

BRIEFING: MERCOSUR

Animal Protection in EU Trade Negotiations

EUROGROUP FOR ANIMALS

Eurogroup for Animals
Rue Ducale 29 – 1000 Brussels
Tel: +32 (0)2 740 08 20
info@eurogroupforanimals.org
eurogroupforanimals.org

Twitter [@Act4AnimalsEU](https://twitter.com/Act4AnimalsEU)
Facebook [@eurogroupforanimals](https://www.facebook.com/eurogroupforanimals)
LinkedIn [@eurogroup-for-animals](https://www.linkedin.com/company/eurogroup-for-animals)

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Author: Stephanie Ghislain, Trade & Animal Welfare Programme leader, Eurogroup for Animals, June 2020.

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EUROGROUP FOR ANIMALS BELIEVES THAT THE EU-MERCOSUR AGREEMENT, AS IT STANDS NOW, IS A BAD DEAL FOR ANIMALS, NATURE AND PEOPLE

THE NEGATIVE IMPACT IT CAN HAVE WILL BE CONCRETE AND OBSERVABLE IN THE SHORT TO MEDIUM TERM:

- The EU-Mercosur Agreement will increase trade and production in animal-based food, which has detrimental implications on animal welfare: less production and more live exports in Europe, and increasing numbers of feedlots in Latin America.
- The agreement is likely to fuel intensification of the animal production sector in both regions. The increased output in the beef and soy sector will trigger further deforestation. In addition to directly impacting climate change, deforestation also has a devastating impact on animals populating these forests. The loss of habitats for wild animals causes more frequent and closer interactions between wild and farmed animals, and with humans. This pressure on biodiversity is seen as a major cause of the spread of zoonoses (animal diseases transmissible to humans). Intensive farming facilities themselves are also a hotbed for zoonoses.
- The chapter on Technical Barriers to Trade could constitute an obstacle to the EU imposing a method of production labelling system to imported products.
- The chapter on sanitary and phytosanitary (SPS) measures foresees a simplification in the audit system to facilitate trade, which would lower the possibilities to carry out audits on the ground. As animal welfare can only be checked on farms and not at the border, this will have an impact.
- The SPS chapter does not recognise the right of the EU to apply the precautionary principle. The only provision referring to measures based on this key principle in the EU imposes that these measures should be temporary and reviewed as fast as possible. This is important, as several food safety measures based on this principle benefit animal welfare. This is the case of the ban on hormone-fed meat, the use of ractopamine or the chemical rinsing of meat; and soon, on the use of antibiotics to promote growth and increase yield. The measures related to the use of

antibiotics are key to fight antibiotic resistance, which is according to the World Health Organisation “one of the biggest threats to global health, food security, and development today”¹ and is closely linked to animal welfare standards. A provision explicitly mentioning the precautionary principle can be found in the Trade and Sustainable Development (TSD) chapter, but the definition of the principle has been narrowed – it does not mention food safety – and the enforcement mechanisms of the chapter are weak.

Possibilities of cooperation between the countries opened by the agreement cannot counterbalance the negative impacts of the agreement. The provisions are too weak and too dependent on both political willingness and resources, which can be scarce. In addition, if there was political willingness and resources, such cooperation could take place outside this trade agreement.

- Considering the importance of the animal production sector in these negotiations, the provisions included in the agreement on animal welfare cooperation are weak. While they recognise animal sentience and provide the possibility to also cooperate on on-farm practices, they do not set any objective – not even to enhance the protection and welfare of animals.
- The TSD chapter includes stronger language than usual, but it remains a reiteration of international commitments with no additional means to implement them. In addition, there is no material consequence to the violation of these commitments. The chapter does not include a section on sustainable agriculture referring to animal welfare as a dimension of this concept and does not list fish welfare as a criteria for sustainable aquaculture.

¹ <https://bit.ly/2LFGV4m>



SUBSEQUENTLY, EUROGROUP FOR ANIMALS CALLS ON THE EUROPEAN COMMISSION:

- ➔ To review the market access offer to further limit the volume granted in tariff-rate quotas (TRQs) for animal-based products, especially for bovine and chicken meat.
- ➔ To include animal welfare conditions for all trade preferences granted to animal products. The EU-Mercosur agreement is rumoured to contain, for the first time in any trade agreement, a condition based on animal welfare standards. This applies to the import of shelled eggs into the EU. This would be welcomed by Eurogroup for Animals, but we call on the EU to extend this approach to other products, especially where the trade volume is higher.
- ➔ To establish proper monitoring mechanisms to assess the impact of the implementation of the trade deal on the animals, the environment and the people, and to introduce tools that would allow to revert the negative impact that could be detected by these mechanisms. This could be done by strengthening the TSD chapter and its enforcement mechanisms.
- ➔ To include a comprehensive cooperation mechanism on animal welfare, covering not only farm animals but also animals used in science and wildlife, with the clear objective to improve the protection and welfare of animals by enacting and implementing stronger legislation.
- ➔ To review the TBT chapter to avoid any obstacle to the future imposition of a method-of-production label on imported products.
- ➔ To introduce a provision in the SPS chapter protecting the right of the EU to rely on the precautionary principle in the field of food safety.

EUROGROUP FOR ANIMALS ALSO CALLS ON THE EU MEMBER STATES AND MEMBERS OF THE EUROPEAN PARLIAMENT:

- ➔ To put pressure on the European Commission to amend the agreement along these lines;
- ➔ To reject the Agreement if these amendments are not adopted.

1

INTRODUCTION



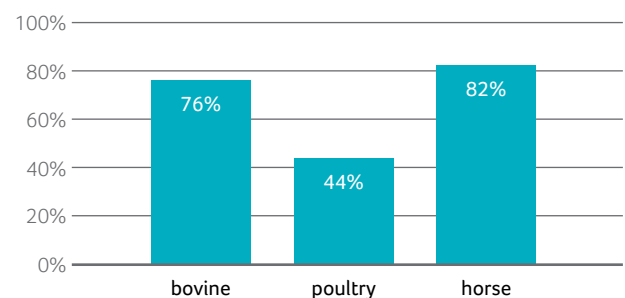
On 28 June 2019, after 20 years of negotiations, the EU and Mercosur (the Southern Common Market; Argentina, Brazil, Paraguay and Uruguay²) announced the conclusion of an unprecedented Association Agreement.

This agreement contains, on the one hand, a section on political cooperation and, on the other hand, a free trade agreement (FTA). The final details of the agreement are currently being worked out by the Parties, and the text should reach the European Parliament and the Council of the EU for ratification at the end of 2020 at the earliest.

The EU-Mercosur Agreement, if ratified, will become the most significant trade agreement to date for the EU. The Latin American bloc is a key global producer of chicken

and beef, and Mercosur is the EU's first source of imported meat, representing 43% of the EU's total meat imports in 2018. The bloc mostly exports bovine, poultry and horse meat to the EU.³

Figure 1: Meat exports from Mercosur to the EU in 2018, in percentages of the EU's total imports of such products



² Venezuela is also a full member of Mercosur, but was suspended on 1 December 2016.

³ These figures are based on Eurostat data.

The region is also home to an incredible range of biodiversity in forests such as the Amazon, the Cerrado and the Gran Chaco. Deforestation, which is mostly pushed by the production of beef, soy and timber, is a key two-fold challenge: not only does it hugely impact animals living in these biotopes, but it does so to fuel a system based on intensive farming, which is very detrimental to farmed animal welfare.

Considering the sectors it will stimulate (like the beef sector in Mercosur and the dairy one in Europe), the EU-Mercosur Agreement is likely to fuel existing crises such as deforestation or climate change.

The agreement will also have a negative impact on the welfare of animals:

- The trade preferences granted by the text are considerable, and are not based on the condition that higher animal welfare standards are met.
- The provisions on animal welfare cooperation have been watered down into vague statements without clear objectives.
- The Trade and Sustainable Chapter does not bind the Parties to more than their international commitments, and does not create any additional tool to ensure that such commitments are respected.
- The chapter on technical barriers to trade (TBT) could restrict our chances to implement a universal method-of-production labelling system.
- The chapter on sanitary and phytosanitary (SPS) measures opens the way to even fewer audits on the ground – which are the only ones that can check animal welfare conditions – and does not put forward the precautionary principle, which has allowed the EU to adopt trade measures that have benefitted animal welfare, such as the ban on hormone beef and on chlorinated chicken.

The Association Agreement has not yet been published in full, but this report is based on texts that are already available on the European Commission's website: the "Agreement in Principle" and the various chapters of the trade part of the Agreement (FTA). According to officials in the European External Action Service (EEAS), the "Political And Cooperation Agreement" (PCA), the second half of the text, was still under negotiation at the end of 2019, and no conclusion has been announced yet. The PCA will include an important section on institutional arrangements, which will describe the monitoring mechanisms involving civil society that will also apply to the FTA. On the trade front, the countries are rumoured to still be negotiating certain aspects of the market access rules. However, the parties present the text as being concluded, with no possibility to re-open negotiations.

Eurogroup for Animals believes the EU-Mercosur agreement, as it stands, is a bad deal for animals, nature and people. The negative impact it could have will be concrete and immediate, while the possibilities for cooperation that could be opened by the text are uncertain and may only deliver in the long run, if at all. In addition, such cooperation could take place outside a trade agreement.

2

ANIMAL WELFARE IN MERCOSUR COUNTRIES



Mercosur is a major producer of highly competitive agricultural products, notably meat. The bloc slaughters around 55 million cattle each year, as well as 6.6 billion chickens. The four countries are also home to 394 million laying hens.

The situation is diverse in terms of farm animal welfare. All countries have anti-cruelty legislation, but in many cases, there is a lack of more specific binding regulations to ensure the implementation of sufficient standards at farm level. When such standards do exist, they are most often contained in guidelines, handbooks or voluntary codes.

European consumers usually have a positive image of the farming method in Latin America; animals are imagined as living a great life in extensive pasture. However, production methods are also intensifying in Mercosur countries. Secondly, there is more to farm animal welfare than available space and low density. As defined by the OIE, an animal is in “*a good state of welfare if (as indicated by scientific evidence) it is healthy, comfortable, well nourished, safe, able to express innate behaviour, and if it is not suffering from unpleasant states such as pain, fear, and distress*”. This includes issues like disease prevention, veterinary treatments, protection during transport, appropriate shelter and humane handling.



BRAZIL

In Brazil, many NGOs describe the animal welfare standards as usually better than expected. 81% of Brazilians perceive farm animal welfare to be important,⁴ and there are several private initiatives launched in the country to improve farm animal welfare that should be highlighted.⁵

- In 2008 the Brazilian Ministry for Agriculture, Livestock and Food Supply (MAPA) launched a national programme on slaughter in partnership with the NGO Animal Protection, “Programa Nacional de Abate Humanitário” (National Humane Slaughter Programme). It led to the provision of animal welfare training to more than 3000 veterinary officials in charge of controlling the handling of animals in slaughterhouses.
- Based on this initiative, several key companies in the Brazilian meat supply chain, including the refrigeration company Friboi and the carrier company TRP, created their own animal welfare department.
- JBS, one of the main meat processing companies in the world, even defined animal welfare as one of its five priorities. Subsequently, each JBS slaughterhouse has a staff member in charge of welfare, and the company improved the equipment of its trucks to address welfare in animal transport.
- BRF, Seara and Aurora, the three main Brazilian companies in the pig meat sector, launched initiatives. BRF was the first to announce it will stop using gestation crates by 2026, and Seara and Aurora followed. At the moment, BRF has already removed 30% of the gestation crates used in its supply chain, while 50% of Seara’s farms are crates-free. BRF is also working on immunocastration.

While all these initiatives are positive and show that animal welfare is becoming important for Brazilian consumers, it is still important to progress at legislative level. Firstly, a study by Charity Entrepreneurship showed that only 54% of commitments made at corporate level actually materialise.⁶ Secondly, there is a need for external checks to ensure proper compliance with announced standards. Finally, without legislation, wrongdoers cannot be sanctioned.

According to a study recently published by the Commission, a cooperation the EU started with Brazil under a specific Memorandum of Understanding on animal welfare⁷ has been key in raising awareness about welfare issues; but due to political difficulties, the only legislative result so far has been in the transport of animals destined for live exports.

Slaughter

Brazil has basic regulations linked to slaughter, but they are seen as insufficient. These rules are contained in wider legislation focusing mainly on food quality, animal health or agricultural policy⁸ and, while they improve the welfare of animals to a certain extent, they do not address the question directly.

Brazilian NGOs consider that, if we add up the production of slaughterhouses in violation of the rules to clandestine slaughters, around 8 billion animals die in cruel conditions each year in Brazil. This also creates concerns for public health.

In 2012, MAPA conducted audits of Brazilian slaughterhouses, concluding that 9.6% of federal slaughterhouses allowed to export meat did not respect the Brazilian regulations on slaughter.⁹ For state and municipal slaughterhouses, which are focused on local consumption, the non-compliance rate was around 80%.

While the level of compliance was deemed high in federal slaughterhouses, an audit carried out four years later by the EU’s Directorate for Health and Food Safety in slaughterhouses exporting bovine meat to the EU still revealed shortcomings in animal welfare procedures: unsuitable stunning material and restraining devices, excessive stunning times, and very different rules on feeding (the EU requires animals in slaughterhouses to be fed after 12 hours; Brazilian legislation after 24h). The audit being also on controls and certification procedures, it is interesting to note that some of these shortcomings had not been noted by the Brazilian Control Authority. In addition, many of these issues were already identified by the EU in the previous audit.

The 2016 report concludes that the two establishments visited in Rondonia and Tocantins had “weaknesses” in animal welfare requirements. In its analysis, it states clearly

⁴ <https://www.istoedinheiro.com.br/o-ovo-e-galinha>

⁵ Jörg Hartung, Mateus Paranhos da Costa and Carmen Perez, *O Bem-Estar Animal na Alemanha e no Brasil: Responsabilidade e Sensibilidade*, 2019.

⁶ Charity Entrepreneurship, [35 Independent Pieces of Evidence for why new corporate campaigns might \(or might not\) work](#), 23 May 2019.

⁷ See more details on this cooperation in Annex 1 - Existing cooperation between Mercosur and the EU on animal welfare.

