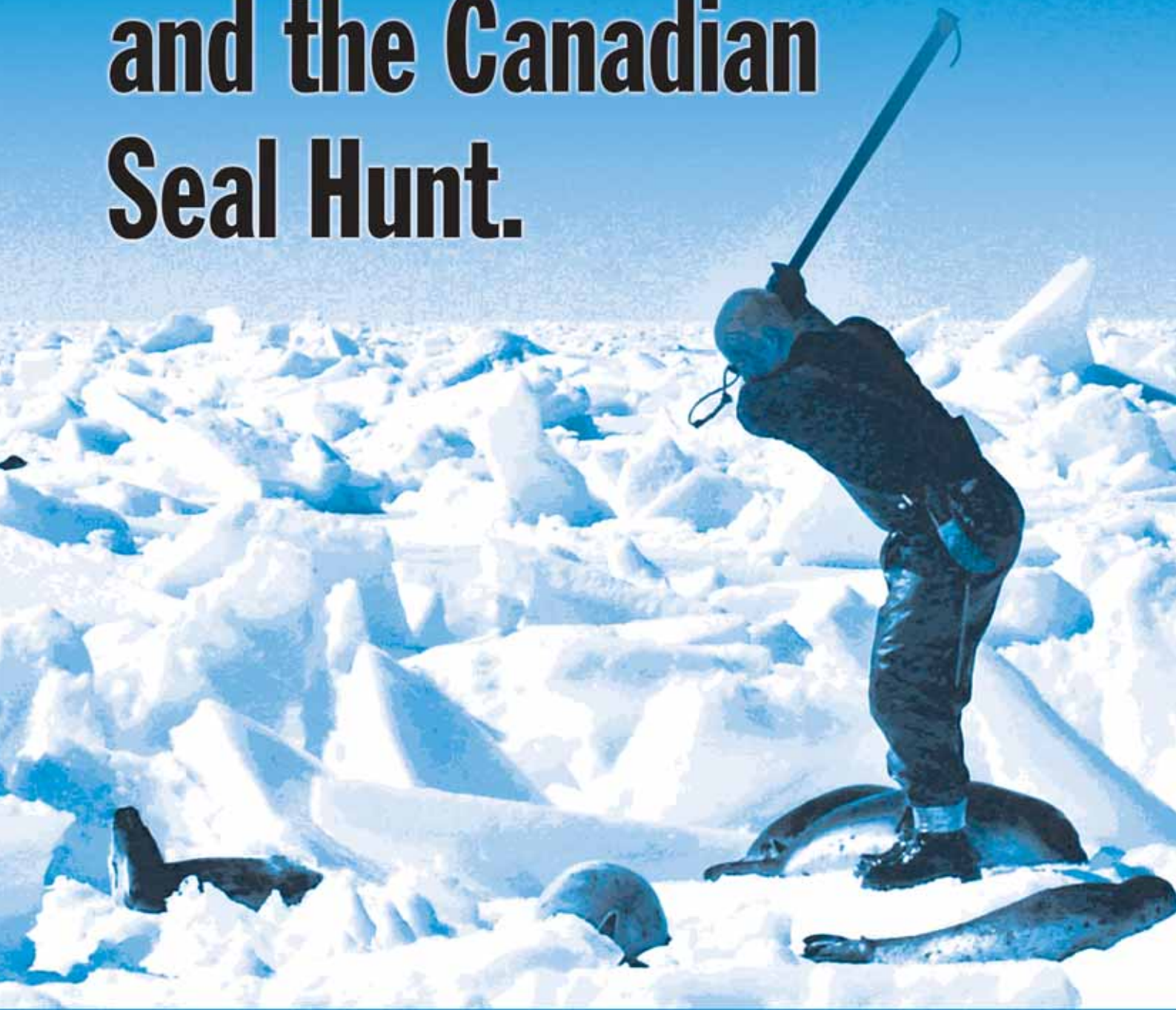


Public Morality and the Canadian Seal Hunt.



*A statement by an international group of academics,
including ethicists, philosophers and theologians.*

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Summary of Main Points

1. The Canadian seal hunt is the largest marine mammal hunt in the world. A total of 317,672 harp seals were landed during 2005, and over the past three years, nearly a million have been slaughtered (para 1.1).
2. In an attempt to justify the hunt, the Canadian Minister of Fisheries and Oceans claims that (1) the hunt is 'humane'. But a 2001 veterinary report concluded that the hunt results in 'considerable and unacceptable suffering', detailing 42 per cent of cases where there was not enough evidence of cranial injury to guarantee unconsciousness at the time of skinning, and 79 per cent of cases where sealers did not check to ensure that the seals were dead prior to skinning them (paras 2.3-2.5, 9.2).
3. The Canadian Government cites a report that 98% of seals were killed in an 'acceptably humane' way. But any figure trying to show that the seals are killed humanely should calculate the time span between when they are clubbed or shot and when they die or lose consciousness, not the time between when they are shot and when they reach the sealing vessel (paras 2.8-2.13).
4. Basic principles of humane slaughter are violated by the hunt: neither 'immediate unconsciousness' nor 'non-recovery' can be 'guaranteed' or even, in most cases, regarded as likely. Both 'clubbing' and 'shooting' seals render the animals liable to high levels of suffering, and - other than in exceptional circumstances when a blow or shot renders the animals immediately unconscious - are inherently inhumane methods of killing (paras 2.36-2.37, 9.2).
5. The Minister claims that (2) the hunting of 'harp (whitecoat) and hooded (blueback) seal pups is strictly prohibited'. In fact, harp seals can be legally killed as soon as they begin to shed their white coats, at about 12 days after birth. Even though they have shed their white coats, they are still pups; the change is primarily cosmetic. Over the past five years, fully 96 per cent of the harp seals killed have been under three months of age (paras 3.1-3.6).
6. The Minister claims that (3) the hunt is 'closely monitored and tightly regulated'. In fact, the videotape evidence of the 2005 seal hunt reveals, *inter alia*, that seals are knifed opened without the required blinking reflex or skull palpitation tests having been administered, that many seals receive repeated blows to the head and body (including one case in which a seal received more than 20 blows), that animals are left unattended in obvious states of suffering, one trying to drag itself over the ice with blood streaming from its nostrils, and that some hooked seals are dragged over the ice whilst almost certainly conscious (paras 4.10-4.11, 9.3-9.4).
7. The Minister claims that (4) coastal communities rely on the hunt 'for their survival'. But while genuinely *subsistence* hunting *may* conceivably pass the test of necessity, it is impossible for *commercial* hunting to do so. And the annual Canadian seal hunt is a wholly commercial hunt, and is classified by the Government as a 'commercial quota'. Sealing is an economically marginal activity that could be easily replaced by the federal government (paras 5.2-5.7).
8. The Canadian Government regards seals as economic commodities. The 'official' government language used to describe the hunt consists of words such as: 'harvest' or 'harvesting', 'tools', 'resource', 'dispatch', 'replacement yield' all indicate a commodification of these marine mammals as if they were nothing more than lifeless or non-sentient resources here for us (paras 6.2, 6.5-6.10, 9.7-9.8).
9. The hunt is described as 'a ... *fishery*'. The comparison is revealing since fish have little or no legal protection and are treated wholly as a resource. To place seals in the same category as other beings perceived almost wholly in economic terms and treated as fungible, disposable items is a serious category mistake. Seals are sentient and intelligent; they are highly developed social beings capable of experiencing intense pain and suffering (paras 6.4-6.7).
10. The Canadian Government is unreasonably partisan, and bears immense responsibility for failing to protect its own wildlife from cruelty. Government claims have been shown to be tendentious, misleading, or inaccurate. The magnitude of the suffering involved - almost a million animals during the past three years - is so great that action is now essential (paras 7.1-7.2, 9.9).
11. The Amsterdam protocol requires all European countries to *ensure animal protection*. Article 30 of EU regulations enables countries to take action on the grounds of 'public morality' and the Belgium Government has already banned seal products on this basis (paras 7.6-8.1). Under GATT and WTO, there is an exception to its free trade policy which states that embargoes could be put into place in order to 'protect public morals', which has been understood historically as inclusive of animal welfare issues (paras 8.1-8.4).

12. There are strong legal and moral grounds for including animals within the GATT/WTO exception. The moral grounds are based on important philosophical considerations: animals, like children, cannot adequately represent themselves, cannot vocalise their own needs and depend upon benign representation. Moreover, they are also morally innocent, vulnerable and defenceless. They need protection within international trade agreements (paras 8.4-8.13, 9.11-9.12).
13. The Canadian Government should make the commercial seal hunt illegal. In the absence of action by Canada, other governments must act. Governments have to be made accountable by the international community for their support of cruelty. We know that trade bans work. When the EU banned the import of seal products in 1983, it had an immediate effect on the number of seals killed, down from 166,739 in 1982, to a record low of 19,035 in 1985 (paras 9.8, 9.10).
14. We urge governments to initiate bans on seal products as a matter of urgency based on the moral imperative to prevent unnecessary and prolonged suffering. The commercial hunt is devoid of moral justification (paras 9.5-9.6). There is no country in the world that accepts a definition of humane slaughter that includes being skinned alive (para 9.12).

1. Introduction

- 1.1 The Canadian seal hunt has been the subject of criticism since the middle of the nineteenth century, but it is only since the 1960s that it has become a focus of international controversy. Criticism has focused on the annual, commercial hunt of harp seals in the Gulf of St Lawrence. Both harp and hooded seals are killed in the course of the seal hunt, but harp seals have made up about 99 per cent of the seals killed during 2000 to 2005. The three-year quota, which ended in 2005, allowed 30,000 hooded and 975,000 harp seals to be killed. Figures indicate that a total of 317,672 harp seals were landed during 2005.¹ Over the past three years, nearly a million harp seals have been slaughtered. The Atlantic hunt is the largest marine mammal hunt in the world.
- 1.2 This document examines the putative justifications for the hunt and provides an ethical assessment.
- 1.3 On 17 March, 2005, the Canadian Minister of Fisheries and Oceans issued a statement titled: 'Canada's Seal Hunt: Beyond the Rhetoric'. 'Like the fishery', he argues, 'the annual seal hunt is an important industry and a time-honoured tradition for people in Canada's coastal communities.' Seals constitute 'a valuable natural resource that provide income in remote towns and villages where few other opportunities exist'. He continues:

Unfortunately, this industry and its importance to thousands of Canadians are [sic] often misunderstood and clouded by misleading rhetoric and sensational images that tell a selective, biased and often false story about the seal hunt. The tragic result is that this industry, and the people who rely on it for a living, are undeservedly cast in a negative light by a few powerful organizations putting their own agendas ahead of the truth.
- 1.4 In an attempt to 'set the record straight', the Minister makes, *inter alia*, a number of claims:
 1. The hunt is conducted in a 'humane' way.
 2. The hunting of 'harp (whitecoat) and hooded (blueback) seal pups is strictly prohibited'.
 3. The hunt is 'closely monitored and tightly regulated'.
 4. Coastal communities rely on the hunt 'for their survival'.²
- 1.5 These claims will be examined in turn.

2. First Claim: The Hunt is Humane

2.1. The Minister maintains that to 'prevent inhumane treatment, seals are killed quickly and according to strict regulations'. He elaborates:

Canada's seal hunting methods have been studied and approved by the Royal Commission on Seals and Sealing, which found that the methods used in the seal hunt compare favourably to those used to hunt other wild animals, and those used to slaughter domestic animals - like cattle and poultry - for human consumption.³

2.2 Let us first focus on the methods of slaughter. According to the Marine Mammal Regulations (hereafter 'MMRs') that govern the hunt, the following may be used to kill ('dispatch') a seal:

- a) **a round club** made of hardwood that measures not less than 60 cm and not more than 1 m in length and that, for at least half of its length, beginning at one end, measures not less than 5 cm and not more than 7.6 cm in diameter;
- (b) **an instrument known as a hakapik**, consisting of a metal ferrule that weighs at least 340 g with a slightly bent spike not more than 14 cm in length on one side of the ferrule and a blunt projection not more than 1.3 cm in length on the opposite side of the ferrule and that is attached to a wooden handle that measures not less than 105 cm and not more than 153 cm in length and not less than 3 cm and not more than 5.1 cm in diameter;
- (c) **a rifle and bullets** that are not full metal-jacketed that produce a muzzle velocity of not less than 1,800 feet per second and a muzzle energy of not less than 1,100 foot pounds [sic];
- or (d) **a shotgun** of not less than 20 gauge and rifled slugs.⁴

2.3 The most recent veterinary evidence showing the hunt is inhumane is from an independent, international team of five veterinary experts who studied the seal hunt in the Gulf of St. Lawrence (hereafter 'Burdon' or 'the Burdon Report') in 2001. The panel included experts in veterinary neurology and marine mammals, as well as a past chair of the Canadian Veterinary Medical Association (hereafter 'CVMA'). The veterinarians studied the hunt from the air and from the ground, viewed videotape evidence, and performed random post-mortems on seal carcasses abandoned on the ice flows. The post mortem examination of 76 seal carcasses revealed that in 13 (17 per cent) there were no detectable lesions of the skull leading to the conclusion that these seals had been skinned whilst conscious. In 19 (25 per cent) of seal carcasses there were minimal fractures 'including hairline or non-displaced fractures' to moderate fractures. The latter is insufficient to render the animals fully unconscious, although it may be associated with some decrease of conscious awareness. Taken together these figures are the basis of the claim that up to 42 per cent of the 76 seals may have been skinned whilst conscious. The remaining 58 per cent of the carcasses indicated extensive fractures that would have been associated with some level of unconsciousness.

