

2010

AREAS OF CONCERN



ANALYSIS OF ANIMAL WELFARE ISSUES IN THE EUROPEAN UNION

**EUROGROUP
FOR ANIMALS**

1. Introduction	/ 4
2. Farmed animals	/ 8
General farm animal welfare	10
Common agricultural policy	14
Organic farming	17
Transport of farm animals	19
Humane slaughter	23
Biotechnology	26
Cattle	31
Pigs	33
Laying hens	36
Chickens bred for meat - broilers	39
Other poultry kept for meat or feather plucking	42
Sheep and goats	46
Commercial rabbit production	49
Fish farming	51
Animals farmed for fur	55
3. Wild Animals	/ 58
Protection of wildlife and habitats in Europe	60
Wildlife trade	63
Commercial whaling	66
Seals and walrus	69
Dolphins and porpoises	74
Animals trapped as pests or for fur	77
4. Animals used in research	/ 80
Protection of animals used in experiments	82
Genetic manipulation of animals in research	85
Alternatives to animal experiments	88
Animal tests and cosmetics	91
Animals in general chemical testing	94
Pesticides and animal testing	97
Pharmaceuticals	100
Feed and food testing	102

5. Companion animals	/ 104
General welfare of companion animals	106
Keeping of exotic animals as companion animals	109
6. Animals used for entertainment	/ 110
Use of animals in circuses	114
The welfare of animals in zoos	117
7. Animal welfare in the treaty	/ 120
Animal welfare and the European Union treaty system	122
8. Animal welfare and international trade	/ 126
Animal welfare and international trade	128
Animal welfare and the world organisation for animal health	132
9. Animal welfare and sustainable development	/ 136
Animal welfare and sustainability	138
Climate change and animal welfare	141
Sustainable Consumption and production & green public procurement	144
10. Eurogroup members	/ 148

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1.

INTRODUCTION



INTRODUCTION

Eurogroup for animals is celebrating its thirtieth anniversary this year, it was set up in 1980 to work towards the introduction, implementation and enforcement of European laws that will improve animal welfare and reduce animal suffering. It represents the leading welfare organisations in the European Union (EU) which, in turn, represent the views of millions of EU citizens who care about animals. By communicating the views of citizens and consumers to the European institutions, Eurogroup provides a channel for and helps the EU to respond to the concerns of civil society.

Animals are recognised in the Lisbon Treaty in Article 13 as “sentient beings” whose welfare must be taken into account when the EU is developing policy and legislation in certain key areas. However, for many people, animals are still mere products to be used, traded, bought, transported and discarded or slaughtered without compassion.

Many animals in modern ‘intensive’ farming systems are kept in very poor conditions where they have little space and no chance to express their natural behaviour. But farmers are also struggling to make a living, and higher standards for animal welfare represent an opportunity to increase their income as consumers are willing to pay more money for these products. According to a 2007 Eurobarometer survey 62% of respondents said they would change their shopping habits in order to access more animal welfare friendly goods, and 57% would be willing to pay more for hen’s eggs sourced from an animal welfare friendly production system. It is difficult for European farmers to compete on price, but marketing their products as adhering to better animal welfare standards can give them a competitive edge.

Ensuring good farm animal welfare and supporting economic activities in rural areas go hand in hand. Husbandry systems with higher welfare standards generally lead to an increased need for manpower. Higher quality products generally mean higher cost of production but also a higher price on the market, and contribute to improve the competitiveness of producers.

Animal experimentation is also highly controversial, particularly where it is claimed to be “necessary” for the protection of human health, wildlife and the environment. The validity of animal testing to assess safety is questionable on both scientific and ethical grounds. However, the search for alternatives to animal tests encourages scientific research and produces more jobs whilst protecting the welfare of animals. In addition alternative methods are often found to be more reliable, cheaper and quicker than traditional ones using animals.

Wild animals can be threatened by factors like hunting, destruction of their environment or trade. Zoos and other establishments where animals are kept in captivity are not properly equipped to house wild animals according to their biological needs. This applies also to thousands of exotic animals imported for the pet trade; many die during capture, transport or quarantine, or because owners cannot give them the special care they need. Many end up being abandoned. EU laws cover a range of wild animal protection issues from hunting and trapping to controlling trade in endangered species but these laws have been shown to be insufficient to protect wild animals against mistreatment and extinction.

Although the EU has adopted many Directives and Regulations on the protection of animals, millions of animals continue to suffer. Exploitation of animals and their habitats is not only an EU matter but affects animals worldwide. Globalisation and international trade mean that we must also tackle threats to animal welfare from outside the EU in order to safeguard achievements on behalf of the animals within the Union.

This document covers the main areas of concern for animal welfare. It aims to provide a better understanding of each topic from different viewpoints: economic; consumer; welfare problems; existing legislation at European and national level and finally what can realistically be done to improve the situation. It is not intended to be exhaustive but used as a practical reference document, providing updates on a wide range of animal welfare issues which can be regulated at EU level.

Several animal welfare issues do not fall under EU competence, due to a lack of legal basis in the EU Treaty. They include the welfare of companion animals, animals used for entertainment or exhibitions, animals used in sports, and cultural or folkloric events. National laws must then be enacted to ensure the welfare of these animals.



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EUROGROUP FOR ANIMALS / AREAS OF CONCERN 2010

2. FARMED ANIMALS

GENERAL FARM ANIMAL WELFARE

Current situation

Following incentives to increase production created by the Common Agricultural Policy in the 1960s, livestock farming has become increasingly industrialised in the European Union, resulting in a multitude of welfare issues for all animals raised for food production. There is considerable concern over the way they are housed, treated, transported and killed, due to restricted freedom of movement and little ability to exercise natural behaviour. Poor welfare may result from injury, accidental or deliberate neglect, or ignorance of the animal's basic needs.

In recent years consumers have become increasingly concerned about the way animals are raised, for public health, food safety and animal welfare reasons. The results of two Eurobarometer surveys, conducted in 2005 and 2007¹, have in particular highlighted the attention to animal welfare.

The 2007 Eurobarometer survey revealed that 62% of EU citizens would be prepared to pay more for animal welfare friendly products and that 57% would pay more for welfare-friendly eggs. This trend has been reinforced over the past few years, forcing both industry and policymakers to adjust their ways of thinking.

Farmers and the food industry are, however, not yet meeting the demands of a large number of consumers, or taking advantage of the opportunities of the demand for high welfare products and quality products.

Private standards, farm assurance and labelling

Some food producers are not waiting for legislation to bring about changes in production methods. They are introducing their own standards in response to consumer demand. This is highlighted by the industry's response to consumer demand for eggs reared in high welfare systems and by the development of quality schemes such as Label Rouge in France or Freedom Food in the UK. Label Rouge's traditional free range poultry are the descendants of rustic slow-growing breeds. The animals are bred with great regard for their welfare: an ability to roam freely during the day, low stocking densities in the poultry houses, natural light. Freedom Food is one of the only Farm assurance scheme based solely on animal welfare. The standards are developed by the Royal Society for the Prevention of Cruelty to Animals (RSPCA), using the latest scientific knowledge and best practice to develop practical and achievable standards. They cover indoor and outdoor production of meat poultry, laying hens, pigs, dairy, sheep and beef, as well as farmed salmon.

¹/2005: <http://www.eurogroupforanimals.org/consumers/pdf/leafleteurob2005.pdf>; 2007: http://ec.europa.eu/food/animal/welfare/survey/sp_barometer_fa_en.pdf

These schemes are controlled through independent animal welfare audit programmes promoted by processors, retailers and multi-national corporations. The products from these schemes are identified through labelling.

The link between animal health and welfare

Health is a part of welfare and the two entities are inextricably linked: when an animal's health is poor, so is its welfare. Some indicators of poor welfare are classified as pathology and, as such, will also indicate poor health². These include body damage and 'disease', which refers in this case to infectious disease.

Genetic selection and changes in nutrition have greatly increased the productivity of some species, but have also increased the incidence of metabolic diseases and other disorders. In dairy cattle genetic selection and the feeding of concentrates have greatly increased milk production. This has placed a tremendous demand on the capacity of the cow to provide nutrients to the mammary gland. During early lactation, the high-yielding dairy cow is in negative energy balance, which leads to metabolic disorders (such as parturient hypocalcaemia³), mastitis, lameness and fertility problems, all positively correlated with milk yield. The connection between mastitis incidence and milk yield is poorly understood but it is possible that mastitis is partly a consequence of metabolic stress and hence of poor welfare, as suggested by the finding that the use of the drug Bovine Somatotrophin (BST) results in an increased incidence of mastitis, closely associated with the increased milk output⁴.

Legislation

Council of Europe

Overall animal welfare considerations involved in farming are articulated in the *Council of Europe Convention for the Protection of Animals kept for Farming Purposes*, which opened for signature in 1976. The Convention applies to all animals (including fish, reptiles or amphibians) kept for the production of food, wool, skin, fur or other farming purposes. Recommendations have been produced by the Standing Committee to the Convention, on fish, pigs, turkeys, ducks, geese, fur animals, ratites, domestic fowl, calves, cattle, sheep and goats. They establish specific rules covering the differing needs of the various farmed species. Additional ones are still under discussion.

European Union

Council Directive 98/58/EC of 20 July 1998 concerning the protection of animals kept for farming purposes transposes into EU law the Council of Europe Convention. Like the Convention, the Directive applies to all animals kept for the production of food, wool, skin, fur or other farming purposes. Responsibility is placed on owners and keepers of animals to ensure the welfare of animals under their care and prevent unnecessary pain, suffering or injury. An Annex to the Directive requires animals to be cared for by sufficient numbers of appropriately trained workers. About breeding methods, it specifies that "natural or artificial breeding or breeding procedures which cause or are likely to cause suffering or injury to any of the animals concerned must not be practiced". It also lays down other general principles, such as regular inspection, rapid treatment for sick animals, recording of veterinary treatment and mortality, general provisions with regard to livestock buildings, outdoor shelter, feed and water.

²/Broom, D.M. & Johnson, K.G. (1993). *Stress and Animal Welfare*. Kluwer Academic, Dordrecht.

³/Hypocalcemia is caused by low blood calcium level due to sudden loss of calcium into milk near or at time of calving.

⁴/SCAHAW (1999). Scientific Committee on Animal Health and Welfare. Report on animal welfare aspects of the use of Bovine Somatotrophin.

Article 5 of the Directive requires the European Commission to submit to the Council of Ministers any proposals which may be necessary for the uniform application of the *European Convention for the Protection of Animals kept for Farming Purposes* and any Recommendations made under it. The only ones which have been transposed in Community legislation are the recommendations on pigs, laying hens, meat chickens and the Appendix C of the recommendation on cattle which refers to special provisions for calves.

The controls of farm animal welfare legislation are part of an integrated approach on feed and food controls. *Regulation (EC) No 882/2004* on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules, was adopted on 29 April 2004. It recognizes that animal health and animal welfare are important factors that contribute to the quality and safety of food, to the prevention of the spreading of animal diseases and to a humane treatment of animals. Under this Regulation, which applies since 1st January 2006, Member States are required to prepare a single integrated multi-annual national control plan to cover feed and food law, and the EU legislation on animal health and animal welfare.