⁸ Jörg Hartung, Mateus Paranhos da Costa and Carmen Perez, *O Bem-Estar Animal na Alemanha e no Brasil: Responsabilidade e Sensibilidade*, 2019.

⁹ Amigos da Terra - Amazônia Brasileira, [Radiografia da carne no Brasil](#), 2013.

that the situation in terms of stunning did “not provide guarantees at least equivalent to the requirements laid down in Article 9.2 of Council Regulation (EC) No 1099/2009”.¹⁰

A 2017 audit, not only on beef but also on poultry and horse meat, reversed this assessment, stating that all visited establishments complied with requirements and that the Brazilian Control Authority could ensure such compliance. Regions visited in the 2016 audit do not seem to be allowed to export to the EU anymore.¹¹ This 2017 audit took place after the “Carne Fraca” sanitary scandal, and is less detailed and descriptive about compliance with animal welfare standards.

The latest audit for Brazil took place in 2018. Such high frequency is a result of the “Carne Fraca” scandal. This audit stated, in one line, that all animals were stunned properly, but also found that the rules in place do not ensure that non-compliant establishments are swiftly removed from the list of establishments allowed to export to the EU.

Transport

Brazil has only basic regulations on the transport of animals in general (for instance from production place to the slaughterhouse), but, like the rules on slaughter, these regulations are contained in wider legislations and are seen as insufficient.¹²

In 2018, Brazil published a new ‘normative instruction’ establishing minimum standards specifically for the live transport of ruminants destined for live exports. Within this legislation, an article instructs that OIE guidelines for the transportation of terrestrial animals should be followed. The introduction of these standards was welcomed and supported by many Brazilian animal welfare NGOs, even if they only apply during road transport from farm to port, and not to the sea part of the journey. In addition, NGOs argue that these standards will not be implemented properly, as MAPA, the body responsible for their implementation, does not have enough resources or employees to conduct inspections to make sure that they are respected.



ARGENTINA

In Argentina, observers have noted issues concerning the enforcement of the legislation on both transport and slaughter, mainly due to the difficulty of monitoring the entire territory. However, in December 2019, the National Service of Agri-Food Health and Quality (Senasa) published a new resolution establishing minimum requirements on animal welfare, in particular concerning the livestock sector.¹³ This text is quite basic, reflecting OIE-level standards, but it defines minimum standards that should apply throughout farm animals’ lives, including at time of slaughter. Senasa’s resolution defines ‘animal welfare’ as the “*physical and mental state of an animal in relation to the conditions in which it lives and dies*”.

The adoption of such a resolution by Senasa could be perceived as a positive sign that the Argentinian government is willing to better address farm animal welfare. However, the risk is still high that enforcement and control will be lacking, especially due to the national economic crisis and thus cuts in public expenditure.

Another resolution enacted by Senasa, adopted in 2003, prohibits the practice of forced feeding for ducks and geese on the basis of cruelty.

The EU’s 2016 audit on Argentina’s beef sector stated that out of four slaughterhouses visited, two had unsuitable handling and restraining facilities, which could lead to deficient stunning. The requirement to feed and bed animals after 12 hours was also “*not strictly adhered to*”. The audit identified “*weaknesses in the control system that compromise the guarantees concerning their proper implementation in the EU-listed establishments, in particular the requirements on restraining*”.¹⁴

There has been no further audit on the bovine sector.

¹⁰ European Commission, DG SANTE, Food and Veterinary Office, *Final report of an audit carried out in Brazil from 20 May to 2 June 2016 in order to evaluate the operation of controls over the production of fresh bovine meat destined for export to the European Union as well as certification procedures and to follow-up previous, relevant audits*, DG(SANTE) 2016-8827 - MR.

¹¹ List of non EU certified slaughterhouses.

¹² Jörg Hartung, Mateus Paranhos da Costa and Carmen Perez, *O Bem-Estar Animal na Alemanha e no Brasil: Responsabilidade e Sensibilidade*, 2019.

¹³ Argentinian National Service of Agri-Food Health and Quality, Resolution N°1697/2019, 9 December 2019 / Servicio Nacional de Sanidad y Calidad Agroalimentaria, Resolución N° 1697/2019, 9 de Diciembre de 2019.

¹⁴ European Commission, DG SANTE, *Final report of an audit carried out in Argentina from 21 June 2016 to 04 July 2016 in order to evaluate the operation of controls over the production of and the certification procedures for fresh meat from bovidae and wild leporidae destined for export to the European Union*, DG(SANTE) 2016-8854 - MR.



URUGUAY

Uruguay adopted its own national legislation on the protection and welfare of animals in 2009,¹⁵ mainly addressing companion animals. Its general anti-cruelty language applies to farmed animals too, but the language is vague, stating that both slaughter and transport should not cause unnecessary suffering. However, Uruguay incorporated EU's rules on slaughter in a resolution in 2012.

Another decree adopted in 2018 creates a control system for the slaughter of birds by monitoring the quantity and weight of the birds, but with no reference to animal welfare.¹⁶ With Chile, Uruguay also led the effort to create an "OIE regional collaborating centre for animal welfare research" for the Americas.



PARAGUAY

Paraguay enacted national legislation on the protection of animals in 2013 but the text is not very detailed. On farm animals it only contains one provision, using soft language, limited to slaughterhouses.

Paraguay is relying more and more on cattle herding. According to data from SENACSA (Paraguay's National Service for Animal Health and Quality), the livestock herd located in the Chaco area, which is home to important forests, has grown from 4.5 million in 2010 to more than 6 million in 2017.¹⁷ The total cattle herd in the country numbers around 12 million animals. According to our contacts in the region, the situation in terms of animal welfare is not reassuring. EU audits state, however, that in all slaughterhouses visited both in 2015 and 2019, animal welfare standards were respected. Both audit reports contain the same assessment: "*the stunning of animals was efficient and back-up equipment was available*".¹⁸

¹⁵ Ley 18471/2009 de protección, bienestar y tenencia de animales, 21 de abril de 2009 / Law 18471/2009 on the protection, welfare and ownership of animals, 21 April 2009.

¹⁶ Decreto N°195/18 - Se crea el sistema de control de faena de aves con el propósito de monitorear la cantidad y el peso de aves en las plantas para tal fin, 25 de Junio de 2018 / Decree N°195/18 - Establishing a control system of slaughtering of birds with the purpose of monitoring the quantity and weight of birds in the slaughterhouses for this purpose, 25 June 2018.

¹⁷ Døvre, B. (2019). Deforestation in the Paraguayan Chaco: how can banks manage risks from financing the cattle sector? Global Canopy.

¹⁸ European Commission, DG SANTE, *Final report of an audit carried out in Paraguay from 15 October 2019 to 25 October 2019 in order to evaluate the official controls and certification systems over the production of fresh bovine meat and casings (follow up) and meat preparations intended for export to the European Union*, DG(SANTE) 2019-6683 & *Final report of an audit carried out in Paraguay from 18 November 2015 to 30 November 2015 in order to evaluate the operation of controls over the production of fresh bovine meat destined for export to the European Union, as certification procedures*, DG(SANTE) 2015-7598.

3

ANIMAL WELFARE IN THE EU-MERCOSUR ASSOCIATION AGREEMENT



3.1 MARKET ACCESS FOR ANIMAL PRODUCTS

Trade liberalisation impacts animals by decreasing the price of exporting animal products to the EU, stimulating production in partner countries where animal welfare standards are most often lower than in the EU.

As the EU is also an important food exporter, it also provides incentives to further increase production – or to intensify it – on the continent. Therefore, regardless of the level of animal welfare standards in partner countries, as trade liberalisation aims to stimulate certain sectors,

it often means that overall more animals will be used in production systems.¹⁹

In addition, the increase of cheaper imports meeting lower standards on the European market contributes to disrupting the level playing field, which can put pressure on authorities not to further improve – or even maintain – animal welfare standards.

Mercosur countries considered increasing market access for their meat products as a key priority in these negotiations and, overall, the additional market access granted by the EU is **not based on the condition that higher animal welfare standards are met.**²⁰ The Tariff-

¹⁹ This is the case when increases in exports towards a country are not only the result of reshuffling existing exports to other countries.

²⁰ To this day, only the regulation on welfare at the time of killing is imposed on imported products. This is checked through certification requirements and audits.

rate Quotas (TRQs) granted by the EU in the beef, chicken, egg and pig meat sector will decrease the cost of exporting to the EU, which is likely to stimulate exports and general production in these sectors.

The view of the European Commission is that the volume of exports from Mercosur countries will not change much, but that the profits made by the exporters will, especially for beef products.²¹ This is questionable. Several Mercosur countries have recently enacted policies encouraging the development of national “Champions” in the meat industry, and many observers see meat production in those countries only increasing.²² One cannot imagine that economic incentives will not add up to this trend towards more production in what are becoming increasingly intensified systems. In addition, the interim report on the SIA carried out by the EU on these trade negotiations also indicates that beef production and exports to the EU are expected to increase according to the scenarios they have tested – scenarios that did not envisage a tariff reduction of the scale obtained by Mercosur in the final agreement.²³

Eurogroup for Animals believes that no additional access to the EU market should be granted for animal-based products unless convergence in terms of animal welfare standards is ensured. The optimal way to achieve this would have been to have only granted conditional Tariff-rate quotas linked with animal welfare requirements. This idea had been voiced by the previous SIA carried out by the University of Manchester in 2009, which recommended the “*timing of reductions in tariffs and quota restrictions for environmentally/biodiversity sensitive products to be conditional on compliance with a set of sustainability criteria*”.²⁴ The European Commission decided not to take this recommendation on board, pointing instead at legislation that can be adopted by each party on sustainability-related topics.²⁵

Years later, in the midst of the EU-Mercosur negotiations, 12 EU Member States (Austria, Belgium, France, Greece, Hungary, Ireland, Latvia, Luxembourg, Poland, Romania, Slovakia and Slovenia) called on the European Commission to impose non-tariff conditions – such as the respect of animal welfare standards, as well as SPS and environmental standards – on trade with Mercosur in sensitive products like beef and chicken.²⁶ Unfortunately, this call from Member States was not reflected in the text as it stands.

Bovine meat

EU documents assess that each year the EU imports around 200,000 tonnes of fresh and frozen beef cuts from Mercosur countries.²⁷

Over the past ten years, total imports of fresh beef into the EU have increased from 104,286 to 137,910 tonnes. Imports from Mercosur countries have followed a similar trend, from 74,104 to 96,578 tonnes (representing 70% of all EU fresh beef imports).

With regards to frozen beef, the EU’s total imports fell drastically between 2006 and 2008 from 219,096 to 87,633 tonnes. They are now stabilised around 75,000 tonnes, most of which comes from Mercosur countries (89%) and are boneless frozen beef.²⁸

Eurogroup for Animals is concerned about the indirect consequences of granting further preferential access to the European beef market to third countries. The growing pressure on European beef producers gives them more incentive to increase live exports to third countries such as Lebanon, Turkey, Algeria and Israel, where after harrowing journeys the animals are slaughtered in patent violation of even the basic OIE standards.²⁹

²¹ In informal discussions with officials – December 2017 and documents produced by the Commission – *Accord Commercial UE-Mercosur, créer des débouchés, tout en respectant les intérêts des agriculteurs européens*, available at: https://trade.ec.europa.eu/doclib/docs/2019/july/tradoc_158140.pdf

²² Shefali Sharma, Institute for Agriculture and Trade Policy (IATP) and Sergio Schlesinger, *The Rise of Big Meat: Brazil’s Extractive Industry*, November 2017.

²³ The London School of Economics and Political Science, *Sustainability Impact Assessment in Support of the Association Agreement Negotiations between the European Union and Mercosur – Draft Interim Report*, 3 October 2019.

²⁴ The University of Manchester, *Trade Sustainability Impact Assessment (SIA) of the Association Agreement under negotiation between the European Community and Mercosur – Final overview trade SIA EU-Mercosur – Final report revised*, March 2009.

²⁵ European Commission, *Position paper trade Sustainability Impact Assessment (SIA) of the Association Agreement under negotiation between the European Union and Mercosur*, July 2010.

²⁶ Eurogroup for Animals, News, *12 Member States write to defend Animal Welfare Standards in beef imports*, 2 October 2017.

²⁷ Documents produced by the Commission – *Accord Commercial UE-Mercosur, créer des débouchés, tout en respectant les intérêts des agriculteurs européens*, available at https://trade.ec.europa.eu/doclib/docs/2019/july/tradoc_158140.pdf

²⁸ HS 02023090.

²⁹ See various investigations led by Animals International – <https://www.animalsinternational.org>

Country	Volume in 2018 [t]	Main destinations	Trends
Fresh beef			
Argentina	46,096	Germany (45%), Netherlands (37%), Italy (13%)	Decreased until 2014 (29,164 tonnes) before increasing again.
Uruguay	25,096	Netherlands (58%), Germany (16%), Spain (9%), UK (8%), Italy (5%)	Steady increase since 2011 (13,576 tonnes) to 2017 (26,468 tonnes).
Brazil	22,436	Netherlands (47%), Spain (19%), Germany (17%), Italy (9%)	Huge drop in 2008 (from 80,509 to 11,651 tonnes); increase back to 26,520 tonnes (2014), followed by a small decrease to current levels.
Paraguay	2,951	Netherlands (40%), Germany (26%), UK (18%), Spain (12%)	Increase from 101 tonnes in 2008 to 3,859 tonnes in 2017 (a few years without import).
Total	96,568		

Country	Volume in 2018 [t]	Main destinations	Trends
Frozen beef			
Brazil	47,312	Italy (54%), Netherlands (21%), Spain (9.5%), UK (7%),	Huge decrease in 2007 (105,956 to 32,089 tonnes), increasing then again to 47,306 tonnes.
Uruguay	14,625	Italy (31%), Netherlands (22%), Spain (15%), Germany (12%), Portugal (7%)	Imports tripled in 2008 (from 11,379 to 31,716 tonnes), then they decreased again to current levels.
Argentina	1,891	Germany (30%), Netherlands (28%), Greece (16%), Italy (12%)	Steady decrease from 24,936 tonnes to current level
Paraguay	1,886	Italy (74%), Portugal (18%)	Exports have been fluctuating between zero and 1,500 tonnes, with a level more stable in the past couple years
Total	65,714		

According to the texts that were published by the European Commission, the EU has granted to Mercosur:

- A **new tariff-rate quota of 99,000 tonnes**, at a 7.5% tariff (split into 54,450 tonnes for fresh beef and 44,550 tonnes for frozen beef). It seems that the management of the TRQ will be ensured by the EU, but there are no further details on country allocation.
- The **in-tariff of the Hilton Quota**³⁰ (currently at 20%) **will be decreased** to zero. Altogether Mercosur countries have access, within this existing quota, to 46,800 tonnes: 29,500 for Argentina, 10,000 for Brazil, 6,300 for Uruguay and 1,000 for Paraguay.³¹

³⁰ This quota originates from GATT negotiations in 1979 and allocates different volumes of beef to each relevant trade partner.