2.4 In addition, Burdon also examined the video footage obtained by the International Fund for Animal Welfare (hereafter 'IFAW') for the years 1998, 1999, and 2000. Their observations were as follows:

- (a) The majority of hunters did not assess the level of consciousness prior to skinning or hooking; 79 per cent did not perform the 'blinking reflex' test (see paras 2.17 and 2.18) 'indicating that many of these seals could have been skinned or hooked alive'.
- (b) In '40 per cent of cases (32 per cent of the clubbed seals and 92 per cent of the shot seals) the hunter returned to strike the seal for a second time' with an 'average time to second strike of 27 seconds'. That means that the seals were alive and suffering at least until they were struck the second time, or until they received a blow that rendered them unconscious.
- (c) Only 6 per cent of the seals struck were bled immediately and the 'average time from initial strike to bleeding was 66 seconds'. Even the seals in this small, rather privileged, group, unless the first blow induced immediate unconsciousness, may still have been conscious – and experiencing pain to some degree - for more than one minute.
- (d) Eighteen seals were observed being skinned and 'on average this occurred 60 seconds after the initial strike'. It is 'uncertain' how many had been bled or had 'a level of consciousness checked to ensure that they were not skinned while conscious.'

- 2.5** These facts reveal that the seals often experience a slow death preceded by suffering. The Burdon Report concluded that the hunt 'is resulting in considerable and unacceptable suffering'.⁵
- 2.6** Supporting the Burdon Report are two earlier studies, which also show that a high percentage of seal carcasses examined did not have enough cranial injury to guarantee unconsciousness when skinned. The Simpson Report in 1967 found that 56 of 154 examined skulls (36.4 per cent) had not been fractured, and the Jordan Report in 1978 similarly found that 7 of 13 examined skulls (53.8 per cent) had unfractured crania.⁶
- 2.7** In the light of this, the question might not unnaturally be asked: on what grounds can the Canadian Government claim that the hunt is 'humane'? The answer is that it relies on a study by Dr Pierre-Yves Daoust, a veterinarian from the Atlantic Veterinary College, and four other veterinarians (hereafter 'Daoust' or 'the Daoust Report') also of the same year. It concluded that 'the majority of seals taken during this hunt (at best, 98% in the work reported here) are killed in an acceptably humane manner'.⁷
- 2.8** At first sight, the two sets of findings appear irreconcilable. As Dr David Lavigne comments: 'People who are concerned about the humaneness of Canada's commercial seal hunt are either left confused by the seemingly contradictory claims of experts, or are forced to choose between two apparently disparate opinions'. But, as Lavigne points out, on closer examination it transpires that the confusion arises because of the *different criteria* adopted by each study. Whereas the Burdon Report
- addresses the question of whether seals were likely [to have been] conscious or unconscious at the time they were skinned, using post-mortem examination of skulls, in marked contrast, the figure cited from the Daoust *et al.*'s report represents *the number of seals clubbed or shot that were brought on board sealing vessels while still conscious*. That number ignores any and all animal suffering that occurs between the time animals are clubbed or shot until they eventually reach a sealing vessel, usually on the end of a hook or gaff.⁸
- 2.9** It is difficult to understand why the Daoust Report did not set out to assess the issue of consciousness immediately subsequent to the act of intended killing, especially since this has been the most canvassed issue in public debates. In addition to this extraordinary oversight, it is also difficult to account for some other aspects of the study.
- 2.10** The first relates to the fact that the sealers knew that they were being observed. Daoust conducted the study on board a sealing vessel in the presence of DFO (Department of Fisheries and Oceans) enforcement officers when sealers knew not only that they were being observed, but also the uses to which such observations would be put. Daoust accepts that the presence of observers 'may have incited sealers to hit the seals more vigorously'.⁹ If this were true, it would mean that less seals, or a smaller percentage, would be skinned alive when the hunters were being observed than would occur when the seals were hunted in the absence of observers. Even with observers, the numbers of seals skinned alive is unacceptable from a humane or moral point of view.
- 2.11** But the significance of observers goes further than this. As Lavigne points out, an observer's presence 'has the potential to modify other sealing practices, including checking for a corneal reflex and bleeding animals immediately after clubbing'.¹⁰ Given such a potentiality, it is difficult to understand why Daoust did not utilise (as did the Burdon Report), the method of conducting post-mortem examinations of carcasses during unobserved periods of killing. In addition, Daoust appears to make no allowance for the possibility of distortion of usual practice due to observation. It cannot be known whether the Daoust study reflects the usual method of killing of seals when there is no observer (see paras 4.6-4.9).
- 2.12** Secondly, according to the MMRs, sealers should check that each seal is unconscious before proceeding to hook or bleed it, and before killing another. In reviewing videotaped evidence provided by IFAW during the 2001 hunt, the Daoust Report accepts that

Most hunters ... failed to palpate the skull or check the corneal reflex before proceeding to hook or bleed the seal, or go to another seal. Some sealers claim that they can feel the collapse of the calvarium as they strike the seal. *Nonetheless, the presence of an incompletely crushed skull in 14% of seals killed with a hakapik and the occasional occurrence of live seals being hooked and brought on board should justify a more diligent adherence to either of these 2 simple tests.*¹¹

- 2.13** But this admission of the failure of sealers to secure unconsciousness in 14 per cent of videotaped cases means that the conclusion in the abstract of the Daoust Report – namely, that 98 per cent are killed ‘acceptably humanely’ – is inaccurate or misleading. Whilst it may be true that Daoust found, according to its own criteria, that the ‘majority of seals taken during *this* hunt [that is, the one observed] (*at best*, 98% in work reported here) are killed in ‘an acceptably humane manner’, it does not follow – as claimed by the Canadian Minister that ‘virtually all harp seals – *fully* 98 per cent – are killed in a humane manner.’¹²
- 2.14** Thirdly, and in the same vein, the Canadian Minister referred to the Daoust Report as the report ‘issued’ by the CVMA as if it were an official report. This inference is bolstered by the reference in the abstract to the report being compiled by ‘representatives of the Canadian Veterinary Medical Association’.¹³ But, in fact, as the Report itself indicates ‘the views expressed in this article are those of the authors and do not constitute the official position of the CVMA’. It is therefore misleading to suggest, as Canadian Government sources do, that ‘non-governmental associations such as the Canadian Veterinary Medical Association (CVMA) have also found that the large majority of seals taken during the seal hunt (98%) are killed in an acceptably humane manner’ since no such collective judgment has been made by the CVMA. In fact, the report cited by the Canadian Government actually says ‘*at best* 98%’ (that is, ‘up to’) which logically covers any eventuality from zero to 98 per cent. The attempt here to inflate the significance of one report, whilst failing to mention others, betokens partiality.
- 2.15** We need now to turn directly to the issue of ‘humaneness’. The Daoust Report notes that since the prohibition on the commercial killing of ‘whitecoats’ (seal pups begin to moult shortly after weaning at about 12 days), and ‘bluebacks’ (young hooded seals, which do not shed their newborn coat until they are approximately 15 months old), ‘beaters’ (young harp seals, approximately 3-4 weeks old, that have completely shed their white coats) now constitute the bulk of the hunt. As Daoust acknowledges, these animals ‘are more wary than whitecoats and far more likely to move away and go into the water at the approach of sealers. Therefore, killing by fracturing the skull with a hakapik has become less practical, and sealers now often rely on shooting the animals with a rifle from their vessel.’¹⁴ These observations have obvious relevance to assessing the relative ‘humaneness’ of the hunt, especially shooting (see paras 2.25-2.30).
- 2.16** We need to begin by offering a definition of ‘humane killing’. The standard definition for vertebrates is the immediate inducing of unconsciousness, usually by means of the delivery of sufficient energy to the brain, which renders the animal insensible to pain. This definition is now accepted world-wide and is embodied in legislation in many countries. The United Kingdom Government maintains, for example in relation to whales, that the ‘aim must, as with the slaughter of terrestrial animals, be to render a whale immediately insensible to pain, and for its subsequent death to occur without avoidable pain, stress, or suffering. It is accepted that this is unlikely to be achievable in 100% of cases, but we would not wish to define as acceptable anything that falls short of this standard.’¹⁵
- 2.17** The question is: does seal hunting constitute ‘humane slaughter’ as defined above, namely the securing of immediate unconsciousness? In relation to the first method of killing, namely clubbing, the answer is almost certainly negative. The reasons are both physiological and practical. As the Burdon Report observes, in theory a blow to the brain stem is the most efficient way of killing a mammal, but the brain stem in mammals is the most highly protected part of the central nervous system. It is located ventrally within the calveria, beneath the cerebellum and overlying skull. Furthermore, in seals, flexion of the neck places a thick layer of blubber over the base of the skull. Therefore, the only target area available in a seal is the skull overlying the cerebral cortex. Delivering a blow to this area and the underlying cortex is a much less efficient way of rendering an animal unconscious.¹⁶
- 2.18** The salient point is that even a ‘large blow to the cerebral cortex is unlikely to result in immediate brain stem herniation’ (that is, a rupture of the brain stem resulting in unconsciousness and/or death). Theoretically it *could*, and *might* do so (given optimum conditions), but – and this is the crucial point – *it cannot be relied upon* as a method of delivering immediate unconsciousness. For this reason, the Burdon Report concludes that clubbing (and shooting) ‘should be viewed as stunning methods *only*, producing a *potentially* temporary loss of consciousness’.¹⁷
- 2.19** The question therefore arises: can clubbing – even though it cannot be relied upon as a reliable method in most cases of securing unconsciousness – nevertheless be justified as a means of stunning prior to slaughter? It is at this point that we encounter the *practical* grounds for concluding that clubbing is not a humane method of killing. In order to secure anything like humane killing, two further procedures must be carried out on each individual animal. The first involves using one of two tests to determine consciousness: the so-called ‘blinking reflex’ test or checking by palpation of the skull. Since it is very difficult to determine loss of consciousness through observation alone – because one cannot easily distinguish between voluntary and involuntary movement – the Burdon Report

emphasises that it 'must be assumed that all movement seen could be due to conscious voluntary muscle activity until the corneal reflex has been checked.' Thus, the test must be performed *immediately* after clubbing, and, if necessary, followed by a further blow, or blows, to the head. Secondly, having determined stunning or temporary loss of consciousness, 'death should be completed by exsanguination (bleeding out)'. Burdon is clear that this action must be performed 'before the hunter is able to move on to the next seal'.¹⁸

2.20 Taken as a whole, there are a series of separate, practical steps that must be performed in order to secure humane slaughter or, more likely, to approximate it:

- The seal's brain stem must be clubbed with precise accuracy, and with exactly the right amount of force, in order to render the animal fully unconscious.
- In order to assess whether that has happened one of the two tests (above) for determining consciousness must be performed.
- If that test indicates continuing consciousness then the seal has to be clubbed again.
- Regardless of outward signs, the animal should be bled out immediately to ensure that consciousness is not regained.

2.21 It is important to emphasise that all these actions in relation to each seal need to be performed *before the sealer moves on to another*.

2.22 We have to consider how likely it is that sealers will faithfully and conscientiously operate these procedures *while they can see other seals slipping away from them into the water, and hence being unable to capture them, or in a context where other sealers and different sealing vessels will be competing for the same 'resources'*. Is it really likely that these procedures will be conscientiously followed when doing so may result in a loss of kills and therefore economic disadvantage?

2.23 To that question must be added other considerations. Sealers necessarily work in adverse conditions, that is, in freezing, below zero temperatures, on ice that is often unsteady or slippery, where one false move can result in a potentially life-threatening situation – for example - falling into freezing water and suffering hypothermia. Even in optimum conditions (when the animal is immobilised and in good weather) it would be difficult to guarantee securing the one blow that would render the animal immediately unconscious, but in adverse conditions, particularly when the sealers themselves get tired or suffer from muscle fatigue, the chances are considerably reduced. The adverse factors may be summarized as follows:

- below zero weather conditions;
- slippery, unstable and unsteady ice;
- tiredness and/or muscle fatigue (because of the fast rate of clubbing);
- the target animal is frequently moving and trying to escape;
- the round club is sometimes covered with blood which makes it slippery to hold and difficult to achieve a precise blow, and the
- need for quick immobilisation of one seal in order to prevent another escaping.

2.24 When these considerations are taken into account, it must be questioned whether the chances of humane slaughter in these circumstances can be anything other than remote. The point to be grasped is that these uncertainties should logically count *against* the use of animals in these circumstances. The more unlikely it is that anything like 'humane slaughter' can be approximated, the stronger the moral argument against it.