However compliance with EU animal welfare legal requirements is low and enforcement has not been given a high priority by Member States. This is highlighted by many reports of mission of the Food and Veterinary Office to assess Member States systems of control.

In its White paper on food safety, the EU recognised that animal welfare needs to be integrated more fully in food policy⁵. The adoption of the first Community Action Plan on the protection and welfare of animals 2006-2010, also recognises that today the farming of animals is no longer viewed by European consumers simply as a means of food production but instead it is seen as relevant to other key social goals such as food safety and quality, environmental protection, sustainability and ensuring that animals are properly treated.

The link between animal health and animal welfare has been clearly recognised in *Regulation (EC) No 882/2004 on feed and food controls*, which highlights that animal health and animal welfare are important factors that contribute to the quality and safety of food, to the prevention of the spreading of animal diseases and to a humane treatment of animals, and in the recently adopted EU Animal Health Strategy 2007-2013 which states that “*The concept of animal health covers not only the absence of disease in animals, but also the critical relationship between the health of animals and their welfare*”. One of the Strategy's goals is “*to promote farming practices and animal welfare which prevent animal health related threats (...)*”. The strategy is looking at the implication of different production systems on animal health/welfare.

Growth Hormones in Meat Production

The EU banned the use of hormones for growth promoting purposes in meat production under *Council Directive 88/146/EEC of 7 March 1988 prohibiting the use in livestock farming of certain substances having a hormonal action*. Imports of meat from hormone-treated animals were banned under *Council Directive 88/299/EEC on trade in animals treated with certain substances having a hormonal action and their meat*. A series of Commission Decisions deal with approval of companies in third countries such as the USA, Canada, New Zealand and Australia to ensure that imported meat complies with these rules.

⁵/European Commission's White Paper on food safety COM (1999) 719 published in January 2000

Antibiotic Growth Promoters

Since 1 January 1999 *Regulation (EC) No 2821/98* bans the use of the four antibiotics virginamycin, tylosin phosphate, spiramycin and zinc bacitracin as additives in animal feed. In addition the EU did not renew the licences for three other substances (arprinocide, dinitolmide and ipronidazole) when they expired in September 1999. That eliminated almost all existing antibiotic growth promoters from use in the EU, as 15 others were already banned. In October 2003, the EU adopted *Regulation (EC) No 1831/2003 on additives for use in animal nutrition*, which prohibits since 1 January 2006 the marketing and use as growth promoters of antibiotics previously authorised – such as avilamycin. In May 2008 the Commission presented a report to the European Parliament and the Council on the use of coccidiostats and histomonostats as feed additives (COM (2008) 233) and available alternatives. The report concludes that at the present time the use of coccidiostats as a preventative measure for the control of coccidiosis in modern poultry production is essential and that available alternatives currently do not provide the same advantages as the use of coccidiostats as feed additives.

Use of BST to increase Milk Yields

Council Decision 94/936/EC of 20 December 1994 prohibited the marketing and use of *bovine somatotrophin (BST)* in the EU until 31 December 1999. Reports by the Commission's Scientific Committee on Animal Health and Animal Welfare on 10 March 1999 and of the Scientific Committee on Veterinary Measures relating to Public Health on 16 March 1999 concluded that milk produced by cows treated with BST represents a direct risk to animal welfare and to animal and human health. As a consequence the ban on the marketing and use of BST was made permanent.

Future Action

- Consequent to Council Directive 98/58/EC additional Community legislation to implement the Council of Europe Recommendations concerning the other farm animal species should be developed, the most urgent being beef and dairy cattle, and fish.
- On animal welfare grounds, the administration of growth and yield promoters, including BST, should remain prohibited in the EU.
- Assisted breeding technologies should be regulated from the animal welfare point of view. This could be given further consideration under Council Directive 98/58/EC.
- Labelling with high animal welfare standards should be integrated as just one component of a broader strategy of improved communication on animal welfare in the food chain.
- Compliance with animal welfare legal requirements must be improved by all actors in the food chain and member states must invest more resources in proper enforcement
- The Commission second action plan on the welfare on animals must include actions to better integrate animal welfare in all relevant EU policy areas and the development of specific standards for beef and dairy cattle and for farmed fish.

COMMON AGRICULTURAL POLICY

Current situation

The Common Agricultural Policy (CAP) is the EU support system for agriculture. It began as an agricultural production policy designed to ensure food supplies and agricultural incomes. Through the granting of subsidies according to production, the CAP has caused intensification with its environmental, social and animal welfare problems. Intensive farming methods are increasingly coming under scrutiny and in some European countries this has led to a wider debate on what farming methods the public wants to see developed. Consumers are now asking for quality rather than quantity and are more and more concerned about the way taxpayers' money is used to subsidise agriculture.

In recent years the objectives of the CAP have broadened to include not only budgetary and world trade constraints but also a limited number of social and environmental aims. However, despite public concern, animal welfare has long been a neglected topic, being either ignored or put behind issues of public health and food safety, to which it may be closely linked.

Enlargement and the WTO negotiations on agriculture were the main reasons for the most recent CAP reform which was agreed in June 2003. The objective of the reform was mainly to make agricultural subsidies less trade distorting. It has nevertheless opened up new opportunities for improving farm animal welfare.

Legislation and policies

CAP funding is structured with two different forms of agricultural support. Pillar I includes direct subsidies which in the past were given for different productions such as the cattle or sheep sector. Payments in Pillar I were linked to the amount produced, such as the number of cattle heads. Payments under Pillar II – which was introduced during the former Agenda 2000 reform - have been given for diversification in farming and rewarding other objectives such as improving the environment, marketing and assisting young farmers. The framework is contained in the Rural Development Regulation (RDR), which is implemented in each member state under a Rural Development Programme (RDP).

Under the 2003 reform, the link between direct payments and production was removed through decoupling but member states could choose to implement only partial decoupling, by keeping part of the subsidies linked to the production in a number of sectors, including livestock. In the case of decoupled payments, a farmer receives a single farm payment based on historical payments. With decoupling, farmers are able to choose what they want to farm or to stop farming if they wish, as long as they maintain their land in good condition. For the new member states, payments can be done by land unit under a special "Single Area Payment Scheme" (SAPS) which includes simplified administrative rules.

Pillar I receives 86% of the €53 billion of the CAP budget⁶. Under Pillar II farmers can receive additional funding if they participate in rural development actions including measures to protect the environment. Only 14% of the CAP budget is currently allocated to rural development. Since 2005, a small part of the first pillar budget is being shifted to the second pillar through modulation which has been made compulsory by the 2003 reform. However, the amount of additional money is still very limited: only 5% is being transferred from 2007 up to 2012.

The 2003 reform also introduced compulsory cross-compliance, which makes the payment of subsidies conditional on respect of animal welfare standards, as well as environment, public and animal health standards. Thanks to decoupling, cross-compliance with animal welfare legislation could apply to all areas of livestock farming, not only to those receiving presently direct aid. However only three Directives have been included in cross-compliance, Directive 98/58/EC on the protection of farm animals, Directive 91/629/EEC on the protection of calves and Directive 91/630/EEC on the protection of pigs.

Cross-compliance with animal welfare standards is only applicable since 1 January 2007. Member states have to set up indicators to control cross-compliance.

Common conditions for the payment of direct subsidies are laid out in *Council Regulation (EC) No 73/2009* which is implemented through *Commission Regulation (EC) No 1122/2009 laying down detailed rules as regards cross-compliance, modulation and the integrated administration and control system*. The amounts resulting from the modulation provided by the "Health Check" for the years 2009 to 2012 are allocated to Member States under *Commission Decision 2009/444/EC*.

The Rural Development Regulation adopted in 2005 included new measures to improve farm animal welfare. Member states are however not obliged to include these measures in their Rural Development Programme.

- **An animal welfare payment.** Farmers applying animal welfare standards significantly stricter than the legal ones may receive subsidies for the extra costs this causes.
- **Meeting standards:** farmers can be paid to adapt to new, more demanding legal standards. It is a good tool to facilitate implementation of new legislation.
- **Farm assurance schemes:** subsidies can be paid to farmers who participate in schemes in which they have to apply a set of standards substantially higher than the minimum legal ones. At EU level the organic regulation is the only scheme that is recognised but other schemes could qualify, as long as they are approved by the European Commission.
- **Quality production:** improvement of specific animal welfare standards such as outdoor access.
- **Promotion of quality products.**
- **Participation in farm advisory services.**

Rural development measures are co-funded: the EC provides up to 60% of the funds, and the member state the remaining 40%. The member states have drawn up their own Rural Development Programmes for the 2007-2013 period and these were agreed by the Commission. Out of 90 programmes, 16 (18%) include an animal welfare payment, and the budget allocated to it varies from 0.06 to 7.55% of the rural development budget of a given programme.

Rural development measures are laid down in *Council Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)*, and detailed rules are set up by *Commission Regulation (EC) No 1974/2006 laying down detailed rules for the application of Council Regulation (EC) No 1698/2005*.

⁶/2006 Figures European Commission

A revision of the CAP (Health check) took place in 2008 with the main aim of further decoupling direct subsidies and adapting to new challenges such as climate change. The revised rules set up in Council Regulation (EC) No 73/2009 establish common rules for direct support schemes for farmers under the common agricultural policy and establish certain support schemes for farmers. Under Article 68, Member States can allocate up to 10% of their direct payments budget to grant specific support for a number of farming activities, such as for improving the quality of agricultural products or for applying enhanced animal welfare standards. The new regulation also increases the rate of compulsory modulation, to allocate extra funding to rural development measures deemed necessary to address new challenges. Regulation 1698/2008 has thus been amended by *Council Regulation (EC) No 74/2009* to include new measures related to climate change or biodiversity among others. The detailed rules set up by *Regulation (EC) No 1974/2006* have been amended by *Commission Regulation (EC) No 482/2009*.

Action needed

- Cross-compliance should also include both the laying hens and the broilers directive, and new legislation as soon as it is in force.
- The modulation rate should be increased so that more money is available for rural development.
- It should be compulsory for member states to include animal welfare measures in their national rural development programmes and 10% of the rural development budget should be specifically earmarked for it.
- The European Commission should make sure that, where member states set up assurance schemes, these go significantly beyond baseline requirements, in order to deliver animal welfare benefits.

ORGANIC FARMING

Current situation

Organic farming is one of a number of approaches to sustainable agriculture. It is broadly defined as a holistic production management system which tries to work with nature, promoting biodiversity, biological cycles and soil biological activity. In principle, it largely excludes or avoids the use of synthetically-compounded fertilisers, pesticides, growth and yield promoting substances and livestock feed additives.

Currently, the organic industry is one of the most rapidly expanding sectors of the food sector in many European countries. In 2006 the European organic market grew by more than 10 percent, and it was worth approximately 14 billion euro⁷. Consumption of organic food is 4.5 to 5.5% of the total food market in countries such as Denmark and Austria. However, while the organic land area has also expanded rapidly in many new EU member states as well as candidate and potential EU candidate countries with annual growth rates of up to 100%, consumption levels have remained very low in these countries (0.1%). One factor which does influence the sale of organic produce is that it is typically 20 to 30% more expensive than non-organic food.

