in almost daily, certainly weekly contact with them’.<sup>2</sup>

3. On 16 February 1988, Mr Cruickshank (MAFF) minuted Mr E.J.G. Smith (Deputy Secretary for Land and Resources - MAFF) attaching a submission on BSE. The submission had been prepared by Mr Suich (Animal Health Group) in consultation with veterinary colleagues. The submission updated MAFF Ministers on BSE and recommended a slaughter and compensation policy. The minute and submission were copied to Mr D. Hirrell, Assistant Secretary of DANI with responsibility for the Livestock and Meat Marketing Division (LMMD)<sup>3</sup> and was received by DANI on 18 February 1988.<sup>4</sup>

4. The minute and the submission were copied to Dr Edmund Sullivan (DANI CVO, March 1983 – March 1990) and Dr Cecil McMurray (DANI Chief Scientific Officer (CSO), February 1988 on). It would appear that

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<sup>1</sup> S Martin (WS278), para 11

<sup>2</sup> T 75 at p.48

<sup>3</sup> YB 88/2.16/1.1-1.10

<sup>4</sup> T 75 at p.52

the matter was not formally discussed within the Department until 29 February 1988.<sup>5</sup>

5. DANI were sent a copy of the minutes of Mr Donald Thompson's (MAFF Parliamentary Secretary) meeting on 26 February 1988 with Mr Derek Andrews (MAFF Permanent Secretary), Mr Howard Rees (MAFF CVO) and Mr E.J.G. Smith, among others.<sup>6</sup> The minute of the meeting included the following:

‘2. ...He [Mr Rees] was able to report that recent enquiries appeared to establish a link with feedingstuffs containing meat and bonemeal and tallow...

...

4. The Secretary [Mr Derek Andrews] felt that, since the evidence on the link with feedingstuffs had been firmed up, it might be possible effectively to contain the problem thus obviating the need to rush into a slaughter policy which would undoubtedly have immediate detrimental effect on exports...

...

6. The Secretary felt that it was now necessary to consult the Chief Medical Officer (CMO) on the question of human health. He should be told the decisions that Ministers were being asked to take and should be asked for his opinion on the possibility of BSEs transmissibility to humans. He would undoubtedly take a very cautious line on this, but we would, of course, need to be guided by him on this.

7. It was agreed that the options outlined in the Secretary's minute of 24 February 1988 could not be considered until this new evidence on feedingstuffs had been fully researched.’

6. MAFF Ministers accepted the advice of the Permanent Secretary that it was now necessary to consult the Chief Medical Officer (CMO), Sir Donald Acheson, on the question of human health.
7. Dr Jack took part in a formal discussion about BSE for the first time at a DANI meeting on 29 February 1988.<sup>7</sup>

*[CLARIFICATION]*

*It is unclear who else attended the meeting on 29 February 1988.*

8. In a statement to the Inquiry, Dr Jack said:

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<sup>5</sup> T 75 at p.52-53

<sup>6</sup> YB 88/2.26/1.1-1.2

<sup>7</sup> S Jack (WS252), para 16

‘One such meeting was that on Monday 29 February 1988 when the group of senior managers in the Department first discussed BSE. No record was kept of the actual attendance at this meeting but it would normally have included the CVO(NI), Chief Agricultural Officer (NI), Chief Scientific Officer (NI), Under Secretary i/c Animal Health and Commodities, Assistant Secretary i/c Animal Health, Assistant Secretary i/c Meat, Assistant Secretary i/c Milk. Other staff who probably attended this meeting included the Under Secretary i/c Fisheries, Forestry, and Agricultural Structures and Assistant Secretaries i/c of Fisheries, Drainage, Agricultural Development, Cereals and Potatoes, Finance and Establishment. This ensured all the senior staff in the Department were appraised of the position on this novel cattle disease.’<sup>8</sup>

9. At this time Dr Jack accepted that no action was necessary in Northern Ireland as there was no record of the disease there and the incidence of scrapie was low.<sup>9</sup> In his oral evidence, Dr Jack said:

‘I had no particular expertise nor was I aware of any local veterinary expertise that would have changed the decisions and the points being made by the MAFF in their statement’.<sup>10</sup>

10. On 21 March 1988, Sir Donald Acheson (the Chief Medical Officer (CMO)) circulated a submission, to alert Health Ministers to the emergence of BSE. The submission included the following:

‘1. The object of this submission is:

a. to alert Ministers to the emergence of an apparently new disease in cattle (at present principally, but not exclusively, in dairy cattle) which may hold serious implications for human health. The condition is limited so far to the United Kingdom and Guernsey.

b. to seek agreement to the setting up of an expert group to advise whether or not there is a risk to man and, if so, what preventive action should be taken.’<sup>11</sup>

*[CLARIFICATION]*

*It is unclear whether this minute was sent to DANI at the time.*

11. In a statement to the Inquiry, Dr Jack said:

‘I have no record of anyone in DANI, including myself, ever seeing the submission of 21 March 1988<sup>12</sup> which the CMO in London, Sir Donald

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<sup>8</sup> S Jack 2 (WS252A), para 15

<sup>9</sup> S Jack (WS252), para 18

<sup>10</sup> T 75 at p.51

<sup>11</sup> YB 88/03.21/4.1-4.3

<sup>12</sup> YB 88/03.21/2.1-2.3

Acheson, circulated to Ministers. I was aware by 24 March that the CMO (London) was looking into the possible implications of BSE for human health because MAFF had forwarded to DANI a copy of his letter of 14 March 1988 to the MAFF Permanent Secretary<sup>13,14</sup>

12. In a statement to the Inquiry, Lord Skelmersdale, who, in July 1989, became Parliamentary Under Secretary (Lords) at the Northern Ireland Office, with responsibility for health, said:

‘...During this period I can find no public statements that I made, whether in Parliament or elsewhere, relating to B.S.E. I was, though, kept informed of the disease through memoranda, first from the Medical Officer of Health and then public health officials, to my Private Office. It was pointed out to me that B.S.E. ‘may hold serious implications for human health’ (Medical Officer of Health’s memorandum to health ministers dated 21st March 1988)<sup>15,16</sup>

13. In his oral evidence, Dr Jack McKenna, CMO for Northern Ireland, December 1986 to June 1994, said that he did not recall seeing this minute but that he would have discussed the matter with the English CMO around that time. Dr McKenna said that from these discussions he observed that Sir Donald was ‘very concerned to elucidate the problem of the risk to human health... He saw, very clearly, the need to act quickly and decisively to cope with the possibility’<sup>17</sup>

14. In his oral evidence, Dr McKenna said that he was first alerted to the emergence of BSE in April 1988 by ‘[t]he note from MAFF to Sir Donald Acheson’.<sup>18</sup> It was Dr McKenna’s initial belief that there was very little risk to human health. He said:

‘When I say very little I mean close to zero, but obviously it would be impossible to rule out, this is the proof of negatives again. It is impossible to rule out any possibility of risk.’<sup>19</sup>

15. In April 1988, Dr Jack and Mr Sullivan were ‘given an indication of the position in GB’ during a private meeting with Mr Rees.<sup>20</sup> In his oral evidence, Dr Jack said:

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<sup>13</sup> YB 88/03.14/1.1

<sup>14</sup> S Jack 2 (WS252A) para 33

<sup>15</sup> YB 88/3.21/4.1-4.3

<sup>16</sup> S Skelmersdale (WS292), para 5

<sup>17</sup> T 75 at p.73

<sup>18</sup> T 75 at p.49

<sup>19</sup> T 75 at p.65

<sup>20</sup> S Jack (WS252) para 20

‘He [Mr Rees] covered the whole range of veterinary matters where GB and Northern Ireland had a common interest. In the passage of time I cannot recall exactly what was said about BSE because we were dealing with all kinds of matters. But I do remember sympathising with him about the difficulties they had in finding answers to the nature of the disease because at that stage we did not have any outbreaks’.<sup>21</sup>