³¹ Volumes allocated per country are mostly covering fresh beef. In the case of Argentina, Uruguay and Brazil, another product could be covered: thin or thick skirt (HS code 02061095). However, Mercosur countries are not exporting this product to the EU. Paraguay's allocation also covers boneless frozen beef (HS code 02023090).

In addition to these concessions, Mercosur countries will **still have access to 10,000 tonnes under the ‘hormone-free beef’ TRQ**. At the moment, mostly Uruguay and, to a lesser extent, Argentina have made use of this quota, which was originally created to solve a dispute between the EU and the United States regarding the EU ban on the use of certain growth promoters in meat production.³²

It is important to point out that the ‘hormone-free beef’ quota has contributed to spreading feedlots to countries that used to have only grass-fed cattle. This is because according to the legislation opening the quota, access to it is on the condition that the beef is produced using a specific method of production that demands a grain diet, which implies the use of feedlots, both very detrimental to cattle welfare. This is the case of Argentina and Uruguay.

Finally, Mercosur countries will continue to benefit from existing trade preferences existing for frozen beef: (1) 54,875 tonnes³³ opened *erga omnes* with 20% in-tariff; (2) 63,703 tonnes, opened *erga omnes* with 20% in-tariff, among which 50,000 tonnes for frozen beef intended for manufacture of processed food mainly composed of beef and 13,703 tonnes for frozen beef intended for other process products (with additional duties per tonne).^{34 35}

These additional preferences are likely to be used by Mercosur countries. To assess this, it is useful to consider the extent to which existing preferences are used. In the case of the Hilton quota (mostly fresh beef but also frozen beef for Paraguay), all Mercosur countries have made good use of their allocation in the past three years, filling up between 80% to 95% of the volume.

Determining the future use of the ‘hormone-free beef’ quota is complex. As with all *erga omnes* quotas, there is no EU record on who uses what volume. Uruguayan sources report that the country used up around 16,000 tonnes of this quota in 2016/17. To our knowledge, Argentina, which got access to the quota in 2015, also saw its imports under the quota increasing. Yet in the coming years, Mercosur countries’ use of the ‘hormone-free beef’ TRQ will decrease, as the volume to which non-US countries will have access to under this quota has been reduced to 10,000 tonnes.

Regarding quotas related to frozen beef, we face a similar issue, as they are *erga omnes*. It is thus difficult to know what volume of these TRQs is used up by imports originating from Mercosur countries. It must be noted, however, that at least 90% of their volume is used every year. It can thus be assumed that extra volumes granted at a preferential rate in the sector of frozen beef to Mercosur countries in the Association Agreement are very likely to be used.

The 2019 interim report on the SIA studies the beef sector in more detail and concludes, using scenarios where the tariff reduction is lower than the one obtained in the final agreement, that Mercosur beef exports to the EU will grow by 60,000 tonnes if tariffs are reduced by 15%, or 140,000 tonnes if tariffs are reduced by 30%. In reality, the decrease within the existing Hilton quota will be by 100% (20% to zero) and the decrease outside any quota will be of more than 80%.³⁶ Even if the increase of Mercosur beef imports into the EU will be limited to a certain extent by the use of tariff-rate quotas, it is very unlikely that the new preferences will not be fully used.

Fresh Beef	Before the agreement	After the agreement
Hilton Quota	45,800 tonnes (20%)	45,800 tonnes (duty free)
Hormone-free beef Quota	Around 20-25,000 tonnes (duty-free)	maximum 10,000 tonnes (duty free)
New Quota	-	54,450 tonnes
Total	66,800-71,800 tonnes, with preferences	106,250-111,250 tonnes, with better preferences

³² In 2019, as the US was complaining that it did not reaped enough benefits from the TRQ, the EU modified it to allocate 35,000 of its 45,000 tonnes solely to the US. This leaves only 10,000 tonnes available *erga omnes*.

³³ TRQ 431/2008.

³⁴ TRQ 412/2008.

³⁵ The 1000 tonnes exported by Paraguay have always been frozen beef, while the 45,800 tonnes exported by the three other countries have always been fresh beef.

³⁶ The current MFN rate - 12.8% + 303.4 EUR/100 kg - can be transformed into an ad valorem rate (43% according to the SIA). It can then be compared to the tariff applied within the TRQ (7.5%).

THE RISE OF FEEDLOTS IN LATIN AMERICA: IMPACT ON CATTLE WELFARE

In intensive production systems, cattle spend between 50 and 120 days in a feedlot, which corresponds to 10-15% of their lifespan. Confining cattle on feedlots and feeding them highly concentrated grain diets adversely impacts animal health and welfare, as well as harming the environment and threatening public health. Cattle finished on feedlots disproportionately suffer from respiratory diseases, the number one cause of mortality in these systems, followed by digestive problems, calving, and death resulting from extreme weather conditions.

The imposition of a diet mostly based on grains – and therefore of the use of feedlots, which are necessary to ensure the animal does not eat more grass – is mandatory to get access to the duty free ‘hormone-free beef’ quota established by the EU. Animals on feedlots in Latin American countries are mostly destined for the EU market. While Mercosur countries used to produce beef solely on pasture, this is changing. In 2013-2014 Uruguay went from “*traditional rangeland grazing systems to intensive fattening systems where feed concentrates are used*”.³⁷ The number of feedlots in Uruguay reached more than a hundred in 2018, all registered and approved to export to the EU.

The outcome of investigations in the country by the Animal Welfare Foundation, with the help of For The Animals Uruguay, is clear. “*At all places visited during our investigations on beef production in Uruguay – at feedlots, auctions and during transport – we detected violations of the OIE guidelines on animal welfare relevant to feedlot production, and of standards which would apply for farm animals in the EU*”, such as the General Farming Directive (98/58/EC). Violations included a lack of weather protection, signs of health problems, a lack of bedding areas, and wet and muddy areas.

Argentina is following the same path. The country is facing an unprecedented issue: it has not been able to fulfill its allocated volume under the Hilton quota (29,500 tonnes) for the coming year.³⁸ Senasa, which registers the producers willing to secure a slot to export beef to the EU under this quota, postponed the registration deadline, which was initially set as 27 February 2020,³⁹ for six months. By 21 February 2020, less than half of the total volume under the TRQ had been allocated. The reason is that Argentinian farmers are increasingly relying on feedlots to produce beef, which means they do not respect the conditions set by the Hilton Quota for Argentina, which is to only use grass as feed.

While the majority of the Brazilian cattle herd is still on pasture, the numbers of feedlots in Brazil jumped by 442% between 1990 and 2017, and by 55% between 2010 to 2013 alone.⁴⁰ At the moment, feedlots represent just 10% of Brazil’s meat production. Yet expectations are that the amount of meat produced in feedlot systems will double in the next few years. Feedlots could be seen as a way to avoid the weight loss linked to the dry season in Central West Brazil.⁴¹

WELFARE ISSUES RELATED TO FEEDLOTS

Animals in feedlots frequently suffer dust pneumonia, an infection caused by exposure to fine dust – especially in dry weather conditions – and endotoxins from dried manure, combined with heat or cold stress and metabolic disorders. Viral and bacterial infections can also cause respiratory diseases, which find fertile ground in animals with weak immune systems.

³⁷ Del Campo, M., Montossi, B.F., de Lima, S., & San Julian, R. (2014). Animal Welfare And Meat Quality: The Perspective Of Uruguay, A “Small” Exporter Country. *Meat Science*, 98(3). 470-476.

³⁸ Until now, it almost used up the allocation every year: by 95,22% in 2017/2028 and 99,97 % in 2018/2019.

³⁹ Argentinian National Service of Agri-Food Health and Quality, Press release, *Prórroga para la inscripción de establecimientos que quieran exportar carne vacuna de la cuota Hilton a la UE*, 21 February 2020.

⁴⁰ Peterson et al, *The Expansion of Intensive Beef Farming to the Brazilian Amazon*, Global Environmental Change, Volume 57, July 2019, 101922.

⁴¹ Olivier Flake and Joao F. Silva, USDA Foreign Agricultural Service, Global Agricultural Information Network Report, *Brazil : Livestock and Products Annual: 2019 Annual Livestock Report*, 9 May 2019.



After respiratory diseases, grain overload (acute rumen acidosis) is the most common disorder among feedlot cattle. Because their digestive system is best suited to roughage provided by grass-based diets, the most natural way for cattle to eat is to graze throughout the day. Digestive disorders can also cause bloating, and if persistent, liver abscesses, parakeratosis and foot disorders such as laminitis. Animals will display reduced rumen activity, an accumulation of fluids in the rumen, and other symptoms such as diarrhoea and dehydration, infections of the lung, heart or kidney, and neurologic symptoms due to the toxic effects of blood acidosis on neurons.

The health and welfare problems in feedlot-finished cattle are interconnected. Firstly, the high-grain diet causes potentially fatal digestive and metabolic disorders. Secondly, this diet, which is formulated to fatten animals faster, compromises their ability to control their thermoregulation. Extreme weather conditions – rain or heat waves, which cause dust or mud on feedlots – further expose the animals to various health and welfare problems.

The interim SIA also underlines that, with an agreement, beef production in the EU will decrease slightly and production in the Mercosur countries will grow. This would have implications in terms of cattle welfare. In Mercosur countries, transport conditions are harsher, and finishing animals on feedlots is becoming more common. In addition, the SIA is vague or optimistic about the impact of agricultural expansion on deforestation. While many organisations claim that soy and beef production drive deforestation in Mercosur countries, the SIA only comments that land is still available and can be reallocated to agriculture, also pointing at a potential increase in the density of animals. They do not, however, provide further evidence to support their approach, and do not take into account the potential impact a change in stocking density or the place of production could have on cattle welfare.

The growth of the beef sector in Mercosur countries, as in the EU, will also have an impact on wild animals living in exploited ecosystems.



📷 Brazilian farm, with curtains open.

Chicken meat

The outcome of the EU-Mercosur negotiations for chicken meat is a surprise. The “Agreement in Principle” published by the EU announces a tariff-rate quota of 180,000 tonnes, divided into boneless and boned chicken. Access within this quota will be duty free. A lower figure had been floated around earlier, but negotiators had mentioned to civil society that the EU was likely to provide more access in the chicken sector to compensate for a weaker offer on beef.

Mercosur poultry meat exports to the EU mostly come from Brazil. In 2018/2019, 11% of Brazilian chicken production went to the EU.⁴² As one of the main global producers of this meat, Brazil received preferential access to the EU market for its chicken through two tariff-rate quotas: (1) 170,807 tonnes for salted chicken at 15.4% in-tariff;⁴³ (2) 16,698 tonnes for frozen cuts of chicken, duty free.⁴⁴ Another EU quota is also open to all countries: 17,524 tonnes split between different sorts of chicken pieces, with specific duties for each tariff line.⁴⁵ Most years, these three quotas are used up, except the one on salted chicken which has been less used from 2017 onwards.

Country	Volume in 2018 [t]	Main destinations	Trends
Fresh and frozen chicken			
Brazil	92,630	Netherlands (47%), Spain (21%), Germany (15%), UK (13%)	Steady decrease from 2004 (240,580 tonnes) to 2017 (69,235 tonnes); increase again in 2018.
Argentina	5,173	UK (60%), Netherlands (28%), Spain (11%)	Increase until 2009 (14,493 tonnes), then slow decrease to current levels.
Uruguay	66	UK (100%)	Remained small amount for the past 10 years.
Total	97,843		

⁴² Sources (2018/2019): IBGE, ABIEC and ABPA.

⁴³ Commission Regulation (EC) No 616/2007 of 4 June 2007 opening and providing for the administration of Community tariff quotas in the sector of poultrymeat originating in Brazil, Thailand and other third countries - HS code 02109939.

⁴⁴ Commission Regulation (EC) No 1385/2007 of 26 November 2007 laying down detailed rules for the application of Council Regulation (EC) No 774/94 as regards opening and providing for the administration of certain Community tariff quotas for poultrymeat - HS code 020714.

⁴⁵ Commission Regulation (EC) No 533/2007 of 14 May 2007 opening and providing for the administration of tariff quotas in the poultrymeat sector.

Country	Volume in 2018 [t]	Main destinations	Trends
Salted chicken⁴⁸			
Brazil	82,003	Netherlands (65%), UK (26%), Germany (6%), Belgium (2%)	Around 80,000 tonnes before 2008, then around 180,000 tonnes between 2008 and 2016, then decrease back to 2008 levels.

The EU's general chicken meat imports (fresh and frozen) have steadily increased over the past five years, from 149,209 tonnes in 2013 to 233,543 tonnes in 2018. Imports of Mercosur chicken, however, steadily decreased from 2004 to 2017, before increasing again. The EU's general imports of salted chicken increased until 2016 (from 204,032 tonnes in 2008 to 276,770 tonnes in 2016), before decreasing mainly due to the drop in Brazilian imports (partly because of the import restrictions imposed by the EU for sanitary reasons). Brazil used to be the first source of salted chicken imported into the EU but has now become the second behind Thailand. With this trend, and as all quotas available for chicken are usually fully used, it is likely that imports will increase with the newly allocated quota. EU producers believe the ratification of the agreement will also lead Brazilian companies to export more quantities outside the quotas, allowing them to become price setters for the chicken filet on the EU market. The costs of producing poultry meat in Brazil are roughly 24% lower than in the EU, mainly due to lower cost in feed and labour. According to French producers, the increased volume of chicken imports from Brazil could represent as much as the French production.⁴⁶

Comparing broiler welfare standards implemented in Brazil with those applied in the EU is complex, given the size of the country and the differences between production systems used in the various regions and states, ranging from conventional to more technological warehouses. On-farm welfare standards in the Brazilian chicken sector are not regulated by legislation. ABPA,⁴⁸ which represents the animal protein sector and producers in Brazil, only establishes general recommendations to follow basic welfare standards. However, according to local animal welfare organisations, ABPA often prevents any improvement on welfare in the sector. For instance, animal welfare specialists, both organisations and certifiers,

reached an agreement that, according to studies carried out on broiler mobility, a maximum density of 30 kg/m² should be respected. ABPA, on the other hand, only recommends a maximum stocking density of 39kg/m². It is common for some Brazilian farms to apply a density of up to 42kg/m².