The area under certified organic production in the EU has increased from less than 0.1% of the total farmed area (UAA) in 1985 to 4% in EU-25 by the end of 2006⁸. In 2005 Austria had the highest share of organic area, with 11% of its farmed area under organic production. Italy had the highest percentage of EU total area under organic agriculture with 18% and from the member states which joined the EU in 2004, the Czech Republic had the highest percentage, with 4% of the total EU area.

Generally speaking organic farming performs better than conventional farming in the area of animal welfare. Organic farming standards are to a large extent devised around the concept that animals should be able to live their lives as naturally as possible meeting their biological and ethological needs. Therefore organic livestock farming includes outdoor keeping for most of the animals' lives and the use of breeds adapted to local conditions.

Organic animal health management is based on a reduction of health problems through the prevention of disease. Adequate diets, suitable breeds, good housing conditions and sound management practices should provide the right environment for animals to maintain good health. When health problems occur, it is preferred to use phytotherapeutic or homeopathic alternatives instead of chemically derived allopathic medication unless a veterinary surgeon believes that a conventional veterinary treatment is necessary to save the animal's life or reduce suffering. Mutilations are not allowed in organic farming, with only a few exceptions.

⁷/Padel, A, Jasinska, A, Rippin, M, Schaack, D and Willer H. (2008) The European Market for Organic Food in 2006. In: Willer, Helga; Yussefi-Menzler, Minou and Sorensen, Neil, Eds. (2008) The World of Organic Agriculture - Statistics and Emerging Trends Earthscan, London.

⁸/http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-SF-07-069/EN/KS-SF-07-069-EN.PDF

Legislation

European Union

In June 2004, the European Commission published a European Action Plan for organic food and farming which aims to enhance the further development of the organic farming sector.

Some of the 21 actions should result in improved welfare for organically raised animals. They include:

- Ensuring the integrity of organic agriculture by reinforcing the standards and maintaining the foreseen end dates of the transitional periods
- Complete and further harmonisation of the standards for organic agriculture by improving the standards relating to animal welfare and considering the need for extending the scope to other areas such as aquaculture
- Establishing an independent expert panel for technical advice
- Improving the performance of the inspection bodies and authorities

Based on this action plan a new legal framework has been established and organic production is now regulated by *Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products* repealing Regulation (EEC) No 2092. This Regulation sets the main rules for organic farming, while *Commission Regulation (EC) No 889/2008 of 5 September 2008* lays down detailed rules for the implementation of the Council Regulation. In the animal production sector, it includes rules for bovine, horses, pigs, sheep, goats and poultry. It covers aspects such as the origin and breeds of the animals, housing conditions and husbandry practices. It provides for access to open air areas and prohibits battery farming. It prohibits routine mutilations including castration and tail docking. When castration is performed it is only allowed under analgesic or anaesthetic.

Under *Council Regulation (EC) No 834/2007 on organic production*, the Commission has adopted detailed rules on organic aquaculture which include provisions concerning farming, transport and slaughter of fish. These are set up in *Commission Regulation (EC) No 710/2009 of 5 August 2009*.

A European organic label has also been introduced in July 2010 to end the confusion due to too many different organic labels.

Under *Council Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)* Member States can allocate funds to support farmers who want to convert to organic farming.

Future Action

- Member States should ensure that sufficient funding is allocated to support farmers who apply organic farming under axes 1 (under farm assurance schemes) and 2 (under agri-environment) of their rural development programmes, to help them apply organic farming production methods.
- Sufficient funding must also be allocated to the promotion of organic livestock products. This is possible through EU agricultural products promotion programmes and through national and regional rural development programmes.

TRANSPORT OF FARM ANIMALS

Current situation

Every year, more than 360 million animals (excluding fish), as well as more than 4 billion poultry, are transported via European roads, rail and waterways and at least six million of those animals are subjected to long-distance transport that is often detrimental to their welfare. Loading and unloading are very stressful operations and long transport adds to the stress and suffering by exposing the animals to a lack of space, hunger, thirst and exhaustion. Some journeys often last for more than 40 to 50 hours and it may even take several days before the animals reach their destinations.

Figures show that the intended purpose of 45% of the EU's long distance live animal trade is slaughter and 55% of the transport is carried out with a view to further fatten the animals.⁹ This shows that many animals are not slaughtered near the place where they are reared, but rather transported only to be killed shortly upon arrival.

Long distance transport of pure-bred breeding heifers or cows of less than 30 months is still promoted by the payment of export subsidies for animals exported live from the EU to third countries. In 2007, 81,000 bovine animals were exported with subsidies to third countries. This figure was about 250,000 before 2005 when the subsidies granted for export of live animals for slaughter were stopped.

The treatment of animals during transport appears to be in direct relation to their value. It is for example relatively rare for serious welfare problems to occur in the transportation of high value breeding animals or horses used in sporting events, whereas animals sent for further fattening or direct to slaughter are the subject of almost all the complaints¹⁰ received by the Commission and member states. Inspections by animal welfare organisations and the European Commission's Food and Veterinary Office (FVO) have shown evidence of illegal route plans and non-compliance with travelling time limits, poor handling of animals, transport of unfit animals and overloading.

In addition many vehicles are inadequately equipped with poor ventilation facilities, insufficient water supply and insufficient head space, resulting in animal suffering due to heat stress, injuries or exhaustion.¹¹

In a report published in March 2002¹², the Commission's Scientific Committee on Animal Health and Animal Welfare recommended that: "Since loading and transport are stressful to animals unaccustomed to them, for these animals, transport should be avoided wherever possible and journeys should be as

⁹/Stevenson, P. (2008) Long Distance Animal Transport in Europe: A Cruel and Unnecessary Trade, London, Compassion In World Farming.

¹⁰/Animals' Angels : Compilation report on Long Distance Transports of unweaned animals 2008

¹¹/Animals's Angels: Animal welfare problems inherent in long distance transport. October 2008

¹²/The welfare of animals during transport (details for horses, pigs, sheep and cattle) - Report of the Scientific Committee on Animal Health and Animal Welfare Adopted on 11 March 2002

short as possible.” In 2004 the European Food Safety Authority also stressed that animals “should not be transported if this can be avoided and journeys should be as short as possible”¹³.

The failure to properly implement and enforce EU transport legislation is reflected in reports of FVO inspection in EU Member States. The FVO annual report for 2007 states: “*The new requirements regarding temperature, ventilation or provisions of individual stalls for equidae were not yet well implemented. The feeding, watering, resting intervals and journey times which are unchanged from the previous EU legislation on the protection of animals during transport, were still not well implemented in most of the member states visited.*”¹⁴

Another important factor relating to the transport of live animals is the risk of spreading diseases. There is scientific evidence that the stress of transport can make those animals with a silent infection excrete more infectious organisms and do so for a longer period of time. Diseases such as foot and mouth disease, classical swine fever or Newcastle disease can be transmitted to other animals during transport presenting a major risk for spreading diseases^{15,16}. When animals are transported for slaughter there is also an increased risk that they could develop a subclinical infection, which could not be detected by official veterinarians or inspectors. This could lead to the possible contamination of meat¹⁷.

Legislation

Council of Europe

The transport of farm animals is dealt with under the *European Convention for the Protection of Animals during International Transport*, which was drawn up by the Council of Europe in 1968. A revised convention was agreed in April 2002 and officially adopted by the Committee of Ministers and the Assembly on 11 June 2003. It has been open for signature since 5 November 2003. Detailed codes of practice are being drawn up to cover animals being transported by land, sea, air and rail. The convention has been signed by the community on 25 June 2004 and has been ratified so far by 10 countries. It came into force on 14 March 2006.

European Union

The transport of all vertebrate animals is subject to the provisions of *Council Regulation (EC) 1/2005 of 22 December 2004 on the protection of animals during transport and related operation*. It lays down a number of general provisions for animal transportation and includes provisions for specific checks to be carried out on consignments entering or leaving the Community.

The Regulation introduced some improvements compared to previous directives: a stricter definition of fitness for transport, compulsory training for drivers and attendants involved in transport over 65 kilometers, compulsory authorisation for transporters, and special requirements for lorries used for long distance transport. They must be equipped with a forced ventilation system with an independent source of power, and a temperature monitoring and recording system. Since 1 January 2009, all lorries used for long distance transport must be fitted with a satellite navigation system which must record and provide information on the animals' ownership, place of departure and destination, date and time of departure, as well as information on the opening or closing of the loading flap.

¹³/*The EFSA Journal* (2004) 44, 1-36, The welfare of animals during transport. Opinion of the Scientific Panel on Animal Health and Welfare on a request from the Commission related to the welfare of animals during transport (http://www.efsa.europa.eu/cs/BlobServer/Scientific_Opinion/opinion_ahaw_01_atrans_ej44_en1.pdf?ssbinary=true)

¹⁴/FVO annual report for 2007 : http://ec.europa.eu/food/fvo/annualreports/ann_rep_2007_en.pdf

¹⁵/SCAHAW Report 2002: The welfare of animals during transport (details for horses, pigs, sheep and cattle): http://ec.europa.eu/food/fs/sc/scah/out71_en.pdf

¹⁶/RSPCA/Eurogroup (2004). Links between animal health and animal welfare: the effect of transport on animals.

¹⁷/Rostagno, m.h., Hurd, h.s., Mckean, j.d., Ziemer, c.j., Gailey, j.k., Leite, r.c. Salmonella infection in market swine during pre-slaughter holding. Congress of the pig veterinary society. 2002. p. 319.

The data must be available upon request, and kept for three years. For transport of horses the means of transport must be fitted with partitions so that animals can be transported in individual stalls.

	1st period journey time	1st rest period	2nd period journey time	2nd rest period
Calves, lambs, kids, foals, piglets	9 hours	1 hour (to be watered)	9 hours	24 hours (to be unloaded)
Pigs	24 hours (continuous access to water)	24 hours (unloaded)	24 hours (continuous access to water)	24 hours (unloaded)
Domestic equidae	24 hours (to be fed and watered every 8 hours)	24 hours (unloaded)	24 hours (to be fed and watered every 8 hours)	24 hours (unloaded)
Cattle, sheep and goats	14 hours	1 hour (to be fed and watered)	14 hours	24 hours (unloaded)

Under Article 32, the Commission is given until 5 January 2011 to produce a report on the welfare of animals during transport and on the trade flows of live animals within the enlarged community. This report should take into account scientific evidence on welfare needs of animals, analyse the implementation of the navigation system as well as the socio-economic implications of the regulation, including regional aspects, and may be accompanied by appropriate legislative proposals concerning long journeys, in particular as regards maximum journey times, resting periods and space allowances.

However the European Commissioners for health (Kyprianou and Vassiliou) committed to present proposals on travelling times and stocking densities before the end of the commission term in November 2009. However the proposal has not been forthcoming and was finally abandoned in October 2009 during the inter-service consultation process within the Commission.