2.25 We need now to turn to the second principal means of killing seals, namely shooting. It is sometimes thought that shooting, perhaps because it appears more aesthetic than clubbing, must therefore be more humane, and it is true that an expert marksman can shoot a stationery target with great precision. But the word 'stationery' here indicates the nature of the problem. The harp seal pups are moving targets. The pups, the ice they lie on, and the vessels from which the sealers shoot are all moving, making it extremely difficult for a sealer to kill a seal with one bullet. Sealers loathe shooting seals more than once, and the reason is straightforward enough: the main purchasing plant deducts two dollars from the price of the pelt for every additional bullet hole. However understandable that rule may be from an economic perspective, it can only mean in practice that sealers have an economic incentive to leave wounded seals to suffer. Seals that are swimming are an even more difficult target,

bobbing up here and there, and capable, especially when young, of swift movement. Even the ice is not static, since it moves up and down, as well. These considerations mean that securing a shot to the head, and thus a 'clean' kill, sufficient to induce instantaneous unconsciousness, is remote. It is much more likely that a seal would be shot somewhere in the body and wounded. In addition, there is the issue of recovering the wounded bodies from the water. Normally this is done through gaffing or hooking and, unless the animals concerned are dead or wholly insensible, this procedure alone must induce considerable pain and suffering.

2.26 The Daoust Report maintains that of the 47 carcasses it examined, 35 (75 per cent) had been shot in the head 'with the skull and brain completely destroyed'. But this surprising finding needs to be placed against its admission that: 'At the Front in 1999, all seals examined by Daoust and Wong were shot from vessels or small speed boats, and most of them had been killed *by the time the observers arrived on site*'.¹⁹ This leaves open the possibility that such killing was not immediate, or that there might have been subsequent shots to the head after the seals had been landed on the vessels. *In either case, Daoust admits that 25 per cent had not been killed by a shot to the head: 'six (13%) animals had been shot in the neck, and three (6%) animals had been shot in the ventral region of the neck with destruction of soft tissues, including major blood vessels, but no bone fracture, and the remaining three (6%) animals had been shot in the thorax or abdomen'*. Apparently, one of the latter 'was found alive by itself on an ice floe and was immediately killed with a hakapik by a DFO officer'.²⁰

2.27 The claim in the abstract of the Report that the 'large majority of seals taken during this hunt (at best, 98% in work reported here) are killed in an acceptably humane manner' makes one wonder what meaning is being given to the words 'acceptably humane manner'. Acceptable to whom? – one might ask. A killing rate in which at least 25 per cent do not die instantaneously, but suffer anything from a few seconds to minutes of considerable agony is not 'acceptable' by conventional standards of slaughter. If such were the record of a veterinarian in professional practice, the individual would most likely be liable for prosecution under anti-cruelty legislation.

2.28 The Burdon Report says that any method for killing a seal that does not allow for the process of 'stunning, checking and bleeding' as detailed above 'has an enormous potential to create suffering and is therefore unacceptable'. It continues:

As this process cannot be consistently followed in open water, we consider that shooting seals in open water can never be humane. Any method of taking a seal which requires the seal to be recovered by gaffing or hooking before the process can be followed, can never be humane.²¹

2.29 Again, it is worth listing the practical considerations that militate against the possibility of shooting as a method of 'humane slaughter'. These include:

- below zero weather conditions;
- unstable vantage point for shooting, that is, usually from a moving vessel sometimes in uncertain waters;
- the quick movement of the seals when in water, and hence little time for preparation or precision with regard to aim;
- the need for a consistently high level of marksmanship in order to secure a head shot;
- the need to recover the dead or wounded animal - sometimes at a distance - by gaffing or hooking;
- the inevitable time delay between shooting an animal and its recovery, a delay made worse by the fact that scores, even hundreds, of seals have to be recovered, and
- the inevitability of some wounded animals being left to die in open water.

2.30 Again, the important point to be grasped is that the unpredictability of these factors must logically count *against* the killing of animals in these circumstances. Unsurprisingly, the Burdon Report refers to the 'tremendous lack of consistency in the treatment of each seal'.²² The point about 'consistency' is not a trivial matter. The slaughter of large numbers of mammals requires uniformity and consistency in order to ensure the highest possible standards. Killing without uniformity and consistency means that animals are rendered liable to unnecessary suffering.

2.31 Here we go to the very heart of the problem: inconsistency, or arbitrariness, in the manner of death, and the degree of suffering caused, is an *inherent* feature of the Canadian seal hunt - inherent because it derives from the nature of the hunt itself, the methods of killing involved, and the uncertain circumstances in which the killing is pursued.

- 2.32** The Minister maintains that the Royal Commission found that ‘the methods used in the seal hunt compare favourably to those used to hunt other wild animals, and those used to slaughter domestic animals - like cattle and poultry - for human consumption.’²³ That view overlooks a number of important considerations. The first is that many wild animals in Canada are trapped for their fur in leghold traps that undoubtedly cause prolonged suffering - so much so that the use of such traps is illegal throughout the European Union (EU). Comparing the killing of seals with fur-bearing animals killed in traps is hardly a reliable indicator of humane treatment.
- 2.33** Secondly, the Daoust Report similarly refers to the slaughter of beef cattle in the United States, and notes how its putative 98 per cent rate of ‘acceptably humane killing’ for seals compares well with lesser percentages for cattle.²⁴ But one wonders why a *veterinary* Report should want to engage in such special pleading since few would want to defend the variable, and highly controversial, cattle slaughter practices in the US, as indicated by the research by Dr T. Grandin.²⁵ And the comparison with poultry is even more revealing since laws in Canada relating to poultry transportation and slaughter are poorly enforced at national level, and there are no laws regulating the treatment of birds at the farm level. And there are, astonishingly, no national welfare laws for poultry in the United States.²⁶ Comparisons, in short, are being made with the worst, or even the non-existent.
- 2.34** Thirdly, while conventional slaughter is often unsatisfactory and can render animals liable to suffering, it should be acknowledged that, despite the poor record of Canada (on poultry especially) and the United States (on cattle and poultry especially), many governments have worked progressively to improve slaughterhouse conditions during the last twenty years, based on increasing evidence of animal sentience. The most recent is the detailed and thorough Report of the Farm Animal Welfare Council (hereafter ‘FAWC’) of the British Government, which makes no less than 308 recommendations concerning slaughterhouse practices in relation to animal welfare.²⁷ This is not to imply, however, that conditions in Britain are ideal or anything approaching it; it is simply an example of how welfare standards in abattoirs can, if there is sufficient government support, be considerably improved in all countries.
- 2.35** While no-one should be complacent about conventional slaughter – and all should recognise that slaughter at speed invariably compromises even the most effective methods - it is important in formulating comparisons to compare best with best, or rather, like with like. According to Dr Ian Robinson, a British member of the 2001 international veterinary panel: ‘The Canadian Government insists that the seal hunt is an animal production industry like any other. They say that it might not be pretty, but basically, it is just like any abattoir except on the ice. But we found obvious levels of suffering which would not be tolerated in any other animal industry in the world.’²⁸
- 2.36** Thirdly, the ‘basic principles’ of conventional slaughter, as the FAWC Report insists, must involve ‘an effective process which induces immediate unconsciousness and insensibility or an induction to a period of unconsciousness without distress, and [the] guarantee of non-recovery from the process until death ensues’.²⁹ It is precisely these ‘basic principles’ that are violated by the seal hunt: neither ‘immediate unconsciousness’ nor ‘non-recovery’ can be ‘guaranteed’ or even, in most cases, regarded as likely. Both ‘clubbing’ and ‘shooting’ seals render the animals liable to high levels of suffering, and - other than in exceptional circumstances when a blow or shot renders the animals immediately unconscious - are inherently inhumane methods of killing.
- 2.37** We can say with confidence that clubbing and shooting render seals more liable to suffering than is the case with conventional slaughter. That is the only logical conclusion from the evidence. The Burdon Report, which examined the widely divergent degrees of damage inflicted on the craniums of dead seals, found that the ‘current methods and competency of clubbing is significantly inaccurate in location, resulting in severe and unacceptable suffering’, and again: there is ‘utmost concern regarding the severe suffering occurring in seals who have no lesions of the cranium, as well as those having fractures felt not sufficient to render the seal unconscious’.³⁰ In other words, clubbed seals are subject to procedures, including handling, dragging across the ice, bleeding out and skinning, while they are still conscious and capable of feeling pain.

3. Second Claim: Seal Pups are Not Killed

- 3.1** We now turn to the second claim that the hunting of 'harp (whitecoat) and hooded (blueback) seal pups is strictly prohibited'. By itself, that might imply that it is - or always has been - contrary to Canadian Government policy to allow the killing of whitecoats. Closer examination suggests otherwise. Pressure for change emanated not from inside government circles but outside them. In fact, it was the decision in 1983 by the EU to ban the import of products made from 'whitecoat' harp and 'blueback' hooded seal pups that led to a rethink of the issue. In 1987, the Royal Commission recommended that the killing of these very young seal pups be prohibited on the grounds that 'the hunt is widely viewed as abhorrent both in Canada and abroad'.³¹ In 1993, the MMRs were amended to prohibit the trade in whitecoat and blueback seal pups in order to prevent the killing of these seals.
- 3.2** At face value, these developments might suggest that seal pups are not now killed as they once were. But, in fact, harp seal pups can be legally killed as soon as they begin to shed their white coats, around 12 days after birth. Hooded seals (which constitute only a small fraction of the number hunted) can be killed when they shed their blueback pelt at about 14 months of age. Products from the slaughter of whitecoat harp and blueback hooded seal pups are covered by the EU ban, but not others.
- 3.3** The Canadian Government maintains that 'Only weaned, self-reliant seals are hunted after they have been left by their mothers to fend for themselves ... The vast majority of harp seals are taken after more than 25 days of age'.³² In fact, according to the Canadian Government's own official seal landing reports, the majority of the seals killed over the past five years have been less than one month of age, and a large percentage of those have been under 25 days old (see para 3.6). Not only is the Canadian Government's statement inaccurate, it obscures the fact that the seals that are killed are, biologically, very young animals. While it is true to say that the killing of pre-weaned, that is nursing pups are not killed, it is untrue to say that seal pups are not killed. What is correct is that whitecoats and bluebacks are no longer killed. But, while all whitecoats and bluebacks are pups, all pups are not whitecoats and bluebacks. Moulting or moulted harp seal pups – ragged jackets and beaters, respectively – are, of course, pups. If we use the analogy of dogs, any young seal (in the first three months of life, for example) is still a 'pup', especially in a species that takes 4-6 years to reach sexual maturity, and has a life expectancy of 30 years.
- 3.4** In reality, in the case of the overwhelmingly most hunted seal, namely the harp, the advance is minimal – morally speaking. Two, ten, or fifteen more days of life is surely a welcome thing, but *morally speaking* it makes little or no difference whether seals are killed at 12 or 25 days old. Where seal pups are being sheltered by their mothers (and are more difficult to slaughter as a result), and where they are slaughtered in full view of them, it is possible that the mother seal endures an emotional trauma of some kind since only a few days before she had been carefully nursing and caring for her young. But the moral objection to killing and inflicting suffering is not wholly altered by these considerations. It is certainly pathetic to slaughter young life, and it is a relevant moral consideration if the mother seals also suffer, but the distance of a few days alone does not render one form of sealing licit and another illicit. At best, the moral gravity of sealing may be slightly ameliorated in the former case, but nothing more.
- 3.5** The Royal Commission accepted the widespread abhorrence at killing weaning seal pups and maintained that the 'resulting public protest cannot be effectively countered by any technical arguments about the facts of the issue'.³³ This suggests that it judged that the protests were entirely governed by emotional considerations - so much so that rational considerations could not prevail against them. While it is true that issues relating to animals do arouse significant emotional responses (as do most of the important moral issues of our day), it is a mistake to suppose that concern for animals is simply a matter of emotion, or, even worse, that moral judgments are simply emotional ones. There are solid rational grounds for extending moral solicitude to other species capable of suffering - indeed, it is morally inconsistent not to extend even the most basic considerations to similarly sentient species (see paras 8.10-8.11). This holds whatever age the sentient being may be.
- 3.6** In short: some reading the Minister's statement might erroneously conclude that seals are not killed at a very young age, whereas, in fact, developments in recent years have caused the goal posts to be slightly moved, but little else. The changes in fact are largely cosmetic - no longer do we see red splashes of blood on white fur, but whatever the colour of the fur - the moral issue remains the same. That seal pups continue to be killed is abundantly clear by an analysis of the total allowable catch (hereafter 'TAC') and the landed catch (hereafter 'LC') since 1971. In 1971, the TAC was 245,000 of which the LC 210,579 were pups, and 20,387 were one year or more old, making a total of 230,966, of which 91 per cent of the seals killed were pups. In 2005, the LC was 317,672 of which 98.5 per cent were pups under two months of age. Apart from a drop in the numbers of seals killed especially acute during 1985-7 (due to the EU ban on seal imports), it is clear that - over a period of more than 30 years - the rate of killing has actually increased, and that the overwhelming percentage of seals killed are still under less than a year old - no less than 97 per cent in 2004 - itself an increase of 6 per cent (91 per cent) on 1971.³⁴

