

BRIEFING: NEW ZEALAND

Animal Protection in EU Trade Negotiations



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We would like to warmly thank World Animal Protection New Zealand for their contribution to this report.



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EUROGROUP FOR ANIMALS CALLS ON THE EU TO:

- Give preferential access only to animal-based products which respect EU equivalent or higher animal welfare standards (in transport and on farm);
- Limit the volume granted in tariff-rate quotas (TRQs) for animal-based products, especially for bovine and sheep meat;
- Use this opportunity to review the TRQs granted to New Zealand bovine meat to end the detrimental impact the hormone-free beef TRQ has had on the welfare of cattle;
- Include a regulatory alignment objective in the provisions on animal welfare cooperation, covering all kinds of animals (not only farm animals but also animals used in science, as well as wildlife) and not restricted to slaughter and transport;
- Include a recognition of animal sentience and a further developed definition of the term;
- Include a recognition of the link between animal welfare and sustainable agriculture, underlying how improved animal welfare can contribute to fight global crises such as climate change, biodiversity loss and antimicrobial resistance;
- Include strong and detailed language in the Trade and Sustainable Development chapter on:
 - Wildlife trafficking (positive lists, rescue centres, including new species in CITES), with mention of species-specific concerns;
 - The importance of ensuring fish welfare to make aquaculture sustainable;
 - Sustainable Agriculture;
 - Enforcement mechanisms: providing access to the dispute settlement mechanism to external stakeholders; imposing the creation of clear roadmaps identifying priority issues; strong monitoring mechanisms; and including last-resort sanctions.



1 INTRODUCTION

The EU and New Zealand started negotiating a comprehensive trade agreement in July 2018. The mandate granted by EU Member States for the negotiations was adopted on 22nd May 2018, and contains language on animal welfare cooperation, calling for the EU to conclude an agreement that will “promote continued cooperation and exchanges on animal welfare, to discuss, inter alia, possible commitments on equivalence on animal welfare between the parties”, adding that “EU standards on animal welfare should serve as a basis for negotiations.” Compared to the mandate that had been established in view of the negotiations with Japan¹ – which called for the agreement to “explore possibilities of establishing the appropriate conditions for co-operation on animal welfare between the two sides” – the language used is definitely stronger, emphasizing the growing importance of animal welfare in EU trade policy.

According to the Animal Protection Index, New Zealand is considered one of the top-tier countries alongside the UK, Austria and Switzerland. Citizens, both in the EU and New Zealand, care for animals, and as both partners have a relatively higher level of animal welfare standards, they share an interest in discussing how these standards interact with trade policy. In October 2017, New Zealand elected a progressive government, although it has not yet delivered on the commitments it made in relation to animals. This provides a clear opportunity for the EU to push for ambitious language on animal welfare to be included in the future EU-New Zealand Free Trade Agreement.

1.1 EXISTING COOPERATION OF THE EU AND NEW ZEALAND ON ANIMAL WELFARE

The EU and New Zealand signed a veterinary agreement in 1997. They also produced a joint declaration strengthening their relationship in 2007 which “encouraged the EC and New Zealand to establish an animal welfare forum to improve standards in the mutual treatment of animals”. This forum, set up the same year, serves as a platform to exchange information on animal welfare.

The forum has met officially once a year and aimed to review animal welfare issues of operational and strategic importance to both participants (including in relation to production animals), exchange information, and investigate opportunities for cooperation (i.e. research projects, secondment opportunities, etc.). A report published by the EU’s DG SANTE considers the cooperation a success, especially regarding the exchange of scientific and policy information. By 2014, both partners had granted each other the recognition of full equivalence of their slaughter standards – a major achievement. The next topic discussed, also aiming at recognising equivalence, could be the transport standards. This recognition of equivalence does not imply that there is no difference between both legal systems.

¹ Negotiating mandates are usually not made public – the one with Japan is thus one of the only examples available.



1.2

NEW ZEALAND ANIMAL WELFARE REGULATIONS AND ENFORCEMENT

In New Zealand, the agricultural sector is one of the main contributors to the country's exports. In 2017, New Zealand had roughly 3.7 million laying hens and 5 million dairy cows, and in 2017 it slaughtered around 23 million sheep, 4.4 million cattle, 118 million chickens, and 657 thousand pigs. In 2015, the number of farmed fish were estimated to be between 12 and 39 million.

New Zealand currently ranks "A" in the [Animal Protection Index](#) published by World Animal Protection (WAP). The only other countries with a similar rank are the UK, Switzerland and Austria. Animal welfare is formally recognized in legislation and fully supported by the government. The most recent Animal Welfare Act refers to animals being sentient; however, the notion is not properly defined in the text. In the EU, animal sentience is recognized in article 13 of the Treaty on the Functioning of the European Union, which calls for the Union "to pay full regard to the welfare requirements of animals" when formulating and implementing a specific list of policies, while respecting cultural, regional and religious traditions.

New Zealand has strong regulations on animal welfare which reflect a clear intention to protect animals. However, the implementation mechanisms are often lacking. For instance, animal welfare is the competence of the Ministry of Primary Industries (MPI); yet the objective of this

Ministry is to support and increase exports, which can lead to contradictions with the monitoring and enforcement of animal welfare standards. This conflict of interest can be noticed in practice as there is rarely a case of enforcement and prosecution in the field of animal welfare. Within the MPI's budget, only a tiny fraction is devoted to animal welfare, which does not even appear as a key competence on the ministry's website. The mission of the MPI to help "maximise export opportunities for our primary industries, improve sector productivity" sits at odds with the improvement of animal welfare, which is likely to be costly. The budget allocated to animal welfare education and enforcement, as well as animal welfare policy advice, was \$6.012(NZD) million for the year 2012-2013.

In 2015, New Zealand amended its animal welfare act. Among other things, it recognized animal sentience and banned animal testing for cosmetics. However, even in that year, the Government only allocated an extra \$10 million over four years to boost the MPI's animal welfare compliance and its capability to develop more transparent and enforceable animal welfare regulations. This represents an increase of only \$2.5 million per annum, which was still far from adequate to deal with the number of farmed animals in New Zealand. The country has up to 160 million animals being commercially farmed at any one time but, at the moment, only 11 full-time and 5 part-time inspectors are in charge to address animal welfare complaints on farms around the country. Nor is there any mechanism for regular monitoring and inspections in place. A lot of abuse cases are denounced by animal protection organisations or citizens, rather than being discovered by the MPI.²

² <https://www.newsroom.co.nz/2018/06/27/133162/a-long-history-of-animal-cruelty-and-neglect#>

The first Animal Welfare Act was introduced in 1999 and the National Animal Welfare Advisory Committee (NAWAC) was established by this act to advise the MPI on animal welfare. This body of ten members includes representatives from industry as well as from animal protection NGOs.³ As requested by the 2015 legislation, NAWAC has prepared new sets of codes for animal welfare (on circuses, pets, dairy cattle, goats, layer hens, etc).⁴ Animal protection NGOs have denounced the heavy influence the industry has in preparing these codes, and therefore on NAWAC's work. An illustration of this is that a large number of initial codes were drafted by relevant industry groups (ie the pig code, the broiler chicken code, the egg layer code). In many cases, NAWAC failed to provide detailed scientific research supporting the new codes or keep up-to-date with relevant science. The final texts have often put economic priorities ahead of animal welfare.