Discussions about technical specifications of the satellite navigation system took place in 2008, but no agreement was reached because of the lack of a legal basis for transmitting data to the Central Authority. Despite the recent adoption, on 7 July 2010, of a legal framework (Directive 2010//40/EU) to coordinate at EU level, implementation of Intelligent Transportation Systems, no change is to be discussed in the near future with regard to the introduction of this legal basis or to the implementation of satellite navigation systems capable of transmitting information, including animal welfare indicators, in real time from a lorry transporting livestock to a central receiver.

According to the new commissioner, John Dalli, the report specified above will not be published before the second half of 2011. It will take into consideration the results of an EFSA consultation which is expected to be published in December 2010, and the outcomes of an official evaluation of the EU policy on animal welfare over the last 8 years, to be published at the same time. It is very unlikely that this report will be accompanied by any proposal, as Mr Dalli is in favour of improving enforcement of existing legislation instead of introducing a new one. However the European Commission is not paying any attention to the national reports, published each year, according to article 27 of the (EC) regulation 1/2005, and intended to show the level of implementation and enforcement of the legal requirements in each member state.

Conditions for the payment of subsidies for live bovines exported to third countries are set up in *Regulation (EC) No 817/2010*, which repealed the Regulation (EC) No 639/2003 of 9 April 2003, amended several times, and clarifies it. It introduced reinforced checks on place of exit from the EU and at the place of unloading in third countries. An additional penalty – amounting to the total loss of refund for all animals indicated in the export declaration – would be imposed if a given percentage or number of animals had died, given birth or aborted during transport, or fails to meet other inspection requirements. It applied to export declarations accepted from 1 October 2003

Through the adoption of Commission Regulation (EC) No 2147/2005 on 23 December 2005 no export refunds were paid anymore for slaughter animals. Refunds are still granted for the export of pure-bred breeding female animals not older than 30 months.

International

A working group on animal welfare was set up by the World Organisation for Animal Health (OIE) in May 2002. The first recommendations of the working group were adopted one year later. The OIE Guiding Principles on animal welfare were included in the OIE Terrestrial Animal Health Code (Terrestrial Code) in 2004. In May 2005 the OIE International Committee (comprising the national delegates of the member countries and territories) adopted five animal welfare standards to be included in the OIE Terrestrial Code. These cover the transport of animals by land, sea and air.

Action needed

- The European Union must introduce an overall limit to journey times for all animals
- To ensure that transport of live animals is included as soon as possible in the scope of the ITS directive, the European Commission must make a proposal introducing a legal basis for the transmission in real time to a central database of data recorded by the satellite navigation system
- Member States must improve enforcement of current transport rules and the Commission must better monitor action taken by member states to improve enforcement, especially through a better analysis of their national yearly reports and the implementation of corrective actions when needed.
- The sanctioning system must be harmonised at European level to ensure consistency between member states and to avoid distortion of competition between stakeholders.
- The number of inspectors from the European Commission Food and Veterinary Office must be increased substantially, and the number of inspections increased accordingly.
- Space allowances must be improved, allowing all animals to stay in a natural standing position, or to lay down and rest at the same time, and the transporter to carry out proper inspections.

HUMANE SLAUGHTER

Current situation

Every year nearly 360 million pigs, sheep, goats and cattle are killed in EU slaughterhouses as well as more than four billion poultry. In addition the European fur industry kills 25 million animals, and hatcheries 330 million day-old-chicks.

In recent years the slaughter industry has undergone a considerable modernisation in a number of European countries. However, the concentration of the industry in large scale regional units may also contribute to the transport of more animals over long distances with the inherent animal welfare problems. Some strong economical incentives like dumped slaughtering costs in some member states can have the same negative consequences.

Over recent years European Commission veterinary inspections in several member states revealed various animal welfare problems due to poor implementation and enforcement of existing legislation. Some inspections were undertaken as a result of complaints from animal welfare societies. The most frequent problem is inadequate stunning, with slaughterhouse staff not knowing how to use stunning equipment, which is frequently poorly maintained.

The way animals are unloaded and handled before slaughter is a source of concern. These are very stressful for animals, and the competence of staff is furthermore rarely assessed.

Home killing of farm animals for domestic use is also of concern in some countries. Animals are seldom adequately stunned, which leads to many of them being slaughtered while fully conscious.

Of great concern is the exemption from the requirement to stun animals before killing, which member states may grant for ritual slaughter in accordance with religious belief. Responsibility for implementing and monitoring such slaughter is placed with the religious authorities involved, under the overall responsibility of the official veterinarian.

In 2006 the European Commission launched a project called Dialrel, whose goal was to encourage dialogue between all stakeholders concerned with the issue of religious slaughter. This project came to an end in August 2010 and has published recommendations on good animal welfare practices during religious slaughter that should be endorsed by the main religious authorities. Despite some technical improvements, those recommendations are not tackling the essential issue of rendering animals unconscious before the ritual cut and they are not legally binding. Thus the respect of those guidelines will be totally dependent on the willingness of responsible religious authorities and business operators to act. However Pre-slaughter stunning is being accepted by an increasing number of Muslim communities. In some countries post cut stunning has been made compulsory for animals not stunned before slaughter. This technique reduces the animal's suffering and has been acknowledged as compatible with Jewish faith in some communities. It is now applied systematically in large French abattoirs killing for the Muslim market.

When electrical waterbaths are used for stunning poultry, the birds are hung upside down on shackles which, according to the European Food Safety Authority is an abnormal posture for poultry, and extremely stressful and painful. It can induce wing flapping in birds with a potential risk of bruising, dislocation and fractures. There are also problems with birds receiving pre-stun electric shocks, the pain being severe. In addition, pre-stun shocks can induce wing flapping and, consequently, the birds may miss the electrified water bath completely or partially, leading to total failure or inadequate stunning. However some economically viable alternatives already exist for medium and large size abattoirs, like Controlled Atmosphere Stunning (CAS), head-cloaca stunning, head-only electrical stunning, etc.

Legislation

Council of Europe

The humane slaughter of farm animals is covered by the *European Convention for the Protection of Animals for Slaughter*. The convention was drawn up by the Council of Europe and opened for signature in May 1979. It came into force in 1982.

The convention was long ago approved by the Community, with a view to eventual ratification, under Council Decision 88/306/EEC, and is the basis of EU legislation on humane slaughter. In 1991, a Multilateral Consultation of Parties to the Convention, updated the Convention's provisions through a *Recommendation on the Slaughter of Animals*. This recommendation was itself updated in 1996. The convention has however not been ratified by some countries such as France, Spain, UK or Austria.

European Union

The handling of animals in order to prevent unnecessary suffering during the slaughter process is currently regulated by *Council Directive 93/119/EC of 22 December 1993 on the protection of animals at the time of slaughter or killing*. It requires slaughterhouses to be equipped with adequate facilities for unloading animals on arrival, and to provide shelter, food and water if the animals are not to be slaughtered straight away. It lays down rules for the movement, lairaging, restraint, stunning, slaughter and killing of animals bred and kept for the production of meat, skin, fur or other products. It also stipulates methods of killing animals for the purpose of disease control. The national authorities responsible for implementing slaughter regulations must ensure that people involved in the handling of animals from the moment of arrival to the act of slaughter have the necessary skills to perform their tasks humanely and efficiently. In addition slaughterhouses in non-EU countries which are licensed to export their products to the Community, must handle their animals in conditions which offer guarantees of humane treatment at least equal to those provided for in Community legislation. Such premises are periodically checked by Community inspectors to ensure compliance with public health and animal welfare requirements.

The directive requires all the animals to be stunned before slaughter or to be killed instantaneously, but a derogation to the stunning obligation is possible when animals are slaughtered in accordance with religious rites. However, the core principle of the directive must be respected i.e. animals shall be spared any avoidable suffering, pain or excitement during all stages of the slaughter process.

The Directive furthermore allows member states to grant derogations allowing poultry, rabbits, pigs, sheep and goats to be slaughtered outside slaughterhouses by their owners for their personal consumption, provided that animals are spared pain and suffering and that pigs, sheep and goats have been stunned in advance.

Following the publication of an external study on stunning practices in slaughterhouses and their economic, social and environmental consequences, and broad stakeholder consultation, the European Commission presented in September 2008 a proposal for a Regulation to replace Directive 93/119/EC. The new Regulation will be applicable from 1st January 2013 and should ensure a uniform application in all EU member states, as they do not need to transpose it into national legislation.

The Regulation increases the operator's responsibility for animal welfare, which obliges them to integrate food safety into their operations and to demonstrate that procedures are in place for that purpose.

It will be compulsory for staff handling and/or slaughtering animals to have a certificate of competence. The requirement will apply to slaughterhouses and to the supervision of killing in the context of fur farming.

Most slaughterhouses need to designate an animal welfare officer in charge of ensuring compliance with the regulation and reporting directly to the operator on matters relating to animal welfare. Small slaughterhouses are exempted from this requirement.

The Regulation sets up a common system for authorising new methods of stunning.

Animal welfare must be considered at all stages of the killing process for disease-control purposes. This will imply better preparedness but also specific animal welfare supervision and reporting to the public.

Unfortunately the new Regulation still allows slaughter of animals on farm for private consumption, including pigs and calves provided that the general requirements of this regulation are met and in particular prior stunning.

Provisions for slaughter according to religious rites have not been modified. However member states will be allowed to keep or adopt stricter rules and thus to prohibit slaughter without prior stunning at national level.

Future action

- Pending implementation of the new Regulation, member states must make greater efforts to ensure that Council Directive 93/119/EC is properly applied, by intensifying inspections in slaughterhouses, through better deployment on site of Official Veterinarians, and better auditing programmes as specified in (EC) regulation 854/2004.
- The Commission's veterinary inspectorate must be allocated the necessary resources to carry out its role in monitoring legislation for the welfare of slaughter animals.
- Member states should take measures to ensure that all animals are stunned before slaughter.
- Under the new Regulation, the Commission is expected to present a report before December 2013 on the various stunning methods for poultry, and in particular multiple bird water bath stunners, taking into account the animal welfare aspects, the socio-economic and environmental impacts. The Commission should take this opportunity to propose a phase-out of this system.
- Member states should adopt rules to ensure that the requirement to stun animals slaughtered on farm for own consumption is properly enforced. If it is not possible, on farm slaughter of pigs, calves, sheep and goats should be banned at national level.

BIOTECHNOLOGY

Current situation

In livestock farming, biotechnology can be broadly defined as the application of science-based technology to the biological functions of animals in order to effect changes. Genetic modification and cloning techniques target parent stock, eggs, semen and embryos to produce animals possessing desirable characteristics, that can be passed on to the next generation. So far, desirable characteristics have been focused primarily on aspects to increase production such as rapid growth and good feed conversion. The effects on the welfare of the animals involved have seldom been considered and are in most cases negative for health and welfare.

Selective Breeding

The oldest biotechnological technique is selective breeding, which has been refined in recent times by modern genetic technologies and new mathematical and statistical techniques. In the last three decades, major increases in productivity have been achieved. Cows have more than doubled their milk yield. Pigs have increased their daily growth rate by 50%, at the same time as the proportion of lean meat (muscle) has grown from 55% to more than 60%. An average broiler chicken reaches slaughter weight in less than five weeks, half the time it took a few decades ago. These advances through selective breeding have resulted in many welfare problems. In cows, rates of mastitis and production-related diseases such as lameness have increased. Rapid growth in some animals such as chickens has led to skeletal and other health problems such as heart failure.