16. Mr Shannon (Principal Officer, Animal Health Division, DANI, 1985 to March 1992) said that DANI’s primary interest at this stage lay in protecting the Northern Ireland cattle population from the risk of horizontal transmission of BSE through cattle imported from Great Britain, whilst at the same time seeking to maintain Northern Ireland cattle exports to Great Britain. In a statement to the Inquiry, Mr Shannon said:<sup>22</sup>

‘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 risk to human health was not apparent. All 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.’<sup>23</sup>

17. In a statement to the Inquiry, Dr Jack said:

‘Consideration of the need for making BSE notifiable and the associated movement controls in Northern Ireland was kept under constant review from May 1988 because of the risks of inaction to public perception of the problem which had arisen in Great Britain and to protect the UK export trade.’<sup>24</sup>

18. In a statement to the Inquiry, Mr Sullivan said:

‘Taking all the information available to me into account and assessing the position in Northern Ireland –

- BSE had not been identified in Northern Ireland;
- We had an extremely low level of scrapie in sheep due to our geographical position and import controls;
- The rendering plant in Northern Ireland (which was inspected by Keith Meldrum, John Wilesmith and another member of MAFF senior staff in spring 1988) was and had been operating at higher temperature, pressure and time levels and thus was likely to be more effective in eliminating the scrapie agent;

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<sup>21</sup> T 75 at p.76

<sup>22</sup> S Shannon (WS256), para 2

<sup>23</sup> S Shannon (WS256), para 3

<sup>24</sup> S Jack 2 (WS252A), para 34

- There was no direct evidence that the scrapie agent caused BSE. Scrapie was being blamed because the post mortem findings in BSE affected cattle were similar to those in scrapie and the knowledge that scrapie was prevalent in sheep carcasses sent for rendering in GB;
- MBM had not been imported into Northern Ireland from GB for the previous 3 years;
- We had imported cattle from GB but the number of imports was a very very small percentage of the GB herd.

I came to the conclusion that current information indicated that there was a very high probability that Northern Ireland would escape BSE. I also concluded that we should keep a close watch on our import controls to ensure that they were changed to meet changing circumstances. I discussed my opinions with administrative colleagues including the need to make the disease notifiable in Northern Ireland when we knew what controls and measures MAFF intended attaching to notification.<sup>25</sup>

19. In the same statement, Mr Sullivan said:

‘While there was no evidence of BSE in Northern Ireland I advised that there was no need for a ban on MBM use on animal health grounds because I believed that with minimal levels of scrapie and a more effective rendering process than in GB (which was likely to destroy the scrapie agent) and the absence of definite evidence proving that scrapie was the cause of BSE a ban was not justified. This was the view I expressed prior to the submission to the Minister of 26 May 1988<sup>26</sup> ...’<sup>27</sup>

20. On 26 May 1988, Dr Jack put a submission to Lord Lyell, Parliamentary Under Secretary (Lords) at the Northern Ireland Office with responsibility for agriculture, informing him of the position in Great Britain, the setting up of the Southwood Working Party and circumstantial evidence that 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.<sup>28</sup>

21. The submission included the following:

‘8. ...MAFF’s overall strategy was aimed at eliminating temporarily the potential continuing source of infection whilst revised effective processing arrangements could be brought into operation, and also while further investigations are carried out...

9. Discussions resulted in the minister agreeing generally with the submission and asking: -

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<sup>25</sup> S Sullivan (WS530), para 6

<sup>26</sup> YB 88/05.26/4.1-4.5

<sup>27</sup> S Sullivan (WS530), para 13

<sup>28</sup> YB 88/05.26/4.1-4.5

- (a) that a proposal that meat and bonemeal be banned for inclusion in feed for ruminant animals should be discussed with the trade interests and preferably banned by legislation;
- (b) that making the disease notifiable should be discussed with breeders although he was more doubtful about this bearing in mind the need such action may raise for movement control and slaughter and compensation;
- (c) that if making the disease notifiable was a runner with the industry then the possibility of an industry funded slaughter and compensation arrangement should be floated with the industry; and
- (d) that an announcement should be made by 3 June.

It is now expected that meetings with the agriculture and feed industry will be completed and an announcement made on 1 June. It is likely that 2 SIs will be announced. One will ban the use of meat and bonemeal in ruminant animals and the other will make the disease notifiable. Further discussions will be likely on policy for slaughter and compensation.

#### NI Implications

10. DANI has been kept informed of the developments. BSE has not been seen in NI or the ROI. Also, scrapie is not a problem in NI or ROI and therefore although this does not assist in proving or disproving the MAFF theory it makes it more difficult to act on the feeding of locally produced meat and bonemeal. Nevertheless we feel that if this use of this material in ruminant feeds is banned in GB then we have little option but to take similar action in NI (and hopefully ROI will keep in step) to protect trade in live animals and prevent diversion of meat and bonemeal from GB to NI. International and inter-Community trade considerations also have to be taken into account but this will only be possible if MAFF have had their meetings with the various interests in GB.

...

#### Recommendations

14. You are recommended to:-
  - (1) note the developments on BSE taking place in GB;
  - (2) note their implications for NI; and
  - (3) agree that in the event of MAFF banning the use of meat and bonemeal in ruminant feeds and making the disease notifiable, the Department should enter into immediate discussion with the Ulster Farmer Union and animal feed industry with a view to introducing similar controls in NI.<sup>29</sup>

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<sup>29</sup> YB 88/5.26/4.1-4.5



22. On 31 May 1988, Lord Lyell agreed to the course of action proposed in paragraph 14 of Dr Jack's submission of 26 May 1988.<sup>30</sup> In a statement to the Inquiry, Lord Lyell said:

'Very shortly before MAFF announced, on 1 June 1988, that BSE was to be made notifiable, and that feeding of animal protein to ruminants was to be suspended, I had agreed that the Department should consult with industry interests with a view to introducing similar controls in Northern Ireland<sup>31, 32</sup>.

23. In a statement to the Inquiry, Dr Jack said:

'It was because DANI had not taken a definite view on the matter that paragraphs 10 and 11 of the submission AGR POL 1776 of 26 May 1988<sup>33</sup> mentioned the factors distinguishing Northern Ireland from Great Britain and also referred to international and EC trade considerations. Its conclusion that 'if MAFF achieve their aim of banning use of animal protein for ruminant feed NI would have to follow suit very quickly' was intended to be understood as referring to the trade implications of not introducing the ban. This is why the recommendation to the Minister at that point only requested approval for the Department to enter into discussions with farmers and the feed industry with a view to introducing similar controls in Northern Ireland. These discussions started within a week. Although not stated explicitly in the submission, but implied in the points made in the body of it, the need for following Great Britain very quickly was related not to the risk of the spread of BSE in Northern Ireland but at the trade implications. In the event there was no international pressure for NI to follow the GB legislation.'<sup>34</sup>

24. On 31 May 1988, Mr Rutherford Armstrong, Grade 5 Assistant Secretary DANI, received Mr Cruickshank's letter of 27 May 1988, advising that MAFF were planning to announce the ruminant feed ban on 1 June 1988.<sup>35</sup> Mr Cruickshank's letter included the following:

'In the light of further work to be done, we would hope to be able to replace this prohibition with a system of licensing individual plants, when we are satisfied that they could produce animal protein in such a way that there was no risk of BSE being transmitted through it.'<sup>36</sup>

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<sup>30</sup> YB 88/5.31/2.1