Half of the Brazilian chicken production is concentrated in two Southern States (Parana and Santa Catarina). The majority of chickens are raised in open barns (with curtains) due to concerns related to heat. Outdoor systems (organic ones) are an exception.⁴⁹ According to a study carried out in 2015 comparing 22 Belgian and Brazilian chicken farms, all located in the South of Brazil and exporting to the EU, the welfare of broilers raised in Brazil was generally higher than in Belgium.⁵⁰ This result was linked, among others, to the more favourable climate allowing for apertures and natural light. However, recent reports underlined that many Brazilian producers have started to replace this more friendly model of production to raise chickens in closed barns, with air conditioning systems, in order to better control the temperature and the light.⁵¹ In Paraná, which is the Brazilian state with the largest chicken production, almost 30% of the farms have already converted to a "dark house" system. By abandoning open barns, producers argue the age of slaughter can be reduced from 42 to 40 days and the mortality rate falls from 4% in conventional systems to 2% in "dark houses". The reason behind such consequences is that birds become more apathetic and fight less to mostly eat and sleep, which is not positive from an animal welfare perspective. This phenomenon in Brazil underlines the importance to enshrine good practices into legislation, to avoid any step backwards. In this case, it seems that previous systems were not favoured based on animal welfare concerns, and therefore, animal welfare was not considered in deciding whether to transition to another model.

⁴⁶ Interprofession de la volaille de chair (French Interbranch Organisation of Broiler Poultry", [A quarter of chicken filets consumed in EU come from third countries: are additional imports quota really necessary?](#), Presentation behind the European Parliament Committee on Agriculture and Rural Development, 18 November 2019.

⁴⁷ HS code 02109939

⁴⁸ Associação Brasileira de Proteína Animal.

⁴⁹ Brazilian Normative Instruction 46/2011 establishes that chicken meat can only be considered organic if chickens had access to outside.

⁵⁰ Tuytens et al, *Assessment of welfare of Brazilian and Belgian broiler flocks using the Welfare Quality protocol*, Poultry Science, June 2015.

⁵¹ Jörg Hartung, Mateus Paranhos da Costa and Carmen Perez, *O Bem-Estar Animal na Alemanha e no Brasil: Responsabilidade e Sensibilidade*, 2019.

As the Brazilian industry is strongly integrated, the distance between the farm and the slaughterhouse is reduced, but the quality of the road may be poor.⁵² It is interesting, however, to note that the study comparing the Belgian and Brazilian poultry farms did not look in detail at transport and slaughter conditions.

Finally, it is important to underline that “the occurrence of antibiotic-resistant bacteria and genes was extensively reported in Brazil”,⁵³ with the highest resistance found in poultry-related products⁵⁴ (see below the section on antimicrobial resistance).

Pig meat

The EU does not import large volumes of pig meat, but is a major exporter. At the moment, one tariff-rate quota covers several cuts of pig meat, imposing different duties depending on the part. This quota is open to all WTO partners and amounts to 35,265 tonnes. It is barely used by our partners.

According to the agreement in principle, the EU has granted 25,000 tonnes to Mercosur countries at a lower duty rate (83€ per tonne). Over the past five years, only Uruguay and Brazil have exported a few hundred tonnes of pig meat to the EU. A report from Wageningen University considered that it is likely these exports are small because of the EU’s “stringent levy system”.⁵⁵ Mercosur countries still use ractopamine in the pig sector, a substance banned in the EU, but Brazil has a ractopamine-free export sector that could benefit from the opportunities granted by the EU-Mercosur agreement.⁵⁶

Many Brazilian pig meat producers still use gestation crates to keep females apart from their piglets. In the EU, the use of such crates is restricted: 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. Even if

loose farrowing accommodation is gaining ground on the continent, it is still uncommon in most Member States.

In Brazil, MAPA and the NGO World Animal Protection currently cooperate to develop alternatives to gestation crates, and several key Brazilian pig meat companies have made commitments to phase out their use. BRF, the leader in the sector in Brazil, has already eliminated 30% of its cages and has committed to being cage-free by 2026.⁵⁷ It has also started work to develop immunocastration and reduce teeth clipping. These voluntary moves are motivated by the trade opportunities attached to higher welfare products, as reflected by the recent commitments announced by Carrefour Brazil in January 2020.⁵⁸

Eggs and egg products

At the moment, Mercosur countries are not very relevant trade partners for shelled eggs. Only Brazil has been exporting around 35 tonnes per year over the past five years, which represents 0.6% of the EU’s total egg imports. However, imports of fresh eggs into the EU have increased since 2014 (from 3,026 tonnes to 6,683 tonnes in 2018), so it will be important to monitor trends if the agreement with Mercosur is ratified.

For egg products, on the other hand, Argentina is a relevant partner. With a share of egg products imports oscillating between 7% and 13% (369 tonnes in 2018), Argentina is the EU’s third source of egg products. Imports of egg products into the EU started increasing again in 2013 (3,279 tonnes to 5,065 tonnes in 2018).

In Mercosur countries, battery cage systems are not prohibited, so most laying hens are kept in such conditions. In Argentina, approximately 90% of the industry relies on conventional battery cages,⁵⁹ and in Brazil, 89% of eggs are produced by hens kept this way.⁶⁰ However, 120 important companies in Brazil and 20 in Argentina have announced that they are planning to only sell cage-free eggs in these

⁵² *Ibid.*

⁵³ Gabriela Reichert, *Emerging contaminants and antibiotic resistance in the different environmental matrices of Latin America*, 2019.

⁵⁴ Dante Javier Bueno, *Egg Production Systems and Salmonella in South America*, 2017.

⁵⁵ Wageningen UR - *Livestock Research*, *Antibiotic use in Brazilian Broiler and Pig Production: an indication and forecast of trends*, Report 714, March 2014.

⁵⁶ <https://www.reuters.com/article/us-china-swinefever-suppliers-insight/u-s-farmers-look-past-trade-fears-to-cash-in-on-chinas-hog-crisis-idUSKCN1UI02I>

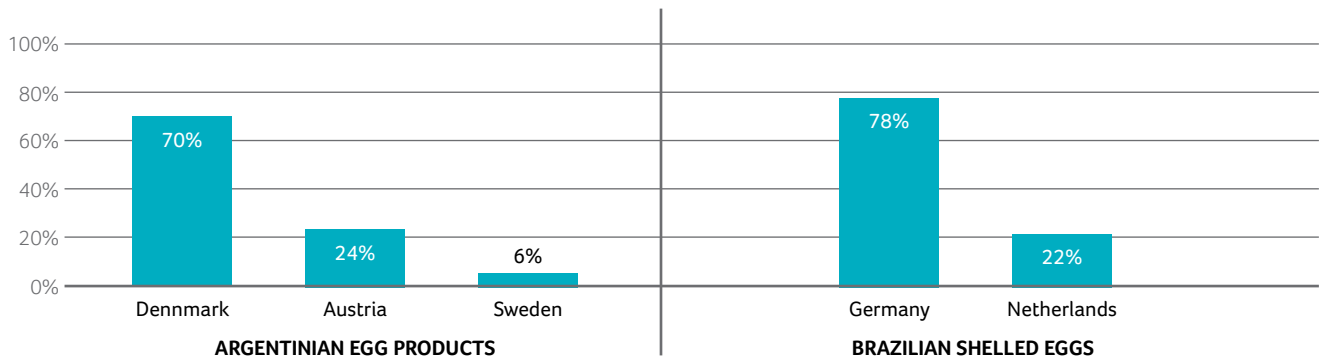
⁵⁷ Jörg Hartung, Mateus Paranhos da Costa and Carmen Perez, *O Bem-Estar Animal na Alemanha e no Brasil: Responsabilidade e Sensibilidade*, 2019.

⁵⁸ Carrefour, Press release, Carrefour commits to selling pork produced to high animal welfare standards, 23 January 2020 - Carrefour Brazil announced that all own-brand pork products will come from producers respecting the following commitments: by December 2022, 100% of sows will transition to group housing, allowing a maximum of 28 days in cages; by December 2022, ear notching identification will be abolished; surgical castration will be abolished by December 2025 and immunocastration will be adopted; the cutting or grinding of animals’ teeth will only be carried out in extreme cases, when aggressive behavior among animals is identified.

⁵⁹ Data from the International Egg Commission.

⁶⁰ Jörg Hartung, Mateus Paranhos da Costa and Carmen Perez, *O Bem-Estar Animal na Alemanha e no Brasil: Responsabilidade e Sensibilidade*, 2019.

Figure 2: EU destination of Mercosur eggs and egg products



countries. At the moment, Brazilian cage-free eggs are only sold on the national market; they are not exported.⁶¹

Eggs and egg products are not mentioned in the agreed Tariff-rate quotas (TRQs) listed in the “Agreement in Principle”. However, in 2016 a leaked market access offer made by the EU listed as a condition that standards equivalent to the EU directive on laying hens should be respected, thus hinting at discussions between the parties about a TRQ on eggs and egg products. The SIA carried out in 2009 by the University of Manchester referred to animal protection NGOs’ concerns about a potentially growing trade in eggs and egg products. Back then, discussions on Council Directive 1999/74/EC (the Laying Hens Directive) were ongoing, and the text, which phased out conventional battery cages in EU egg production by 2012, was not intended to apply to imported products.

Officials have now confirmed that the EU has agreed a tariff-rate quota on egg products (egg yolks, dried or cooked eggs) of 3000 tonnes, duty free, and that the trade in shell eggs will be fully liberalised. However, statements from DG Trade and DG Agriculture announced they have added a condition to this latter liberalisation: that animal welfare standards laid down by the Laying Hens Directive are respected. This decision would be an important precedent in trade policy, even though the volume of trade targeted by this measure would not be significant. This approach should also have been adopted for other animal products such as beef and chicken.

Horse blood products and horse meat

Blood farms in Argentina and Uruguay raise huge concerns in terms of horse welfare.

Equine Chorionic Gonadotropin or eCG – formerly known as Pregnant Mares’ Serum Gonadotropin, or PMSG – is a hormone which is extracted from the blood of pregnant mares between days 40 and 120 of their pregnancy. This hormone is used to produce a drug used mainly in the pig and ovine industries to induce and synchronise oestrus, which improves productivity. The product has a significant value, and while it is difficult to know exactly how much is imported into the EU, figures from two companies out of the five exporting the hormone show an increase between 2012 and 2017. As several companies stopped importing this substance into the EU recently, the volume is likely to have decreased in 2018 and 2019, but it remains significant.⁶²

The conditions in which the mares used in the process are kept would not be acceptable in the EU. Producers extract up to 10 litres of blood once or twice a week for about 11 weeks. This volume represents on average a quarter of the mares’ total blood volume, and can lead to hypovolemic shock, anaemia and deficiency diseases.

Between extractions, the mares are left to graze without veterinary supervision and regularly die as a result of the process, or due to the forced abortions operated in order to get them pregnant again – and thus producing the hormone – as soon as possible. After a few years, the mares are exhausted and no longer get pregnant. They end up feeding the horsemeat business, which raises further animal welfare concerns, as well as issues related to public health.

⁶¹ *Ibid.*

⁶² Uruguayan Customs website shows exports from Syntex Uruguay to France were still worth 1 million USD in 2019.



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Argentina has not yet introduced legislation for the protection of blood mares. The animal welfare standards created by the pharmaceutical companies are not mandatory, and consist only of guidelines. There is no official control of their implementation, and no sanction in case they are not enforced. In the case of **Uruguay**, the ministry published an animal welfare manual for eCG production in June 2017. However, it contains mainly non-binding recommendations, and has considerable loopholes. For example, there is no legal limit on the volume of blood that can be extracted, no rule on abortion methods, or on the frequency of blood collections or of the inspections of the mares that should take place.

EU audits of slaughterhouses approved in these countries to export horse meat to the EU have regularly identified weaknesses and deficiencies concerning identification and traceability of the horses, such as incidence of missing ear tags and lack of identification procedures (e.g. EC

audit of Argentina in 2014⁶³). In addition, NGOs have also repeatedly documented fraudulent activities in relation to ear tagging.⁶⁴

Argentina tried to tackle the lack of traceability by introducing new legislation in March 2019, but an illegal trade in stolen horses is still going on, accompanied by serious animal welfare violations. Given the lack of reliability of the equine identification system in Argentina and Uruguay, the horses' actual origin is unknown.

On top of the lack of traceability, corruption is another concern. The 2018 audit report on horse meat from Argentina mentions that the entire staff of the local competent authority responsible for inspections was dismissed in July 2018 following an investigation that confirmed corruption and underperformance.⁶⁵ A 2016 audit report by the European Commission also identifies smuggling as a serious concern in Uruguay.⁶⁶

⁶³ European Commission, DG SANTE, Food and Veterinary Office, *Final report of an audit carried out in Argentina from 03 to 15 September 2014 in order to evaluate the operation of controls over the production of and certification procedures for fresh equine meat and casings destined for export to the European Union*, DG(SANTE) 2014-7296 - MR FINAL, 5 February 2015.

⁶⁴ https://www.gaia.be/sites/default/files/paragraph/files/2017_horsemeat_production_0.pdf

⁶⁵ *Ibid.*

⁶⁶ European Commission, DG SANTE, *Final report of an audit carried out in Uruguay from 24 May to 6 June 2016 in order to evaluate the operation of controls over the production of and certification procedures for fresh bovine and equine meat destined for export to the European Union*, DG(SANTE) 2016-8860 - MR.