4. Third Claim: The Hunt is Tightly Regulated

- 4.1** The third claim is that the hunt is ‘closely monitored and tightly regulated’. Even if more seal pups are killed, the argument is that there are now regulations in place that prevent unnecessary suffering.
- 4.2** That a practice is tightly regulated does not, by itself, morally justify that activity. One could conceive, for example, that burglary might be regulated, according to certain codes (devised by burglars themselves), but that does not by itself make the practice justifiable. The impression is given that any cruelty that might take place is somehow an aberration or contrary to the rules, but what our analysis so far has made clear is that the methods of killing are themselves invariably inhumane.
- 4.3** But the possibility should be faced: can the activity of sealing, however inhumane, be ameliorated by regulation?
- 4.4** The Burdon Report argued that since the Canadian Government ‘has indicated that sealing will continue indefinitely’ that certain steps should be taken to ensure that a more ‘reliable and consistent procedure’ be adopted for killing which could ‘significantly reduce the present level of suffering’.³⁵ The measures proposed include the process of stunning, checking and exsanguination as indicated above. The relevant MMRs are as follows:
28. (2) Every person who strikes a seal with a club or hakapik shall strike the seal on the forehead until its skull has been crushed and shall manually check the skull, or administer a blinking reflex test, to confirm that the seal is dead before proceeding to strike another seal.
- (3) If a firearm is used to *fish* [sic] for a seal, the person who shoots that seal or retrieves it shall administer a blinking reflex test as soon as possible after it is shot to confirm that it is dead.
- (4) Every person who administers a blinking reflex test on a seal that elicits a blink shall immediately strike the seal with a club or hakapik on the forehead until its skull has been crushed, and the blinking reflex test confirms that the seal is dead.
29. No person shall start to skin or bleed a seal until a blinking reflex test has been administered, and it confirms that the seal is dead.³⁶
- 4.5** The Burdon Report held that these or similar procedures *could* ameliorate the suffering caused. But, it is worth noting that, at the same time, the Report was emphatic that ‘the existing regulations are neither respected nor enforced’. What evidence is there that they are currently observed?
- 4.6** The MMRs (rightly) state that if a sealer clubs a seal, he must ensure that the seal is dead prior to moving on to the next. But if a sealer shoots a seal, he has only to kill the seal ‘as soon as possible’. This allows sealers to legally immobilise many seals to prevent them from escaping by shooting at them from boats, and only later going back to kill each one in turn. The point to be grasped is that, as they exist today, the MMRs provide a legal framework under which sealers can cause unnecessary suffering to seals.
- 4.7** The Canadian Government claim that ‘The hunt is closely monitored’. It is true that officers of the DFO monitor the commercial seal hunt, in an attempt to ensure that sealers adhere to the MMRs. But commercial sealing in Canada is conducted by thousands of individuals, on hundreds of small vessels, over hundreds of miles of open ocean. When hunting, sealers move far away from the boats in many different directions on skidoos, in small boats (skiffs), and on foot. In 2003, the Charlottetown *Guardian* printed DFO estimates of their expenditures on the monitoring of fisheries, and it showed that monitoring of the seal hunt was second to last on their list of priorities, receiving only 1.5 per cent of their funds for petrol hours.³⁷
- 4.8** Moreover, in 2005, the DFO seal hunt co-ordinator for the Gulf of St Lawrence stated that his Department assigns one enforcement officer for every seven vessels (one officer to monitor seventy to eighty sealers, all working in different areas). These officers gain access to the hunt by helicopter, and are easily identified by sealers when they approach. In the ‘Front’ (the area of northeast of Newfoundland where the bulk of the hunt is conducted), enforcement officers are unable to gain access to the hunt by helicopter because it occurs so far offshore, on very broken up ice. Thus, the only way for enforcement officers to monitor the hunt is by travelling to the area on coastguard patrol vessels. These vessels are large icebreakers, and monitoring the activities of thousands of individual sealers on hundreds of small boats from such a vessel would be practically impossible. According to the

DFO, other observers do occasionally monitor the hunt from sealing vessels, but they do not have enforcement powers, and appear to be monitoring for catch numbers rather than humane considerations. Also, given that each sealing vessel holds fewer than 12 crew members, sealing boat captains are loath to sacrifice berths. All these considerations tell against the claim that there is adequate, let alone 'close', monitoring of the hunt.

4.9 Confirmation of the practical impossibility of regulating the hunt has been provided, unwittingly, by a group seeking to prove the opposite. Another veterinary report – this time the result of a Working Group composed of Dr Daoust, senior author of the previous Daoust Report, and eight other veterinarians (hereafter 'Daoust2') was published as recently as August 2005. It aims to 'minimize or eliminate animal suffering within the context of the hunt',³⁸ but it acknowledges, *inter alia*, the following problems even within the existing system of regulation (many of which we have already noted):

- 'Many sealers were trained to use three blows'. Because of this, the Group believes that the emphasis 'should be placed not on the number of blows, but on achieving the destruction of the whole skull ...'.³⁹ But this admission is revealing since *repeated* blows cannot, by definition, be humane as recognised by the Burdon Report. By implication it follows that regulated hunting performed by 'many' sealers is not humane.
- 'The Group noted that many IFAW video clips show hunters who did not bleed animals after stunning and before hooking and skinning'.⁴⁰ This means that Daoust2 accepts that some hooking or skinning whilst alive is possible, even likely. More to the point, *since this happens under existing regulations*, it follows that they are obviously not effective.
- The hunt 'involves a large number of boats competing with each other to maximize their take of an open quota, over an extensive area, in a relatively short period of time'.⁴¹ It recommends that the DFO implement 'measures to reduce competitiveness and haste in the hunt'. But what confidence can there be in a system, and in the very same agency, which has already failed to protect animals - especially when it is later acknowledged that the 'DFO appears to lack sufficient dedicated capacity to monitor and enforce regulation of the hunt, especially at the Front'?⁴²
- Daoust2 says: 'DFO officers are often resident in the small communities that have social and economic links to the seal hunt. The Working Group believes that [the] DFO should consider bringing in officers from outside communities who are not faced with monitoring and potentially laying charges against friends and neighbours'. Unsurprisingly, Daoust2 admits that 'there may be an element of conflict in [the] DFO being both an advocate for the seal hunt and its regulator'.⁴³ Quite so.
- The Group recommends increased training and 'professionalism' among sealers' organisations. But it noted that the training video 'did not provide the trainees with a good sense of why and how this [the corneal reflex test] was carried out'.⁴⁴ This admission is astonishing. It means that trainee sealers are not being provided with an adequate understanding of one of the two tests of consciousness. It later says so explicitly: the Group 'does not believe that the corneal reflex, or more specially its absence, is well understood by those involved in the seal hunt'.⁴⁵ Once grasped, the implications in terms of animal suffering are alarming. It means that sealers have been killing seals without an adequate understanding of how to judge whether they are unconscious prior to hooking and skinning. This makes a mockery of sections 28, (2), (3), (4), and 29 in the MMRs as detailed above (see para 4.4).
- But there is one further point that is even more disturbing: it is the explicit acceptance by the Working Group that the recommended three-step process (stunning, checking and bleeding) cannot in practice be satisfactorily regulated and is, in any case, inevitably subject to delay. Daoust2 says that some members of the Group judged that bleeding out should be a requirement of the MMRs, 'making it an offence not to bleed a seal before hooking and skinning' (at present the requirement is only to check for unconsciousness). But 'other members' (presumably the majority view since there is no recommendation on bleeding before skinning) felt that '*worker safety and the difficulties presented by the natural environment in which the hunt takes place were considerations that could make such a regulation difficult to apply, specifically in relation to hooking a seal*'.⁴⁶ Daoust2 comments that '*it may be difficult for hunters to accept the need to wait a period of time after cutting the axillary [sic] arteries, before hooking the seal to bring it back to the boat, or continuing with the skinning process. [It should be noted that the initial cuts required for bleeding are the same as those that are used for skinning]*'.⁴⁷ But – and this goes to the heart of the debate about the 'humaneness' of the hunt - *if bleeding out (which all veterinarians agree is essential in order to ensure non-recovery from what is in*

most cases likely to be only temporary unconsciousness) cannot be guaranteed, or even made subject to enforceable regulation, then it must logically follow that at least a proportion of seals are being subject to gross cruelty by being skinned alive. The Group says that 'All members of the Working Group feel that sealers should make every effort to ensure that a seal is bled before hooking and skinning'.⁴⁸ But making 'every effort' and 'guaranteeing' are different things.

- It is alarming that a group of veterinarians should fail to grasp this - the most basic consideration of all, since however awful some slaughterhouse practices may be there is none in the world that allows killing by being skinned alive. It really will not do for Daoust² to say that sealing '*can be a humane process*'⁴⁹ - self-evidently, if unconsciousness cannot be *guaranteed* before skinning, it cannot be.

4.10 The latest, and clinching, evidence is provided by the Humane Society of the United States (hereafter 'HSUS') in the form of videotapes of the 2005 seal hunt, which show dramatically that the current regulations are not observed. They reveal, *inter alia*, that seals are knifed opened without the blinking reflex or skull palpitation tests having been administered, repeated blows to the head and body of many seals (including one case in which a seal received more than 20 blows), animals left unattended in obvious states of suffering, one trying to drag itself over the ice with blood streaming from its nostrils, and some hooked seals dragged over the ice whilst almost certainly conscious. As anticipated, when sealers find a group of seals they hit out on all sides, trying to immobilise as many as possible before some escape. The video evidence demonstrates that the claim that the hunt is 'tightly regulated' is empirically false.⁵⁰

4.11 Dr Mary Richardson, a Canadian expert in humane slaughter, and past chair of the Animal Welfare Committee of the Ontario Veterinary Medical Association and the Animal Care Review Board with the Solicitor General of Ontario, reviewed the HSUS evidence and commented:

Among other things, the videos show seals that have been battered with a club or hakapik, and then left, or hooked and dragged, or skinned while still alive. The tapes show many of the wounded seals are still conscious and struggling for prolonged periods, as evidenced by their voluntary movements (crawling, crying out, laboured breathing, rolling, etc). In some scenes, seals with terrible head injuries are left in stockpiles of dead and dying animals, choking on their own blood and suffering tremendous pain – some for as long as 90 minutes. In others, sealers cut open seals that are clearly still conscious.

These are not humane ways to die as defined by the criminal code of Canada. When clubbing seals, sealers are legally required to kill each animal and then ensure that it is in fact dead, before moving on to kill the next one. But the vast majority of times, the sealers do not take time to do this, which results in horrendous pain and suffering for the wounded animals ... The cruelty documented by the HSUS this year is not the extreme - it is the routine of the commercial seal hunt.⁵¹

4.12 At least three things are required for improvement through regulation. First, there needs to be the laws or legally backed regulations. Second, there needs to be adequate enforcement and, third, there has to be compliance. As is clear from the HSUS and IFAW videotapes over the past years, many sealers do not comply with the regulations. Without compliance and enforcement, laws and regulations can have no impact at all.

4.13 In short: while in theory the worst aspects of the hunt could be ameliorated through strengthened regulations, logic and experience show that the enforcement of those regulations, let alone compliance, is a practical impossibility. Questions arising from this fact need to be weighed carefully. If more than 30 years of high profile campaigning, expressions of international concern, videotape evidence, veterinary reports, an EU ban, and the promulgation of Government-backed regulations have not been able to ameliorate the cruelty of sealing, what reasonable hope can there be for the observance of regulations in the future? In the words of the well-known axiom: 'the best indicator of future action is past behaviour'. Since the sealers depicted in the videotapes are, we may presume, mostly experienced sealers (those who, according to the rules, must instruct apprentices to hunt), what chance is there that they will teach practices fundamentally at variance with their own? How reasonable is it to suppose that such an entrenched, even culturally validated tradition, will be amenable to fundamental change? And, even more directly, how likely is it that such changes will take place when, in the overwhelming majority of cases, sealing is, and must inevitably remain, an essentially unobserved activity? These considerations suggest that the chances of regulations being more closely followed are as remote as the chances of humane killing by shooting and clubbing.