<sup>31</sup> YB 88/6.1/2.1-2.2

<sup>32</sup> S Lyell 2 (WS347A), para 7

<sup>33</sup> YB 88/05.26/4.3 and 4.4

<sup>34</sup> S Jack 2 (WS252A), para 44

<sup>35</sup> YB 88/5.27/4.1

<sup>36</sup> YB 88/5.27/4.1

25. On 1 June 1988, MAFF announced its intention to make BSE compulsorily notifiable and to introduce a ruminant feed ban.<sup>37</sup> On the same day, Mr Shannon attended a MAFF meeting in London, at which the proposal for a ruminant feed ban in GB was announced.<sup>38</sup> Attending the meeting were representatives of MAFF, the Territorial Departments, the United Kingdom Renderers' Association (UKRA), the United Kingdom Agricultural Supply Trade Association (UKASTA), the Grain and Feed Trade Association (GAFTA), the NFU and the FAC. The note of the meeting included the following:
- ‘Mr Cruickshank explained that an Order would be made to make the disease notifiable and impose movement controls. The sale and use of animal protein (containing material from ruminants) in ruminant feed would be suspended until the end of the year...
- UKASTA pointed out that its members would have stocks of the prohibited feedstuffs, which Mr Meldrum said could be used in the 21 day lead in period after the Order was made. UKRA was concerned that feed products might be condemned, but another cause of BSE eventually found. Mr Meldrum thought it unlikely that another cause would be found and emphasised the need to act now to stop massive exposure to the probable cause of the disease.’<sup>39</sup>
26. On 2 June 1988, Mr Sullivan, Mr Samuel Paul, (DANI, DCVO, Policy, February 1987 to February 1997), Mr Armstrong, Mr Shannon, and Dr McCracken (Head of Pathology, Veterinary Research Laboratory (VRL)), among others, met to discuss the implications of the MAFF announcement for Northern Ireland.<sup>40</sup> Dr McCracken 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).’<sup>41</sup> He also confirmed 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.<sup>42</sup>
27. Mr Armstrong 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 no longer permitted in GB. He said the decision could be supported by the presence of scrapie in Northern Ireland

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<sup>37</sup> NFU Press Release in response to the announcement - YB 88/6.1/1.1

<sup>38</sup> YB 88/6.6/2.1-2.4

<sup>39</sup> YB 88/6.6/2.1

<sup>40</sup> YB 88/6.02/11.1-11.3

<sup>41</sup> YB 88/6.02/11.2 at para 7

<sup>42</sup> YB 88/6.02/11.2 at para 7

sheep and 'similar risk factors to those in GB in relation to the handling of animal by-products.'

28. Mr David Carnson, Grade 3 Under Secretary at DANI responsible for animal health policy, joined the meeting late following a telephone discussion with Dr Ian Paisley concerning Dr Paisley's concerns about the implications of the GB ban. Mr Carnson stated 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.<sup>43</sup>

29. In a statement to the Inquiry, Mr Carnson said:

'It would be wrong for the Committee to draw a causal connection between Dr Paisley's telephone call of 2 June 1988 and the later advice not to recommend a ruminant feed ban. My recollection of Dr Paisley's call was that he had a read-out (not from DANI) of the MAFF meeting of 1 June 1988 with the industry interests<sup>44</sup> and was seeking information as to the NI position. From memory, and indeed in accordance with common practice (and common sense, since no view had been taken) I advised Dr Paisley that officials would be meeting later that afternoon to consider the NI position in light of the GB decisions. Howsoever the record of the officials meeting that afternoon was drafted<sup>45</sup>, I am satisfied that no decisions were reached on the basis of Dr Paisley's call.'<sup>46</sup>

30. On 2 June 1988, Mr Armstrong (Chairman of the meeting), Mr Sullivan, Mr Paul, Mr Shannon and Dr McCracken, among others, met representatives of the feed and rendering industries.<sup>47</sup> The industries were informed of MAFF's decision to introduce compulsory notification and a ruminant feed ban in Great Britain. Information about BSE was also given. DANI officials also stated that the incidence of scrapie in Northern Ireland was much better than the incidence in Great Britain, but that Northern Ireland was not scrapie free and that one case had been diagnosed that week. It was also observed that as scrapie was not notifiable in either Northern Ireland or the Republic of Ireland, it was difficult to assess accurate levels of the disease. As regards the occurrence of BSE in Northern Ireland or the Republic of Ireland, the meeting was assured that it had not been found, but it was emphasised that over 600 cattle had been imported from Great Britain into Northern Ireland in the previous year.

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<sup>43</sup> YB 88/6.02/11.1-11.3

<sup>44</sup> YB 88/06.01/10.1-10.4

<sup>45</sup> YB 88/06.02/11.1-11.6

<sup>46</sup> S Carnson (WS541), para 7

<sup>47</sup> YB 88/6.02/13.1-13.6

31. Industry representatives expressed concern about the danger of unsaleable meat and bone meal in Great Britain being ‘dumped’ in Northern Ireland. Questions were also asked about what should be done with by-products if they could not be made into meat and bone meal. It was pointed out that it was not possible to dump such waste on council tips. It was suggested that the output of raw material from meat plants could amount to 5,000 tonnes per week in winter, although it was lower in the summer.
32. Mr Armstrong tried to get those present to identify the actual amount of MBM used in ruminant feeds in Northern Ireland. The best answer that could be given was that it depended on the firm making the meal, but that it varied from 1% to 5% which would be 5,000 to 25,000 tonnes per year. If restrictions were imposed on the use of such material, this would lead to a surplus. Mr Armstrong commented that DANI had not yet decided to follow the same line as MAFF in introducing a ban. In reply to a question as to the acceptability of MBM from GB in Northern Ireland, Mr Sullivan indicated that if MBM was not acceptable in GB for ruminant rations, there was a problem in dealing with it in Northern Ireland.
33. A feed industry representative indicated that if other proteins were used in the manufacture of ruminant feed, an increase of 1% or 5,000 tonnes of such proteins would cause a price rise of approximately £½ million per year or £1 per tonne of meal. Another representative indicated that the main problem facing the industry was the speed with which MAFF had implemented their action. It was suggested that a 6 month run-in period would have been helpful, and that in 8-10 weeks the industry could be blocked with meat and bonemeal.
34. Mr Armstrong 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. This would have serious implications for renderers as it seemed that most of their meat and bonemeal 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.
35. In a statement to the Inquiry, Mr Sullivan said:
- ‘The rendering, meal compounding, meat and farming industries were aware of all the information in [para 18 above]. It would thus have been almost impossible to convince these industries that there was justification for introducing a temporary ban on the use of ruminant protein in N. Ireland when BSE had not been diagnosed in any part of the island of Ireland, with resultant disruption, difficulties and extra costs for them. The then picture in GB, where a temporary ban had been introduced, was very different with new cases of BSE being confirmed daily.’<sup>48</sup>

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<sup>48</sup> S Sullivan (WS530), para 18

If the industry was not convinced of the need for a ban it follows that, at best, there would only be reluctant compliance with it and, at worst, systematic violations of it.<sup>49</sup>

It must be recalled in this context that in 1988 the Department's ability to effectively police adherence to a ban was limited. Unannounced visits to processing plants', feed compounders', on farm mixers' and stock owners' premises by inspectors could easily be arranged and samples taken, but in the absence of a suitable test to identify the presence or absence of ruminant protein in feed mixes, violations were almost certain to go undetected.<sup>50</sup>

The industry was aware that a suitable test for the identification of ruminant protein was not available.<sup>51</sup>