Assisted Breeding Technologies

Other biotechnological interventions have built up around selective breeding. In cattle, which produce no more than one or two offspring at a time and so reproduce relatively slowly, high quality cows may be given hormonal treatment to induce the production of up to twenty embryos. These are then retrieved and implanted in other cows, which become surrogate mothers for the “high quality” cows’ offspring. Immature eggs (oocytes) can also be removed and fertilised *in vitro* before the resulting embryos are implanted. In cattle, the development of non-surgical methods has allowed embryo transfer to become part of commercial practice in specialised breeding programmes, although it is not used on a mass scale. It is often coupled with artificial insemination (AI), which in its own right is widely used in the dairy and poultry industries. AI is a feature of virtually all intensive turkey production, and features in certain pig breeding programmes. It is less usual in sheep and goats because of anatomical difficulties, which mean that it is usually done by surgical means. Embryo transfer in pigs is rare, as they breed easily. When it is done, it entails surgery and is used to introduce disease free strains or new bloodlines. Animal welfare concerns related to the use of assisted breeding technologies can be linked to the lack of regulations on their application and the limited inspections of companies where the technologies are applied.

Genetic Modification

Genetic modification uses many of the techniques already discussed, for example super ovulation, *in vitro* fertilisation and embryo transfer. However, attempts to modify livestock traits by genetic manipulation have so far been problematic. Early American efforts to produce a pig with more lean meat resulted in an animal that was severely arthritic and prone to infections. Similar work in sheep has also had detrimental effects. An attempt to produce disease resistance via transgenesis (through the introduction of a foreign gene or transgene) has been made in chickens. The target disease was avian leukosis, but the result was associated with other health problems. Genetic modification to express insulin-like growth factor 1 in the skin of sheep did stimulate wool production without apparent ill-effects, apart from those inherent in the process of creating a transgenic animal. The production of pharmaceutical substances in the milk of sheep and cattle has also been in development in the UK, the Netherlands and the USA for some years.

In addition the rate of success of the technologies used to produce GM animals is a source of concern. Indeed, many GM animals are produced before the wanted animal is obtained, leading to the elimination of a high number of them. Another concern for genetically modified (GM) animals in livestock farming, and pharmaceutical production, is the need to ensure that any GM animals entering commercial use will not suffer pain or ill health as a result of the genetic modification, and that they receive care appropriate to their needs.

Consumers are clearly uneasy about the development and use of GM organisms. This has been particularly manifested in public opposition to genetically modified crops. However, the production of pharmaceutically useful substances via GM animals seems to be more publicly acceptable than genetic modification for faster growth or higher yields and is nearer to commercial use.

Cloning

Cloning is the duplication of animals or plants without sexual reproduction. Cloning most commonly involves taking the genetic material from a cell of the animal to be cloned and transferring it into an empty oocyte before fertilisation *in vitro*. The first cloned sheep and cattle were produced in the mid-1990s.

Cloning, with or without genetic modification, can be used to conserve rare breeds, or to disperse the genes of elite animals within the parent stock of a given farmed livestock species. Such applications of the cloning technology raise concerns about reducing the gene pool of the species in question, and a subsequent reduction in genetic diversity. This increases the risk of whole populations being susceptible to certain diseases and also results in the risk of increased incidence of genetic disorders. Cloning may also have applications in the creation of animals that produce pharmaceutically useful substances which are difficult to produce by other means, and animals for use as donors of cells or organs for xenotransplantation. Both these last two groups are specialised categories of farmed animal, generally confined to research institutes rather than kept on commercial farms.

Scientists have now cloned cats, sheep, cows, pigs, mice and goats and are working on horses. However, the majority of clones develop severe abnormalities and do not survive to birth. There are two major animal welfare concerns related to cloning of animals for food production:

- The cloning process is inefficient, wastes animals' lives and has a huge potential to cause pain, suffering and distress at all stages of the process. Indeed, the rate of survival using cloning by nuclear transfer (percentage of viable offspring as compared to the number of embryos transferred) is currently 3% in goats, 3-5% in pigs, 8% in sheep and 15-20% in bovine¹⁸
- Farm animals are already seen by some as commodities rather than sentient beings. Cloning compounds this view, leading to less concern for animal welfare and less willingness to address welfare issues caused by very intensive methods of farming, such as routine mutilations, lameness and other health problems due to the high productivity of the animals.

¹⁸Data presented by Prof. András Dinnyés at EFSA 5th Anniversary, Brussels, November 2007

Meat and milk from cloned animals have been found safe for human consumption both by the US Food and Drug Administration (FDA) and by EFSA¹⁹. EFSA acknowledged the many animal health and welfare concerns associated with the cloning of animals for food production. In addition, a report of the European Group on Ethics in Science and New Technologies (EGE)²⁰ states that: “*Considering the current level of suffering and health problems of surrogate dams and animal clones, the EGE has doubts as to whether cloning animals for food supply is ethically justified.*” It goes on to say that “*At present, the EGE does not see convincing arguments to justify the production of food from clones and their offspring.*” Finally, a majority (58%) of EU citizens is not willing to accept animal cloning for food production and three quarters agreed that there are ethical grounds for rejecting animal cloning²¹. This opposition of EU public opinion has been reflected in a resolution of the European Parliament²² adopted by an overwhelming majority of parliamentarians, which proposes to ban cloning of animals for food and the sale of any products from cloned animals and their offspring.

Legislation

European Union

EU legislation on the welfare of farm animals does not deal specifically with the problems posed by cloning or the development of genetically modified animals in livestock breeding.

Council Directive 98/58 concerning the protection of animals kept for farming purposes states that “natural or artificial breeding procedures which cause, or are likely to cause suffering, or injury to any of the animals concerned shall not be practiced...” In theory cloned animals and their creation are covered by this statement and should not be practiced, but some claim that the offspring of clones are not because there are produced by standard reproductive techniques.

Genetically modified animal production processes, together with gene sequences for particular applications, may be patented in accordance with *Directive 98/44/EC of the European Parliament and of the Council of 6 July 1998 on the legal protection of biotechnological inventions*. Article 4 of the directive prohibits the patenting of animal varieties although the process of transgenesis and particular gene sequences may be patented. Article 6 prohibits the patenting of inventions which run counter to public order or morality, including “processes for modifying the genetic identity of animals which are likely to cause them suffering without any substantial medical benefit to man or animal, and also animals resulting from such processes”.

Under the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), concluded under the GATT in 1994, an invention can be excluded from patentability and commercial exploitation, if this is done for the protection of plant, animal or human health.

On the 14 January 2008, the European Commission adopted a proposal to revise the Novel Foods Regulation (COM(2007)872) which was deemed necessary in order to reflect the fact that genetically modified (GM) food no longer falls under its scope, to create a more favourable legislative environment for innovation in the food industry, and to better facilitate both internal and external trade in foodstuffs.

¹⁹/Scientific Opinion of the Scientific Committee on a request from the European Commission on Food Safety, Animal Health and Welfare and Environmental Impact of Animals derived from Cloning by Somatic Cell Nucleus Transfer (SCNT) and their Offspring and Products Obtained from those Animals. *The EFSA Journal* (2008) 767, 1-49

²⁰/European Group on Ethics in Science and New Technologies (2008). Ethical aspects of animal cloning for food supply - Opinion No 23, http://ec.europa.eu/european_group_ethics/publications/docs/opinion23_en.pdf

²¹/Flash Eurobarometer 238: Europeans' attitudes towards animal cloning, available at: http://ec.europa.eu/public_opinion/flash/fl_238_en.pdf

²²/European Parliament Resolution of 3 September 2008 on the cloning of animals for food supply: <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P6-TA-2008-0400&language=EN&ring=B6-2008-0373>

The proposal foresees to include animals cloned for food, but not their offspring. This proposal is still being discussed by the European Parliament and the Council of Ministers. At first reading, the European Parliament made clear in March 2009 that it wanted products from cloned animals and their offspring not to be regulated by this legislation, but that the European Commission should make a specific proposal to prohibit cloning of animals for food and the import of such products. The Council, on the other hand, agreed in June 2009 that food from cloned animals and their offspring should be covered by the novel food regulation, and requested the Commission to draft a report on all aspects (including animal welfare) related to food derived from cloned animals and their offspring. This report is to be presented one year after the entry into force of the novel foods Regulation. If the Commission should decide to create specific legislation on cloning for food at a later date, the stipulations on the topic will be removed from the novel foods regulation to avoid duplication.

Action needed

- Assisted breeding technologies should be regulated from the animal welfare point of view. This could be given further consideration under Council Directive 98/58/EC.
- The production of cloned and/or genetically modified animals, including their offspring, for food production should be banned, as well as the import of food products from cloned or genetically modified animals.
- Selective breeding programmes should always include animal welfare as one of their objectives, to be pursued together with other objectives such as increased productivity.
- Beside the thorough assessment of the need to create genetically modified animals from an animal welfare and ethical point of view (see the chapter on genetic manipulation of animals, under the research animals section), the consequences of the genetic transformation on the resulting production animal's health and welfare must be taken into account when taking the decision to create genetically modified animals.

CATTLE

Current situation

Dairy cows

There are more than 24 million dairy cows in Europe²³, usually of the black and white Holstein/Friesian type. From the age of two years, dairy cows produce one calf every year. Milk yield per cow has drastically increased since 1984, having risen from an average 4,940 litres to more than 6,500 litres per year.

The short life of the dairy cow (5 to 6 years) contrasts strongly with that of the beef suckler cow, which keeps its calf until natural weaning (about 6 to 8 months) and may produce ten or more calves in her lifetime (a cow can live 15 to 20 years). A large proportion of dairy cows are bred with dairy bulls to produce replacement heifers for milking. The rest are cross-bred with bulls of beef breeds to produce beef calves for fattening. Surplus bull calves from the pure dairy herds are the source of animals sent for veal production.

In the dairy industry, the introduction of a quota system in 1984, at a time when milk supply outstripped demand by 20%, led to a trade in the buying, selling and leasing of milk quotas. The quota system appears to have contributed to a steady decrease in the number of dairy farms and a corresponding increase in herd size.

Health and welfare problems for the cow can be a consequence of the intensity and duration of the production cycle, alone or in combination with environmental factors such as poor housing and lack of stockmanship. In recent years breed, size, nutrition, production and housing have all changed substantially. Lameness, for example, is a common if not almost universal source of suffering in dairy cows. A UK survey of 53 dairy farms published in 2003 showed that more than 22% of cows were either lame or severely lame²⁴. When dairy cows are culled, often after the third calf and lactation period, evidence of past or present foot damage is seen in nearly all animals. Other problems include mastitis, an infection of the mammary gland by various pathogens which can last weeks, months or years, and progressive exhaustion due to the workload imposed by lactation. It is estimated that 30-60% of dairy cows suffer from mastitis

Beef cattle

Calves raised for beef production may be born to dairy cows and reared artificially, or may come from pure bred beef cows. Male calves to be reared for beef are often routinely castrated. Other mutilations include disbudding (removal of horn buds in calves) or dehorning in the older animal. These are painful processes and should be banned. Tail docking and nose ringing are also practised.