5. Fourth Claim: Hunting is for Survival

- 5.1** The fourth claim is that Canadian coastal communities rely on the hunt 'for their survival'. This is certainly the nearest that the Government comes to providing a moral justification for the hunt. The question is: can the claim for moral necessity be substantiated?
- 5.2** Attitudes towards the exploitation of animals are usually tempered by concerns for native people and their cultures. It is sometimes assumed that the use of animals by aboriginal people can be justified for the purposes of subsistence and for cultural reasons. If 'subsistence' is defined as 'using wildlife locally for food, clothing, and shelter, and for making tools, rather than putting wildlife products into trade',⁵² then, it *may be* that the moral test as detailed above can be met - at least in utilitarian terms. But the difficulty is that defenders of 'subsistence' hunting are seldom satisfied with that definition, and invariably want to push it to include commercial trade. Indeed, as Lavigne notes, at the 1985 meeting of the Convention on International Trade in Endangered Species in Buenos Aires, 'subsistence' hunting was redefined by Canada as 'anything that turns an animal into "hard cash"'.⁵³
- 5.3** But while genuinely *subsistence* hunting may conceivably pass the test of necessity, it is impossible for commercial hunting to do so. And we must be clear that the annual seal hunt is a wholly commercial hunt. This can be demonstrated by the Canadian Government's own figures which detail the annual hunt as a 'commercial quota', as distinct from 'personal quotas' (killing of seals by residents adjacent to sealing areas throughout Newfoundland and Quebec) including 'subsistence' use by aboriginal peoples and non-aboriginal coastal residents who reside north of 53° N latitude - the latter of which are able to hunt without a licence.⁵⁴ Thus, even if we are persuaded that some subsistence sealing can be justified (and not all ethicists would be so persuaded, especially if there is suffering involved), we can be sure that such use is entirely distinct from the commercial, Atlantic hunt.
- 5.4** The problem is compounded, however, because over the past decades, successive Canadian governments have strategically hidden non-aboriginal commercial wildlife slaughters behind a veil of native subsistence hunting. In order to combat the increasing unpopularity of fur, the industry and the Canadian Government were advised as early as 1985 to utilise 'contradictory emotional themes of interest to the same target publics, e.g. preservation of traditional indigenous cultures'.⁵⁵ In fact, less than two per cent of aboriginal people in Canada are involved in commercial trapping of animals for fur. Yet, Canadian governments and the fur industry primarily defend the fur trade as vital to aboriginal culture and economy. It is an effective, but entirely bogus, strategy and one that is used for the sealskin trade as well.
- 5.5** Canada's Inuit population continues to hunt small numbers of harp - most of their seal hunting (arguably for subsistence purposes) concentrates on another seal species, the small northern ringed seal, *Phoca hispida*. However, it is non-native fishermen from Canada's east coast who almost entirely conduct the commercial hunt. Demographical considerations make the reason obvious. There is little aboriginal participation in Canada's commercial seal hunt off the coasts of Newfoundland and Labrador, and in the Gulf of St Lawrence. Early European settlers killed off the indigenous Beothuck population in Newfoundland - one of the earliest recorded, and most tragic, examples of genocide. Consequently, there are few aboriginal people living in Newfoundland today. Although about one third of Labrador's population is aboriginal, there are very few seals hunted commercially in the area. In fact, the statistics indicate that aboriginal people could have taken less than one per cent of the total harp seal kill in 2005.⁵⁶
- 5.6** Information supplied by the Canadian Government maintains that [non-aboriginal coastal] 'sealers have noted that the income derived from sealing can represent 25-35 per cent of their total annual income'. But the facts do not bear out this claim. More than 90 per cent of sealers live in Newfoundland. They are actually fishermen, who participate in several fisheries throughout the year. The Newfoundland Government estimates that about 4,000 fishermen participate in the seal hunt. According to government data and media reports, they make about five per cent of their incomes from sealing, and the rest from commercial fisheries, such as crab, shrimp, and lobster. Given the landed value of the seal hunt in Newfoundland and the average income of Newfoundland fishermen, if they actually earned 35 per cent of their incomes from sealing, it follows there would be less than 400 of them.
- 5.7** In reality, sealing is not a primary occupation on which people rely for their 'survival', rather it is an economically marginal activity that could easily be replaced by the federal government. This point remains even if it is accepted that 'employment opportunities are limited'⁵⁷ in coastal communities. But we must question that idea as well, given

that Newfoundland's fishery is wealthier than it has ever been in history - earning well over \$150 million more than it did prior to the infamous collapse of northern cod stocks in 1992. This economic growth is because of the development of the shellfish industry, which today accounts for 80 per cent of the value of Newfoundland's fishery, whereas sealing accounts for only 2 per cent.⁵⁸ It is certainly possible that the hunt is economically useful to a small number of people who live in the coastal communities, but to say more than that is to go beyond the evidence.

6. Seals as Economic Commodities

- 6.1** It may be objected that, even if there is no strict necessity involved in hunting seals, it is, nevertheless, a profitable activity and one that the Canadian Government should properly defend as important to its own national self-interest.
- 6.2** The problem with this view, however, is that it effectively reduces the status of seals to economic commodities. Indeed, the 'official' government language used to describe the hunt consists of words such as: 'harvest' or 'harvesting', 'tools' (weapons of killing), 'resource', 'dispatch' (killing), 'replacement yield'. They indicate a commodification of these marine mammals as if they were nothing more than lifeless or non-sentient resources here for us.
- 6.3** From the 1960s onwards, there have been various calls from fisheries organisations and government officials to 'cull' seals in order to protect fishstocks, especially cod.⁵⁹ That argument is now seldom, if ever, employed by the Canadian Government. The reason is that further study has indicated that seals also help codstocks by consuming several of their significant natural predators. Indeed, the Government now rejects that idea that the hunt is a 'cull' and explicitly states that it is *'not an attempt to assist in the recovery of groundfish stocks.'* It continues:
- Seals eat cod, but seals also eat other fish that prey on cod. There are several factors contributing to the lack of recovery of Atlantic cod stocks such as fishing effort, the poor physical condition of the fish, poor growth, unfavourable ocean conditions and low stock productivity at current levels.
- It is widely accepted in the scientific community that there are many uncertainties in the estimates of the amount of fish consumed by seals. Seals and cod exist in a complex ecosystem, which makes it difficult to find simple solutions to problems such as the recovery of cod stocks.⁶⁰
- 6.4** This admission is significant because it has left the hunt without any justification, other than the purely economic - and that is pretty marginal at best. The Government now claims that the hunt is 'a sustainable, commercial viable fishery based on sound conservation principles'.⁶¹ Leaving aside the tendentious claims about 'sustainability' and 'conservation', we should note the use of the word 'fishery' to describe the seal hunt. The comparison is revealing since fish have little or no legal protection and are treated wholly as a resource. Astonishingly, seals in Canada are legally classified as 'fish'. In fact, we know that fish are sensitive beings and there is - in at least some cases - empirical evidence that they are capable of experiencing pain and fear.⁶² But to place seals in the same category as other beings perceived wholly in economic terms and treated as fungible, disposable items is a serious category mistake.
- 6.5** Grasping this point takes us to the heart of the moral case against sealing. If seals were simply vegetables, that is beings without sentience who could experience no pain, fear and suffering, and whose movements exhibited no complexity of awareness, then there would be no moral objection to using them and killing them. They might, like vegetables, have a kind of aesthetic value, but no one would think of mounting campaigns to protect them or worry about their rights. But seals do not belong to that category. On the contrary, seals are sentient and intelligent; they are highly developed social beings capable of experiencing intense pain and suffering. The mother seal, as is typical of mammals, is very protective of its young offspring and may well suffer at the death of an older pup even if the latter is on the verge of becoming independent. Studies show that many mammals react even when another unrelated animal is killed in their presence. By 'suffering' here, we do not just mean 'physical pain'. We mean by 'suffering' a range of experiences, such as anxiety, fear, trauma, foreboding, anticipation, terror, and stress. Moreover, mammals experience these things only to a greater or lesser degree than we do ourselves.

- 6.6** It is because seals, like other mammals, are sentient (that is, they can experience both pain and pleasure) that it is right to say that they have – as individuals – ‘intrinsic’ or ‘inherent’ value. To use Kantian moral language they are ‘ends in themselves’ and not just ‘means to ends’.
- 6.7** To categorise marine mammals as fish (which is taxonomically inexcusable) and therefore as commodities or resources represents an impoverished view of their status. The value of other sentient beings in the world does not rest (as in the cases of stones or cabbages) entirely or largely in their relationship to us, and the uses that we may put them to. ‘Instrumentalist’ views that see the value of animals as consisting entirely in their relationship to us are logically opposed to views that recognise and celebrate the ‘intrinsic’ value of animals.
- 6.8** Now, it may be argued that ‘instrumentalist’ views of animals still predominate in the world day, and that the kind of attitude to marine mammals here espoused would have major implications for our use and treatment of animals in many areas of life. But what needs to be grasped is that attitudes to animals are changing, and changing fast. There is now a consensus among ethicists who have studied this subject that there is a need for fundamental changes in how we treat animals and our attitudes towards them.
- 6.9** What the Canadian Government does not seem to have grasped is that it needs to justify sealing in this new context of a growing ethical sensibility to animals. For example, it argues that the ‘subsistence hunt is a valuable link to Canadian cultural heritage’.⁶³ But, as we have seen, the commercial hunt can be easily distinguished from any putative subsistence needs, and the argument that a now (otiose) form of hunting links us with a past culture is flawed as a moral justification. By the same logic, the British ports of Bristol and Liverpool should continue trading in slaves ‘as a valuable link to British cultural heritage’ (which, after all, greatly benefited from the trade). Appeals to past cultural heritage cannot absolve us from having to justify traditional practices in a contemporary moral context.⁶⁴
- 6.10** Furthermore, the appeals to ‘sustainability’ and ‘conservation’ really miss the mark in relation to considerations of animal protection. Since the 1960s, environmental organisations have, *inter alia*, expressed concern about the numbers killed and the survival of the species in the long-term. Such concerns have intensified since, as we have seen, the TAC is now at its highest for thirty years. Also, the Canadian Government’s claim that the seal population stands at 5.2 million begs some questions.⁶⁵ But, however valid these concerns, they do not touch the issue of moral justification from the standpoint of animal protection. Governments of all shapes are increasingly, it seems, making the mistake of thinking that concerns for animals are entirely met by considerations of ‘sustainability’ and ‘conservation’, whereas in fact animal protection extends to concern for *each individual animal* and not just to the species as a collectivity or as a whole. This blindspot is part of a deeper failure of perception – to see that individuals within a species, and not just the species itself, deserve our moral solicitude. Even more, it betokens a failure to see that there *are* individuals and not just species. Each and every individual within a mammalian species is unique – as unique as any individual human being with its own needs, preferences, and social affiliations. Language about seals as a ‘resource’ is sub-ethical in this, second, sense: it utterly fails to see the value of each individual, and to recognise the claim of each individual to moral consideration.

7. The Problem of Partisan Governments

- 7.1** We need now to look at the role of the Canadian Government in relation to sealing. As we have seen, the Government has been pro-active in its support for the seal hunt. Although it claims that it no longer subsidises the hunt, it has clearly done so generously in the past.⁶⁶ And even though direct subsidies may be a thing of the past, the Government still supports seal hunting in a variety of ways, by – for example – providing ice-breakers to take the sealers to the seals, sending delegations around the world to promote the hunt, and by providing grants (or interest-free loans) to establish new processing plants – most recently to a few native people on the North Shore of the St Lawrence as part of its publicly declared intention to involve native people more prominently in the southern hunt.⁶⁷ The DFO in its own words still encourages the ‘fullest possible commercial use of seals’.⁶⁸ It was not internal, but external, pressure that led the Government to establish a Royal Commission which recommended the discontinuance of killing whitecoat seal pups. Such limited action as there has been for seal protection has taken place without, perhaps almost in spite of, the Canadian Government.

- 7.2** This recognition should give us pause since it raises the much wider question of how governments should respond to issues of animal protection. There are worrying signs that other governments may follow the baleful example of Canada and view animals simply as economic resources, commodities, tools or objects of sport, and use their power to side with commercial or vested interests. Unless governments of the world understand their moral obligation to protect animals from cruelty, and set in place moderating measures to prevent (at least) the worst forms of exploitation, then the outlook for animal protection world-wide will be pretty bleak.
- 7.3** There is no evidence that the Canadian Government has any grasp of why its defence of the hunt should attract international criticism. The Minister says that

It is especially disturbing that some organizations are seeking to damage a legitimate Canadian activity and Canada's reputation abroad in public-relations campaigns in order to raise money for their organizations ... these carefully orchestrated public-relations campaigns twist the facts of the seal hunt for the benefit of a few extremely powerful and well-funded organizations.⁶⁹

- 7.4** Attributing unworthy motives is always an unattractive, and suspect, form of argument. Doubtless, there are extreme or unbalanced advocates on either side, but it is a calumny on animal protection organisations to maintain that their criticism of the seal hunt is motivated by the desire to raise money for their own organisations. It is a statement that neglects the fact that most of the organisations that campaign to end the seal hunt are charities – non-profits that spend the money they raise carrying out their mandates. But the point is that these allegations avoid the main issue, which is the duty of the Canadian Government to protect wildlife in its own country from cruel exploitation. This obligation is not, of course, just the responsibility of one government but of all.
- 7.5** We need to remember that wildlife - free ranging animals – are not the property of any one country. Animal protection is an international concern involving, now more than ever, international expressions of solidarity. The days when any government can say: 'These animals are our national resource and we will do what we like with them' are over. There is an urgent need for all governments to move beyond narrow national and economic interests and embrace systems of international protection for animals.⁷⁰
- 7.6** In that regard, there are some small shafts of light. Perhaps the most significant of these was the agreement on animal welfare in the Amsterdam Treaty of the EU in 1997. The protocol deserves to be read in full:

The High Contracting Parties, desiring to ensure improved protection and respect for the welfare of animals as *sentient beings*, have agreed upon the following provision, which shall be annexed to the Treaty establishing the European Community, in formulating and implementing the Community's agricultural, transport, internal market and research policies, the Community and *the Member States shall pay full regard to the welfare requirements of animals*, while respecting the legislative or administrative provisions and customs of the Member States relating in particular to religious rites, cultural traditions and regional heritage.⁷¹

- 7.7** The protocol creates a clear legal obligation to pay full regard to the welfare requirements of animals and, for the first time, refers to them as 'sentient beings' rather than as agricultural commodities. That apparently small change in wording indicates a sea-change in attitude. While the Treaty still provides no legal basis for the introduction of legislation specifically intended to improve the welfare of animals, it leaves member states free to introduce national legislation on issues of animal welfare as they judge right. The qualifying line in relation to 'religious rites, cultural traditions and regional heritage' regrettably allows for possible derogations, although the 'requirement is merely to "respect" legislative or administrative provisions in these areas'.⁷² Despite this limitation, the Amsterdam protocol is the first international agreement between governments on animal welfare which clearly accepts that animals are 'sentient beings' and should be protected. It needs to become the first of many.