Audits have also regularly highlighted animal welfare concerns in these slaughterhouses. Reports from audits in Uruguay in 2007,⁶⁷ 2016⁶⁸ and 2018⁶⁹ and in Argentina in 2014⁷⁰ and 2018⁷¹ highlight issues at the time of slaughter. The last Argentinian audit also indicated that officials would not be aware of animal welfare problems at the assembly centres, as the deaths of horses are not recorded. Transport conditions are also horrendous, and not covered by EU rules.

In 2016, horsemeat represented 2.83% of Mercosur meat exports to the EU, up from 2.31% in 2013. It amounted to 4% of the value exported by Uruguay (13.65 million EUR), 7% of the value exported by Argentina (31.9 million EUR) and 0.56% of the value exported by Brazil (5.63 million EUR) – all up from 2013.

According to officials, the tariff on horsemeat will be brought to zero.⁷² The welfare conditions in the sector – and in other horse-related activities such as blood farms – are such that lowering the tariff, even if initially low, sends the wrong signal to Mercosur authorities. Improvements have to be made on the ground first, and the auditing system must be improved in order to ensure that good practice is rewarded. Finally, imports of horsemeat should be suspended as long as the exporting countries do not meet EU requirements regarding animal welfare at slaughter and traceability of horses.

3.2 TRADE IN GOODS

The EU-Mercosur “Trade in Goods” chapter⁷³ appears to unnecessarily limit the EU’s flexibility beyond international commitments:

- First, article 10 on “Prohibition of Quantitative Restrictions” states that “No Party may adopt or maintain any prohibition or restriction, on the importation of any good of the other Party or on the exportation or sale for export of any good destined for the territory of the other Party, whether applied by quotas, licenses or other measures, except in accordance with Article XI of GATT 1994, including its interpretative notes.(...)”. While the EU is unlikely to build a measure in violation with Article XI,⁷⁴ we believe a note should have been made in this article of the possibility to do so under exceptions listed by Article XX. As a reminder, the EU seal ban was not seen as a quantitative restriction at the border, as it was more an EU regime applying both to imported and local products, but the question could be raised if the EU was to restrict the import of a product it does not produce.
- While it is positive that the EU reaffirmed in article 13 on “exceptions” that GATT Article XX(g) also concerns living exhaustible resources, meaning animals, it has missed an important occasion to reaffirm its reading of GATT Article XX(a), on the public moral exception, as covering animal welfare related concerns.

⁶⁷ European Commission, DG SANTE, Food and Veterinary Office, [Final report of a mission carried out in Uruguay from 4 to 12 December 2007 in order to evaluate animal health controls in place in particular over foot and mouth disease, public health control systems and certification procedures](#), DG(SANCO)/2007-7397 - MR Final, 18 July 2008.

⁶⁸ European Commission, DG SANTE, Food and Veterinary Office, [Final report of an audit carried out in Uruguay from 24 May to 6 June 2016 in order to evaluate the operation of controls over the production of and certification procedures for fresh bovine and equine meat destined for export to the European Union](#), DG(SANTE) 2016-8860 - MR.

⁶⁹ European Commission, DG SANTE, Food and Veterinary Office, [Final report of an audit carried out in Uruguay from 23 April 2018 to 04 May 2018 in order to evaluate the control system in place governing the production of food of animal origin \(horse meat\) intended for export to the European Union](#), DG(SANTE) 2018-6457, 21 February 2019.

⁷⁰ European Commission, DG SANTE, Food and Veterinary Office, [Final report of an audit carried out in Argentina from 03 to 15 September 2014 in order to evaluate the operation of controls over the production of and certification procedures for fresh equine meat and casings destined for export to the European Union](#), DG(SANTE) 2014-7296 - MR FINAL, 5 February 2015.

⁷¹ European Commission, DG SANTE, Food and Veterinary Office, [Final report of an audit carried out in Argentina from 26 November 2018 to 07 December 2018 in order to evaluate the control system in place governing the production of food of animal origin \(horse meat\) intended for export to the European Union](#), DG(SANTE) 2018-6459, 18 June 2019.

⁷² https://www.cancilleria.gob.ar/userfiles/ut/copia_de_eu_offer_2019_10_25.pdf

⁷³ https://trade.ec.europa.eu/doclib/docs/2019/july/tradoc_158144.%20Trade%20in%20Goods.pdf

⁷⁴ https://www.wto.org/english/res_e/publications_e/ai17_e/gatt1994_art11_gatt47.pdf

3.3 CONTROLS AND AUDITS

Eurogroup for Animals has long called for more resources to be allocated to auditing mechanisms and their follow up processes. Audits in third countries are the only method to assess that animal welfare requirements are being respected. More missions should be carried out, and audits should target animal welfare conditions specifically to ensure sufficiently detailed reporting. In addition, if serious shortcomings are detected in countries or individual establishments, those should face consequences and ultimately be removed from the list of countries or establishments, from which imports of animal products into the EU are permitted. Indeed, lack of deterrent sanctions gives less incentive for non-compliant countries or operators, or to address concerns highlighted in EU audit reports.

With this in mind, the EU-Mercosur Agreement could represent a step back, as the chapters on sanitary and phytosanitary (SPS) measures⁷⁵ and on customs and trade facilitation⁷⁶ aim, among other things, to facilitate trade by reducing checks and controls at borders (i) and in the exporting countries (ii). In addition, the Agreement limits the possibility of sanction in case of non-compliance (iii).

(i) The EU-Mercosur Agreement aims to reduce controls carried out by importing countries

First, the Agreement clearly aims at reducing controls at borders. As such, Article 7 of the SPS chapter provides that: *“The Parties shall agree, when appropriate, to simplify controls and verifications and reduce the frequency of the import checks made by the importing Party on products of the exporting Party”*. Other provisions pursue the same objective such as article 12 of the customs and trade facilitation (CTF) chapter, under which *“the Parties shall concentrate customs control on high-risk consignments and expedite the release of low-risk consignments”*. As far as animal welfare is concerned, one may fear that those provisions aiming at boosting trade between the EU and Mercosur, could induce a lower level of compliance with the obligations of Regulation (EU) 2017/625⁷⁷ pursuant to which *“competent authorities at border control posts shall systematically perform official controls on consignments of*

animals being transported and on means of transport to verify compliance with the animal welfare requirements.” At the moment, the EU does not import many live animals from Mercosur countries, and only sends them around 70,000 farm animals. Yet this could change in the future.

Similarly, controls of individual establishments wishing to export to the EU could be totally left with the exporting countries. Under Article 7.A of the SPS Chapter, the approval of establishments for the import of animals and animal products *“shall be granted without prior inspection of individual establishments by the importing Party once the importing Party has recognised the official control system of the competent authority of the exporting Party and has authorised the import of the concerned products and if the exporting Party provides sufficient guarantee that they fulfil the sanitary requirements of the importing Party.”* This express limitation of the importing Party’s faculty to carry out inspection of individual establishments could limit the EU’s margin in case of doubt on individual establishments when the exporting Party’s official control system has already been ‘recognised’.

Limiting the importing countries’ faculty to perform controls and relying entirely on the exporting countries’ official control systems does not seem appropriate in view of the recently detected shortcomings and cases of corruption in Argentina, Uruguay and Brazil. As regards the latest, in 2017, the so-called ‘Carne Fraca’ food safety scandal uncovered an extensive corruption system of food inspectors issuing health certificates for rotten meat involving several establishments of the meat processing giants, JBS and BRF. It is important to underline that EU audits carried out in the bovine sector in 2016, a year before ‘Carne Fraca’, concluded that *“the control systems regarding holding registration, identification and registration of cattle and animal movement controls on the holdings approved for participation in the EU export chain for meat and meat products were generally satisfactory.”* If the EU had had this agreement with Mercosur in place, it might have had more difficulty, or constraints, to react.

⁷⁵ https://trade.ec.europa.eu/doclib/docs/2019/july/tradoc_158155.%20Sanitary%20and%20Phytosanitary%20Measures.pdf

⁷⁶ https://trade.ec.europa.eu/doclib/docs/2019/july/tradoc_158151.%20Customs%20and%20Trade%20Facilitation.pdf

⁷⁷ Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, article 49.

In the wake of this scandal, the EU Commission carried out another audit of the Brazilian official control system which concluded that “*the system is not fully or effectively implemented and this compromises the reliability of export certification*”.⁷⁸ Although a new audit carried out in 2018 reported some improvements, it showed that some shortcomings had not been addressed. For instance, the audit report highlights that “*The provisions in place for suspension and delisting of non-compliant establishments do not ensure that, where warranted, non-compliant establishments are delisted swiftly*”.⁷⁹

The only response that the EU-Mercosur Agreement provides to this potential lack of reliability of official control systems, is the possibility for the importing country to carry out audits on these systems, subject to a 60 working day notice (Article 15 of the SPS Chapter). But this is insufficient to tackle reliability problems considering the existing lack of resources devoted to auditing mechanisms in the EU and to their follow-up, coupled with the expected increase in meat exports from Mercosur to the EU and the lack of deterrent sanctions in case of non-compliance (see *infra*).

In that context, it is important to underline that Brazil has already complained about the level of audits imposed to its poultry industry. Every year since 2017, it has raised concerns at the WTO “*regarding reinforced EU controls on Brazilian poultry meat shipments due to the alleged detection of several Salmonella serotypes*”.⁸⁰ This shows that partners will not accept easily higher levels of checks than what they feel entitled to under the EU-Mercosur Agreement, even when the EU considers it has a scientific basis for them.

(ii) The EU-Mercosur Agreement also aims at reducing controls in the exporting countries

The EU-Mercosur Agreement expressly provides that, under certain conditions, controls on exporting operators shall be reduced. Indeed, under Article 8 of the customs and trade facilitation chapter, each country shall establish a “*trade facilitation partnership programme*” whereby operators meeting a set of criteria defined by the exporting country shall qualify as “*authorized economic operators*” (“AEO”) which shall allow them to benefit from “*at least four of the following benefits*”:

- (a) **low documentary and data requirements**, as appropriate;
- (b) **low rate of physical inspections** and examinations as appropriate;
- (c) *rapid release time* as appropriate;
- (d) *deferred payment of duties, taxes, fees and charges*;
- (e) *use of comprehensive guarantees or reduced guarantees*;
- (f) *a single customs declaration for all imports or exports in a given period; and*
- (g) *clearance of goods at the premises of the authorized economic operator or another place authorized by customs.*”

As regards the criteria to qualify as an AEO, the Agreement provides that they shall relate to “*compliance, or the risk of non-compliance, with requirements specified in the Parties’ laws, regulations or procedures*” and indicates that they may include: “*absence of any serious infringement or repeated infringements of customs legislation and taxation rules*”, “*high level of control of his or her operations and of the flow of goods*”, “*financial solvency*”, “*proven competences or professional qualifications directly related to the activity carried out*”; “*appropriate security and safety standards*”.

It is regrettable that this provision does not include explicitly specific criteria applicable to exporters of animal products such as respecting high levels of sustainability and animal welfare standards, or even their track record in the field. This is a missed opportunity for the EU to encourage operators that do not disregard rules impacting animals, or even that could voluntarily increase their standards in order to benefit from the significant advantages of the AEO programmes.

⁷⁸ European Commission, DG SANTE, Food and Veterinary Office, [Final report of an audit carried out in Brazil from 02 May 2017 to 12 May 2017 in order to evaluate the operation of controls over the production of beef, horse and poultry meat, and products derived therefrom intended for export to the European Union](#), DG(SANTE) 2017-6261, 26 September 2017, p. 1.

⁷⁹ European Commission, DG SANTE, Food and Veterinary Office, [Final report of an audit carried out in Brazil from 22 January 2018 to 05 February 2018 in order to follow up the implementation of the actions taken by the Brazilian authorities to address the recommendations of audit report DG\(SANTE\)/2017-6261](#), DG(SANTE) 2018-6460, 25 June 2018, p. 1.

⁸⁰ <http://spsims.wto.org/en/SpecificTradeConcerns/View/432>

(iii) The EU-Mercosur Agreement constrains the possibility of sanction in case of non-compliance

As regards the consequence of non-compliance detected at borders, the 'Trade facilitation measures' article (Article 7) of the SPS Chapter included in the EU-Mercosur Agreement provides that: *"If import checks reveal non-compliance with the relevant SPS import requirements, the action taken by the importing Party must be: justified, based on the identified non-compliance and not more trade-restrictive than required to achieve the Party's appropriate level of sanitary or phytosanitary protection"*. In practice, such provision could make it more difficult for the importing country to impose truly deterrent sanctions as it would have to provide strong justifications.

As regards non-compliance of official control systems with the requirements of the Agreement – i.e. their capacity to ensure that the products exported meet the requirements of the importing Party – Article 15 of the SPS Chapter provides that *"Any measure taken as a consequence of audits and verifications shall be proportionate to shortcomings or risks identified. If so requested, technical consultations regarding the situation shall be held in accordance with Article 13 (Consultations)"*. This similarly risks limiting the capacity of the importing country to take rapid and truly deterrent measures in case of serious or persistent non-compliance. The EU could, of course, argue that control authorities are not trustworthy, but looking at older audit reports, this position could be hard to defend in the medium term.

3.4 THE SPS CHAPTER - CONSEQUENCES ON THE PRECAUTIONARY PRINCIPLE

Another major flaw of the SPS chapter in the EU-Mercosur deal is that it does not mention explicitly the precautionary principle, on which several key import requirements impacting animal welfare are based.⁸¹ This is, for instance, the case of the interdiction to use chlorine – or any other non approved chemicals – to wash chicken meat. Such a decision comes from the EU's 'Farm to Fork' approach which favours a production chain in which animal welfare is respected, rather than in which the food is chemically rinsed at the end. The ban on certain growth promotants, which has an impact on animal welfare as these substances have a detrimental effect on animals, is also based on

this principle. Both measures have been challenged at the World Trade Organisation (WTO): while the dispute on chlorine chicken did not proceed, the EU ended up compensating partners for its ban on growth promotants.

The transparency section in the SPS chapter states that *"in cases where relevant scientific evidence is insufficient"* (this is when the EU relies on the precautionary principle), *"a party adopting a provisional measure shall provide the available pertinent information on which the measure is based and, when available the additional information for a more objective assessment of the risk and will review the SPS measure accordingly in a reasonable period of time."* This paragraph seems to imply that measures relying on the precautionary principle are possible. However, it sets a strict framework around such measures: they should be temporary and the Party shall then *"provide the available pertinent information on which the measure is based and, when available the additional information for a more objective assessment of the risk and will review the SPS measure accordingly in a reasonable period of time."* This commitment does not seem to leave space for permanent measures based on the precautionary principle, as the EU currently has.