The EU has similar issues in terms of enforcement. Many cases of breaches have been denounced recently, notably in animal transport and the pig industry.

1.3 MAIN TRADE FLOWS IN ANIMAL-BASED PRODUCTS BETWEEN THE EU AND NEW ZEALAND, AND OPPORTUNITIES

TRADE IN MEATS

Value-wise, New Zealand ranks first among the countries exporting meat to the EU (€987,910,685 in 2017). Quantity-wise, it is the EU's second partner with 136,853 tonnes in 2017, following only Brazil. These exports are mostly sheep and bovine meat, with New Zealand being the EU top partner for sheep meat.⁵ It ranks third for frozen beef, and sixth for fresh beef (mostly boneless cuts for both categories).

The EU is the main market, value-wise, for New Zealand's sheep meat.⁶ For beef, the EU is a relatively small market in overall terms for New Zealand, but important for high value cuts. The main EU importers for bovine meat are the Netherlands, Germany, the UK and Italy, and for sheep meat, the UK, the Netherlands and Germany.

Products	2018	
	[t]	[€]
Meat (all kinds)	137,873	1,048,096,676
Fresh and chilled bovine	2,281	29,050,735
Netherlands	1,018	13,092,257
Germany	513	7,092,466
Italy	280	3,043,531
UK	221	2,596,056
Frozen Bovine meat	3,838	37,066,218
Netherlands	1,585	17,911,885
UK	860	3,800,723
Germany	394	4,323,063
Sweden	222	2,718,579
Sheep and Goat Meat	117,782	895,296,109
UK	50,896	299,355,935
Netherlands	24,445	247,126,772
Germany	16,344	166,206,521
France	7,466	47,885,714
Belgium	4,886	48,676,831

The EU also sends relevant amounts of pig meat to New Zealand. It is one of the main sources of this meat for the country, representing around 42% of New Zealand's pig meat imports. The main exporter is Spain, followed by Finland, Sweden, Poland, Belgium and Germany.

Products exported by the EU	2018	
	[t]	[€]
Pig meat	27,262	72,226,605
Spain	14,158	36,161,223
Finland	3,694	11,292,401
Germany	2,385	6,713,454
Sweden	2,122	4,747,763
Denmark	1,150	3,782,825
Belgium	1,276	3,215,752

TRADE IN ANIMAL-BASED TEXTILES

New Zealand is the EU's second source of wool (mostly degreased shorn wool,⁷ while Australia exports greased shorn wool) and the third source of lanolin.⁸ It is also an important provider of by-products of the bovine industry: it is the EU's fourth source of tanned or crust hides and skins

³ <https://www.mpi.govt.nz/protection-and-response/animal-welfare/national-animal-welfare-advisory-committee/nawac-members/>

⁴ <https://www.mpi.govt.nz/protection-and-response/animal-welfare/codes-of-welfare>

⁵ <https://www.mfat.govt.nz/assets/FTAs-in-negotiations/EU-FTA/9.-NZ-Beef-and-Lamb-Meat-Industry-Association.pdf>

⁶ <https://www.mfat.govt.nz/assets/FTAs-in-negotiations/EU-FTA/9.-NZ-Beef-and-Lamb-Meat-Industry-Association.pdf>

⁷ HS code 510121

⁸ Lanolin is wool grease that is refined and incorporated into many commercial preparations

of bovine.⁹ The EU is the second largest market for New Zealand's wool and it is seen as a significant one for the co-products of the bovine industry. The main EU importers are the UK, Italy, Germany, Lithuania and the Czech Republic.

Products	2018	
	[t]	[€]
Wool	31,464	107,230,222
UK	9,354	26,976,347
Italy	8,371	36,206,491
Czech Republic	3,356	14,050,113
Lithuania	3,071	8,572,149
Germany	2,736	6,882,877
Lanolin	941	2,810,656
UK	467	1,380,422
Belgium	459	1,388,763
Germany	15	41,471
Tanned/crust bovine skin	25,535	71,848,237
Italy	25,297	67,214,302
Slovakia	238	4,607,055

TRADE IN DAIRY PRODUCTS

New Zealand imports of EU dairy products have grown 10 times since 2010 (from 2,346 to 29,957 tonnes). These imports are located mostly in whey (HS code 0404) and concentrated milk and cream (HS code 0402). On the contrary, EU imports of New Zealand's dairy products have decreased over the same period, from 58,097 to 14,918 tonnes. The trade dynamics has thus reversed. EU imports are mainly made of butter: New Zealand is the EU's first source of butter and dairy spread (HS code 0405). New Zealand is also the EU's second source of imported cheese, with 2,105 tonnes in 2017, although far behind Switzerland (52,000 tonnes in 2017). The main EU importers of NZ butter are Belgium, Denmark and France, and imports of New Zealand's cheese mostly go to the Netherlands. The main source of the milk and cream sent to New Zealand is also the Netherlands, and whey mostly comes from France, Ireland and Germany.

Products imported by the EU	2018	
	[t]	[€]
Butter/dairy spread	13,467	68,697,569
Belgium	5,062	26,543,872
Denmark	3,479	18,717,205
Netherlands	3,035	13,740,086
France	1,592	8,441,179
UK	299	1,255,221

⁹ HS code 4104

Products exported by the EU	2018	
	[t]	[€]
Milk and Cream, concentrated	2,713	19,107,866
Netherlands	1,555	9,540,313
Italy	890	7,891,399
Austria	150	1,237,479
France	32	263,210
Whey	28,895	49,960,398
France	13,707	18,462,904
Ireland	5,568	8,091,837
Germany	3,933	7,911,196
Netherlands	2,791	4,439,845
UK	2,123	2,886,228

TRADE IN FISH PRODUCTS

In 2017, the EU imported 26.5 tonnes of frozen fish and fish fillets from New Zealand. New Zealand is not among the EU's top sources of fish products, but it remains a relevant trade flow, especially as fisheries is an important sector in New Zealand. The EU is New Zealand's first market for fish fillets and second for frozen non-fillet fish. The main EU importers of New Zealand's frozen fish are Spain and then France and Portugal, and of New Zealand's fish fillets Poland, France, Germany, Denmark and Spain.

Around a fifth of New Zealand's fish production comes from aquaculture (108,000 out of 550,000 tonnes); however, no fish products derived from the species usually farmed are exported to the EU.