8. Trade Embargoes on Seal Products

- 8.1** The Amsterdam protocol, then, requires all European countries to ensure animal protection. By the same token, it is also logical for EU member states to be able to restrict the importation of goods on the grounds of morally-based concerns for animal welfare. Indeed, article 30 of EU regulations enables countries to take action on the grounds of 'public morality', and that provision has already been invoked by the Westminster and Scotland parliaments as a justification for passing legislation against fur farming.⁷³
- 8.2** In January 2004, the Belgian Government also banned the import of seal products along with cat and dog fur. Belgium's announcement also included an order to begin labelling all fur, so that authorities can know what is on sale in Belgian shops and what is entering the country. The Government no longer grants licences to importers seeking to bring in cat or dog fur, or seal skins. Both the bans and the labelling order went into effect immediately; the prohibitions are temporary, but the Belgian legislature is expected to replace the stop-gap measure with an even broader ban that would stop both the imports and exports of cat and dog fur and skins.⁷⁴ The Belgian decision is ground-breaking because it is the first time that a EU member state has unilaterally banned seal products and has defended its decision on the grounds of public morality.
- 8.3** Likewise under GATT (General Agreement on Tariffs and Trade), there is an exception to its free trade policy, which states that embargoes could be put into place in order to 'protect public morals'. And it is on that basis that the existing embargo against the importation of harp seal products enshrined in the US Marine Mammal Act has been justified.
- 8.4** Both WTO and GATT are, of course, hugely controversial and may not stand the test of time. But as long as such agreements exist, they have the capacity to determine all international trading agreements in relation to animals and animal products. Their likely affect on animal protection is potentially massive and world-wide. GATT could represent a serious setback for animal protection, and there are many in the animal protection community who fear that the role of the WTO could be utterly destructive of the limited, but significant, gains in international animal welfare.⁷⁵ But it is worth remembering that few hold that free trade should be absolute. Even one of the pioneers of free trade philosophy, Henry George, maintained that the abolition of restrictions should exempt 'those imposed in the interests of public health or morals'.⁷⁶ But, an obvious difficulty arises because, as Steve Charnovitz points out, 'Virtually anything can be characterized as a moral issue'.⁷⁷
- 8.5** The question is whether a convincing case can be made on the basis of article XX(a) in the GATT which allows exemptions on the ground of 'protecting public morality'. Can a ban on seal products be justified on this basis?
- 8.6** The first possible ground is that articulated by Economist Richard N. Cooper, namely, that 'the international community cannot and should not be able to force a country to purchase products the production of which offends the sensibilities of its citizenry'.⁷⁸ The notion of 'sensibilities' may appear, at first, too all-encompassing. But, in fact, it is generally recognised that Muslim countries, for example, have the right to limit or prohibit the importation of alcohol into their countries, which offends not just Qu'ranic injunctions, but also Muslim sensitivities more generally. Similarly, there are long standing objections, both cultural and moral, to animal cruelty in many countries which, by the same token, should also be respected.
- 8.7** The second ground is that there are alternative measures 'reasonably available' – a factor that has become prominent in previous adjudications of disputes. Currently, exported seal products include oil, skin, fur, and meat, but there are clearly 'reasonable alternatives' to each of these. It would be difficult to claim that seals are a unique source of these products unavailable elsewhere in the world.
- 8.8** The third ground is that countries could claim that they are not engaging in 'unjustifiable discrimination' because they would be treating foreign products the same as domestic ones. The point has coherence in relation to animal cruelty laws. If a country exports products that contravene the host country's own legislation with regard to animal cruelty laws in general, and humane slaughter legislation in particular, then there is a *prima facie* case against allowing such imports. We have already seen how there are good grounds for supposing that slaughter of seals in Canada would not meet European standards of humane killing. A further question may be raised whether there is any 'arbitrary or unjustifiable discrimination between countries where the same conditions prevail'.⁷⁹ But it is clear - for example in the case of the action by the Belgian Government - that since all seal products, from whatever source, are susceptible to the same prohibition that claim could not reasonably be sustained.

- 8.9** The above are just some of the possible legal grounds under article XX(a) of GATT for excluding the importation of seal products. But there is a wider set of moral considerations here that should inform both adjudications about existing trade agreements and also influence future developments in this area. It is sometimes argued that we should not allow issues as seemingly minor as animal welfare to influence major trade agreements between the nations of the world. In fact, as Charnovitz points out, the adjudication panel of the WTO has never taken that view, and animal cruelty clearly, and rightly, falls ‘within the range of policies covered by article XX(a)’.⁸⁰
- 8.10** From an ethical perspective – far from being a minor or trivial matter - there is a range of considerations that relate to animals that buttress an even stronger legal claim that may be made on their behalf. Such considerations deserve to be stated in full:
- **Animals cannot give or withhold their consent.** The point is obvious but it has considerable moral significance. It is commonly accepted that ‘informed consent’ is required in advance by any person who wishes to over-ride the legitimate interests of another. The absence of this factor requires, at the very least, that we should exercise special care and thoughtfulness. The very (obvious) fact that animals cannot agree to the purposes to which they are put increases our responsibility and singles them out (along with others) as a special case.
 - **Animals cannot represent or vocalise their own interests.** Again, the point is obvious but it has serious moral implications. Individuals who cannot adequately represent themselves have to depend upon others to do so. The plight of animals, like that of children, or the elderly who suffer from dementia – precisely because they cannot articulate their needs or represent their interests – should invoke an increased sense of obligation and mark them out as a special case.
 - **Animals are morally innocent.** Because animals are not moral agents with free will, they cannot – strictly speaking – be regarded as morally responsible. That granted, it follows that they can never (unlike, arguably, adult humans) deserve suffering, or be improved morally by it. Animals can never merit suffering; proper recognition of this consideration makes any infliction of suffering upon them particularly problematic.
 - **Animals are vulnerable and defenceless.** They are wholly, or almost wholly, within our power and entirely subject to our will. Except in rare circumstances, animals pose us no threat, constitute no risk to our life, and possess no means of offence or defence. Moral solicitude should properly relate to, and be commensurate with, the relative vulnerability of the subjects concerned.⁸¹
- 8.11** The key point to note is that all these considerations make the infliction of suffering and death on animals not *easier* – but *harder* to justify. But, perhaps, the most relevant of these considerations is the recognition that animals cannot represent or vocalise their own interests. Individuals who cannot adequately represent themselves have to depend upon benign moral representation. This consideration marks animals out, along with other vulnerable human subjects, notably infants and young children, as a special case. There are, therefore, strong grounds for extending to these beings special consideration when it comes to legal decisions that may affect or harm their own interests.
- 8.12** The capacity of the strong and the powerful to overlook the interests of the weak has been variously documented throughout human history, and nowhere is this clearer than in these two cases: children and animals. Unless active steps are taken to ensure that their interests are not overlooked, we can be almost certain that they will be. There is a moral challenge here to all those who espouse free trade philosophy. Unless fundamental limits are observed, then any libertarian trade system can easily turn into a means whereby the weak and the voiceless are further disenfranchised.
- 8.13** Charnovitch concludes his review by stating that: ‘Efforts will surely be made to limit the scope of XX(a) and like provisions to inwardly-directed concerns. It will be argued that morality must stop at the border. In an increasingly interdependent global community, however, the linkages between morality and economic policy will become harder to overlook.’ And he recalls the words of Lucia Ames Mead that ‘[w]orld righteousness and world economic welfare must be shown to be compatible’.⁸²

9. Concluding Assessment

- 9.1** Some conclusions can be reached with confidence.
- 9.2** *Firstly, the clubbing and shooting of seals is not humane.* The most reliable veterinary evidence points unmistakably in that direction. Basic principles of humane slaughter are violated by the hunt: neither 'immediate unconsciousness' nor 'non-recovery' can be 'guaranteed' or even, in most cases, regarded as likely. Both 'clubbing' and 'shooting' seals render the animals liable to high levels of suffering, and - other than in exceptional circumstances when a blow or shot renders the animals immediately unconscious - are inherently inhumane methods of killing. Because of the physical environment in which it operates, and the way in which it must be conducted in order to be commercially viable, Canada's seal hunt is - and must always be - inhumane. And, if there is any doubt, the video footage makes abundantly clear that the suffering of the seals is considerable.
- 9.3** *Secondly, regulations are not enforced and neither are they enforceable.* Grasping the commercial nature of the hunt is central to understanding why animal welfare is inevitably compromised. Commercial sealing is carried out by fishermen in hundreds of small boats, far offshore, amidst treacherous ice floes and hostile weather conditions. High fuel costs, dangerous work environments, and the proximity of opening dates for other commercial fisheries make it expensive and impracticable for sealers to operate at the seal hunt for extended periods of time. Moreover, sealing vessels compete against each other for quotas, killing as many animals as quickly as possible. That is why over the past ten years, the bulk of the commercial killing has occurred over just a few days each year.
- 9.4** Each year, apparent violations of Canada's Criminal Code and the MMRs are documented with minimal effort by animal protection groups, independent journalists, veterinarians, scientists, and parliamentarians. These violations include seals exhibiting responses to pain stabbed with hooks and dragged across ice floes, wounded seals left to suffer for prolonged periods of time, and conscious seals cut open and skinned. Video evidence of nearly 700 of these offences has been submitted to the DFO (the department charged with enforcing the MMRs) to no avail. Not a single charge was laid in response, leading to the inevitable conclusion that the DFO lacks the will to enforce even their own regulations. That is one of the reasons why hopes that new or strengthened regulations will eliminate suffering are illusory. As Daoust² unwittingly shows, enforcing, and ensuring compliance with, even the most basic regulation, namely the three-step process (stunning, checking and bleeding) is practically impossible.
- 9.5** *Thirdly, there is no adequate moral justification for the seal hunt.* Ethicists are divided about where we should draw the line in our treatment of animals, but there is a strong consensus that the infliction of suffering upon animals requires strong justification (indeed there are some ethicists who would hold that the deliberate infliction of suffering on innocent and vulnerable beings can never be justified). In ethical terms, to show that something is necessary requires more than a simple appeal to what is fashionable, or even desirable. Human wants do not by themselves constitute moral necessity. It has to be shown that the good procured is essential and that no alternative means are available. To point to economic advantage is insufficient as a moral justification, and neither can any claim for subsistence reasonably apply to the commercial Atlantic hunt.
- 9.6** We may debate those situations where animals pose some kind of threat or danger to the human species. But we should be clear that seals do not constitute - either directly or indirectly - any threat, ecological or otherwise. Neither do they constitute any health risk, nor is the reduction of their numbers required by notions of biodiversity. We have already noted that no reasonable claim against seals can be made in the interests of preserving fishstocks. Seals pose no general or particular adversity to the human species. They are not in any sense aggressors. To regard them, as some sealers do, as a nuisance species: 'sea slugs' - as they have been called - is without rational foundation. The hunt is thereby exposed as devoid of adequate moral justification.
- 9.7** *Fourthly, to regard seals merely as economic commodities is an impoverished view of their status.* Sealing is perceived by fishermen, and the Canadian Government, as just another part of the fishery. This is reflected in the government department that manages it (Fisheries and Oceans), the individuals who conduct it (commercial fishermen), and the language used to describe it ('catching seals', 'fishing for seals'). Taken as a whole, it appears that fishermen who hunt seals really believe that they are 'fishing', and that the seals are deserving of as much, or as little, consideration as they would extend to any other ocean target. This historic understanding of seals as fish may be the root cause of much inhumane behaviour. Moreover, as already noted, most sealers are fishermen from Canada's east coast. Many of them - because of misinformation disseminated over many years - have come

to believe that seals caused the collapse of Northern Cod and are still impeding its recovery. Therefore, the very people killing the seals frequently view them as competitors for the fish, and the reason why they personally suffer economic hardships. Such perspectives provide an environment in which there is an emotional incentive to mistreat the seals.