Parties are also supposed to disclose information on the development of SPS measures, which can open the door to lobbying in opposition from an earlier stage of the regulatory process. The chapter also foresees a specific consultation mechanism that can be started if SPS measures, or draft measures, are "considered to be inconsistent" with the SPS chapter. As the chapter only refers to the WTO SPS agreement and not to the precautionary principle, this could also be used to complain about the EU's decisions based on the "precautionary principle". The agreement indicates clearly that decisions on compliance must be based on the WTO SPS requirements.

In general, the language in the SPS chapter, by only referring to the WTO SPS agreement, will not help the EU defend its policy-making based on the precautionary principle. In addition to the two measures listed above in relation to animals, another important one will be implemented soon: the new EU regulation on veterinary medicinal products.⁸² This text extends the scope of the ban on the use of growth promoting hormones and beta-agonists in animal production to also include antimicrobials used in animals "for the purpose of promoting growth" or "to increase yield." This ban will apply to imported products, as well as a ban on the use of a specific list of antimicrobials reserved to the treatment of humans. Many partners, among them

⁸¹ The precautionary principle is only included in the "Trade and Sustainable Development" Chapter and its scope is restricted.

⁸² Regulation (EU) 2019/6 of the European Parliament and of the Council of 11 December 2018 on veterinary medicinal products, articles 107 and 122.

Brazil and Argentina, have already criticized this measure as they are big users of antimicrobials as growth promoters.⁸³ The EU-Mercosur agreement, as it stands, will not lower the risk of the EU being challenged on this measure at the WTO by Mercosur countries. The text does not even set an objective to reduce the use of antimicrobials in animal production, neither in the SPS chapter nor in the section on a dialogue around antimicrobial resistance. On the contrary, it creates an additional channel of dialogues that Mercosur countries will be able to apply political pressure.

It is important to underline that Mercosur countries, as well as other trading partners of the EU, have been challenging the EU's approach, based on hazard, for years at a global level. While the EU claims that this agreement will contribute to ensure that more third countries support its approach on food safety, Mercosur countries are still filing with the WTO reports criticising the EU's approach, for instance on pesticides or residues. More generally, all Mercosur countries were signatories of a letter published during the latest WTO ministerial (Buenos Aires, December 2017) which attacked the “*regulatory barriers that lack a sufficient scientific justification*”, claiming this is having “*substantial negative impact on the production of, and trade in, safe food and agricultural products*” while calling for “*greater harmonization*”.⁸⁴

3.5 THE TECHNICAL BARRIERS TO TRADE ("TBT") CHAPTER: IMPACT ON ANIMAL WELFARE STANDARDS AND LABELLING

Eurogroup for Animals has been advocating for the generalisation of mandatory method-of-production labelling schemes⁸⁵ as, with over half of EU citizens expressing willingness to pay more for high welfare, such schemes enable consumers to make informed purchasing decisions. As an example, the EU Regulation on marketing standards for eggs method⁸⁶ has proven that, when better informed, consumers modify their buying behaviour with a

substantial move away from caged hens' eggs. Such labels may also eventually lead farmers to favour methods of production that are the least detrimental to the planet and animals, and may contribute to leveling the EU market's playing field.

Against this background, the Chapter on Technical Barriers to Trade ("TBT Chapter") of the Agreement presents a significant threat to the regulation of this field.

(i) The EU-Mercosur Agreement narrows down the scope of acceptable mandatory labelling schemes

As of today, States' regulations imposing mandatory labelling schemes fall under the WTO Technical Barriers to Trade Agreement ("TBT Agreement"),⁸⁷ which, whereas imposing strict conditions,⁸⁸ leaves some latitude where those schemes pursue legitimate regulatory objectives.⁸⁹

The TBT Chapter of the EU-Mercosur Agreement dramatically restricts this latitude. Indeed, it contains a specific article dealing with "Marking and Labelling" (Article 9) which not only incorporates the existing strict obligations of the TBT Agreement but also imposes new obligations on labelling schemes.

First, this article provides that “*the Parties agree that where a Party requires mandatory marking or labelling of products: a) the Party shall only require information which is relevant for consumers or users of the product or authorities to indicate the product's conformity with the mandatory technical requirements*”.

Under this article the scope of acceptable mandatory labelling schemes is significantly narrowed, as only labelling indicating the conformity with “mandatory technical requirements” seems to be permitted. In particular, the wording used in this article seems to exclude the possibility to impose a mandatory labelling scheme that would have an informative-only purpose. As such, under this article,

⁸³ World Trade Organization, News, [Members advance discussion on the Fifth Review of the SPS Agreement](#), 12 and 13 July 2018 & World Trade Organisation, [Committee on Sanitary and Phytosanitary Measures - Summary of the meeting of 1 - 2 November 2018 - Note by the Secretariat](#), February 2019, paragraphs 3.38, 3.39 and 3.43.

⁸⁴ World Trade Organization, Trade in food and agricultural products, Joint Statement of Undersigned Ministers - Ministerial Conference Eleventh Session, Buenos Aires, 10-13 December 2017.

⁸⁵ See: Eurogroup for Animals, [Policy brief: Method-of-production labelling: the way forward to sustainable trade](#); [Policy brief: Animal Welfare, Trade and Sustainable Development Goals](#), p. 22.

⁸⁶ Commission Regulation (EC) No 589/2008 of 23 June 2008 laying down detailed rules for implementing Council Regulation (EC) No 1234/2007 as regards marketing standards for eggs.

⁸⁷ TBT Chapter, article 2.

⁸⁸ The TBT Agreement contains no specific provision relating to labelling requirements. Thus they must comply with the general rules applying to all technical regulations, in particular, they must not discriminate against imported products and not be more trade-restrictive than necessary to fulfil a legitimate objective.

⁸⁹ See: Eurogroup for Animals, [Policy brief: Method-of-production labelling: the way forward to sustainable trade](#).

the EU Regulation on marketing standards for eggs, if it were applied similarly to EU and imported products,⁹⁰ could be challenged as the indication of the farming method that it requires ('Free range eggs', 'Barn eggs' or 'Eggs from caged hens') aims to provide relevant information to consumers, rather than indicating the eggs' compliance with a mandatory technical requirement. Similarly, under this article, further regulation requiring labelling on animal welfare or use of GMOs for animal feed could face serious risks of non-compliance. It would seem unlikely that the EU could claim that its labelling regulations per se constitutes "technical requirements". If so, then this provision would not restrict in any way the labelling practices of the parties and would thus be pointless.

It is interesting to note that the language used in the EU-Mercosur Agreement is more restrictive than the one used in other bilateral trade agreements recently concluded by the EU with third countries: the CETA (comprehensive economic and trade agreement) with Canada does not contain any such clause. The agreement with Vietnam does contain a 'marking and labelling' article but it uses a slightly different wording as it refers to "*information which is relevant for consumers or users of the product or which indicates the product's conformity with the mandatory technical requirements*".⁹¹ Similarly, the initial text proposals tabled by the EU side as part of the ongoing trade negotiations with Australia and with the UK refer to "*information which is relevant for consumers or users of the product or to indicate the product's conformity with the mandatory technical requirements*".⁹² Only a few words have been changed in the corresponding article of the EU-Mercosur Agreement, but this may dramatically change the scope of the obligation. Interestingly, the EU-Japan Economic Partnership Agreement also deviates from the language usually proposed by the EU and is as restrictive as the EU-Mercosur Agreement.⁹³

(ii) The obligation to base technical regulations on international standards is sharpened

The TBT Chapter in the EU-Mercosur Agreement (article 5) incorporates the obligations of the TBT Agreement regarding the use of international standards – which have been found to apply to labelling regulations – but also adds tighter obligations in this respect.

Similarly to the TBT Agreement, the TBT Chapter of the EU-Mercosur agreement requires the Parties to "*use relevant international standards as a basis for their technical regulations except when such international standards would be an ineffective or inappropriate means for the fulfilment of the legitimate objectives pursued*". The next article in the text provides a narrow definition of "international standards" not only by listing specific standard-setting organisations (ISO, IEC, ITU, CODEX ALIMENTARIUS)⁹⁴ but also by providing a closed definition of the standard-setting bodies that can be relied upon.⁹⁵ This could constitute a step back compared to the TBT Agreement, which does not closely define international standards, and even compared with the WTO case law, which accepts a higher number of international standards.

With regards to animal welfare, few international standards could serve as a basis for technical regulations. The standards agreed by the OIE (World Animal Health Organisation) are one set,⁹⁶ and the ISO 34700 another.⁹⁷ Looking at the strict definition provided in the EU-Mercosur Agreement, they could both fit, but the absence of the OIE from the list contained in Article 6 is likely to underline the willingness of the Parties to make clear that OIE standards should only be considered with regards to animal health, and thus for measures adopted under the SPS chapter.

⁹⁰ At this moment, the EU requirements as to egg labelling are different for imported shell eggs: they must display the country of origin and, if relevant, the mention "not EC compliant", which could be seen as a marking expressing compliance with EU technical requirements. However, it is less detailed, and informative, than what is imposed to EU shell eggs.

⁹¹ https://trade.ec.europa.eu/doclib/docs/2018/september/tradoc_157350.pdf, article 5.9.

⁹² https://trade.ec.europa.eu/doclib/docs/2018/july/tradoc_157195.pdf, article X.8. & <https://ec.europa.eu/info/sites/info/files/200318-draft-agreement-gen.pdf>, article TBT.8

⁹³ http://trade.ec.europa.eu/doclib/docs/2018/august/tradoc_157228.pdf#page=158, article 7.11

⁹⁴ *International standards developed by ISO, IEC, ITU, CODEX ALIMENTARIUS shall be considered to be the relevant international standards within the meaning of Article 2, Article 5 and Annex 3 of the TBT Agreement*, article 6.2.

⁹⁵ The conditions are the following: (a) the standard has been developed by a standardization body which seeks to establish consensus either: i) among national delegations of the participating WTO Members representing all the national standards bodies in their territory that have adopted, or expect to adopt, standards for the subject matter to which the international standardization activity relates, or, ii) among governmental bodies of participating WTO Members, and, (b) it has been developed in accordance with the TBT Committee Decision on Principles for the Development of International Standards, Guides and Recommendations with relation to Articles 2, 5, and Annex 3 of the TBT Agreement.

⁹⁶ World Organization for Animal Health, *Terrestrial Animal Health Code* (25th edn, 2016), available at <https://bit.ly/2mvy3Fh>.

⁹⁷ The ISO 34700 is based on OIE codes and tries to facilitate their implementation.

The consequences of these articles are thus mixed. As international animal welfare standards are low, they could be inappropriate to fulfil the EU's legitimate objectives, and it could be expected that the EU would disregard them as a basis for a technical regulation on animal welfare. However, the EU does not have standards in certain sectors, and it could have been useful to have either an explicit mention of the OIE, or fewer restrictions as to which international standards could be used if the OIE's are too low.

Furthermore, it is always easier for a Party to defend itself if it is following the rule, rather than calling on the exceptions. To clarify, it would be easier for the EU to defend a technical regulation based first on listed international standards and second on non-listed international standards fitting the description included in the agreement, and finally on its own standards.

The EU could have thus used the provisions in the EU-Mercosur agreement to reassert its right to base technical regulations on animal welfare standards by listing at least one standard-setting body more active than ISO in this field.

It is also interesting to underline that the TBT Chapter goes further than the TBT Agreement by requiring a constant effort of alignment with international standards: *"The Parties shall consider, inter alia, any new development in the relevant international standards and whether the circumstances that have given rise to any divergence from any relevant international standard continue to exist."* Such language puts additional pressure on states wishing to impose method-of-production labelling requirements, as so far no international standards exist in this respect.

3.6 ANIMAL WELFARE COOPERATION

The EU-Mercosur Association Agreement contains provisions on animal welfare cooperation. These provisions represent an opportunity to foster concrete improvements in both partners' legislation, which would benefit all animals, by using cooperation mechanisms and tools such as technical assistance and capacity-building measures. In 2018, Mercosur countries produced more than 2 billion farm animals, with the EU accounting for 1.76 billion animals, all of whom could be impacted by positive legislative changes.⁹⁸

The agreed provisions have been published by the EU. They are included in a chapter called 'Dialogues' that also covers agricultural biotechnology, antimicrobial resistance and scientific matters related to food safety, animal and plant health. Unfortunately, the cooperation mechanisms the chapter establishes on animal welfare only offer possibilities, without establishing any obligation of results.

The agreement recognises that animals are sentient beings and indicates that parties will conduct a dialogue on animal welfare matters affecting trade; exchange information, expertise and experience on standards related to breeding, holding, handling, transportation and slaughter of animals; and collaborate on research and in international fora.

The recognition of animal sentience and the explicit inclusion of on-farm practices within the scope of the cooperation mechanism is to be commended. However, the text remains very weak, especially when compared with earlier proposals made by the EU. Notably, a 2017 proposal suggested an objective of regulatory alignment in breeding, holding, handling, transportation and slaughter of animals, which would have at least established a path towards alignment, even without a binding timeline. As it stands, the dialogue on animal welfare does not even aim to improve the protection and welfare of animals. One could also wonder how this new dialogue will build upon the results — even if they are weak — of the existing cooperation on animal welfare with Brazil and Argentina (see Annex 1).

The impact of such provisions entirely depends on the resources allocated to the topic — and on political willingness on both sides. Looking at the EU's track record in this field; it is doubtful it will deliver.

Antimicrobial resistance

Another section of the 'Dialogues' chapter targets antimicrobial resistance, which is according to the World Health Organisation *"one of the biggest threats to global health, food security, and development today"*. In September 2016, the United Nations General Assembly admitted that overuse of antimicrobials in livestock production is the primary cause of the surge in antimicrobial resistance.⁹⁹ This phenomenon is not due to small-scale productions, but to the spread of intensive farming systems, in which antimicrobial products are used routinely and increasingly.

⁹⁸ Figures from FAOStat - counting chicken, pigs, cattle, sheep and goats.