²³In 2005 there were 24 890 700 dairy cows in total in the EU (27 countries) and the provisional figure for 2007 is 24 176 000 (Eurostat: data available at: <http://epp.eurostat.ec.europa.eu/tgm/table.do?tab=table&init=1&language=fr&pcode=tag00014&plugin=1>)

²⁴Whay, H.R., Main, D.C.J., Green, L.E., Webster, A.J.F. (2003). Assessment of the welfare of dairy cattle using animal-based measurements: direct observations and investigation of farm records. *The Veterinary Record* 153, 197-2002.

Welfare problems found among older beef cattle include lameness, poor diet, lack of exercise, limited space in indoor housing systems, overstocking, and abnormal behaviour. Many male calves are not castrated and are reared for beef as bulls. Aggression occurs when bulls are kept in unstable social groups. Genetic selection which uses modern breeding techniques such as embryo transfer can be a source of welfare problems from the application of the technique itself and because the selection objectives do not take into account the welfare of the resulting animals, but only their productivity. The production of calves which are oversized in relation to the mother may result from *in vitro* culture of embryos or from the use of bulls from double muscled breeds such as the Belgian Blue. As a consequence, the cow is frequently unable to give birth naturally. Caesarean section is then necessary, increasing the cow's stress and pain.

Calves reared for veal

Intensive veal units were developed in the 1950s as a way of using low-price surplus male calves and skimmed milk from the dairy industry. In 2007, about 6 million calves were used to produce 860,000 tonnes of veal per year in the EU-27. About 66% of this total is produced by France, Italy and the Netherlands. France and Italy are the two largest consumers of veal in the EU. Next comes Germany, which together with Britain imports veal from the Netherlands. France and the Netherlands together slaughter about three million calves a year²⁵.

Welfare concerns for calves relate to early weaning, insufficient space and inadequate diets. The system of slaughter premiums encouraged the long distance transport of young calves within the EU, although concentration of the veal industry in certain member states means that demand for calves is in any case higher in some countries than in others. The higher price obtainable in some countries gives a profit despite the cost of transportation.

EU legislation adopted in 1997 has moved towards answering some of the welfare concerns raised in connection with veal production, through a ban on veal crates. However, the standards relating to calves' diet are still not good enough, even if they cannot be fed exclusively on milk anymore.

Legislation

Council of Europe

The Standing Committee of the *European Convention for the Protection of Animals kept for Farming Purposes* adopted a *Recommendation concerning Cattle* in 1988. The recommendation sets out a number of basic principles on stockmanship, buildings and equipment, general management and breeding. It bans tail docking and suggests that castration should be avoided as much as possible. Special provisions for the various categories of cattle are attached as appendices. An appendix on calves was added to the recommendation in 1993. In 2005 the standing committee started to revise the recommendation. This work is still on-going.

European Union

There is no specific EU welfare legislation for dairy or beef cattle at present. However, all farm animals are covered by the provisions of *Council Directive 98/58/EC of 20 July 1998 concerning the protection of animals kept for farming purposes*. This provides a basic framework requiring member states to enact legislation obliging owners or keepers to ensure the welfare of animals in their care and to ensure that the animals are not caused any unnecessary pain, suffering or injury.

Beef cattle

The Commission's Scientific Committee on Animal Health and Animal Welfare in 2001 published a report on the Welfare of Cattle kept for Beef Production. Amongst the recommendations were: neither

²⁵/Source : Eurostat (http://ec.europa.eu/agriculture/agrista/2008/table_en/41511.pdf)

tethering nor fully slatted floors should be used. Minimum floor space should be 3m² for animals up to 500 kilograms weight and group housing should be the norm. Castration, tail-docking, de-horning and hot-branding cause severe pain and distress and should not be used.

Calves Reared for Veal

Council Directive 97/2/EC amending Directive 91/629/EEC laying down minimum standards for the protection of calves was introduced in January 1997. This prohibited the housing of calves in individual pens or boxes after the age of eight weeks, except when necessary for veterinary treatment. Up to the age of eight weeks, pens must allow visual contact with other calves and are slightly larger than under the original legislation. Stocking densities for calves kept in groups were modified to increase the space available as calves grow. These provisions came into effect from 1 January 1998 for new or rebuilt units, and had to be complied with by 31 December 2006 by all holdings.

Other provisions of the original directive were improved by *Commission Decision 97/182/EC of 24 February 1997 amending the Annex to Directive 91/629/EEC laying down minimum standards for the protection of calves*. Calves may no longer be tethered, except for one hour at feeding time in the case of group-housed animals. Fibre and a minimum ration of iron are to be provided in the diet of all calves over two weeks old. The animals must be fed twice daily, and must not be muzzled. Calves must receive colostrum within the first six hours of life.

According to Article 6 of the Directive, the Commission had to report to the Council by 1st January 2006 on the intensive farming systems and socio economic implications, with legislative proposals. This report should be based on the European Food Safety Authority's opinion on the risks of poor welfare in intensive calf farming systems, published in 2006²⁶. This Commission report is still awaited.

Dairy cows

The Animal Health and Animal Welfare panel of EFSA has adopted five scientific opinions on the welfare of dairy cows. They cover the impact of housing, nutrition and feeding, management and genetic selection on the following topics: (1) behaviour, fear and pain²⁷; (2) metabolic and reproductive disorders²⁸; (3) udder problem²⁹; (4) leg and locomotion³⁰; (5) overall welfare³¹.

Future action

- The EU should enact legislation providing for the welfare of both beef and dairy cattle.
- Such legislation should take into account the welfare implications of modern breeding technologies, including the pressures of genetic selection.
- Better standards relating to the diet, space allowances and the requirement for bedding for veal calves should be introduced

²⁶http://www.efsa.europa.eu/en/scdocs/doc/ahaw_op_ej366_calveswelfare_en1,0.pdf

²⁷Scientific opinion on welfare of dairy cows in relation to behaviour, fear and pain based on a risk assessment with special reference to the impact of housing, feeding, management and genetic selection http://www.efsa.europa.eu/EFSA/efsa_locale-1178620753812_1211902628688.htm

²⁸Scientific opinion on welfare of dairy cows in relation to metabolic and reproductive problems based on a risk assessment with special reference to the impact of housing, feeding, management and genetic selection http://www.efsa.europa.eu/EFSA/efsa_locale-1178620753812_1211902629142.htm

²⁹Scientific opinion on welfare of dairy cows in relation to udder problems based on a risk assessment with special reference to the impact of housing, feeding, management and genetic selection http://www.efsa.europa.eu/EFSA/efsa_locale-1178620753812_1211902629243.htm

³⁰Scientific opinion on welfare of dairy cows in relation to leg and locomotion problems based on a risk assessment with special reference to the impact of housing, feeding, management and genetic selection http://www.efsa.europa.eu/EFSA/efsa_locale-1178620753812_1211902629358.htm

³¹Scientific Opinion on the overall effects of farming systems on dairy cow welfare and disease http://www.efsa.europa.eu/EFSA/efsa_locale-1178620753812_1211902630995.htm

PIGS

Current situation

Pigs are active, intelligent and inquisitive animals. They form stable social structures where little aggressive behaviour is observed. Within a group, pigs will communicate vocally, nose one another and often lie together. They spend a great deal of time rooting in the ground for food and chewing vegetation, even when plenty of food is available. They have limited sweating abilities and so rely on wallowing to cool down in hot weather. When conditions are cold, they huddle together with others or in a sheltered place. Pregnant sows in the wild leave the herd a day or two before farrowing (giving birth). They have a strong nest building instinct, particularly in the 24 hours before the piglets are born. They may investigate solid food from four weeks of age, but in the wild the normal weaning age is 13-19 weeks.

Pig farms are usually divided into those which keep sow or breeding herds, and those which keep fattening or finishing herds. A few carry out both activities. Most pigs are kept indoors in varying degrees of confinement. They have also been subject to considerable genetic selection, through conventional breeding, for fat reduction and higher feed conversion rates. Long-term selection for faster growth and desirable carcass qualities is thought to be one factor which, combined with intensive management systems, has led to leg weakness in pigs.

Consumers in various countries have become increasingly interested in pig production methods. Opposition to the very intensive systems arose following outbreaks of swine fever and foot-and-mouth disease, which resulted in millions of pigs having to be slaughtered in the Netherlands, Germany, Belgium and the UK. Animal welfare organisations have pioneered welfare-labelling systems in the UK, Germany, France, The Netherlands and Denmark. Some governments have also supported quality assurance schemes. Major supermarket chains such as Albert Heijn (NL) or TESCO and M&S (UK) promote pig meat from welfare-friendly production systems too.

Breeding Sows

In most pig breeding systems in common use, the pregnant sow is restrained in a narrow stall (sow or gestation stall) for most of her four month pregnancy (gestation). Such close confinement causes severe distress; the sow is unable to turn around, sleeping and dunging areas are not separated, and normal exercise and nest building are impossible. Exploratory and social behaviour is also denied. As a result, abnormal and repetitive stereotypic behaviour patterns can develop. Skeletal abnormalities and skin lesions on the limbs and body are commonplace. There may also be a higher rate of infection and an adverse effect on farrowing and piglet mortality at or during birth.

Farrowing crates, in which the sow is housed for the birth of her piglets and until they are weaned at 3-4 weeks of age, are equally restrictive, although they do provide some protection for the piglets by preventing the sow from accidentally lying on them.

Sows are often given food which is nutritiously adequate but does not include low-energy, filling, bulky food, which they need to perform their foraging behaviour. This was highlighted in a report from the European Food Safety Authority³² which concluded that factors affecting pig welfare include lack of foraging material especially for restrictively fed pigs that may lead to frustration and lack of bulky or high-fibre feed which is associated with frustration and pain due to stomach ulcers.

Fattening Pigs

Weaning and fattening pigs are kept separately on farms, but certain welfare problems apply to both. Most pig rearing systems still provide neither straw nor other bedding material. Floors which are fully slatted, or which have no bedding and therefore may be slippery, can also give rise to foot and leg injuries. Ammonia levels can be very high, especially in weaner accommodation. Overcrowding of pigs in many systems leads to aggression. The rearing of pigs in such conditions, without foraging or other manipulable material, can also contribute to outbreaks of tail biting. In order to prevent this abnormal behaviour occurring, piglets are often tail docked shortly after birth. Piglets may also be subjected to tooth clipping or grinding in order to prevent piglets injuring each other, and also to prevent damage to the sows' udders, which, as well as being painful, can lead to infection. Both tail docking and tooth modification are painful at the time they are carried out. Male piglets to be reared for meat are also routinely castrated in most European countries, in order to prevent boar taint and to reduce aggression and sexual behaviour. However, in countries such as the UK and Ireland, where pigs are slaughtered at a lighter weight, castration is not common as the risk of boar taint and aggression/sexual behaviour is reduced due to the early age.