- 9.8** To regard hundreds of thousands of seals solely as resources to be harvested indicates a crudely instrumentalist understanding of animal life. Enlightened ethical thinking regards animals as sentient beings with their own inherent or intrinsic value. Such a view is at least implied in the EU Amsterdam Protocol of 1997. The Canadian Government has simply failed to provide a sufficient rationale for their advocacy of sealing in the light of changed ethical thinking.
- 9.9** *Fifthly, the Canadian Government has become unreasonably partisan in its support for sealing.* Government claims have been shown to be tendentious, misleading, or inaccurate. All governments of course want to support the economic well-being of the countries they serve, but each and every government should have a proper regard for animal welfare, and exercise a moderating hand in relation to economic pressures that threaten to reduce the status of animals to mere commodities. It is clear that the Canadian Government has not begun to exercise such a moderating hand. It has therefore set an unwelcome precedent for other governments that could threaten the future prospects for animal protection world-wide. Moreover, governments should respect, if not always reflect, the views of their citizens, the majority of whom in Canada are opposed to the commercial seal hunt.⁸³
- 9.10** *Sixthly, the Canadian Government should act immediately to prohibit the commercial seal hunt.* It is the responsibility of the Canadian Government to protect its own wildlife from cruelty. The fact that governments can apparently act without accountability (even it seems to their own electorate), in matters relating to animal cruelty must be of concern to all right-thinking people everywhere. It cannot be sufficient to shrug off such culpability as though it was simply part and parcel of the round of politics with which we have become altogether too familiar. All governments are morally accountable for their support of cruelty.
- 9.11** *Seventhly, WTO adjudications must continue to allow concerns for animal welfare to constitute a moral exception to free trade.* Free trade philosophy is still in a process of development. Despite some reversals, GATT and WTO accept in principle that there can be a moral exception to free trade, and there is no rational ground for excluding concern for animals within that category. Indeed, we have shown that there are strong rational grounds for extending special moral solicitude to the innocent and the vulnerable, especially children and animals who are unable to represent themselves and who, necessarily, rely upon benign representation by others. The international community of animal advocates and all right thinking citizens must speak up and insist that international trade regulations do not compromise the cause of animal protection.
- 9.12** *Eighthly, the moral case for trade bans against Canadian seal products is compelling.* Animal protection is, and should be, a matter of international concern. We must look to governments to protect animals in their own countries, but when they fail to undertake this responsibility, then international pressure can and should be reasonably applied. Already the US bans the import of seal products, and the Government of Belgium has recently done so – along with dog and cat fur. These actions should be welcomed and supported by the international community.
- 9.13** Although undoubtedly made more complex by the development of GATT and WTO, there is still ample scope for individual governments to take action on the grounds of public morality. We know from experience that trade embargoes work. When the EU banned the import of seal products in 1983, it had an immediate effect on the number of seals killed, as the figures show: down from 166,739 in 1982, 57,889 in 1983, 31,544 in 1984 to a record low of 19,035 in 1985. In the absence of action by the Canadian Government, trade bans are still the most effective means of preventing cruelty to seals.
- 9.14** *Ninthly, governments should initiate trade bans on seal products as a matter of urgency based on the moral imperative to prevent unnecessary and prolonged suffering.* We cannot avoid the evidence that seals are being skinned alive. Whilst not true in all cases, reason and evidence indicate that a proportion, even a high proportion, will end up being subject to gross cruelty. The Canadian Government says that the methods of killing seals are comparable with slaughter methods elsewhere. We know that is not so. There is no country in the world that accepts a definition of humane slaughter that includes being skinned alive. The magnitude of the suffering involved – almost a million animals during the past three years – is so great that international action is now essential.

Notes

1. The official source (ICES/NAFD) is provided in www.ifaw.org/ifaw/dimages/custom/2_Publications/Seals/sealsandsealing2005.pdf, see, Appendix 1, 'Quotas and Landed Catches of Harp Seals in Canada', p. 16. I refer to 'landed catches' because they are what the government reports after the hunt, i.e. the number of animals recorded 'landed' on sealing vessels or at the dockside - a count of pelts landed. But, of course, more animals are killed than are landed. Some are clubbed and shot, and not recovered ('struck and lost') and are therefore never 'landed'. Scientists attempt to estimate total kill by correcting landed catch statistics for animals struck and lost. They also attempt to account for seals taken incidentally in, for example, commercial fisheries. The total kill figures are used in population models to estimate local population size, replacement yields, and the like. So, when referring to the numbers 'killed' in the hunt, one needs to use the estimated kill and not the landed catch statistics, which underestimate the numbers of animals actually killed. I am obliged to Dr David Lavigne for this important qualification, which reinforces concern about the huge total number of kills involved in the hunt.
2. 'Canada's Seal Hunt: Beyond the Rhetoric', Commentary by the Minister of Fisheries and Oceans, Canada, March 17, 2005, pp. 1-2; see also www.dfo-mpo.gc.ca/media/statem/2005/20050317_e.htm (accessed 5.13.2005) (hereafter 'Minister's Statement').
3. Minister's Statement, pp. 1-2.
4. Section 28 of the Marine Mammal Regulations (hereafter 'MMRs'); my emphases. See <http://laws.justice.gc.ca/en/F-14/SOR-93-56/118970.html#rid=119056>. These are the legal weapons. In practice, illegal weapons are also used. These include gaffs (long wooden pole with boathook on the end), handmade hakapiks that do not fit the regulation size and weight, and shotguns and rifles of inadequate gauge. All of this has been documented in video evidence, and is found in direct testimony from sealers obtained through access to freedom of information laws in Canada, see <http://www.gan.ca/campaigns/seal+hunt/factsheets/sealers+testimony.en.html>
5. R. L. Burdon, J. Gripper, J.A. Longair, I. Robinson, and D. Ruehlmann, *Veterinary Report, Canadian Commercial Seal Hunt*, Prince Edward Island, March 2001, for classifications of consciousness see p. 7, observations from video footage see p. 9, and for conclusion see pp. 1 and 13; see also http://www.ifaw.org/ifaw/dfiles/file_95.pdf, pp. 1-36. (hereafter 'The Burdon Report').
6. See E. Simpson, 'Seal hunting in the Gulf of St Lawrence', *Nature*, 1967, 214:1274, and W. J. Jordan, 'The Killing of the Harp Seal Pups, 1978' (Report following an investigation, 7-12 March, in the Magdalen Islands during the annual seal hunt), RSPCA (April 1978), see especially, pp. 3-7.
7. Pierre-Yves Daoust, A. Crook, T. K. Bollinger, K. G. Cambell, and J. Wong, 'Animal welfare and the harp seal hunt in Atlantic Canada', *Canadian Veterinary Journal*, September 2002, 43(9), pp. 687-694, see also <http://www.pubmedcentral.nih.gov/articlerender.fcgi?tool=pmcentrez&artid=339547>, pp. 1-13 (accessed on 5.13.2005) (hereafter 'The Daoust Report'). The reference is to the abstract, p. 687 in original, and p. 1 on the net. Future page references are to the net version.
8. David M. Lavigne, 'Canada's Commercial Seal Hunt is Not "Acceptably Humane"' (hereafter 'Lavigne's Analysis'), IFAW, January 2005, p. 1; my emphases.
9. The Daoust Report, p. 8; Lavigne's Analysis, p. 2.
10. Lavigne's Analysis, p. 2.
11. The Daoust Report, p. 10; my emphases.
12. Minister's Statement, p. 2; my emphases.
13. Minister's Statement, p. 2, see also Lavigne's Analysis, p. 1.
14. The Daoust Report, p. 2.
15. As shown by the correspondence between High North Alliance and the UK Commissioner to the International Whaling Commission, concerning the UK position on humane killing standards, 21 March, 1995 at <http://www.highnorth.no/Library/Ethics/th-uk-po.htm>. The only exception allowed to this rule is religious slaughter, which has been opposed by the Government's Farm Animal Welfare Council (hereafter 'FAWC') for this reason, see note 27 below.
16. The Burdon Report, p. 4.
17. The Burdon Report, p. 4; my emphases.
18. The Burdon Report, p. 5.
19. The Daoust Report, p. 6; my emphases.
20. The Daoust Report, p. 7.
21. The Burdon Report, p. 1.
22. The Burdon Report, p. 1.
23. Minister's Statement, pp. 1-2.
24. The Daoust Report, p. 10.
25. T. Grandin, 'Welfare of cattle during slaughter and the prevention of nonambulatory (downer) cattle', *Journal of the American Veterinary Association*, 2001; 219, pp.1377-1382.
26. See Karen Davis, 'Birds used in food Production' in Andrew Linzey (ed), *Animal World Encyclopaedia*, Kingsley Media, forthcoming 2005 (hereafter 'AWE').
27. *Report on the Welfare of Farmed Animals at Slaughter or Killing, Part 1: Red Meat Animals*, London: FAWC, June 2003 (hereafter 'FAWC Report'), see especially, pp. 54-63. It should be noted that FAWC is not an animal welfare organisation per se, but a government advisory committee whose members are selected by the government of the day and comprise, inter alia, individuals from the meat and farming industries. For its opposition to religious slaughter on scientific and welfare grounds, and its recommendation that the exemption be repealed, see pp. 32-36. The Report is an impressive and comprehensive attempt to improve all aspects of the handling and slaughter of farm animals. See their website: <http://www.fawc.org.uk/>. It is much to be regretted that the British Government have not accepted and acted on all its recommendations.
28. Dr Ian Robinson, cited at <http://www.ifaw.org/ifaw/general/default.aspx?oid=82078>.
29. FAWC Report, p. 2, para 8.
30. The Burdon Report, p. 8.
31. A. H. Malouf, *Seals and Sealing in Canada*, Report of the Royal Commission (hereafter 'The Royal Commission'), 3 Vols (Ottawa: Supply and Services Canada, 1987), Vol. 1., recommendation 2, p. 40.
32. 'Atlantic Canada Seal Hunt: Myths and Realities', Fisheries and Aquaculture Management, Department of Fisheries and Oceans Canada, at www.dfo-mpo.gc.ca/seal-phoque/myth_e.htm (accessed 5.13.2005) pp. 1-2 (hereafter 'Myths and Realities').
33. The Royal Commission, p. 38.
34. The data is compiled from official kill reports from Canada's Department of Fisheries and Oceans. Source for 1971 quota is from *The Atlantic Seal Hunt: A Canadian Perspective*, Department of Fisheries and Oceans, pp. 1-24; for 1972-1991 figures from ICES C.M. 1992/Assess 5. Table 10 (includes a number of preliminary figures); and figures for 2004 from Dawn Pearcey, Department of Fisheries and Oceans, Pers. Comm. See also note 1 for source of 2004 statistics.
35. The Burdon Report, p. 1.
36. MMRs, Section 28 (C); emphasis.
37. *The Guardian* (Charlottetown), 20 January, 2003, A4.
38. Charles Craguel, Alice Crook, Pierre-Yves Daoust, J. Lawrence Dunn, Stéphane Lair, Alan Longair, Joost Philippa, Andrew Routh and Alison Tuttle, A Report of the Independent Veterinarians' Working Group on the Canadian Harp Seal Hunt, *Improving Humane Practice in the Canadian Harp Seal Hunt* (prepared by BL Smith Groupwork, August 2005) (hereafter 'Daoust2'), p. 2. There are some welcome recommendations in the Report, notably that 'a seal should not be shot in the water, or in any circumstances when it is possible the carcass cannot be recovered' (p. 2) which should logically exclude all shooting from boats. Also, the recommendation that 'confirmation of irreversible loss of consciousness or death should be done by checking by palpation that the skull is crushed rather than checking the absence of corneal (blink) reflex' (p. 2) is probably sound given the widespread ignorance of the importance of

the other test. But there are a number of disquieting aspects to the Report. First, the Group met with sealers, industry representatives, government managers, and scientists for a day and then spent two days 'in camera' to formulate their recommendations (p. 2). We are told that four representatives of the sealing industry 'made presentations on the industry, past, present and future, as well as hunting methods', and that 'information was provided about the social and economic importance of the seal hunt to coastal communities' (p. 6). The Group apparently viewed 'video clips' from IFAW, but met no animal welfare professionals or scientists, or humane officials, or heard the detailed moral critique that can be made of sealing. This does not suggest an even-handed approach to the issue. Second, the Group concluded that 'if carried by a trained and skilled individual, a three-step method of stunning, checking and bleeding seals *can result in rapid, irreversible loss of consciousness, and death*, and thus can be a humane process' (p. 2: my emphases). The word 'if' is doing a lot of work in this sentence. It is precisely because the 'ifs' cannot be relied upon that the process cannot be claimed as 'humane'. Moreover, the standard definition of humane killing has been revised here – it departs from the FAWC definition of the British Government which requires 'immediate unconsciousness and insensibility, or an induction to a period of unconsciousness without distress and [the] guarantee of non-recovery from this process until death ensues' (see para 2.36). There is an obvious difference between a 'rapid' and 'instantaneous' unconsciousness. It is difficult to avoid the conclusion that the Group has revised the definition for its own ends. Third, the Group claims that 'perception of the seal hunt seems to be based largely on emotion' (p. 5) which suggests that the Group does not know the difference between 'emotional' and 'ethical' considerations. Again (even worse): 'Campaigns and rhetoric that play to emotion at the expense of understanding and communication of factual information will neither increase the use of humane methods nor reduce animal suffering' (p. 6) which (again) conveniently overlooks the ethical issue, and presents one side of the argument in a pejorative way. All becomes clear, however, when we reach the end of the paragraph: 'It is not the Group's intent to enter into the discussion about whether or not there should be a hunt' (p. 6) - in other words, it doesn't intend to actually address the central issue about moral justifiability. Ethicists have learnt to be wary of reports that make prescriptions whilst not actually or adequately addressing the 'moral issue'.

