Compassion in World farming - opinion on the Legal position relating to the prohibition of the sale of Foie Gras -

I accept that, under the provisions of the European Community Treaty, it is generally thought that it would be difficult to prohibit the import of foie gras.

However, I believe that there would be a much stronger argument that it is permissible for the UK to prohibit the sale of foie gras (whether that foie gras is produced in the UK or imported). There are two helpful analogies in the field of animal welfare which fall to be considered under the rules of the World Trade Organisation (WTO). The WTO rules are very similar to those of the EU as regards restrictions on trade. The WTO rules govern trading relations between the EU and non-EU countries; the EC Treaty governs trading relations between EU Member States.

The two analogies are as follows:

- The EU has prohibited the sale of cosmetics tested on animals irrespective of whether those cosmetics have been produced within or outwith the EU. This prohibition comes into force in stages between 2009 and 2013.
- The European Commission is preparing legislation to prohibit the import of cat and dog fur into the EU. The USA has already prohibited such imports. If these import bans were challenged, the EU and the USA would have to defend them under the 'public morality' exception; both the EC Treaty and the WTO rules allow trade restrictions to be justified on grounds of public morality.

I should add that legislation to prohibit the sale of foie gras in the UK would also have to include a prohibition on the production of foie gras in the UK. It would be almost impossible to justify a sales ban on something the production of which was not prohibited in the UK..

I think it would be perfectly reasonable for the Council to call on the government to prohibit the sale of foie gras; the government would of course take advice from its own lawyers on the legality of a sales ban.

Peter Stevenson
Chief Policy Advisor
Compassion in World Farming
www.ciwf.org.uk