Main imports of frozen fish (HS 0303) in tonnes	2018
Frozen fish, not elsewhere specified	4,149
Frozen Hake "Merluccius SPP., urophycis SPP."	1,824
Frozen Albacore/ Long finned tuna	1,725
Frozen fish livers, roes and milt	693
Frozen skipjack or stripe-bellied bonito	494
Total	10,214

Fish fillets and other fish meat (HS 0304) in tonnes	2018
Frozen fillets of fish of the families Bregmacerotidae, Euclichthyidae, Gadidae, Macrouridae, Melanonidae, Merlucciidae, Moridae and Muraenolepididae (excl. Cod, Haddock, Coalfish, Hake and Alaska Pollack)	13,471
Frozen meat, whether or not minced, of fish of the families Bregmacerotidae, Euclichthyidae, Gadidae, Macrouridae, Melanonidae, Merlucciidae, Moridae and Muraenolepididae (excl. Fillets and Alaska Pollack "Theragra Chalcogramma")	1,435
Frozen fish fillets, not elsewhere specified	1,303
Total	16,554



2

OPPORTUNITIES TO RAISE FARM ANIMAL WELFARE IN THE EU-NEW ZEALAND FREE TRADE AGREEMENT

2.1

LIVE EXPORT

The EU should learn from New Zealand’s experience in replacing live exports for slaughter purposes by a trade in meat and carcasses.

New Zealand banned live exports for slaughter purposes in 2003, pushed by the industry, which claims it had already stopped the practice voluntarily, mostly due to reputational risks. In 2015, the country strengthened measures around the exports of live animals for other purposes. When exporting animals for breeding, New Zealand must grant a “welfare certificate” considering criteria such as the destination and the conditions of the journey. Recently, New Zealand has started promoting the trade in genetic material, to avoid sending animals that would be sold for breeding purposes on long journeys.

Animal protection organisations in New Zealand fear, however, that live exports might increase as trade deals proliferate. They believe the “welfare certificate” granted by their government is woeful, as the ministry in charge has no control over how animals will be treated once they arrive at destination. These animals, even if sent for breeding purposes, will ultimately be slaughtered, even if the country of destination has slaughter standards well below New Zealand’s or even OIE ones. They also describe the shipment conditions as shocking. In 2017/2018, 21,525 live cattle were exported from New Zealand, and in 2019, with two shipments still to report their figures, 3,465 were exported, largely to countries with lower animal welfare standards.¹⁰ Following a recent scandal surrounding animals sent to Sri Lanka, the Government has now announced it considers implementing a conditional ban on live exports, based on animal welfare standards applied by the importing country.¹¹

¹⁰ <https://www.stuff.co.nz/national/politics/opinion/112195693/when-will-the-governments-brand-kindness-be-extended-to-animals?fbclid=IwAR0B2VXAhfYBXei2-PC-RZgYyfpMMVY96r8XwZAbwYBRQ2B4a6n9dsrU9g#comments>

¹¹ <https://www.stuff.co.nz/business/farming/113401249/government-may-ban-live-cattle-exports>

The EU has adopted a regulation on animal transport which should apply, according to the Court of Justice of the European Union, up to the destination point. However, more than a decade after its adoption, there are still shocking shortcomings in the implementation of this regulation and there is significant room to revise it. The EU could thus learn from New Zealand's experience in developing a trade in meat and carcasses, rather than in live animals. This would provide a response to the European Parliament's recent call to stop live transport to countries with animal welfare standards lower than those applied in the EU.

2.2 SLAUGHTER

The EU and New Zealand should collaborate on reversible stunning methods and the EU should share its positive experience with conditioning the imports of meat products to the respect of its standards on welfare at the time of killing, as a way to foster higher animal welfare standards in third countries.

The EU and New Zealand have reciprocally recognised their slaughter standards as equivalent from an animal welfare perspective. However, New Zealand and the EU could collaborate on details such as reversible stunning methods, more specifically on reversible electronarcosis. New Zealand has, for instance, managed to get the regulatory agencies of important Muslim countries to recognise their stunning method as halal, which provides a path to decrease live exports to these countries.

Since the entry into force of its slaughter regulation, the EU imposes the respect of its standards on welfare at the time of slaughtering to all imported meat products. These rules are part of the requirements to get a foreign slaughterhouse certified for export to the EU. According to a study published by its Directorate-General for health and food safety on the EU's international animal welfare activities, this has been the EU's most effective tool in promoting higher animal welfare standards abroad. New Zealand could learn from how the EU uses trade policy to foster higher animal welfare in other countries and design its own strategy to contribute to improving life for animals worldwide.

2.3 ENSURING HIGHER CATTLE WELFARE

The EU should maintain the preferential access for beef imports at the lowest level possible to avoid encouraging live exports from the EU. It should also ensure that the trade preferences it grants to New Zealand do not incentivise detrimental method of production, such as a grain diet and feedlots.

In terms of value, New Zealand's exports of fresh bovine meat to the EU have almost quadrupled over the past decade, while quantity-wise they only doubled. This underlines the important role played by high value cuts in this trade. The tendency is similar – if slightly weaker – with frozen bovine meat.

New Zealand already benefits from preferential access to the European beef market. New Zealand's "high quality" fresh/chilled bovine meat can enter the EU market using the following tariff-rate quotas (TRQs):

- The Hilton TRQ: New Zealand has a yearly allocation of 1,300 tonnes, from which it has used roughly 85% over the last couple of years. This TRQ has an in-tariff of 20% and the criteria that have to be respected by producers refer to New Zealand legislation. According to these criteria, the animals from which the meat is derived must have been exclusively pasture grazed.¹²
- The Hormone-free Beef TRQ: this TRQ is even more interesting from a commercial point of view, as it now sets an amount of 45,000 tons of "high-quality beef" allowed to enter the EU market duty free¹³. This quota is granted erga omnes (to all WTO partner countries), as long as the meat fits the description contained in the EU regulation. Unlike the Hilton quota, this definition is unique and was set, at the time the quota was created, to fit the production model of the US industry. It indicates that the animals must have been "fed a diet, for at least the last 100 days before slaughter, containing not less than 62% of concentrates and/or feed grain co-products". Such an obligation translates into the necessary use of feedlots and thus the confinement of animals. As New Zealand is a country poor in grains, it does not use the hormone-free beef TRQ much; the industry reports that New Zealand sends around a hundred tons of beef yearly using this quota. Those animals are kept on the Five Star Beef

¹² The criteria indicated in EU law are the following: 'Selected beef cuts derived from exclusively pasture grazed steers or heifers, the carcasses of which have a dressed weight of not more than 370 kilograms. The carcasses shall be classified as "A", "L", "P", "T" or "F", be trimmed to a fat depth of "P" or lower and have a muscling classification of 1 or 2 according to the carcass classification system administered by the New Zealand Meat Board'.

¹³ This TRQ has been amended in 2019: 35,000 tonnes will be allocated strictly to the US, leaving only 10,000 tonnes for other producing countries.

Feedlot in Ashburton, which was previously created to provide for the Japanese market, and only the ones used to produce meat intended for the European market are fed with grain, to fit the EU criteria. In 2018, this feedlot was reported to be technically violating several environmental rules¹⁴.