Renderers claimed that while the temporary ban which had been introduced in GB had not placed any restrictions on the importation of MBM from N. Ireland, it had already resulted in lost markets there and a ban in N. Ireland would damage their local market. It would be difficult if not impossible to replace these losses with new or increased export markets. It was also claimed that these lost markets would mean that renderers had no use for waste animal products from meat plants which in turn would increase the costs of waste disposal for the meat industry. This would result in lower prices being offered to farmers for their animals and thus have detrimental economic consequences for the agricultural industry. It was further claimed that meal compounders might well dispense with the use of animal protein in their mixes altogether and this lost market might not be regained when a temporary ban on the use of MBM ended. Additionally it was claimed that loss of outlets for ruminant MBM would result in a run down in renderers manufacturing activities and the Industrial Development Board (IDB) would have to be informed. The IDB is a government body charged with reducing unemployment in N. Ireland by financially supporting qualifying industry. (N. Ireland has the highest rate of unemployment in the UK and some claim this has been a factor in adding to political unrest).<sup>52</sup>

Feed compounders claimed that obtaining non-animal protein for their mixes would increase the cost of their products. The meat industry agreed with the rendering industry and claimed it would have increased costs in disposing of animal waste which frequently amounted to several thousand tons per week. This would be reflected in downward prices to farmers for their stock. The farming industry was perturbed at the prospect of reduced income and also the difficulties, disruption and cost involved in burying the carcasses of animals which died on their holdings.<sup>53</sup>

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<sup>49</sup> S Sullivan (WS530), para 19

<sup>50</sup> S Sullivan (WS530), para 20

<sup>51</sup> S Sullivan (WS530), para 21

<sup>52</sup> S Sullivan (WS530), para 22

<sup>53</sup> S Sullivan (WS530), para 23

36. In a statement to the Inquiry, Dr Jack said:

‘The main impact was perceived to be on the renderers. The quantity of MBM being added to the whole non ruminant feed market as a result of the GB ban would affect the overall situation and put pressure on outlets for Northern Ireland production of MBM. There would be downward movements in MBM prices which would affect the returns and viability of the renderers. In the absence of prohibiting use of Northern Ireland produced ruminant feed in Northern Ireland this would be unlikely to result in closures and job losses.’<sup>54</sup>

A viable and profitable rendering industry provided important income to meat plants. Any reduction in their markets would have knock on effects on what they were able to pay the meat plants. The impact of an enforced switch of markets by the renderers on the prices paid to NI meat plants was not expected to be particularly large and therefore the consequences for meat plants was likely to be a marginal effect on profitability but not leading to closures or serious redundancies.<sup>55</sup>

For the reasons given above it was considered that the Great Britain ban was unlikely to affect severely beef producers in NI although there could be small reductions in the prices they obtained. There were unlikely to be trade repercussions from countries or importers of Northern Ireland animals or meat just because Great Britain had imposed a ban on MBM in ruminant feed while Northern Ireland did not need to follow suit.<sup>56</sup>

The economic consequences of a ban on the use in Northern Ireland ruminant feed of Northern Ireland produced MBM would have been a serious loss of this quantity of material from their local market by the renderers. There would have been further knock on effects by importers refusing to accept Northern Ireland produced MBM and prices in other MBM markets falling. This was likely to have been serious enough to have resulted in closure of some rendering capacity with consequent loss of jobs. It would definitely have reduced severely the prices paid by renderers to meat plants and their viability.<sup>57</sup>

Some importing countries and the EC might have used the ban to forbid imports of animals and meat from Northern Ireland with consequential serious implications for the whole industry down to producers.<sup>58</sup>

The above paragraphs indicate that the consequences of a Northern Ireland ban would go further than a considerable loss of profits which would affect everyone involved from producers through processors to the end product.

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<sup>54</sup> S Jack 2 (WS252A), para 48

<sup>55</sup> S Jack 2 (WS252A), para 49

<sup>56</sup> S Jack 2 (WS252A), para 50

<sup>57</sup> S Jack 2 (WS252A), para 51

<sup>58</sup> S Jack 2 (WS252A), para 52

A ban would result in one or more meat plants and renderers being made bankrupt with job losses.<sup>59</sup>

A further aspect would have been failure to fully utilise the considerable capital investment, including the use of EC funds, put into the meat industry in recent years to bring plants up to the EC export standard.<sup>60</sup>

A ban could have led to serious environmental difficulties. It would have left the renderers and/or meat plants with the problem of disposal of offal. Most would have had to be dumped at a cost as waste. This material would be difficult to transport, store and treat with proper care for the environment. The Councils had not the facilities to handle large quantities of animal waste or to incinerate it and burial was hardly to be recommended.<sup>61</sup>

The implications for the renderers and the meat plants would have resulted in collapse of the beef market. There would be a great reduction in the prices that could be paid by them to beef farmers. Compound feed manufacturers and farmers would have also suffered increased costs as prices for supplies of alternative protein would have risen due to the resulting increased demand for fish meal, soyabean etc. and their business affected.<sup>62</sup>

There was also the possibility that consumer confidence in Northern Ireland beef would have been eroded and the public may have felt Government were trying to hide something if such a ban was imposed when there had been no outbreak of the disease in Northern Ireland.<sup>63</sup>

...

The analysis of the pros and cons of introducing a ruminant feed ban on MBM, primarily to protect the cattle population, in Northern Ireland in mid 1988 had to be weighed against a background of the absence of any cases of BSE in Northern Ireland, the transmission agent of BSE had not been scientifically identified although there was circumstantial evidence of a link with scrapie, and, although the Chief Medical Officer of the Department of Health in London had said in his letter of 14 March 1988 to MAFF that he was looking into the possible implications for human health as a matter of urgency, there had been no indication from that Department of a human health hazard. Had there been any indication of the latter or that BSE was a zoonosis it would have outweighed economic considerations.<sup>64</sup>

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<sup>59</sup> S Jack 2 (WS252A), para 53

<sup>60</sup> S Jack 2 (WS252A), para 54

<sup>61</sup> S Jack 2 (WS252A), para 55

<sup>62</sup> S Jack 2 (WS252A), para 56

<sup>63</sup> S Jack 2 (WS252A), para 57

<sup>64</sup> S Jack 2 (WS252A), para 59

Clearly the weight given to the various factors which were considered in mid 1988 to decide not to impose a ban on MBM in Northern Ireland ruminant feed altered when the case of BSE was confirmed in Northern Ireland in late November 1988. It is not possible to separate out the actual consequences due to the introduction of the ruminant feed ban in November 1988 from those which were due to the identification of a case of BSE in Northern Ireland that month and everything which flowed from that finding.’<sup>65</sup>

37. On 8 June 1988, Mr Alan Lawrence (MAFF) minuted the Minister of Agriculture attaching a submission recommending that the Minister sign an Order making BSE notifiable and prohibiting certain feed materials as rations for ruminants.<sup>66</sup> DANI received a copy of this submission.
38. A minute from Mr Carnson dated 10 June 1988, on developments since the minute of 26 May 1988, was sent to Lord Lyell on 13 June 1988<sup>67</sup>. Mr Carnson’s minute<sup>68</sup> included the following:
- ‘It is understood that MAFF are likely to delay action on the suspension of use of animal protein until later in the summer but go ahead with the legislation to make BSE notifiable and introduce movement controls. This will allow us to give further consideration to the implications as reactions develop in the market and before we implement local action.’
39. Mr Carnson outlined the concerns of the Northern Ireland feed and rendering industries’ representatives as expressed at the meeting with DANI officials on 2 June 1988 and said that ‘IDB has been advised of the potential problem for renderers’ that would result from the introduction of a ruminant feed ban in Northern Ireland. Mr Carnson also noted that at a meeting with DANI officials on the same day UFU had accepted the need to make the disease notifiable even though no cases had occurred in Northern Ireland and had confirmed this position after a UFU Animal Health Committee meeting.
40. Mr Carnson also advised Lord Lyell that officials were in touch with the Department of Agriculture in Dublin, who had not yet formulated a view on MAFF’s decision to introduce a ruminant feed ban in Great Britain. The submission stated that the Republic ‘face the same problems as we do in that their own animal protein is almost certainly of negligible risk but the risk of possible diversion of GB supplies to the NI and ROI markets are equally important to them’.
41. In a statement to the Inquiry, Lord Lyell said:

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<sup>65</sup> S Jack 2 (WS252A), para 60

<sup>66</sup> YB 88/6.8/3.1-3.4

<sup>67</sup> S Jack (WS252), para. 26

<sup>68</sup> YB 88/6.10/11.1-11.2



‘...I was updated by Minute from Mr. Carnson<sup>69</sup>. Officials, who were aware that MAFF was likely to delay imposition of the feed ban in Great Britain, received representations from industry representatives that their ruminant feed products did not carry the same risk as Great Britain’s products, or even a negligible risk.’<sup>70</sup>

42. On 14 June 1988, the BSE Order 1988 (SI 1039) came into force in Great Britain, save for the provisions relating to the ruminant feed ban, which came into force on 18 July 1988.
43. On 22 June 1988, Mr Armstrong was copied a minute from Mr Cruickshank to Mr Strang (PS/Mr Derek Andrews). The attached progress report on BSE for the Secretary said that the Southwood Working Party was due to recommend the compulsory slaughter of clinically affected cattle ‘as a precautionary measure whilst the various studies are being undertaken into possible transmissibility’.<sup>71</sup>
44. On 28 June 1988, Mr Shannon attended a MAFF meeting held in London with representatives of the GB cattle industry to discuss the introduction of the ruminant feed ban.<sup>72</sup> At the meeting Mr Lawrence explained that from 18 July to 31 December 1988 (inclusive) the use of ruminant protein in ruminant feeds would be prohibited, and that in the meantime, MAFF teams would investigate the protein processing plants to see which processes could destroy the agent and the legislation would be reviewed in light of these results.<sup>73</sup>
45. In a statement to the Inquiry, Dr Jack said:
- ‘By the end of June 1988 DANI had determined that the Irish Republic, which, like Northern Ireland, had found no case of BSE and had agreed to close its import routes for at risk cattle and animal protein from GB, considered it unnecessary to make BSE notifiable. DANI however proposed to make a Statutory Rule to require notification in August because we wished to ensure continued access for NI livestock and produce to export markets.’<sup>74</sup>
46. On 1 July 1988, Dr Jack met Mr Carnson to discuss the implications of the actions being taken by MAFF for Northern Ireland. In a statement to the Inquiry<sup>75</sup>, Dr Jack said:

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<sup>69</sup> YB 88/06.10/11.1-11.2

<sup>70</sup> S Lyell 2 (WS347A), para 15

<sup>71</sup> YB 88/6.22/1.1-1.7 at 1.5, para 6

<sup>72</sup> YB 88/7.5/3.1-3.7

<sup>73</sup> YB 88/7.5/3.1-3.7 at para 7

<sup>74</sup> S Jack 2 (WS252A), para 35

<sup>75</sup> S Jack (WS252), para 29 & 30

'I discussed the implications for Northern Ireland of the GB position and the actions being taken by MAFF with my Under Secretary on 1<sup>st</sup> July. There were no cases of BSE to date and scrapie was at a low level in NI and in the Republic. On the basis of the current knowledge the risks of scrapie infection from NI produced meat and bone meal were much less than in GB and it was concluded that a ban on the use of animal protein in animal feed produced in NI would not be justified on animal health grounds at this point. This decision was to be reviewed immediately if BSE occurred in NI.

I decided however that certain action was needed to make BSE a notifiable disease in NI to close any further risk of importing the disease from GB sources either in terms of 'at risk' cattle or infected feed and that the Department should seek the latter through stricter import controls on GB animals and the suspension of import licenses for animal protein from GB. These were incorporated into recommendations to the Minister in a submission dated 6<sup>th</sup> July 1988 which was copied to the Permanent Secretary of the NI Department of Health and Social Services.<sup>76</sup>

47. In a statement to the Inquiry, Dr Jack said:

'The matters which appeared to me to be telling in reaching the decision that a feed ban (on locally produced meat and bone meal) would not be justified on animal health grounds in July 1988 involved rather more than the points mentioned in the minutes of the 2 June 1988 meeting<sup>77</sup>. The relevant factors, which were developed in conjunction with veterinary, professional and administrative colleagues, included:

- no case of BSE had been found in the NI cattle herd,
- the farming industry and the veterinary profession in NI were aware of this novel disease being found in GB, its spread and clinical symptoms and would have been on the look out for cases and notified the Department,
- the causal agent for BSE in GB had not been found,
- circumstantial evidence pointed to, but did not prove, a link with feeding MBM derived from scrapie infected sheep which had not been subject to sufficient processing to make the agent inactive,
- MAFF officials visiting NI had found that the time, temperature and pressure of rendering procedures in NI had not reduced to the same extent in the 1970s and early 1980s as elsewhere in the United Kingdom. Thinking at that time in MAFF was that they hoped to be able to determine effective processing procedures to render the agent inactive and this suggested that NI practices had afforded better protection than in GB,

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<sup>76</sup> YB 88/07.06/6.1-6.5

<sup>77</sup> YB 88/06.02/11.1-11.6

- The NI rendering industry were fully briefed along with their GB colleagues on the hypothesis that the source could have come from scrapie infected meat. They were aware of the measures and precautions being introduced in GB and the impact on their businesses if they became the cause of its spread,
- Other means of transmission had not been put forward as potentially serious possibilities by those most closely involved in MAFF research,
- Northern Ireland and the Republic had only a very few cases of scrapie. Although this disease was not notifiable in NI farmers and local veterinarians were well aware of the disease and the DANI Veterinary Service were confident the actual incidence was low,
- The sea boundary with GB and the relatively expensive cross channel freight charges severely curtailed cattle movements except for high quality breeding stock. These would normally be kept in herds where the farmer would be very alert to any symptoms of disease and would contact his veterinary practitioner at signs of trouble with the result that DANI would have been informed of any local cases,
- The quantity of imported cattle was very small in relation to the size of the total NI cattle herd,
- The quantity of GB cattle imported into NI was a very small percentage of the GB herd. Taken with the percentage of the total which had been clinically diagnosed as having BSE in GB at that time this suggested a very low probability that diseased animals had entered the NI herd,
- The Southwood Working Party had recommended that MAFF introduce an extensive research programme to determine answers on source, transmissibility etc. due to the many uncertainties surrounding BSE,
- NI had identified the possibility of the disease incubating in animals not yet clinically diagnosed with BSE but the possible impact of this and the length of the incubation period and related matters did not feature in the major concerns being expressed at that time in GB. With no additional local knowledge of the agent or its method of attack this was relied on to bolster the assumption that NI was at lesser risk than GB where the numbers of affected animals detected was still in double figures per month,
- there was no test to determine sub-clinical cases of BSE,
- Southwood had recommended as an interim measure the slaughter and destruction of affected carcasses to prevent any re-cycling but there were no affected carcasses in NI,
- NI was introducing measures to minimise the future risk from imported cattle for breeding and production from GB. These were that NI would not accept animals which moved through any herd subject at any time to BSE problems or accept any progeny, not just

first generation, on the female line of any animal so affected. This was in case BSE should prove to be transmissible horizontally or vertically through the progeny,

- With its relatively large livestock industry NI was more than self sufficient in home produced MBM,
- There had been no imports of MBM from GB in the previous three years,
- DANI was in the process of suspending licences for the import of all animal protein (bone meal and greaves) from GB to stop any diversion from GB plants as a result of the GB ban effective from 18 July 1988 thereby protecting NI from the GB infection,
- There was no pressure from importers in GB or elsewhere to ban feeding of NI produced MBM in NI.<sup>78</sup>