The issue of piglet castration has become a major animal welfare concern and some countries have introduced plans to ban the procedure, like the Netherlands which will stop surgical castration by 2015. Some supermarket chains, like Colruyt in Belgium, have also decided to sell only products from pigs that have not been physically castrated from 1 January 2011 onwards. Furthermore the development of a possible animal welfare friendly alternative like immunocastration, which has been authorised for use in the EU since May 2009, has pushed the European Commission and the different stakeholders to think about how surgical castration can be avoided in the future and ongoing discussions are taking place between stakeholders to agree on the way forward.

Legislation

Council of Europe

The Council of Europe's *Recommendation concerning Pigs* was adopted in 1986 by the Standing Committee of the *European Convention for the Protection of Animals kept for Farming Purposes*, which was subsequently updated in 2004. It deals in some detail with stockmanship and inspection by the farmer, buildings and equipment, herd management, physical procedures such as tail docking and castration, and special provisions for the various categories of pig (breeding boars, sows, piglets, and pigs kept for fattening or until maturity as breeding animals). It also recommends that research be done into the development of housing systems which allow for the behavioural needs of pigs, and in which sows are not tethered or closely confined.

European Union

Council Directive 2008/120/EC of 18 December 2008 laying down minimum standards for the protection of pigs has codified and repealed Council Directive 91/630/EEC which had been amended several times. The main requirements are a prohibition of tethering of sows (from January 2006) and the phasing out of the use of sow stalls. The construction of new sow stalls was prohibited from January 2003 and existing stalls will be banned from January 2013. Food is required to include sufficient bulky or high-fibre food to satisfy hunger. Fully slatted floors are forbidden for sows and bedding is

³²/Animal health and welfare aspects of different housing and husbandry systems for adult breeding boars, pregnant, farrowing sows and unweaned piglets[1] - Scientific Opinion of the Panel on Animal Health and Welfare. <http://www.efsa.europa.eu/en/scdocs/scdoc/572.htm>

to be provided. Fattening pigs may still be kept on totally slatted floors with high stocking density but some form of environmental enrichment is compulsory. Tail-docking may not be carried out routinely. Castration without anaesthetic can only be performed until seven days of live by a veterinarian or a trained person.

The Panel on Animal Health and Animal Welfare of the European Food Safety Authority, adopted in 2007 a series of reports which included recommendations on space allowances and floor types for weaner and fattening pigs, castration, tail docking, and the housing and husbandry of breeding pigs³³. These reports will feed into a review of the European legislation on pig welfare, which is awaited.

National legislation

Since 1999, the use of individual sow stalls and tethers has been prohibited in the UK, and in Denmark pregnant sows in existing systems have to be kept unrestrained in loose housing systems for some two-thirds of the gestation period. In the Netherlands, space allowances have been increased for sows and for finishing pigs. In Sweden, sow stalls are also prohibited, as well as the use of conventional farrowing crates, fully slatted floors are prohibited and foraging material must be provided. Finland introduced a ban on sow stalls which came into effect in 2006.

Action needed

- The Commission should urgently come forward with proposals to amend the Pigs Directive with particular emphasis on providing better conditions for fattening pigs and on finding alternatives to the castration of piglets and to farrowing crates.
- Further research into and development of improved farrowing systems, which are both sow and piglet friendly is needed.
- A particular effort must be made by national authorities on enforcement, to ensure that the legislative requirements are complied with, as multiple reports of Food and Veterinary Offices show repetitive infringements of the Directive in most Member States.

³³/Animal health and welfare aspects of different housing and husbandry systems for adult breeding boars, pregnant, farrowing sows and unweaned piglets: http://www.efsa.europa.eu/EFSA/efsa_locale-1178620753812_1178655708740.htm

Opinion of the Scientific Panel on Animal Health and Welfare on a request from the Commission related to animal health and welfare in fattening pigs in relation to housing and husbandry: http://www.efsa.europa.eu/EFSA/efsa_locale-1178620753812_1178654659432.htm

Opinion of the Scientific Panel on Animal Health and Welfare (AHAW) on a request from the Commission related to welfare of weaners and rearing pigs: effects of different space allowances and floor types: http://www.efsa.europa.eu/EFSA/efsa_locale-1178620753812_1178620774303.htm

LAYING HENS

Current situation

A large percentage of laying hens in the EU member states are still housed in conventional battery cages, even though this method of production will no longer be permitted after 2012. In 2007 a total of 389 million laying hens were kept in the EU-25, of which about 68.6% were in battery cages³⁴. These cages are made of thin wire mesh, including the floors, which slope to allow the eggs to roll out for collection. One building may contain tens of thousands of birds stacked in cages six tiers high, with a walkway above the third tier to facilitate inspection.

Non-cage systems for the keeping of laying hens include barn systems (or percheries) and free-range. In barn systems, the birds are reared indoors, but do have access to perches to roost on, litter in which to scratch and dustbathe, and nest boxes in which to perform nesting behaviours and lay eggs. Free-range housing is very similar to the barn system, but the hens also have continuous daytime access to an open-air range area covered in vegetation. In 1996 free-range hens represented 2.43% of the total laying hens raised in the EU-15 and by 2007 it had reached 16.9% in the EU-25³⁵.

The conventional battery cage system provides a barren environment for hens. Research indicates that hens require a nest in which to lay their eggs, a perch, material in which to dust bathe and scratch, and sufficient room to flap their wings and move around without the risk of attack from other birds. Welfare and health problems arising from the keeping of hens in battery cages include stereotyped behaviour, poor feather cover and bone weakness caused by the inability to move normally. Bone fragility is a major problem. Up to 30% of caged hens may have broken bones by the time they are slaughtered. Many birds in battery cages also have ulcerated feet and long claws which can get caught and torn off in the wire mesh cage floors.

A further welfare concern, which is associated with both the battery cage system and some alternative systems, is feather pecking. Beak trimming is often carried out as a matter of routine in order to minimise the risk of injury from feather pecking and to prevent cannibalism. Hot-blade trimming, a common method of beak trimming, is known to cause pain which can persist after the procedure, particularly when older birds are beak trimmed, and should be phased out. Other methods, such as infra-red treatment, appear to offer a higher welfare alternative. The procedure is deemed necessary in order to prevent major welfare problems which can occur in the event of a feather pecking outbreak. The reasons for feather pecking are complex, but there is evidence that it differs between strains of hen, in addition to the influence of environmental factors.

A study commissioned by Eurogroup in 1998 looked at public attitudes in France, UK, Spain, Italy and Germany on egg purchasing and labelling. The results showed that the public was prepared to pay more for free-range eggs, but that they were confused by the way eggs are labelled and the relationship between the labelling and the way eggs are produced. This led to the European Commission adopting compulsory rules in 2002 to label eggs and egg boxes according to the method of production.

³⁴/Source: DG Agriculture

³⁵/Source: DG Agriculture

There has been an increasing demand for eggs from alternative systems, stimulated partly by clearer labelling under the new marketing regulation but also by a positive change in policy made by some supermarkets, particularly in northern Europe.

Legislation

Council of Europe

The Standing Committee of the *European Convention for the Protection of Animals kept for Farming Purposes* adopted in 1995 a revised *Recommendation concerning Domestic Fowl (Gallus gallus)*. This replaced an earlier version from 1986. The recommendation lays down basic principles for the welfare of laying hens under all types of production system. Its provisions encourage a move away from the cramped and barren environment of the conventional battery cage, and the development of alternative housing systems and strains of hen which will obviate the need for beak trimming. The Recommendation was due for review again in 2001 but discussions have not started yet.

European Union

The welfare of all laying hens is provided for under *Council Directive 1999/74/EC of 19 July 1999*. This replaced the 1988 directive which only covered hens kept in battery cages.

The Directive bans all conventional cages from 1 January 2012 and since 1 January 2002, a maximum of nine hens per m² (rather than 12 per m²) are permitted in all new alternative housing systems and from 1st January 2012 in all alternative systems.

After 2012, only enriched cages can be used. In this system hens must have access to a nest, perches, and some form of scratching material. Usable space per bird must be at least 600cm² and when combined with the nesting reach 750cm² per bird. This system has been strongly criticised, not least because the space is still too restrictive and it can be difficult due to both space and design for all hens to use the facilities appropriately.

The Commission in January 2008 published a review³⁶ based on an opinion of the Scientific Panel on Animal Health and Welfare related to the welfare aspects of various systems of keeping laying hens³⁷. It states that the 2012 ban on conventional cages should be maintained.

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 requires table eggs to be labelled according to the method of production. However it does not apply to eggs imported from third countries.

Since 1 January 2004, eggs and packs must be identified with one of the following four categories designating the methods of farming:

- on packs: “organic”, “free-range”, “barn” or “eggs from caged hens”
- on eggs: organic, free-range, barn or cage; this can be replaced with a number as long as the code is explained on the pack.

National legislation

Most member states correctly transposed Council Directive 1999/74/EC. By the end of 2008 producers had made very little progress in introducing enriched cages or shifting toward alternative systems. Major retailers in several member states have decided to stop selling eggs from caged hens, including from enriched cages, developing marketing strategies for eggs produced in alternative systems.

³⁶/COM(2007)865 – Communication from the Commission to the European Parliament and the Council on the various systems of rearing laying hens in particular those covered by Directive 1999/74/EC

³⁷/Available at : http://www.efsa.europa.eu/EFSA/efsa_locale-1178620753812_1178620775132.htm

The Food and Veterinary Office published in 2005 a report about a series of missions concerning laying hen farms carried out during 2004. These missions provided evidence that in some member states there were still difficulties with the implementation of the directive. Each of the member states concerned has subsequently provided the Commission with an action plan on how they intend to address these issues in the future. The Commission services could take further follow-up action where areas of non-compliance continue to be addressed in an unsatisfactory manner.

Most of the member states did not introduce any stricter provision than the EU directive, except for Austria, where all cages for laying hens are banned since January 1, 2009, under the 2005 animal welfare law. Exemptions are only granted until 2020 for farms already equipped with enriched cages at the time the ban was adopted, by the end of 2004. In Germany all traditional and enriched cages are banned since 2009, but cages of the so-called kleingruppenhaltung (small group cages) type are still allowed. These cages are 50-60 cm high and provide for an area of 800 cm² per hen.

In Luxembourg, egg production is mostly shared between organic and free range/barn systems. In Belgium an opinion of the animal welfare commission advises the government to ban all types of cages by 2025. This amendment to the Belgian law is expected to be published during 2010.

Future action

- Compulsory labelling to indicate the production system for all imported eggs should be introduced. This would reduce the risk that lower welfare imported eggs compete with eggs produced under EU welfare standards.
- Financial incentives to encourage cage egg producers to move to alternative systems should be introduced by both the national governments through their rural development programmes.
- Further research should be supported to improve alternative housing systems and the general welfare of hens.

CHICKENS BRED FOR MEAT - BROILERS

Current situation

Around 7 billion broilers are reared for meat in the EU every year. They have undergone intensive selection for faster growth and for traits that are desirable for meat production reducing the normal slaughter age for broilers to only five or six weeks. The majority of broilers are raised in large insulated buildings with controlled environments including artificial light. The barren environment, the low lighting levels and high stocking density restrict their opportunity to perform exploratory behaviours. When stocking densities exceed 30 kg/m² (15 birds per m² at a slaughter weight of two kilograms), serious welfare problems are likely to arise, regardless of the quality of management or the housing specifications³⁸. Before the implementation of the new directive in June 2010 the average density currently used by the industry in the EU was 40 kg/m², and even in some countries (e.g. Belgium and France) up to 45kg/m².