⁹⁹ <https://www.cddep.org/wp-content/uploads/2017/10/science.0929PolicyForum-1.pdf>

According to the European Commission, “AMR is responsible for an estimated 25,000 deaths per year in the EU”.¹⁰⁰ Like the WHO,¹⁰¹ the European Commission recognizes in its ‘One Health’ Action Plan against AMR, the link between the increase of antimicrobial resistance and poor farm welfare practices. The EU’s plan also underlines the importance of considering these issues when negotiating trade agreements: “as one of the largest markets for agricultural products, the EU can play a major role in promoting its AMR-related standards, measures in food production, and standards on animal welfare”.

The provisions included in the EU-Mercosur agreement foresees a dialogue on the topic and the exchange of information on good farming practices. Considering the link between higher welfare and a lower use of prophylactic antibiotics, Eurogroup for Animals hopes that the EU will also use this channel to discuss higher welfare farming practices.

According to an IATP report, “Brazil increased its use of antibiotics by 68 percent from 2000-2010, coinciding with the large increase in meat production”.¹⁰² Unlike the EU, but like the US, Brazil does not fully ban the use of antibiotics as growth promoters. It “was the third largest consumer of antibiotics in livestock in 2010 — China and the U.S. being the largest. Alarming, Brazil is expected to double its use by 2030.” Unfortunately, the dialogue has no concrete objective, not even the reduction of antimicrobial use in animal production, and could thus become an additional battlefield for Mercosur countries to criticise the hardening of EU rules on antimicrobial use. The new EU regulation on veterinary medicinal products, which will be implemented from 2022 onwards, extends the ban on the use of antimicrobials to promote growth or increase yield to imports.

Eurogroup for Animals also calls for these cooperation mechanisms to be transparent in their work and to involve civil society from both continents at all stages. The mechanisms should also allow relevant officials from sub-national level to participate in the discussions.



Animals in science

Animal welfare cooperation should not be restricted to farm animals. Brazil and Uruguay both adopted, in 2008¹⁰³ and 2009¹⁰⁴ respectively, similar specific legislation on the use of animals in experimental, educational and research activities that integrate the 3Rs principle. Both countries established a National Committee on Animal Experiment that maintains an updated register of institutions involved in these experiments. The Brazilian Committee also keeps track of how animals are used. Unlike these two countries, Argentina and Paraguay do not have such specific legislation despite debates in the Argentinian Federal Parliament on the opportunity to adopt a legislation similar to its two neighbouring countries, on the use of animals in science.¹⁰⁵

¹⁰⁰ https://ec.europa.eu/health/amr/antimicrobial-resistance_en

¹⁰¹ <http://www.who.int/mediacentre/factsheets/antibiotic-resistance/en/>

¹⁰² Shefali Sharma, Institute for Agriculture and Trade Policy (IATP) and Sergio Schlesinger, *The Rise of Big Meat: Brazil's Extractive Industry*, November 2017.

¹⁰³ Lei nº 11.794, de 8 de outubro de 2008.

¹⁰⁴ Ley Nº 18.611, Utilización de animales en actividades de experimentación, docencia e investigación científica.

¹⁰⁵ Fernanda Jara, Un proyecto que legaliza la experimentación en animales podría convertirse en ley, Infobae, 21 November 2018.

Moreover, Mercosur countries seem to be interested in working on the promotion of the 3Rs principles and establishing alternatives to animal testing for cosmetics. The four Mercosur countries established together a Regional Platform for Alternative Methods to the Use of Experimental Animals (PReMASUL),¹⁰⁶ notably to share experience and ideas on the 3Rs approach and works on alternatives to animal testing for cosmetics.

None of the Mercosur countries have adopted a ban on animal testing for cosmetics. However, after the adoption of such a ban at EU level, eight Brazilian States followed the example (Amazonas, Mato Grosso do Sul, Minas Gerais, Pará, Paraná, Pernambuco, Rio de Janeiro and São Paulo). 70% of Brazil's national cosmetic industries are located in one of these states. According to a 2019 opinion poll, 73% of Brazilian citizens consider that *"if the Congress were to legislate on this matter, cosmetics products should not contain new ingredients tested on animals"*.¹⁰⁷ In Argentina, the Federal Parliament debated a proposal for a bill introducing such a ban in its national legislation during the past legislature. This proposal was supported by a petition of more than 40.000 signatures.

Eurogroup for Animals is thus convinced that a dialogue on animals used in science could be developed between the two parties, especially by taking into consideration the recent interest of Mercosur countries and their citizens in the welfare of these animals. The EU could share its own experience of implementing the 3Rs approach and on banning the testing of cosmetics on animals. If needed, it could also offer technical assistance in the field. Both partners could also work towards the harmonisation of legislation regulating the use of animals for experimental purposes in Mercosur countries (e.g. competences of the national committees, promote a network of the national committees to exchange knowledge on 3Rs best practices; recording data/statistics on the use of animals in experiments). Finally, this collaboration could allow the EU to present its experience on having established the European Union Reference Laboratory for alternatives to animal testing (EURL ECVAM) to exchange knowledge and to improve investment on the promotion of alternative methods.

3.7 TRADE AND SUSTAINABLE DEVELOPMENT

Animal welfare, trade and Sustainable Development

The "Trade and Sustainable Development"(TSD) Chapter in the EU-Mercosur Agreement has been deemed by EU officials as being the strongest the Commission has concluded to date. While the language used in the chapter is slightly stronger than usual, displaying more "shall" and less "as appropriate", it still only reiterates international commitments without providing any concrete additional tool to ensure their implementation, or without guaranteeing the means to do so. The TSD chapter contains the usual non-regression clause (the interdiction to lower environmental or labour standards to attract trade and investment). However, proving the link between any watering down of the standards and a change in trade or investment patterns remains a challenge that has never yet been accomplished.

The TSD chapter in the EU-Mercosur agreement does not explicitly recognise the strong link between animal welfare and sustainable development, and more specifically with the UN Sustainable Development Goals. According to the preamble of the UN 2030 Sustainable Development Agenda, protecting animal welfare is essential to sustainable development in its own right.

"We envisage a world in which (...) humanity lives in harmony with nature and in which wildlife and other living species are protected."

UN 2030 SD Agenda¹⁰⁸

Animal Welfare is also complementary to a number of other aspects of sustainable development. Among the UN 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 (read more on this in our report on 'Animal Welfare, Trade and Sustainable Development Goals'¹⁰⁹).

¹⁰⁶ Plataforma Regional de Métodos Alternativos ao Uso de Animais de Experimentação/Plataforma Regional de Métodos Alternativos al Uso de Animales de Experimentación.

¹⁰⁷ Humane Society International, Press release, [Brazilian want comprehensive legislation against cosmetic tests on animals, according to new poll](#), 31 October 2019.

¹⁰⁸ <https://sustainabledevelopment.un.org/post2015/transformingourworld>

¹⁰⁹ Eurogroup for Animals, [Animal Welfare, Trade and Sustainable Development Goals](#), October 2019.



Impact on animals, climate and forests

The EU-Mercosur Agreement will stimulate more trade. This is simply the aim of any trade agreement. According to the Interim Report on the Sustainability Impact Assessment (SIA) carried out in support of these negotiations, not only will the EU's import of animal products from Mercosur increase, but so will the general output in the sector.

The connection between the expansion of livestock industries and (illegal) deforestation is well recognised, especially in, but not limited to Brazil, where cattle ranching is said to be responsible for three quarters of the deforestation.¹¹⁰ According to a report published by the Institute for Agriculture and Trade Policy (IATP), four of the largest greenhouse gas emitters in the meat industry are to be found in Brazil.¹¹¹ The report also revealed that the top five meat and dairy companies emit more than Exxon, Shell and BP together.¹¹² Even the EU's interim SIA recognizes a negative impact of the agreement on emissions, but remains vague as to how other provisions, notably in the TSD chapter, will offset this increase in emissions.

This is one of the major flaws in the EU's approach to sustainable development provisions in trade agreements. Efforts are made to suggest positive initiatives that can deliver progress, yet there is no proper assessment of the concrete impact an agreement can have on animals, the environment and people. Therefore, it is never certain that eventually the balance will be positive. Whilst the agreement may lead to the increase in specific productions, which will have an immediate negative impact; it remains uncertain as to how much of this can be offset by initiatives developed by the partners, notably in the context of the TSD chapters.

Alongside beef, the trade in soy, which is used in intensive meat production as animal feed, could also increase. Soy production is known to be a key driver of deforestation and is the main product exported from Mercosur to the EU. While EU tariffs on imported soy are already at zero, other factors can contribute to increasing production in Mercosur countries. Firstly, the EU-Mercosur agreement's "Trade in goods" chapter includes a prohibition of export duties that will force Argentina to review the export tax it has in place for soy.¹¹³ Currently, this tax makes it more expensive to export soy from Argentina, to favour

¹¹⁰ Edoardo Liotta, *Feeling Sad about the Amazon Fires? Stop Eating Meat*, Vice, 23 August 2019. (referring to a World Bank report - <https://www.dw.com/en/brazil-forest-fires-rage-as-farmers-push-into-the-amazon/a-50116455>).

¹¹¹ Shefali Sharma, Institute for Agriculture and Trade Policy (IATP) and Sergio Schlesinger, *The Rise of Big Meat: Brazil's Extractive Industry*, November 2017.

¹¹² Institute for Agriculture & Trade Policy, GRAIN and Heinrich Böll Stiftung, *Big Meat and Dairy's Supersized Climate Footprint*, 7 November 2017.

¹¹³ https://trade.ec.europa.eu/doclib/docs/2017/april/tradoc_155480.pdf

the production of biofuel in the country. Secondly, as the agreement is expected to create change in animal production, diminishing beef and poultry production in the EU while increasing its milk and pork production, the EU is expected to need more soy to be used as animal feed.¹¹⁴

The dramatic impact of Jair Bolsonaro's environmental policies must also be taken into account. Since the beginning of his mandate, he has strongly decreased the budget of several Brazilian environmental public bodies, including the Ministry of the Environment and the Brazilian Institute of Environment and Renewable Natural Resources (IBAMA). Almost a thousand bills proposing environmental setbacks have been discussed in the Congress under Bolsonaro's mandate and his Government encourages serious retrocession, especially on deforestation. In February 2020, the Brazilian Government presented to the Congress a new controversial bill to open indigenous lands to commercial activities, including agricultural ones.¹¹⁵

Sustainable Agriculture and aquaculture

Although the TSD chapter includes a section on “*Trade and Sustainable Management of Fisheries and Aquaculture*”, it does not discuss ‘Sustainable Agriculture’. 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). Intensive farming also leads to huge volumes of waste (i.e. high level of water use, animal remains, excrement, water and soil pollution). 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. This is the reason why, since 2012, the EU, explicitly considers animal welfare as a dimension of sustainable agriculture.¹¹⁶

Stimulating intensive farming industries through trade liberalisation will have consequences in the short term for many animals, but it also contradicts the EU's longer term objective of promoting sustainable development.

Furthermore, while Mercosur meat producers may have been receptive to some criticisms regarding animal welfare, notably on gestation crates (used in the pork industry), they have actually encouraged more confinement in the beef industry offering “*independent cattle raisers the possibility of using their facilities and other supposed benefits in exchange for guarantees for purchasing the cattle. It is a way of introducing the integration model used in chicken and pig raising into the cattle sector.*” (See box on feedlots in Latin America). The chicken sector is also intensifying, with an increasing number of Brazilian producers converting to fully closed barns.

Most recently, other negative consequences of intensive farming have come under the spotlight. The concentration of animals at industrial livestock farms is generally very high and the animals often have a weakened immune system due to the poor conditions in which they are kept. Additionally, animals in industrial livestock systems belong to the same genetic strains, which favours the rapid spread of diseases. These conditions make such farms hotbeds for viral and bacterial zoonoses (animal diseases transmissible to humans). Secondly, livestock production is said to be “the single most powerful driver of habitat loss on Earth” due to deforestation (for grazing or growing crops for animal feed). The consequent pressure on biodiversity increases the frequency of interactions between wild animals and humans, which is another major cause of the spread of zoonoses.

Regarding aquaculture, it is unfortunate that the provisions do not mention the importance of fish welfare in improving sustainability in the sector. The EU only imports between 100 and 200 tonnes of Mercosur's farmed fish and shrimps per year, mostly from Argentina, but, the EU-Mercosur agreement could foster more exchanges.¹¹⁷ Higher welfare standards in aquaculture are the basis by which production can be carried out on a more natural basis, using fewer chemicals and less feed. This relationship between welfare and fish health and environmental impact is explicit and exemplified in the EU's Organic Regulation.

¹¹⁴ Greenpeace, EU-Mercosur Trade Leak, 6 December 2017.

¹¹⁵ <https://www.theguardian.com/world/2020/feb/06/brazil-bolsonaro-commercial-mining-indigenous-land-bill>

¹¹⁶ 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.

¹¹⁷ Matt Craze, *Argentina's seafood sector receives boost as EU approves Mercosur trade deal*, Undercurrent News, 1st July 2019.

Fish health and food safety aspects are emphasised by the European Food Safety Authority:

“All disease conditions can constitute a cause for poor welfare but it should be noted that poor welfare, often resulting from negative husbandry factors, can also enhance the susceptibility to disease by various mechanisms”.¹¹⁸ Production procedures based on good aquaculture practices (as recommended in different industry codes of practice) that result in provision of optimal animal welfare increase fish resistance to infections and therefore may lead to a reduction of the food safety risks associated with the resulting end products. Measures intended to maintain fish welfare by avoiding stress or improving environmental conditions are expected to have a positive impact on the safety of the food product. Environmental and hygienic conditions (related to water temperature, salinity, chemicals, organic matter, oxygen levels, etc.) and practices at pre-harvest level (inadequate feeding or antimicrobial usage), could increase the prevalence of certain biological hazards at farm level, and may also have an effect on fish welfare and physiological condition (stress). Both these aspects impact fish health, and subsequently may influence the safety of the end product.¹¹⁹

Wildlife trade and trafficking

Rampant deforestation has clear impacts on wildlife and their habitats and can lead to the extinction of species that only exist in one specific region. It is also a source of many welfare-related concerns. With the increase in wildfires, animals - wildlife, but also pets - are suffering and many do not manage to escape. For the surviving wild animals, many are displaced and will generally suffer from starvation and social disruption.