The EU also has two TRQs in place covering frozen bovine meat:

- “Frozen Beef” TRQ: this TRQ of 53,000 tonnes is opened erga omnes and covers frozen meat. The in-tariff is 20% and there is no specific criteria regarding the meat.
- “Frozen beef for processing” TRQ: this TRQ is open erga omnes for two kinds of products. The first allocation of 50,000 tonnes covers frozen beef intended for the manufacture of processed products containing mostly beef; the second, of 13,703 tonnes, covers frozen beef intended for the manufacture of other products. The in-tariff is 20% and there is no specific criteria regarding the meat.

At the moment, most of the frozen meat exported by New Zealand to the EU (around 3,500 tonnes in 2017) is likely to have entered the EU market using relevant TRQs (as these TRQs are generally not fully used). However, regarding fresh bovine meat, it seems that the volume of the TRQ available is tight compared to the volume exported each year (2,272 tonnes in 2017). This means that an allocation of additional preferential volume is likely to lead to an increase of New Zealand’s exports of fresh beef into the EU.

As the beef industry is a crucial sector in New Zealand, a request for further access to the European market will be on the table during the negotiations. The beef sector has generated \$23 billion in export revenue in 2017, making beef the most valuable export from New Zealand by far. Eurogroup for Animals is concerned about the indirect consequences of allowing further preferential access to the European beef market. European beef producers are already struggling with the effects of other trade agreements as well as a dwindling demand for beef on the internal market. These phenomena are putting this sector under a significant strain, and in turn this has resulted in successful efforts to increase EU exports of live cattle towards third countries such as Lebanon, Turkey, Algeria and Israel, where after harrowing journeys the animals are slaughtered in patent violation even of the basic OIE standards.

In 2019, the EU re-negotiated the “hormone-free beef” TRQ with the US, and allocated more than two thirds of its volume solely to US producers. Opportunities have thus decreased for New Zealand’s producers, and the EU will probably offer to compensate for this loss through the establishment of a new TRQ in the context of the Free Trade Agreement (or/and by decreasing the in-tariff of the Hilton quota – currently at 20% – to zero, as it did with Canada and Mercosur countries). When discussing access to the European beef market, the EU should thus strive to limit as much as possible the conceded volume. It should also seize this opportunity to ensure that the TRQs it opens to New Zealand do not have a negative impact on the welfare of the cattle. Considering the grain-based diet obligation contained in the “hormone-free beef” TRQ, which is detrimental to the cattle’s welfare, the EU should push for the criteria set by any new TRQ established with New Zealand to favour producers that respect higher levels of animal welfare standards. At the moment, the definition contained in the Hilton quota – which has been used in the case of Canada – refers to cattle exclusively raised on pasture, which would be an improvement compared to those forced to eat mostly grains. The EU does not have cattle specific regulations but could consider adding criteria referring to the voluntary Recommended Best Practices mentioned in the Code of Welfare concerning cattle that favour animals who have enjoyed the highest level of animal welfare standards.

The beef cattle sector in the EU is intensifying, tarnishing our reputation. As the EU does not have cattle-specific regulation, it should use the animal welfare cooperation mechanism to learn from New Zealand and establish mandatory criteria, using New Zealand’s Code of Welfare, including Recommended Best Practices.

2.4 RAISING THE BAR FOR PIG WELFARE IN THE EU

New Zealand should strive for the EU to align its practices in the pig meat industry with New Zealand’s, notably on the use of farrowing crates and castration. The EU is the main source of pig meat imports into New Zealand, followed by Canada and the US. Higher animal welfare standards satisfying New Zealand’s consumers would thus be a selling point for EU pig meat exporters.

New Zealand imports 60% of the pig meat it consumes. The bulk (42%) originates from the EU, more specifically from Spain. In the EU, around 259 million pigs were slaughtered for meat in 2017, 50 million in Spain alone.

¹⁴ <https://www.radionz.co.nz/national/programmes/checkpoint/audio/2018666250/massive-nz-feedlot-non-compliant-for-months>



The EU restricts the use of individual confinement for sows as follows: sows can be housed individually for at most the first four weeks of gestation, and from one week before farrowing to the end of lactation. Farrowing and lactation occur in farrowing crates; loose farrowing accommodation is gaining ground, but is still uncommon in most Member States. Legally, the minimum weaning age for piglets is 28 days but it can be reduced to 21 days if certain conditions are met.

New Zealand is stricter: since 2015, it only admits individual confinement of sows for a maximum of five days before farrowing. Then, farrowing crates can be used up to four weeks after giving birth, which is equivalent to EU standards, except in Sweden, where farrowing crates are banned. Pigs can also be confined to stalls for mating purposes for a maximum of seven days per reproductive cycle.

EU law also prohibits the tethering of sows and tail-docking on a routine basis, and imposes the presence of enrichments for all pigs, including nesting materials for sows whenever the manure collection system allows it. Nonetheless, except for Finland and Sweden, the enforcement of the provision on enrichments and on the ban on routine tail docking is poor in most EU Member States.

New Zealand's 2015 regulation says that tail-docking is to be carried out with pain relief¹⁵ and supervised by a veterinarian or veterinary student for any piglet older than 7 days. For younger pigs, the procedure must simply "be carried out in a way that creates a clean cut and does not tear the tissue".¹⁶ The situation is similar for castration, though regardless of the age of the pig. By contrast, in the EU tail docking and surgical castration can be lawfully carried out without any kind of pain relief on piglets up to 7 days old by "trained" operators.

In New Zealand, pigs raised for human consumption are not surgically castrated. Most of them are sent to slaughter at a lower weight, thus younger, meaning that they have not fully reached puberty and in other cases, producers use immunocastration. In the EU, however, a recent survey¹⁷ showed that around 61% of male piglets are surgically castrated, of which 95% are castrated without or with inadequate pain relief (analgesia only). If we consider the 259 million piglets slaughtered in the EU for meat in 2017, and assume than half are male, this translates into approximately 75 million male piglets castrated painfully every year. This includes millions of pigs that are destined for prestigious "Geographical Indication" productions such as Parma or San Daniele hams, as there are no specific rules better guaranteeing animal welfare under such quality schemes.¹⁸

¹⁵ Pain relief here means 'Any analgesic or local anaesthetic drugs (or both) administered with the aim of providing significant alleviation of pain'.

¹⁶ <https://www.mpi.govt.nz/dmsdocument/1445-pigs-animal-welfare-code-of-welfare>

¹⁷ <https://porcinehealthmanagement.biomedcentral.com/articles/10.1186/s40813-016-0046-x>

¹⁸ <https://www.thelocal.it/20180328/cruelty-italy-pig-farms-parma-ham>

New Zealand has recently passed a legislation imposing country-of-origin labelling on meat, among other products.¹⁹ Better informed New Zealand consumers are very likely to consider this information carefully and could react to the lack of enforcement of animal welfare standards reported in EU countries that are currently exporting pig meat to New Zealand.

If both partners were to support an upward regulatory alignment on animal welfare standards, it would allow the EU to work with New Zealand to ensure that EU pig meat producers respect higher standards fitting the expectations of New Zealand's consumers (notably regarding the use of farrowing crates and castration), and that this is conveyed to consumers so that their purchasing choices can be better informed. Other top importers being Canada and the US, the EU has a chance to stand out based on animal welfare criteria.