48. In a statement to the Inquiry, Mr Sullivan said that in assessing the need (or otherwise) of a ban on MBM in the summer of 1988 consideration was certainly given to the possibility of sub-clinical disease being present. However, he said the fact that old cows, kept by farmers for dairy and breeding purposes, had not developed clinical signs of BSE, indicated that sub-clinical disease was not present. This, according to Mr Sullivan, tended to confirm that protein processing in N. Ireland was effective in destroying the scrapie organism.<sup>79</sup>

49. In the same statement, Mr Sullivan also said that consideration was given to the possibility that there was sub-clinical disease in some cattle because infected MBM imported from GB in the early eighties may have been stored and only fed to cattle some time later. However, because horizontal and vertical transmission was not believed to occur and as the Northern Ireland rendering system was [then] thought to be efficient in making ruminant protein harmless, such risk was thought negligible. He also said that there was consideration of the possibility that sub-clinical cattle were imported from GB, however these cases were thought to pose only a small risk given what was believed about the Northern Ireland rendering process.<sup>80</sup>

50. On 6 July 1988, Dr Jack put a submission to Lord Lyell<sup>81</sup>, recommending stricter import controls on GB animals and the suspension of import licences for animal protein from GB. It was stated that there were currently only 3 such licences and that to the best of DANI's knowledge, no imports had taken place in the past three years. The submission advised that 'our

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<sup>78</sup> S Jack 2 (WS252A), para 46

<sup>79</sup> S Sullivan (WS530), para 14

<sup>80</sup> S Sullivan (WS530), para 15-17

<sup>81</sup> YB 88/7.06/6.1-6.5

present assessment of the NI risk of BSE is low and we have reached the conclusion that a ban on the use of animal protein in animal feed would not be justified on animal health grounds at this point in time'.<sup>82</sup> It was added that in the event that BSE did occur this decision would need immediate review.

51. In relation to this submission Dr Jack said that imports of MBM into Northern Ireland were subject to licensing requirements, which included a requirement for the importer to provide to the Department certificates from the official veterinary authorities in Great Britain or the exporting country. The Animal Health Division of the Department was the Division responsible for this licensing control and they supplied the information for the 6 July 1988 submission that there had been no such imports for the preceding three years.<sup>83</sup>
52. The submission also recommended that BSE be made a notifiable disease in Northern Ireland and stated that MAFF were 'pressing NI to implement this measure'.<sup>84</sup> The submission included the following:

'1. 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.'
53. The submission was copied to Mr Alan Elliott, Permanent Secretary at the Northern Ireland Department of Health and Social Security. Lord Lyell accepted the recommendations contained in the submission.<sup>85</sup>
54. In a statement to the Inquiry, Lord Lyell said that as there was no reported case of BSE in Northern Ireland at the time, and as there had been no imports of animal protein from Great Britain for at least three years, he '...considered that the risk of BSE in Northern Ireland was so low that a ban on ruminant feed could not be justified.' He said that he was influenced in this decision by the fact that the CVO concurred with the Department's approach.<sup>86</sup> Lord Lyell added that this decision would only hold good as long as there was no BSE in Northern Ireland.<sup>87</sup>
55. On 14 July 1988, Mr Sullivan, Mr Shannon (Chairman of the meeting), and Mr Paul, among others, met UFU and representatives of the feed and

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<sup>82</sup> YB 88/7.06/6.1-6.5 at para 11

<sup>83</sup> S Jack 2 (WS252A), para 76

<sup>84</sup> YB 88/7.06/6.1-6.5

<sup>85</sup> YB 88/7.06/6.1-6.5 manuscript note; S Lyell (WS347), paras 10-15

<sup>86</sup> S Lyell 2 (WS347A), para 19

<sup>87</sup> S Lyell 2 (WS347A), para 20

rendering industries.<sup>88</sup> The purpose of the meeting was to convey the Northern Ireland policy, as agreed by the Minister that week, to the industry. Mr. Shannon announced that the Minister had decided that BSE was to be made notifiable by statutory instrument in early August. Mr. Shannon also stated that the Minister had decided that there should not be a ban on the use of locally produced animal protein in ruminant feed rations, but that import licences for meat and bonemeal from Great Britain should be suspended. It had been agreed that because of the difficulty in distinguishing meat and bonemeal of the different species a ban on all imports was the best way of ensuring satisfactory protection. Mr Shannon noted that it was the Department's understanding that such imports were extremely small in quantity, and therefore there should be little difficulty for the industry. In response to a question from representatives, he advised that whilst it had not yet been proved that the causal agent of BSE was to be found in meat and bone meal, this was the strongest theory on the current evidence available to the experts. Mr Shannon added that it had been decided that meat and bonemeal imports intended for pet foods should be allowed to continue. He also explained that, should cases of BSE appear in Northern Ireland, the decision not to introduce a feed ban would immediately be reviewed.

56. On 14 July 1988, Dr McCracken minuted Dr McMurray providing a BSE update summarising the discussions that had been taking place between the CVL and RVC. His minute included the following:

'Evidence indicates that BSE is an extended common source epidemic. Such a source could be made available through either food or possibly AI [ie artificial insemination]. The latter has been investigated and the team are satisfied that it is not a source whereas there is a very strong association between the use of food and outbreaks of the disease'.<sup>89</sup>

57. Import licences for animal protein produced in Great Britain were suspended with effect from 25 July 1988.<sup>90</sup> Traders with such import licences were informed of the suspension by letter.

58. On 5 September 1988, Dr Jack put a submission to Lord Lyell seeking agreement to the making of the necessary legislation to provide for slaughter and compensation in respect of any BSE cases in Northern Ireland as part of a revised package of Northern Ireland legislation on BSE.<sup>91</sup> This was to be in addition to the proposed Order to make BSE notifiable and to apply movement controls, which had already been approved on 6 July 1988.

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<sup>88</sup> YB 88/7.14/6.1-6.3

<sup>89</sup> YB 88/7.14/7.1; the background material to this summary document is at YB 88/7.00/6.1-6.34

<sup>90</sup> S Jack (WS252), para 32

<sup>91</sup> YB 88 /11.05/1.1-1.4

59. The submission explained that an import ban on meat and bone meal had been in place since 25 July and that additional certification on live imports was being sought. It added that preparation of legislation on notifiability and movement controls was being progressed in line with GB developments, and that officials hoped that the legislation would be made in early September and come into operation 21 days thereafter. Lord Lyell accepted the recommendations in the submission.<sup>92</sup>

60. In a statement to the Inquiry, Lord Lyell said that it was necessary to amend legislation and discuss compensation arrangements, before BSE could be made notifiable in Northern Ireland. Lord Lyell said that the discussion on compensation arrangements should follow settled compensation arrangements in Great Britain.<sup>93</sup> He said:

‘I was not concerned that notification was not implemented simultaneously in Great Britain and Northern Ireland, particularly as there was no evidence of the disease in Northern Ireland.’<sup>94</sup>

61. In a statement to the Inquiry, Dr Jack said:

‘The NI legislation to make BSE notifiable and apply movement controls, which DANI would normally have treated as a single package taking account of MAFF considerations, could not be finalised until the resolution of GB problems on exclusion of affected animals from the human/animal food chains and payment of compensation. On sight of the MAFF package it became clear that Northern Ireland could not replicate the format of the GB legislation because of different enabling powers and the need to avoid combination of Orders subject to negative resolution with those not so subject. I agreed that two separate Orders would be made and submission AGR POL: 1809 of 5 September on this and other matters was put to the Minister.’<sup>95</sup>

62. In the same statement, Dr Jack said:

‘These technical issues caused delays in drafting and agreeing the NI Orders needed to implement notification and movement control. Nevertheless staff had ensured sufficient progress had been made to enable the Orders to be made on 28 November 1988 (and come into operation the next day) the date I was notified that the CVL had confirmed the diagnosis of the first recorded case of BSE in NI. During this period there was no pressure on Northern Ireland from countries to which it exported animals or meat to certify freedom from BSE on the basis of legislation requiring notification or allied movement controls.’<sup>96</sup>