The implementation of the trade agreement will increase the agricultural trade between both parties. Thus, it could accelerate deforestation and at the same time negatively impact the welfare of wild animals living in the South American forests, especially by destroying their habitats.

Several academics published a study highlighting the link between exports of Brazilian soy to the EU and habitat losses for giant anteaters (*Myrmecophaga tridactyla*) in the Brazilian Cerrado region.¹²⁰

Moreover, it is clear that extensive agriculture will continue to lead to the extinction of wild species. This has been explained, for instance, by a recent study that estimates that habitat loss will cause the extinction of 50% of birds and 30% of mammals within 10-25 years in the Gran Chaco region where deforestation has been accelerated by the introduction of genetically modified soy tow decades ago.¹²¹ In Paraguay, the role of cattle ranching in fostering deforestation is also underlined by researchers: “the also biodiverse Gran Chaco, the second largest forest in Latin America after the Amazon, has been particularly hard-hit, losing nearly three million hectares (7.4 million acres) of forest – mostly to pasture – in the past ten years alone”.¹²²

Another dimension that deserves more research is the impact of the use of numerous pesticides in Mercosur countries on the welfare of wild animals. A study showed that, in the Cerrado region of Mato Grosso do Sul, which is a state known for its booming soy, corn and sugarcane productions; 40% of tapirs “suffer from a variety of types of pesticide contamination”. Many of them also presented health issues that could potentially be linked to contamination, but not exclusively.¹²³ More research should therefore be carried out and this issue should be taken into account in discussions with Mercosur countries on pesticides.

In Mercosur countries, wild animals are also exposed to poaching. The TSD chapter contains a commitment “to implement effective measures leading to a reduction of illegal trade in wildlife, consistent with international agreements” to which the countries are party and there is also a possibility for the parties to cooperate on this topic. This language is stronger than in other trade agreements, with the use of words like “shall” and “effective.” However, if the parties do not respect their commitments, the agreement does not foresee any material consequences (see below).

¹¹⁸ Scientific Opinion of the Panel on Animal Health and Welfare on a request from the European Commission on Animal Welfare aspects of husbandry systems for farmed Atlantic Salmon. *The EFSA Journal* (2008) 731, 1-31.

¹¹⁹ Scientific Opinion of the Panel on Biological Hazards on a request from European Commission on Food Safety considerations of animal welfare aspects and husbandry systems for farmed fish. *The EFSA Journal* (2008) 867, 1-24.

¹²⁰ Green, J. M. H., Croft, S. A., Durán, A. P., Balmford, A. P., Burgess, N. D., Fick, S., Gardner, T. A., Godar, J., Suavet, C., Virah-Sawmy, M., Young, L. E. and West, C. D. (2019). Linking global drivers of agricultural trade to on-the-ground impacts on biodiversity. *Proceedings of the National Academy of Sciences of the United States of America* 2019 Nov 12;116(46).

¹²¹ Semper-Pascual, A.; Macchi, L.; Sabatini, F.M.; Decarre, J.; Baumann, M.; Blendinger, P.G.; Gómez-Valencia, B.; Mastrangelo, M.E.; Kuemmerle, T. Mapping extinction debt highlights conservation opportunities for birds and mammals in the South American Chaco. *J. Appl. Ecol.* 2018, 55, 1218–1229.

¹²² Veit, P., & Sarsfield, R. (2017). *Land Rights, Beef Commodity Chains, and Deforestation Dynamics in the Paraguayan Chaco*. Washington, DC: USAID Tenure and Global Climate Change Program.

¹²³ Jenny Gonzales, [As pesticide approvals soar, Brazil's tapirs, bees, other wildlife suffer](#); Mongabay, 18 December 2019.



In Mercosur countries, like elsewhere in Latin America, the case of jaguars represents a tragic example of an endangered iconic species that is threatened by both deforestation and illegal trafficking. This species was included on 22 February 2020 in Appendices I (endangered migratory species) and II (migratory species that require international agreements for their conservation and management) of the Convention on the Conservation of Migratory Species of Wild Animals (Bonn Convention) during the Convention's 13th Conference of the Parties. Its inclusion is justified by the fact that the jaguar population has declined by 20-25% in the last 21 years. The measure was supported by Argentina, Paraguay and Uruguay.¹²⁴ Eurogroup for Animals encourages the EU institutions to collaborate with Mercosur countries to defend this species also protected under the CITES.

According to the UN, there are currently around 64,000 jaguars left in the wild, and almost 90% are confined to Amazonia, especially on the Brazilian territory. They are likely to be affected by the loss of habitats fostered by deforestation. This situation already happened in the neighbouring country, Argentina. It is estimated that the Argentinian habitat of jaguars has decreased by 95% in

200 years, mainly because of deforestation in regions like Gran Chaco.¹²⁵ There are now fewer than 250 jaguars living in the country. In addition to deforestation, another phenomenon affects jaguars: this species is increasingly poached and their parts are used to produce traditional Asian medicine. This illegal market was historically based on products derived from illegal trafficking of tigers. As tigers are almost extinct, also due to the illegal trade, poachers are now reverting to jaguars.

Finally, Eurogroup for Animals would like to emphasise that it is not only mammals who are affected by deforestation. The Amazon is home to numerous species of birds that are now at-risk of disappearing, such as the golden-crowned Manakin (*Lepidothrix vilasboasi*), golden parakeet (*Guaruba guarouba*), rondonia bushbird (*Clytoctantes atrogularis*) and rio branco antbird (*Cercomacra carbonaria*).¹²⁶ Besides, some bird species protected under CITES also suffer from illegal trafficking. For example, in the 1980s, 10,000 hyacinth macaws (*Anodorhynchus hyacinthinus*) were sold as pets and their population is now estimated at only 4,300 mature individuals. Even if the species is now protected, the illegal trade of this bird and the trade of its eggs still exist with Europe as its main destination.¹²⁷

¹²⁴ United Nations Environment Programme, News and Stories, [Maximum protection across borders for the emblematic jaguar](#), 28 February 2020.

¹²⁵ Fernanda Jara, [Situación crítica del yaguararé: en Argentina quedan menos de 250 y salvarlo parece una utopía](#), Infobae, 24 September 2017.

¹²⁶ <http://www.surfbirds.com/community-blogs/blog/2019/11/27/amazon-fires-what-happens-next/>

¹²⁷ Denise Hruby, [The Amazon bird's eggs are black-market gold. Here's why](#), National Geographic, 5 June 2019.



Enforcement of TSD chapters

One of the key challenges regarding the interplay between trade and sustainable development is in the implementation of the agreement. As requested by the European Parliament and several Member States, it is key to ensure an “effective” implementation of the provisions. So far, the European Commission has suggested several ideas to improve their current approach to TSD chapters, such as listing priorities with countries or better coordinating with Member States, but they have not put on the table a significant change in the model. The TSD chapter of the EU-Mercosur agreement follows the same logic: in case of a dispute, the parties will first consult and then potentially set up a panel that will produce a report on the matter at stake. No further mechanism is planned in case there is no progress afterwards.

The Trade and Sustainable Development chapter should be reviewed to include more detailed commitments, stronger options for enforcement, with deeper cooperation mechanisms (including the establishment of roadmaps) and last resort sanctions.

Civil Society organisations should be allowed to trigger the dispute settlement mechanism setting up a panel to address specific TSD-related disagreements. While the details on the civil society monitoring mechanisms are still unknown, organisational details should be improved to those of earlier EU agreements: the Domestic Advisory Groups should be ready to operate when the agreement enters into force – even only provisionally. If necessary, technical assistance should also be provided to Mercosur countries to ensure a balanced group is put into place.¹²⁸

¹²⁸ Eurogroup for Animals, *Animal Welfare, Trade and Sustainable Development - Eurogroup for Animals' response to the European Commission proposals on Trade & Sustainable Development chapters in Free Trade Agreement*, October 2018.

4

CONCLUSIONS AND RECOMMENDATIONS

Eurogroup for Animals believes that the EU-Mercosur agreement, as it stands now, is a bad deal for animals, nature and people. The negative impact it can have will be concrete and observable in the short/medium term:

- The EU's Sustainability Impact Assessment concludes that an EU-Mercosur Agreement will increase trade and production in animal-based food, which will have detrimental implications on animal welfare: for the beef sector, there will be less production and more live exports in Europe, and increasing numbers of feedlots in Latin America.
- The increased output in the beef and soy sector is likely to fuel further deforestation. In addition to directly impacting climate change, deforestation also has a devastating impact on animals populating these forests.
- The chapter on Technical Barriers to Trade could constitute an obstacle to the EU imposing a method of production labelling system to imported products.
- The chapter on sanitary and phytosanitary (SPS) measures foresees a simplification in the audit system to facilitate trade, which would lower the possibilities to carry out audits on the ground, which is the only tool to check animal welfare standards, on farms.
- The SPS chapter does not recognise the right of the EU to apply the precautionary principle, on which are based several food safety measures that benefit animal welfare (ban on hormone-fed meat, ractopamine or chemical rinsing of meat; and soon, on antibiotics used to promote growth and increase yield). The measures related to the use of antibiotics are key to fight antibiotic resistance, which is according to the World Health Organisation "one of the biggest threats to global health, food security, and development today".¹²⁹

Possibilities of cooperation between the countries opened by the agreement cannot counterbalance the negative impacts listed above. The provisions are too weak and too dependent on both political willingness and resources, which can be scarce. In addition, if there was political willingness and resources, such cooperation could take place outside this trade agreement.

As the European Commission indicated that the texts which were already published cannot be reviewed, Eurogroup for Animals calls on the European Commission :

- To review the market access offer to further limit the volume granted in tariff-rate quotas (TRQs) for animal-based products, especially for bovine and chicken meat; and to condition the access to such tariff-rate quota on the respect of relevant animal welfare standards in the EU, following the model that they applied for shell eggs.
- To establish proper monitoring mechanisms to assess the impact of the implementation of the trade deal on the animals, the environment and the people, and to introduce tools that would allow to revert the negative impact that could be detected by these mechanisms. This could be done by strengthening the TSD chapter.
- To include a comprehensive cooperation mechanism on animal welfare, covering not only farm animals but also animals used in science and wildlife, with the clear objective to improve the protection and welfare of animals by enacting and implementing stronger legislation.
- To review the TBT chapter to avoid any obstacle to the future imposition of a method-of-production label on imported products.
- To introduce a provision in the SPS chapter protecting the right of the EU to rely on the precautionary principle in the field of food safety.

Eurogroup for Animals also calls on the EU Member States and Members of the European Parliament :

- To put pressure on the European Commission to amend the agreement along these lines.
- To reject the Agreement if these amendments are not adopted.

¹²⁹ <https://www.who.int/news-room/fact-sheets/detail/antibiotic-resistance>

ANNEX 1:

EXISTING COOPERATIONS BETWEEN MERCOSUR AND THE EU ON ANIMAL WELFARE

The EU has platforms outside of the future EU-Mercosur Agreement to cooperate with Brazil and Argentina on animal welfare matters.

In 2013, Brussels signed a Memorandum of Understanding (MoU) with Brazil on technical cooperation in the area of animal welfare. This MoU was concluded between DG SANTE on the EU's side and MAPA on Brazil's side. It foresees regular exchanges of information between the EU and Brazil, notably to *“facilitate the good understanding and the future negotiations on farm animal welfare matters between both sides”*.¹³⁰ The activities carried under the MoU are of a 'purely advisory nature' and the text does not create any legal obligation for either side, even though academics have recognised it has had a significant influence over policy-making in Brazil. According to a report by DG SANTE,¹³¹ *“the approach followed by MAPA has been to use technical cooperation with the EU as a tool to involve the industry in policy discussions on animal welfare and to postpone normative changes after the widest possible consensus had been reached.”* MAPA has thus been running a technical committee on animal welfare, notably in charge of drafting and proposing standards, as well as funding pilot projects. However, despite a proactive approach, there has been only one legislative outcome, on transport. This is due to both internal (within MAPA) and external resistances (from the industry).

Since the MoU was signed, European and Brazilian authorities have met twice (in August 2013 and November 2014) and six concrete activities have taken place:

- A Better Training for Safer Food (BTSF) regional event on welfare at the time of killing (both theory and practice) with 57 participants among which 5 Argentinians, 7 Paraguayans, 6 Uruguayans and 22 Brazilians). There were, however, no industry representatives.
- The EU contributed to an event organised by MAPA and World Animal Protection on pig welfare and phasing out sow stalls.

- A project on “Road transport of Live Animals” (3 months, 2017), which intended to support the development of expertise in Brazil on live transport, with the aim to approximate EU laws. It consisted in a study trip to Spain, with findings shared during a workshop in Brasilia attended by 80 people, and in the creation of a working group aimed at developing legislative proposals.
- A project on “Gestation Group Sow housing” (9 months, 2016): two experts presented at two conferences the obstacles to the implementation of EU pig rules in Brazil, as well as existing voluntary practices in the industry. The events were attended by at least 300 professionals of the sector. The project is seen as a key success as it contributed to changing Brazil's approach to sow stalls. However, no legislative proposal has been adopted yet.
- A project on “Humaneslaughter in small establishments” (2016) which aimed to spread information, with the intention to also gather expertise to draft guidelines for the slaughter of sheep and goats. However, the project failed as EU officials could not get access to required slaughterhouses.
- A project on “Maritime transport of live animals” (5 months, 2016): this field is covered by legislation in Brazil and the project aimed at comparing practices. This project was mostly seen as an opportunity to network, with no concrete outcome.

The EU also signed an administrative arrangement on technical cooperation on animal welfare with Argentina in 2017, which led to the organisation of a BTSF workshop on animal welfare in Buenos Aires in 2018. There is no additional information provided on this cooperation.

At the moment, these parallel channels have delivered results in terms of raising awareness and contributing to shifting the minds in the region. However, only one concrete legislation has been put into place and the process has been far from transparent.

¹³⁰ European Commission, Study on the impact of animal welfare international activities, April 2017.

¹³¹ DG SANTE does not publish proper reports on its cooperation channels. The recently published study it drafted on the EU's international animal welfare activities is the only source of details on the process that could be found. The cooperation with Argentina only started in 2017 and is thus not covered by this report, leaving us with no specific information regarding the process.



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