2.5 SHEEP MEAT

In the light of a potential Brexit, the EU should limit further trade preferences granted for sheep meat from New Zealand to avoid increasing live sheep exports from EU countries. These trade preferences should be conditioned to the respect of standards equivalent to those found in the EU transport regulation.

New Zealand has access to the EU sheep meat market through a preferential TRQ that allocates to the country a duty free access for a volume of 228,254 tonnes (80% of the total granted to all countries). At the moment, this volume is not fully used, so additional access is unlikely to create a surge in trade flows. However, most of these imports currently go to the UK, so it is important for the EU to ensure that, in case of Brexit, the splitting of the TRQ and any new TRQ granted does not add pressure to the sector in Europe.

Europe is not self-sufficient in sheep meat, and the main producing countries are the UK and Ireland for heavy lambs, Greece and Italy for light lambs, and a mixed production in France and Spain. However, the sector exports 10% of its production. In 2017, the top destinations for these animals were Libya, Jordan, Israel, Lebanon and Turkey. In these countries animals, after harrowing journeys, are likely to endure unstunned slaughter in conditions that are most often in patent violation even of the basic OIE standards.

The EU should ensure that the compromise found with New Zealand does not impede a move to replace the trade in live animals for slaughter purposes into a trade of meat and carcasses.

The EU should also discuss the implementation of the Codes of Welfare in the sheep industry, notably measures related to lameness. While New Zealand's Ministry for Primary Industries lists between 30 and 40 cases of lameness in sheep identified at processing plants each year, research undertaken by the same ministry in 2013 found out that approximately one percent of all sheep transported for slaughter considered by the study displayed lameness at a relevant level. If one extrapolates the one percent to the 24 million sheep slaughtered each year in New Zealand, it would mean that around 240,000 sheep could have been transported violating existing regulations. Following these higher than anticipated levels of non-compliance, new measures were adopted, but their impact should be carefully monitored.

The EU does not have sheep-specific regulation and could use the animal welfare cooperation mechanism to learn from New Zealand and establish criteria.

2.6 WORKING TOGETHER TOWARDS HIGHER FISH WELFARE

The EU should learn from New Zealand and update its slaughter and transport regulations to include technical details of particular importance when fish are concerned.

Fisheries is an important sector in New Zealand, and the EU is the country's first market for fish fillets and second for frozen non-fillet fish. With aquaculture being present in both countries, the partners should discuss how to ensure higher welfare for farmed fish. In the EU, only the general principle of the slaughter regulation applies to fish, meaning that they shall be spared any avoidable pain, distress or suffering during their killing and related operations. The EU Organic Regulation – which affects a segment that represents 3% of EU aquaculture – is an exception to this, and contains a specific requirement that slaughter techniques shall render fish immediately unconscious and insensible to pain. In each case, these requirements are applicable only to farmed vertebrate finfish.

¹⁹ The Consumers' Right to Know (Country of Origin of Food) Act - passed into law on 28 November 2018



Fish welfare regulations in New Zealand are significantly stronger than the EU's. Notably, New Zealand has defined a series of specific important requirements for the welfare of fish at the time of killing, covering equipment, holding tanks, handling, competences, rapid and irreversible loss of consciousness, and killing methods. These requirements are applicable to all farmed vertebrate finfish, as well as wild caught vertebrate finfish that are held for killing at a later time. The use of appropriate euthanising drugs is permitted at the time of slaughter, while in the EU such drugs are not allowed to be used at the time of slaughter of a fish entering the food chain, but only for fish used in a research environment.

New Zealand animal welfare regulations also require that specific water quality parameters are monitored during transport, and that they are maintained within the appropriate range. EU animal transport rules, although covering fish, do not include any specific requirements appropriate to the transport of fish; again, only general principles apply.

Finally, New Zealand has extended welfare protections at the time of killing to species of crustacea that are farmed or are wild caught and held for killing at a later time. The series of specific requirements related to crustacea covers holding tanks, competences, and ensuring insensibility before killing. Unfortunately there is currently no consideration of crustacean welfare in EU animal welfare regulations.