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<sup>92</sup> S Lyell (WS347), paras 18 and 19

<sup>93</sup> S Lyell 2 (WS347A), para 11

<sup>94</sup> S Lyell 2 (WS347A), para 12

<sup>95</sup> S Jack 2 (WS252A), para 37

<sup>96</sup> S Jack 2 (WS252A), para 38

63. On 14 and 17 November 1988 Dr Jack was informed about a suspected case of BSE in Northern Ireland which had been diagnosed by a VRL pathologist.<sup>97</sup> Material was sent to the CVL at Weybridge and the diagnosis was confirmed on 28 November 1988.<sup>98</sup>
64. On 28 November 1988, DANI issued a press release announcing that a five-year-old Friesian cow had been diagnosed as the first confirmed case of BSE in Northern Ireland.<sup>99</sup>
65. On 29 November 1988 BSE was made a notifiable disease under the BSE Order (NI) 1988.<sup>100</sup> On the same day compulsory slaughter with compensation was introduced for suspected cases under the Diseases of Animals (Modification) (No.2) Order (NI) 1988.<sup>101</sup>
66. In his oral evidence, Mr Martin explained why BSE was not made notifiable in July 1988:
- ‘At the time why make it notifiable? First of all every veterinarian in Northern Ireland was looking out for it. It would have been a matter of great credibility to them if they had been the first person to pick up the case. So I think the whole profession and the laboratories were on the lookout, looking for this. It had not been found in Northern Ireland. The first person to find it would have had a lot of credence out of it.’<sup>102</sup>
67. In his oral evidence, Mr Martin also said:
- ‘...at that stage...the decision was taken to have the legislation prepared so that it could be brought in at very short notice if and when BSE occurred in Northern Ireland.’<sup>103</sup>
68. In a statement to the Inquiry, Dr Jack said:
- ‘...compulsory notification is in many ways a trigger to a whole host of controls to make it properly effective. Where an animal is suspected of being affected with BSE then its movement must be restricted. In addition, because BSE could only be confirmed by post-mortem examination, the animal itself had to be slaughtered and rules introduced concerning the disposal of the carcass. Also there needed to be consideration given regarding in-contact animals and how their movements should be restricted. All of these have major implications for the livelihood of

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<sup>97</sup> S Jack (WS252), para 40

<sup>98</sup> S Jack (WS252), para 41

<sup>99</sup> YB 88/11.28/3.1

<sup>100</sup> SI No. 422 of 1988; L8A tab 2

<sup>101</sup> SI No.421 of 1988; L8A tab 1

<sup>102</sup> T 80 at p.98

<sup>103</sup> T 80 at p.98



individual producers. As I stated in paragraph 46 of this statement, veterinary practitioners in Northern Ireland were on the look-out for an outbreak of BSE but none had been detected here or in the Republic. Given this making BSE a compulsorily notifiable disease did not seem to be such an urgent matter as to justify introducing that requirement in advance of the other requirements, particularly those in relation to the payment of compensation.’<sup>104</sup>

69. In the same statement, Dr Jack said:

‘DANI was, at the time, aware of the nature of the ongoing discussions between MAFF, the Treasury and the industry during June to August 1988 on the subject of compensation including rates and method of financing. It decided that compensation for affected animals and any animals slaughtered but not confirmed by the post-mortem as BSE cases should generally be on the same basis as in Great Britain in the event of an outbreak in Northern Ireland. It, therefore, made sense to delay local legislation until MAFF and the Treasury had reached a conclusion in Great Britain and the MAFF Order was available...’<sup>105</sup>

70. In a statement to the Inquiry, Mr Sullivan said that he was satisfied that veterinary surgeons and the Department’s Investigation laboratories were looking for signs of BSE in disease diagnosis. He said that this was also the case with Veterinary Officers at all meat plants when doing ante mortem inspections. He consequently considered that he had a good information system in place and whilst he was in favour of notification ‘...did not want the legislation rushed until we had proper and effective control measures to follow...’<sup>106</sup>

71. In a statement to the Inquiry, Dr McMurray said that he did not believe that making the disease notifiable earlier would have made any difference to the diagnosis of the first case in Northern Ireland. Dr McMurray approved Dr Jack’s evidence that ‘...BSE was on the minds of the NI veterinary and scientific communities in 1988 and everyone was on the lookout for the disease.’<sup>107</sup> Dr Paul (Deputy Chief Veterinary Officer - Policy) agreed with the above argument and stated that he ‘...was confident that any outbreaks of the disease in Northern Ireland would be quickly detected and confirmed, even if it was not made compulsorily notifiable.’<sup>108</sup>

72. In a statement to the Inquiry, Dr Jack said that the main technical problems that occasioned the preparation of the BSE Order (NI) 1988 were centred

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<sup>104</sup> S Jack 2 (WS252A) para 71

<sup>105</sup> S Jack 2 (WS252A) para 72

<sup>106</sup> S Sullivan (WS530), para 7

<sup>107</sup> S McMurray (WS342B), para 16

<sup>108</sup> S Paul (WS532) para 10

around the enabling powers in the Diseases of Animals (NI) Order 1981. He stated that:

‘The powers providing for the compulsory slaughter and compensation in the case of animals suspected of being affected with the disease were subject to negative resolution before the Northern Ireland Assembly. The enablements under which the 1988 Order were made were not so subject. It was a well-settled practice that provisions which were subject to different forms of Parliamentary scrutiny could not be contained in a single instrument. Accordingly the provisions relating to compulsory slaughter and compensation had to be contained in a different Order from the 1988 Order. Moreover as the former Order amended primary legislation it had to be cleared with the Office of Legislative Counsel which, in Northern Ireland, was responsible for the drafting of primary legislation. ...’<sup>109</sup>

73. On 30 November 1988, Dr Jack put a submission to Lord Lyell informing him of the first case of BSE in Northern Ireland and seeking agreement to the introduction of a ruminant feed ban in the province.<sup>110</sup> The submission included the following:

Purpose

1. The purpose of this submission is to:
  - (a) inform you of latest developments on BSE in NI;
  - (b) seek your agreement to the making of NI legislation to prohibit the use of ruminant protein in ruminant feeds.
2. On 28 November the Department confirmed the first BSE case in NI. Two other cases are under investigation. A Press Release was issued and media interest on the implications has been strong.
3. Legislation as agreed in AGR POL 1793 and 1809 has been introduced to make BSE notifiable in NI and provide for slaughter and compensation of affected animals.

...

Policy Implications

5. Northern Ireland is now in the same position as GB which introduced a ban on the use of ruminant protein in ruminant feed once a strong circumstantial link with the sheep-scrapie or similar agent in meat and bone-meal emerged. The scrapie or scrapie type agent hypothesis remains strong (although not proven) and ongoing researches in GB have not yet produced a definitive heat treatment to eliminate the highly resistant scrapie organism during commercial manufacturing of meat and bone-meal. MAFF therefore advised their industry on 28

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<sup>109</sup> S Jack 2 (WS252A), para 75

<sup>110</sup> YB 88/11.30/6.1-6.8; Jack ws252 paras 41, 43

November of the extension on the ban on ruminant protein until the end of 1989. A Ministerial announcement was made on 30 November 1988. The announcement also covered the GB intention to make new legislation to ban the sale or use of meat from suspect animals for human or animal consumption. No compensation was proposed in GB and DANI will explore with legal advisers the possibility of following the GB line on milk restrictions.