39. Daoust2, p. 8.
40. Daoust2, p. 10.
41. Daoust2, p. 11.
42. Daoust2, p. 14.
43. Daoust2, p. 14.
44. Daoust2, p. 15.
45. Daoust2, p. 16.
46. Daoust2, p. 10; my emphases.
47. Daoust2, p. 10; my emphases.
48. Daoust2, p. 10; my emphases.
49. Daoust2, p. 2; my emphasis. The confusion is evident from the wording of the Report: the 'summary' says that bleeding is 'an important element' (p. 3), whereas it is later described as 'essential' (p. 7).
50. The 2005 Seal Hunt Footage, 23 mins, compiled and distributed by the HSUS. The video evidence is important because, without it, it is possible to entertain a sanitised version of the hunt in which scrupulous care is taken to avoid suffering. In fact, the 2005 footage shows that even while being filmed the sealers adopt a remarkably cavalier attitude both to the suffering of the seals and to the legal regulations.
51. Mary Richardson, 'The horror of the seal hunt', *National Post*, 9 June, 2005, A20.
52. David M. Lavigne, Victor B. Scheffer and Stephen R. Kellert, 'The evolution of North American attitudes toward marine mammals' in J. R. Twiss Jr., and R. R. Reeves (eds), *Conservation and Management of Marine Mammals* (Washington and London: Smithsonian Institution Press, 1999), p. 37. See also, D. M. Lavigne, 'Canada's leghold leg-pull', Guest Editorial, *BBC Wildlife*, March, 1989, p. 133, and 'Rights and wrongs: should indigenous peoples have different 'rights' to hunt wildlife, including endangered species, and to trade in wildlife products?', Taking Issue, *BBC Wildlife*, November 1997, pp. 36-37, 40.
53. Lavigne et al, in *Conservation and Management of Marine Mammals*, p. 37.
54. 'Frequently asked questions about Canada's seal hunt', Fisheries and Aquaculture Management, Department of Fisheries and Oceans Canada, at www.dfo-mpo.gc.ca/seal-phoque/faq_e.htm (accessed 5.13.2005), p. 2 (hereafter 'FAQ').
55. *Defence of the Fur Trade*, a discussion paper prepared by the Department of External Affairs, Canada (May 1985), p. 9. I am grateful to Dr David Lavigne for this reference. See also the discussion in Andrew Linzey, *Animal Gospel* (Louisville, Kentucky: Westminster John Knox Press, 1998), pp. 116-122.
56. The figure is arrived at by the following calculation. The Canadian Government states in the Atlantic Seal Hunt 2003-2005 Management Plan, section 6.6.1 (Equitable Allocation): 'DFO continues to be supportive of Aboriginal efforts to hunt seals commercially. This plan provides an allocation for Labrador sealers to hunt harp seals commercially. There is also an allocation for harp seals for the Canadian Arctic, as sealing for this species has been limited in recent years'. According to the official DFO kill report in 2005, no harp seals were taken in the Arctic, while 7594 were killed in Labrador. Seal kill reports are not recorded by ethnicity of sealers. Thus, to determine how many seals were killed by aboriginal people in Canada's commercial seal hunt, we have had to make some demographic assumptions. Approximately one third of the population of Labrador is of aboriginal ethnicity. In the absence of data from the DFO, it is reasonable to assume that one third of commercial sealers operating in the Labrador area are aboriginal. Also that one third of the seals killed in Labrador would be taken by aboriginal sealers. If these assumptions are correct, of the 7,594 seals killed in 2005 in the Labrador quota, 2,531 would have been killed by aboriginal sealers. This would account for 0.8% of the total 2005 commercial kill of harp seals of 317,672. I am grateful to Rebecca Aldworth for this information.
57. FAQ, p. 5.
58. Landed fishery values 1998-2003 from Newfoundland's Department of Fisheries and Aquaculture. Newfoundland's inflation data from the Government of Newfoundland, see www.economics.gov.nf.ca/mnlinflation.asp.
59. In fact, Government officials were still making the same claim as late as 1996. See, for example: 'Government scientists say seals eat vast amounts of cod and are hampering their recovery', Deborah Mackenzie, 'Seals to the slaughter', *New Scientist*, 16 March, 1996, p. 36
60. FAQ, p. 6; my emphases.
61. Myths and Realities, p. 3; my emphases. The Burdon Report also makes a similar point, p. 12.
62. See, for example, the latest research by Lynne U. Sneddon, Victor A. Braithwaite and Michael J. Gentle, 'Do fish have nociceptors: evidence for the evolution of a vertebrate sensory system', *Biological Sciences*, Vol. 270, No. 1520, June 2003. And the previous work by Verheijen at the University of Utrecht discussed by John Webster, *Animal Welfare: A Cool Look at Eden* (Oxford: Blackwell, 1994), p. 224. For a review of the scientific literature on sentience and its moral significance, see David DeGrazia, *Taking Animals Seriously: Mental Life and Moral Status* (Cambridge: Cambridge University Press, 1996), especially chapters 4-7.
63. Myths and Realities, p. 4.
64. In fact, the argument from 'tradition' is not, properly speaking, an ethical argument at all, just an appeal to the status quo. In England, we have become only too familiar with it as a defence of hunting with hounds, but its speciousness has been finally exposed and hunting is now (thankfully) banned.
65. See FAQ, p. 1 which refers to a '1999 peer-reviewed study' which came to this figure, but no further information is given. The figure, unsurprisingly, is disputed. For the federal government's view see www.dfo-mpo.gc.ca and for management reports, http://www.dfo-mpo.gc.ca/seal-phoque/report-rapport_e.htm. For the Report of the Eminent Panel on Seal Management (which included at least one person involved in the seal industry) www.dfo-mpo.gc.ca/seal-phoque/reports-rapports/expert/repsm-rgegp_e.htm, and for contrary views, see the critique by Greenpeace at www.greenpeace.org/raw/content/international/press/reports/canadian-seal-hunt-no-managem.pdf and the website of

- the International Marine Mammal Association at www.imma.org.
66. According to the Canadian Government, 'All subsidies ceased in 2001', Myths and Realities, p. 4.
 67. See, for example: 'DFO continues to be supportive of Aboriginal efforts to hunt seals commercially', Seals and Sealing, p. 20, para 6.6.1.
 68. FAQ, p. 2.
 69. Minister's Statement, p. 2.
 70. I make the case in my 'Other Eyes and Other Worlds', Introduction to 'AWE', which is a guide to international animal protection. What became clear in editing the Encyclopaedia was that countries, which are guilty of disrespecting human rights mostly disrespect animal rights as well. Contrary to prejudice, the countries which care most about animals also care most about human beings.
 71. My emphases. The full text of the treaty can be found at chapter 8 at http://www.europarl.eu.int/topics/treaty/section2_en.htm#chap8.
 72. The view of Eurogroup for Animal Welfare found at <http://www.eurocbc.org/page673.html>; see also their own website, <http://www.eurogroupanimalwelfare.org/>.
 73. See Andrew Linzey, *The Ethical Case Against Fur Farming, a statement by an international group of academics, including ethicists, philosophers and theologians* (London: Respect for Animals, 2002, ISBN 0-9547208-0-6) (hereafter 'The Ethical Case'), which argues that European countries should exercise their powers to prohibit fur farming on the grounds of public morality.
 74. As in the news release of the HSUS, see http://www.hsus.org/about_us/humane_society_international_hsi/hsi_europe/belgium_joins_the_rank_s_of_eu_countries_to_ban_dog_and_cat_fur.html. In addition, there has been a long history of (unsuccessful) British attempts to restrict or ban the import of seal products. In 1980, a Trade Order was promulgated to require the labelling of all sealskin imports into the UK, but it sadly failed to make progress, see *The Trade Descriptions (Sealskin Goods) (Information) Order 1980, No. 1150*. In 2003, the Minister for Trade and Investment was pressed to take action, but maintained that 'The view of the WTO, which has to make a decision unanimously, is that it is not prepared to allow animal welfare issues to be a criterion for stopping trade in particular kinds of products', *Hansard* 4 November, 2003, Column 222WH. As we show, there are grounds for disputing that view, since some animal welfare issues properly come under the heading of moral exceptions. The claim that 'the EU is attempting to impose its ethical views on other countries' (ibid) is also untenable. See also the question to the Secretary of State for Foreign and Commonwealth Affairs about making known British opposition to the seal hunt, *Hansard*, 24 January, 2005, Column 151W. Since Belgium has taken the lead, it is now only appropriate for other EU member states, including the UK, to follow, especially since the principle about morality and animal welfare issues has already been conceded. As we have seen, five EU member states (Belgium, France, Italy, Greece, and Denmark) have already outlawed the trade in dog and cat fur.
 75. See Steven Best, 'The World Trade Organisation' in the 'AWE'. Best properly warns of how unfettered trade could destroy all the limited gains already made in animal protection.
 76. Henry George, *Protection or Free Trade* [1886] (Schalkenbach Foundation, 1991), p. 286; cited and discussed in Steve Charnovitch, 'The Moral Exception in Trade Policy', *Virginia Journal of International Law*, Summer 1998, 38/689, pp. 21-22, also available at www.worldtradelaw.net/articles/charnovitzmoral.pdf (hereafter 'Charnovitch'). I am indebted to Charnovitch for his insightful and important paper on which I have drawn freely. See also, Steve Charnovitch, 'GATT and the Environment: Examining the Issues', *International Environmental Affairs*, 4 (3) 1991: 203-33, and at www.ciesin.org/docs/008-061/008-061.html. There is a useful discussion for and against embargoes at <http://darwin.bio.uci.edu/~sustain/issueguides/Embargoes>. On the continuing debate about the responsibilities of multinationals, see, for example, 'Can Corporations Assume Responsibility for the Environment?' by John B. Cobb, Jr., at <http://www.religion-online.org/showarticle.asp?title=261>.
 77. Charnovitch, p. 21.
 78. Richard N. Cooper, *Environment and Resource Policies for the World Economy* (New York, 1994), p. 30, cited in Charnovitch, p. 21.
 79. Charnovitch, p. 22.
 80. Charnovitch, p. 24.
 81. These considerations are also cited and discussed in the previous international statement, 'The Ethical Case', p. 4.
 82. Lucia Ames Mead, *Law or War* [1928] (New York: Garland Publishing Inc., 1971), p. 86, concluding line of Charnovitch, p. 28. Charnovitch also rightly refers to Kant's statement that '[t]he peoples of the earth have thus entered in varying degrees into a universal community, and it has developed to the point where a violation of rights in one part of the world is felt everywhere', see Immanuel Kant, Perpetual Peace: A *Philosophical Sketch* in Hans Reiss (ed), *Kant's Political Writings* (Cambridge: Cambridge University Press, 1979), paras 107-8, p. 93, and in Charnovitch, pp. 48-49. But Kant's point, if valid, can also be extended to include animals. Animals also form part of the 'universal community' - if not through choice - certainly by our choice because we have adopted them into our moral universe. Animals have thus acquired moral significance because of the ways humans relate to them and treat them. We might say, then, that 'the peoples of the earth have thus entered in varying degrees into a universal community - of which animals form part - and it has developed to such a point where a violation of rights - to either humans or animals - in one part of the world is felt everywhere'. Put more simply, the abuse of animals anywhere, like the abuse of humans, ought to concern us all everywhere.
 83. See the polling evidence by Angus Reid, 1997. The Canadian Government says that 'results of the [2000] survey indicate that, after being presented with arguments for and against the hunt, 53% of Canadians support the seal hunt', Seals and Sealing, p. 20, para 6.5.4. But the 'arguments for' invariably include the claim that sealing in 'humane' - which is precisely what cannot be assumed.

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Signatories

The paper was written by Professor Andrew Linzey. Included are the names of individuals who wish to be associated with it. Institutional affiliations are for the purpose of identification only. All individuals sign in their personal capacity.

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