3

WILDLIFE CONSERVATION AND WELFARE

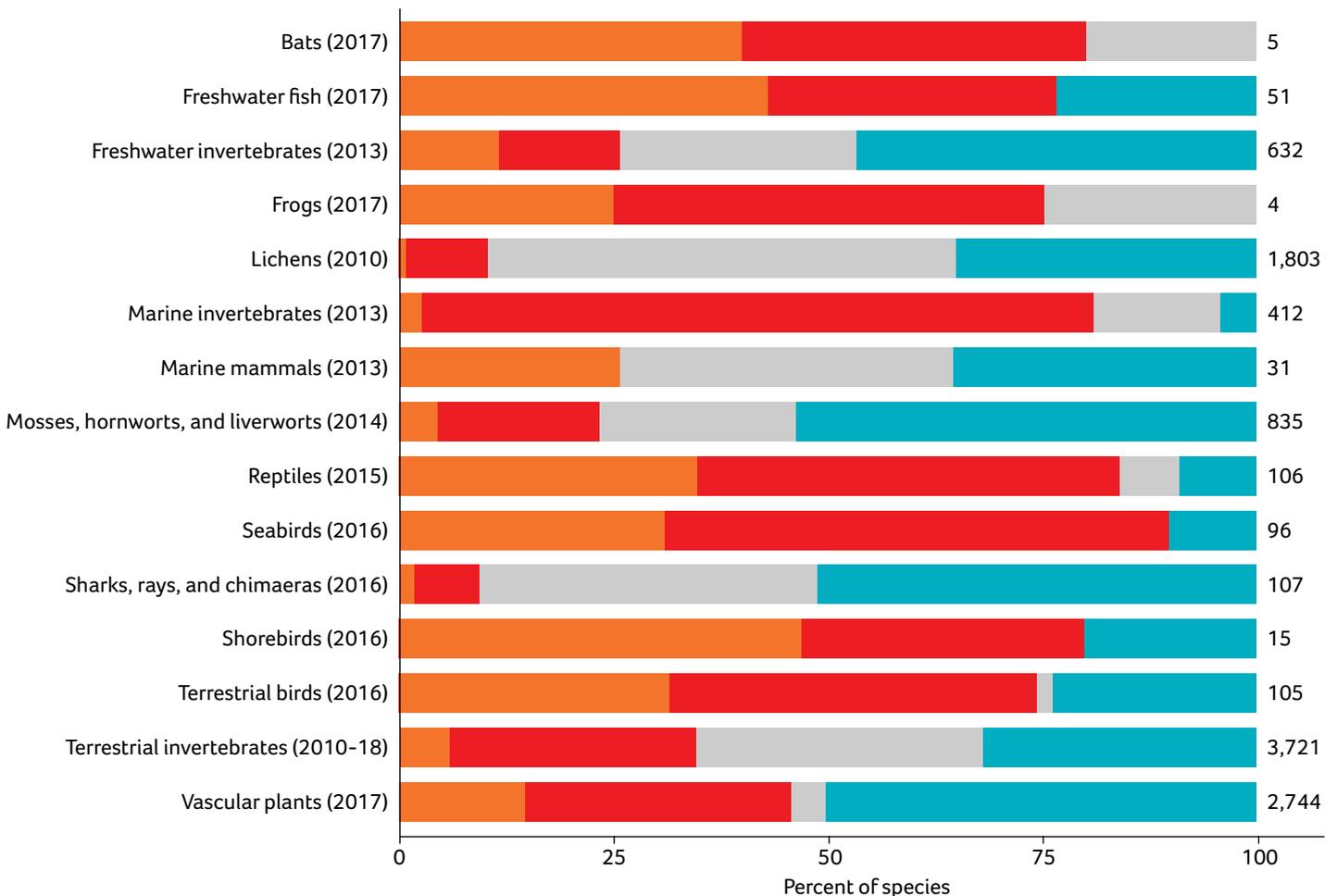
3.1

GENERAL ISSUES WITH CONSERVATION

New Zealand hosts many endemic species that are unique and irreplaceable. While the perception most outsiders have of the country’s conservation policy is pretty good, the reality is bleaker. The most recent report published by the government on the state of New Zealand’s environment (April 2019) indicates that since humans arrived in the country, 59 bird species, three types of frog, two reptiles and all moa species – flightless birds – are now extinct. The loss of the moas is recognised to be the “most rapid extinction of a large animal species caused by humans”.

The conservation status of 79% of native land vertebrates is either threatened or at risk of extinction.²⁰ This is also the case for 26% of native marine mammals, 76% of native freshwater fish and 9% of sharks, rays and chimaeras (ghost sharks). It is also feared that there might only be 63 (or fewer) individuals remaining of the emblematic Māui dolphin species, the smallest in the world. In the past 15 years the status of 86 species worsened, with only 26 seeing their status improving. For half of these 26, it is reported to be due to conservation efforts.

Figure 1: Conservation status of native species by species by species group



²⁰ <https://www.stats.govt.nz/indicators/conservation-status-of-indigenous-land-species>

The report makes the connection between this biodiversity loss and shrinking habitats. Forests and wetlands have been reduced by farming and urban expansion. “Ecological studies show that dropping below 10 percent native vegetation cover can trigger a decline in many species (Drinnan, 2005; McIntyre & Hobbs, 1999), so urban expansion and the further loss of native vegetation could cause disproportionately large changes in the biodiversity that remains on city fringes.” The role of pollution of the water by heavy metals or other contaminants issued from farming activities is also listed, as well as invasive alien species, climate change and the harvesting for food or commercial purposes of wild species.

According to conservation associations, the report still underestimates the situation as it does not properly cover the situation of the marine world. It misses out the issue of ‘marine heatwaves’, as well as New Zealand’s inadequate marine protection system: less than 0.5% of national waters are protected.²¹

3.2 FOCUS ON THE DAIRY SECTOR

The dairy industry in New Zealand has always attracted a lot of attention and praise – at least from an economic perspective. New Zealand is one of the largest dairy producers worldwide and the sector provides the largest employment among traditional industries, behind tourism and fisheries.²² Between 1994 and 2017, the dairy herd grew by 70%. The government has been supporting the sector since the 1990s, allowing for more innovation and diversification. Certain experts even predict that New Zealand’s dairy production will double in the next 50 years to meet global demand.

This picture completely omits the devastating impact this industry has had on New Zealand’s environment and its wildlife. The above-mentioned government report on New Zealand’s environment officially recognises this impact and its increase as farming intensifies. In New Zealand, this has translated into fewer sheep and more cows – especially dairy cows – who produce more urine containing more nitrogen than sheep. This also means a higher density of animals per hectare, more fertiliser (such as nitrogen) used to grow the required feed, and more deviation of natural rivers to irrigate the lands.

The impact of the EU-New Zealand trade negotiations on both partners’ dairy sectors should be studied carefully and the welfare of animals should be taken into account. This should consider both the impact of methods of production on the welfare of dairy cows and the impact of pollution created by the sector on the conservation and welfare of wild animals depending on the affected habitat, as well as on the welfare of the cows and calves per se.

The growth of the dairy sector, in particular, in the past 20 years has had a very damaging impact on water quality. Another example is given through the case of braided rivers whose margins are important for native species like geckos and skinks. This specific habitat becomes lost when land alongside the river beds is used for other purposes, such as intensive agriculture.

Focus on fisheries and by-catch

Several animal protection NGOs are pushing to raise with New Zealand’s government the appalling numbers of Māui and Hector’s dolphins dying in fishing nets. These species - collectively known as [New Zealand dolphins](#) - are hurtling towards extinction. Fishing nets kill 110 to 150 New Zealand dolphins every year, including between two and four critically endangered Māui dolphins. There are fewer than 60 dolphins left in the group who live around the North Island, and the South Island’s population is down to just 20% of its former size. If not urgently addressed, this death-rate is enough to wipe them out forever. On 17th June 2019, New Zealand’s government released a new Threat Management Plan for Māui and Hector’s dolphins, on which they will start consulting stakeholders.²³

Regulations impacting incidental catches of cetaceans in fisheries are currently being reviewed in the EU. They will now form part of a new Regulation on the conservation of fishery resources and the protection of marine ecosystems through technical measures (2016/0074), which has been agreed upon by both European Parliament and Council and is awaiting final formal approval. Even though the EU’s existing measures are seen as insufficient by many NGOs, especially in light of the numbers of cetaceans dying in fishing nets each year, organisations in New Zealand consider their country to have even weaker legislation in the field.

²¹ https://www.theguardian.com/world/2019/apr/18/decades-of-denial-major-report-finds-new-zealands-environment-is-in-serious-trouble?CMP=share_btn_tw

²² <https://moderndiplomacy.eu/2018/09/30/insights-into-the-dairy-industry-new-zealand-meeting-the-future-global-milk-demands/>

²³



The EU and New Zealand could work on this topic, both aiming at adapting their fishing methods to better ensure the welfare and conservation of cetaceans around the globe. New Zealand is not one of the EU's top sources for fisheries products, but the EU is a significant market for New Zealand fish products. Measures should be taken to avoid that this trade, and any increase in such trade, has a detrimental impact on the welfare and conservation of cetaceans.

Such measures could include electronic monitoring (i.e. cameras) on all trawl and seine net vessels; the removal of gill, seine and trawl nets from the entire habitat of Māui and Hector's dolphins with a margin of 100m; the avoidance, removal and proper management of other threats within these areas (seismic testing, noisy marine activities such as pile driving and mineral extraction); and the monitoring and regulation of activities to address the risk of boat strike and habitat disturbance. Banning destructive fishing methods from the New Zealand dolphins' home was an electoral promise of the party in power.

Interestingly, the US National Oceanic and Atmospheric Agency (NOAA) has adopted rules requiring that fish imported since 2016 has met US by-catch standards.²⁴ A similar approach could be followed by the EU.