6. As indicated in AGR POL 1793 any detection of BSE in NI would obligate immediate review of ruminant protein use in NI ruminant feeds. The fact that BSE has been discovered in a home-bred animal reinforces the argument as it shows that the whole bovine population is at risk, more so than if only imported animals were involved. Veterinary, scientific and administrative advice within the Department is that NI has no alternative but to come into line with the GB precedent in setting a ban. To do otherwise would leave the Department open to severe censure for failing to give the NI livestock farmer the same protection as his GB counterpart, undermining consumer confidence in animal produce and risking loss of export markets.
7. A ban on ruminant protein in ruminant feed is also essential to avoid increasing the risk to the NI bovine population whether it comes from GB, NI or any other ruminant protein source. We would now find it difficult to believe that the ROI will not soon find a similar problems as their sheep health status in respect of scrapie is no better than NI and they have had similar trade with GB in animal protein and live animals as NI.

#### Industry View

8. A prohibition will not be welcome to the rendering industry. The feed trade will be unlikely to object as they only use about 5% meat and bonemeal in ruminant rations and some companies have been voluntarily avoiding this material since the summer when MAFF banned its use in GB.
9. The UFU will be mainly concerned over the future of the fallen animal service operated by the renderers. Although we will have to listen to the points raised by the industry representatives there is no viable alternative to introducing a ban.

...

#### Recommendation

9. [sic] You are recommended to:
  - (a) note developments on BSE in NI and GB; and
  - (b) authorise the Department to introduce on legal and technical advice comparable restrictions to those in GB on sale or use of milk from suspect or affected animals;

- (c) agree to the making of the necessary legislation to ban sale and use of ruminant protein in ruminant feeds, and to the industry being informed of this decision at a meeting on Friday 2 December. If strong and viable objections are raised by the industry at the meeting I will inform you of these and the Department's view on them before making the Statutory Rule under the Diseases of Animals Order.'

74. In a statement to the Inquiry, Lord Lyell said that he was strongly advised by veterinary, scientific and administrative staff that a ruminant feed ban should be imposed in Northern Ireland and he acceded to this advice.<sup>111</sup>

75. In a statement to the Inquiry, Dr Jack said:

'I agreed on Wednesday 30<sup>th</sup> November that NI would follow the GB lead regarding containment of the disease. NI would introduce the MAFF procedures for the diagnosis of BSE, the local Veterinary Research Division was capable of and would be responsible for BSE diagnosis in Northern Ireland and it and the Veterinary Investigation Centre could incinerate all BSE diseased animal carcasses. I was told on the same day of the MAFF decision to prohibit the use of milk from a suspect cow and agreed this would be a further sensible precaution in NI. I was also advised that MAFF intended to extend the ban on ruminant protein until the end of 1989.'<sup>112</sup>

76. In a statement to the Inquiry, Mr Sullivan said that when BSE was first confirmed in Northern Ireland the situation changed completely. He stated that:

'[i]t was now highly likely that the rendering process in Northern Ireland was not being effective in destroying the scrapie agent – if scrapie was causing BSE – and I had no alternative but to recommend a ban on the use of MBM. I did not have any disagreement with my understanding of the advice given to the Minister on BSE and I thus had no need to request a meeting with him.'<sup>113</sup>

77. In the same statement, Mr Sullivan said that the situation in November had changed completely from August 1988. This was because a case of BSE had just been confirmed in Northern Ireland and a ban was then more acceptable to the industry. There was also the extension of the ban in GB because of the lack of suitable practical standards for rendering MBM harmless and there was the first case of BSE in the Republic of Ireland. He said that although DANI's inability to effectively enforce the ban remained after its introduction, they believed there was greater willingness to comply with and support the ban.<sup>114</sup>

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<sup>111</sup> S Lyell 2 (WS347A), para 21

<sup>112</sup> S Jack (WS252) para 42

<sup>113</sup> S Sullivan (WS530), para 25

<sup>114</sup> S Sullivan (WS530), para 26

78. On 2 December 1988, DANI officials met industry representatives 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.<sup>115</sup>
79. On 5 December 1988, Dr Jack was informed that the Northern Ireland feed industry had told DANI that they had only 2 weeks' stock in the pipeline. Furthermore, the Northern Ireland renderers had indicated that under one-third of production went into ruminant feed.<sup>116</sup> Dr Jack's concerns about this were 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'.<sup>117</sup>
80. On 5 January 1989, Mr Shannon wrote to Northern Ireland industry representatives advising them that the Northern Ireland ruminant feed ban would come into operation on 11 January 1989:
- 'The Department is now making the Diseases of Animals (Feeding Stuffs) Order (NI) 1989 to come into operation on 11 January 1989. The Order will prohibit the sale or supply, for feeding to ruminants, of any feedingstuff in which ruminant protein is included. It will also prohibit the feeding to ruminants of any feedingstuff in which ruminant protein has been incorporated (except for research purposes under licence)'.<sup>118</sup>
81. Mr Shannon pointed out that DANI inspectors were empowered to take samples of feedingstuffs suspected of containing prohibited ruminant protein.
82. The Northern Ireland ruminant feed ban took effect on 11 January 1989, under the provisions of the Diseases of Animals (Feeding Stuffs) Order (Northern Ireland) 1989 (SI No.8 of 1989). The Order stipulated that it would cease to have effect on 1 January 1990. The ban was subsequently extended indefinitely.<sup>119</sup>
83. In his oral evidence, Mr Shannon said that the feed ban did not come into force until this time because there were drafting errors emanating from the original GB drafts received. He said:

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<sup>115</sup> YB 89/1.05/3.1

<sup>116</sup> S Jack (WS252), para 47

<sup>117</sup> T 75 at p.100

<sup>118</sup> YB 89/1.05/3.1

<sup>119</sup> see Diseases of Animals (Feeding Stuffs) (Amendment) Order (Northern Ireland) 1989 (SI No.497 of 1989); L8A tab 5

‘Those were sorted out. We put the stuff to our lawyers and we followed the, more or less, the rules governing introduction of legislation including consultancy periods and periods for coming into force and that it made it that the earliest date we did not transgress that was by 10th January.’<sup>120</sup>

84. In his oral evidence, Mr Martin explained why the ruminant feed ban was not introduced in Northern Ireland until January 1989. He said:

‘When MAFF banned the feeding of ruminant meat and bonemeal to ruminants in July 1988, we did not immediately follow suit because scrapie in sheep had a very low incidence in Northern Ireland during the period 1980 to 1987 with just over 1 case per year on average and import precautions were being taken to attempt to keep it out. 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’.<sup>121</sup>

85. In his oral evidence, Dr McCracken said that his view was that the ban was not justified in July 1988. He said:

‘... at that time we were assuming that in all probability an event had occurred in Great Britain. We had no evidence whatever that a similar event had occurred in Northern Ireland and therefore we had no reason to believe that the agent had reached Northern Ireland and had access to our cattle.’<sup>122</sup>

...

Speaking in hindsight if I may, may I say yes, certainly we in Northern Ireland should have done so [introduced the feed ban as a prophylactic measure] and indeed every other member state and every other country, but that certainly is not what happened. But at the time we were dealing with a disease which had appeared in Great Britain, had not appeared with us and we had no reason to move to such a measure at that moment in time.’<sup>123</sup>

86. In a statement to the Inquiry, Mr Sullivan said that the effect of the ban caused problems for the rendering industry and resulted in it changing largely from a manufacturing industry to a waste disposal industry and had economic consequences for the meal, meat and farming industries, as was

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<sup>120</sup> T 75 at p.101

<sup>121</sup> S Martin (WS278), para 12

<sup>122</sup> T 80 at pp.95-96

<sup>123</sup> T 80 at p.96

anticipated. He added that his retirement in March 1990 left him without knowledge of the actual economic consequences.<sup>124</sup>

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<sup>124</sup> S Sullivan (WS530), para 30 & 31