²⁴ <https://www.fisheries.noaa.gov/foreign/marine-mammal-protection/noaa-fisheries-establishes-international-marine-mammal-bycatch-criteria-us-imports>

²⁵ https://www.unodc.org/documents/southeastasiaandpacific/Publications/2017/FINAL_-_UNODC_APG_Wildlife_Crime_report.pdf

²⁶ <https://www.landcareresearch.co.nz/publications/newsletters/kararehe-kino/kararehe-kino-issue-30/when-pets-go-rogue-the-link-between-the-wildlife-trade-and-exotic-species>

3.3 FOCUS ON ILLEGAL WILDLIFE TRAFFICKING

The EU is one of the top three destinations and a hub for illegal wildlife trafficking, alongside China and the US. In addition, one third of illegal ivory is seized there. The liberalisation of trade contributes to increase opportunities for traffickers. As a report published in 2017 by the UN Office on Drugs and Crimes (UNODC) and the Asia/Pacific Group on Money Laundering shows, "the majority of jurisdictions are not moving fast enough to keep up with the crisis. There is a widespread lack of political will to fully prioritise and manage wildlife crime on a par with the scale and urgency of the issue".²⁵

Special attention should be paid to the trade in exotic pets, even though New Zealand does not currently appear to be one of the EU's main sources of such animals. The trade in exotic pets is a growing one, and has redefined the trade in wild animals: "where in the past there was an emphasis on mammals and some birds, nowadays the pool of potential exotic species is dominated by ornamental fish, amphibians, reptiles, and caged birds."²⁶



The trade in exotic pets poses a threat not only to the conservation of the species but also to the welfare of the traded animals. Wild animals have specific needs in terms of diet, housing and behaviour. In the last century, over 50 species of exotic reptiles have been intercepted at New Zealand's borders, including over 700 individual specimens for a six-year period between 2004 and 2010.²⁷ Concern has been expressed that enforcement capacity may be insufficient with regard to wildlife smuggling, with just three Wildlife Enforcement Officers employed in New Zealand.²⁸ In addition, if the animal escapes or is released, it can become invasive and negatively impact European endemic species.

Although CITES is a powerful tool to regulate or even ban the international trade of threatened species, there are several criminal ways to circumvent it: export quotas may be systematically exceeded or inappropriately set, for example. A lack of knowledge and expertise of certain species, especially reptiles, can also contribute to an increase in the trade of endangered species. In addition, many species that would deserve to be protected under CITES are not, which implies that even if they are protected under New Zealand law, their trade in the EU would be deemed legal.

To avoid such a situation, Eurogroup for Animals recommends that both partners move towards a “positive list” approach, listing all species that can be traded rather than those that cannot. Such an approach would facilitate enforcement by customs authorities and ensure that a more precautionary approach is adopted towards those species about which not much is known at the moment. New Zealand is progressing in that direction regarding invasive species by working on a “National Pest Pet Biosecurity Accord”. The Accord is currently drafted by a group composed by the MPI, the Department of Conservation, regional councils, the Pet Industry Association and the New Zealand Companion Animal Council. It will aim to “regulate the domestic trade of high-risk pets and to encourage responsible pet ownership”. To do so, it may aim to “control breeding, selling and movement of certain species.”²⁹

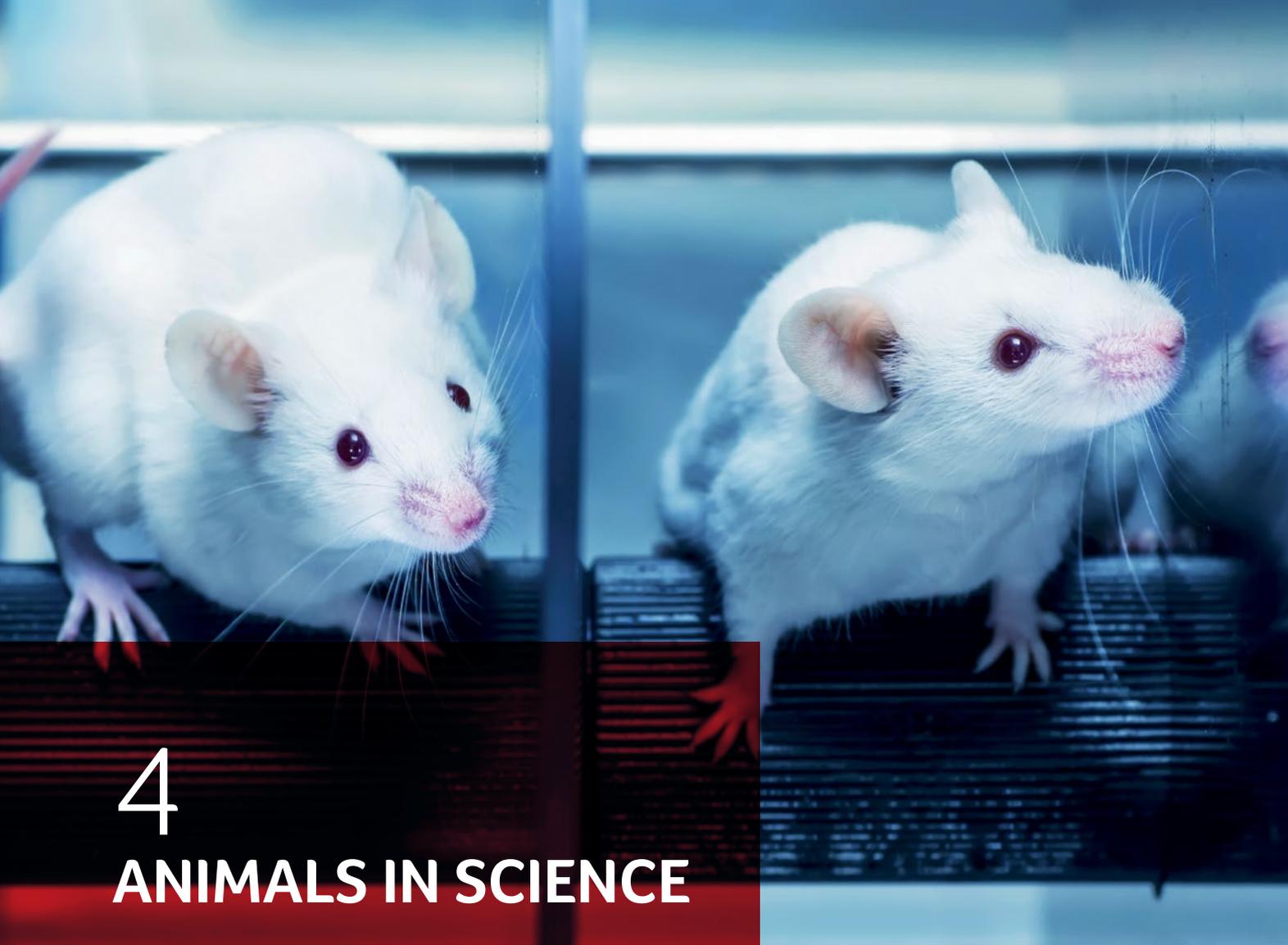
In September and October 2019, New Zealand also conducted a consultation regarding its “Trade in Endangered Species” Act, which implements CITES. The consultation considered, among others, a ban on domestic trade in ivory, which is reported to have dramatically increased in New Zealand since 2016³⁰. Such a ban – already adopted by France and the UK – would be vastly supported by animal protection NGOs, not only for New Zealand but also at EU level.

²⁷ Kikillus, Kristina Heydi, Exotic reptiles in the pet trade: Are they a threat to New Zealand?, 2010

²⁸ <https://www.mpi.govt.nz/dmsdocument/4175-pet-biosecurity-in-new-zealand>

²⁹ <https://www.mpi.govt.nz/protection-and-response/finding-and-reporting-pests-and-diseases/keeping-watch/stopping-pets-becoming-pests/>

³⁰ <https://gordonconsulting.org/2019/08/21/new-zealand-domestic-ivory-trade-doubles/>



4

ANIMALS IN SCIENCE

As in the EU, research projects involving the use of animals for scientific purposes in New Zealand have to be approved by an animal ethics committee, and only approved organisations and people can conduct such procedures. Statistics from 2016 showed that half of the animals used in science were farm animals.

After a poll that showed that 89% of New Zealanders did not support testing cosmetics on animals, the country also banned animal testing for cosmetic ingredients and products.

New Zealand has stronger restrictions than the EU for the use of great apes for research and testing purposes. These species cannot be used to investigate human conditions.

Both countries could thus cooperate on how to further promote the adoption of alternatives to the use of animals in research, testing and education. By sharing their common interests and beliefs, the EU and New Zealand can also join forces in international fora to promote, for example, an international ban on animal testing for cosmetics. They could also consider collaborating in such fora to limit worldwide the use of great apes in science to certain extreme situations that both countries already agree on, such as when the research is in the best interests of the species, or essential for its preservation.



5

DEMANDS FOR THE EU-NEW ZEALAND FTA

5.1 ANIMAL WELFARE PROVISIONS

The agreement should include strong and detailed provisions on animal welfare cooperation. Both partners should commit to aligning their animal welfare regulations upwards, raising standards for animals wherever possible and learning from best practices, be they carried out in the EU or in New Zealand.

The EU and New Zealand could also put emphasis on their commitments to animal welfare by gathering those provisions in a standalone chapter on animal welfare. The chapter should comprehensively cover all issues related to animal welfare and trade: farm animals, animals used in research, fish welfare and wildlife. Both partners should also use it to further develop their understanding of animal sentience, providing more concrete elements that would allow testing of whether policies respect that animals are sentient beings.

The agreement should also ensure that only a minimal volume of animal products is granted preferential access to the EU and, where possible, it should include conditional liberalisation mechanisms providing trade preferences only for products that respect animal welfare standards equivalent to those implemented in the importing country. In addition to serving as an incentive for European and New Zealand producers to further improve their animal welfare standards, conditional liberalisation would also contribute to fulfilling the wishes of citizens – in the EU, 93% want to see imported animal products respect EU equivalent standards, and 89% want the EU to do more for farm animals. This would also help, when needed, to ensure a level playing field for producers.

The agreement should include a recognition by the partners that each should be entitled, in the future, to add conditions to access to their own market that demand that animal welfare standards are equivalent to those applied within their territory. This would consolidate the EU's (and New Zealand's) right to regulate in favour of higher animal welfare standards (which would also apply to imported products) by reducing the fear of seeing the new rules challenged at the WTO.

5.2

TRADE AND SUSTAINABLE DEVELOPMENT

The EU must work towards the inclusion of a groundbreaking Trade and Sustainable Development (TSD) chapter in future the EU-New Zealand Free Trade Agreement, with proactive and detailed language on wildlife conservation and fighting illegal wildlife trafficking, and on the link between improved animal welfare and sustainable agriculture and aquaculture.

Regarding wildlife, the EU must build up on the stronger language included in the modernised EU-Mexico Global Agreement, notably on promoting the inclusion of new species threatened by international trade in CITES' appendices and on implementing effective measures to combat illegal wildlife trade. Both parties should also consider species-specific commitments to protect the welfare of traded wild animals. Commitments should also be made to allocate more resources to enforcing legislation to fight against wildlife trafficking and to improve and increase cooperation between law enforcement agencies, notably through the United Nations Convention against Transnational Organized Crime (UNTOC) and the United Nations Convention against Corruption (UNCAC). Special attention should be paid to the trade in exotic pets, and both sides should consider adopting a "positive list" approach, listing all species that can be traded rather than those that cannot. This would facilitate enforcement by customs authorities and ensure a more precautionary procedure is adopted towards species about which not much is known at the moment.

The agreement should include strong provisions on deforestation – a clear driver of biodiversity loss – as well as a recognition of the link between intensive industrial farming, climate change and wildlife conservation, as underlined by the most recent governmental report on New Zealand's environment.³¹ This link between the type of farming and, more generally, sustainable development could be reflected in an article on "Sustainable Agriculture". This would be a first, although the EU's FTAs usually include an article on "sustainable fisheries and aquaculture." Indeed, intensive industrial farming has a very negative impact on the environment (air, water and ground pollution), biodiversity (as related land-use changes lead to a loss of habitat), antimicrobial resistance and climate change (as animals emit greenhouse gases, and also because of the related deforestation). In addition,

this type of farming implies a confinement of the animals that intrinsically negates the possibility to respect their welfare, cramming them into tiny and barren spaces where they cannot express natural behaviour, and where they are more vulnerable to disease.

The TSD chapter should also recognise the link between animal welfare, in general, and sustainable development. While protecting animal welfare is essential to sustainable development in its own right (and is recognised as a dimension of a sustainable agriculture),³² it is also complementary to a number of other aspects of sustainable development. Among the UN Sustainable Development Goals (SDGs) set by the UN 2030 Agenda for Sustainable Development, several are either directly connected to animals or cannot be achieved without addressing animal welfare-related issues.³³

To facilitate enforcement and ensure greater impact, the TSD chapter in the EU-New Zealand FTA must include stronger implementation mechanisms. This would imply the use of a more detailed and actionable language in the chapter itself, the inclusion of last resort sanctions or material consequences in case of violation of commitments, the creation of a complaint mechanism open to stakeholders other than the Parties and the definition of detailed road maps of issues that must be addressed by both countries. Parties should also develop methodologies to assess the impact of their trade on the animals, on climate and on the environment.

The Parties should also commit to create a "Domestic Advisory Group" to monitor the implementation of the agreement before the agreement is (provisionally) implemented. These civil society groups should be in charge of monitoring all aspects of the implementation of the FTA that impacts sustainable development.

³¹ Ministry for the Environment & Stats NZ, Environment Aotearoa 2019 - New Zealand's environmental reporting series, April 2019

³² Speech by Dacian Cioloş (then European Commissioner for Agriculture and Rural Development), Europe's path towards sustainable agriculture, G20/Rio De Janeiro, 21 June 2012

³³ Read more on this in our report on Animal Welfare, Trade and Sustainable Development, October 2018



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