Although consumers are becoming increasingly aware of both the ways animals are kept and production methods, many people still do not know about the welfare problems suffered by chickens bred for meat.

A high proportion of broilers suffer from leg problems due to their fast growth rate. In addition, broilers can suffer from heart failure, sudden death syndrome or ascites when they are only a few weeks old due to the excessive pressure put on their hearts as a result of the fast growth. Other welfare problems are related to the quality of stockmanship and care. For example, floor litter can become wet and ammonia-laden, resulting in breast blisters and hock and foot pad burns.

Apart from the conditions under which the chickens are reared for slaughter, there is also considerable concern over the welfare of the breeding stock. Among broiler breeders, feed intake is restricted to slow the growth rate of which the strain is capable under normal production conditions, causing hunger and the development of abnormal behaviour. Male breeder chicks are beak-trimmed to avoid side effects of the rearing system such as feather pecking, their spurs, combs and pivot claws may also be removed³⁹. Catching, crating and transportation of birds for sale or slaughter can cause damage and considerable suffering.

³⁸/The Welfare of Chickens kept for meat production (Broilers). Report of the Scientific Committee on Animal Health and Animal Welfare, March 2000, 149 p.

³⁹/Report on the Welfare of Broiler Breeders, Farm Animal Welfare Council, MAFF, 1998

The European Food Safety Authority recently gave two scientific opinions, one on the influence of genetic selection on the welfare of broilers⁴⁰ and the other on the influence of housing and management⁴¹ on the welfare of broiler breeders.

“For broilers, the major welfare concerns identified and associated with genetic selection were skeletal disorders leading to problems such as lameness, contact dermatitis, irregular body shape and sudden death syndrome. These concerns are mostly linked to fast growth rates and lead to poor welfare.”

The experts highlight that the welfare of broilers could be improved, particularly if birds are genetically selected to withstand the environment they live in; for example, birds that grow more slowly should be selected for hot climates as fast growing broilers are susceptible to heat stress. Moreover, in the genetic selection of chickens, high priority should be given to decreasing the number of lame birds and reducing contact dermatitis.

Due to selection for fast growth and high muscle yields, breeders have a very high food intake. Feed restrictions are therefore necessary to limit growth rate to maintain good health. Experts recommend that the competition for food (which can be observed among chickens when feed is not provided) should be minimised thereby reducing related injuries. Experts also recommend that birds requiring fewer feed restrictions should be selected as future breeders.

For breeders, experts identify five major risks factors having an impact on welfare related to management or genetic selection. Management factors are barren environment, density of animals, feed restriction and limited sources of light, and the genetic factor is fast growth rate. There are also welfare concerns resulting from the interaction between genetics and the environment.

The EFSA opinion states that providing stimuli such as perches and raised nest boxes are beneficial for the welfare of broilers kept for breeding. They also recommend that management practices aimed at reducing injuries -- such as removing part of the toe or comb -- should either not be carried out or, if necessary, only by trained personnel using the least painful method.

Legislation

Council of Europe

The Standing Committee of the *European Convention for the Protection of Farm Animals* adopted in 1992 a revised *Recommendation concerning Domestic Fowl (Gallus gallus)*. This replaced the earlier version from 1986 and includes broiler chickens, as well as laying hens. It deals with stockmanship and inspection, enclosures, buildings and equipment, general management, genetic selection, and mutilations such as beak trimming. It strongly urges that primary breeding of pedigree stock should pay attention to health and welfare, as well as to productivity criteria.

European Union

Council Directive 2007/43/EC lays down minimum rules for the protection of chickens kept for meat production. It does not apply to flocks with less than 500 birds, to those birds reared as extensive indoor (barn reared chickens reared at stocking densities less than 25kg/m² and slaughtered at 56 days of age or later), free range or organic, or to breeding stocks.

⁴⁰/EFSA Panel on Animal Health and Welfare (AHAW); Scientific Opinion on the influence of genetic parameters on the welfare and the resistance to stress of commercial broilers. EFSA Journal 2010;8(7):1666. [82 pp.] doi:10.2903/j.efa.2010.1666

⁴¹/EFSA Panel on Animal Health and Welfare (AHAW); Scientific Opinion on welfare aspects of the management and housing of the grand-parent and parent stocks raised and kept for breeding purposes. EFSA Journal 2010;8(7):1667. [81 pp.] doi:10.2903/j.efa.2010.1667

It introduces limits on stocking density of 33 to 39kg/m², depending on the conditions in which broilers are kept; requirements for the training of keepers; and the development of good management practice guides. Producers who stock up to the lower density have to comply with standards relating to drinkers, feeding, litter, ventilation, noise, light and inspection. Producers who seek to stock up to a maximum of 39 kg/m² will have to comply with an additional set of standards. There is also a system whereby this upper limit can be increased by 3 kg, to a maximum of 42kg/m², providing the mortality rate is below a given threshold and if there have been no infringements of the Directive for 2 years.

The Directive requested the Commission to prepare a report, not later than 31 December 2009, on the possible introduction of a specific harmonized mandatory labelling scheme for chicken meat, meat products and preparations, based on compliance with animal welfare standards. The report was due to be accompanied by appropriate legislative proposals taking into account the experience gained by the Member States in applying voluntary labelling schemes. At the moment this report has still not been published.

The Commission must also submit a report on the influence of genetic parameters on identified deficiencies resulting in poor welfare of chickens, by 31 December 2010. It may be accompanied by appropriate legislative proposals, if necessary. This report will be based on the EFSA scientific opinions, adopted in June 2010.

In addition, by 30 June 2012, the Commission must present a report concerning the application of the Directive and its influence on the welfare of chickens, as well as the development of welfare indicators. This report must take into account new scientific evidence and the different production conditions and methods, as well as the socioeconomic and administrative implications of this Directive.

Directive 2007/43/EC has been transposed into Member States' national law and implemented since 30 June 2010.

Under Regulation (EC) No 543/2008⁴² on marketing standards for poultry meat, four systems of keeping poultry are defined for optional labelling. These are 'extensive indoor' (or 'barn reared'), 'free range', 'traditional free range' and 'free range-total freedom'. These terms are defined in an annex and relate to maximum stocking densities, age at slaughter and access to outdoor runs. However, the similarity of the labelling terms is confusing to the consumer, and furthermore there seems to be no easily understandable relationship to the basic forms of poultry rearing in current use: highly intensive controlled indoor environments; less intensive indoor systems, in which slower growing birds are reared; and free range, which allows birds access to outdoor foraging areas.

Action needed

- Community labelling terms and criteria indicating methods of farm production for poultry should be revised and brought into line with welfare legislation.
- The report due before 31 December 2009 on the possible introduction of a specific harmonized mandatory labelling scheme for chicken meat, meat products and preparations, based on compliance with animal welfare standards has to be published.
- There is an urgent need to protect the welfare of breeding stocks. Now that EFSA has published its scientific opinion on this topic the European Commission must prepare legislative proposals without delay.
- Practical implementation of the Directive 2007/43 seems to pose problems in some member states and risks of inconsistency in enforcement would lead to distortion of competition and this must be resolved.
- The European Commission should clarify the methods to calculate the maximum stocking density and the exact conditions to be allowed to stock up to 42kg/m².

⁴²/Commission Regulation (EC) No 543/2008 of 16 June 2008 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 as regards the marketing standards for poultry meat

OTHER POULTRY KEPT FOR MEAT or FEATHER PLUCKING

Current situation

Turkeys, Ducks and Geese

Turkeys, ducks and geese are all farmed for meat and turkeys are the most common intensively reared species.

Turkey breeding has focussed mainly on the largest and fastest growing birds and as a result there is evidence of severe leg problems in both meat and breeding turkeys. This can particularly be the case for large male turkeys in standard production, which can suffer from lameness, leg deformities and/or hip problems.

Given the chance, turkeys still display the same wide range of grooming, feeding, courtship and anti-predator behaviours as their wild ancestors. However, the crowded and barren conditions in which they are kept restrict the opportunity to perform exploratory behaviours such as perching, ground pecking and foraging, and lead to increased aggression. Other welfare problems that can be associated with insufficient space include foot pad lesions and heat stress. Where there is a risk of feather pecking, which can cause injuries and sometimes lead to cannibalism, turkeys may be beak trimmed. This procedure reduces the risk of damage caused to other turkeys, but can be painful. The lighting may also be kept at very low levels to further reduce the risk of the problem, which can lead to blindness as well as preventing the birds from performing many of their normal behaviours.

Turkeys can experience considerable suffering if not handled carefully when they are caught at the end of rearing and put into transport crates, and during transport, such as bone fractures, bone breaks, dislocated hips and bruising.

In the EU27, the top five turkey meat producers and consumers are Germany, France, Italy, Poland and the UK, who produced 1.5 million tons in 2009 (total EU27: 1.75 million tons). In total, the EU produces 33% of the world turkey meat production and consumption amount to 34% of turkey meat consumption worldwide⁴³.

As ducks are waterfowl, they should be provided with access to hygienically managed open water sources, that enable them to carry out their water-related behaviours such as preening and head dipping. Unfortunately in current systems water is generally provided to ducks only for drinking, frequently through nipple drinkers. There are also concerns that commercial duck breeding may be heading in the direction of increasing the rate of growth of ducks beyond a level that is acceptable to welfare such as for meat chickens.

⁴³/Source : European Union - Poultry and Products Annual 2009 : <http://www.thepoultrysite.com/articles/1580/europe-an-union-poultry-and-products-annual-2009>

Duck meat production is much more modest, with about 450,000 tons duck meat produced in the EU27 in 2007⁴⁴.

Foie Gras

Pâté de foie gras is made from goose or duck livers. It is produced by force-feeding fully-grown birds with boiled maize mash mixed with fat. When this is done manually, a funnel is pushed down the bird's throat, and the mash is poured in and pushed down with an auger. The food exceeds what the bird would normally eat. Prior to force feeding, the birds are conditioned through diet to increase dilation of the throat, and the time they spend out doors is progressively reduced. The force feeding period lasts 12-15 days for ducks and 15-18 days for geese. Ducks are fed twice daily and geese three times. It takes about 60 seconds to deliver the feed by manual method, or a matter of 2-3 seconds using the computer-controlled pneumatic tube delivery units available on larger farms. The birds must be caught and restrained for feeding.

During the force-feeding period, ducks are mostly kept in small single cages, which do not allow them to stand erect, turn around or stretch their wings. Geese tend to be kept in groups. On some farms, the birds are kept in near-darkness all the time except when being force-fed. Insertion of the feeding funnel or tube is at the least a source of discomfort, and birds are seen to try to avoid the process. Throat injury and infection are a risk. Towards the end of the force-feeding period, the birds may suffer discomfort due to pressure of the enlarged liver within the abdomen, and there may also be leg pain. The livers have a high fat content and can be 6-10 times normal size. Although geese have traditionally been used for foie gras production, the most commonly kept species for force feeding today are male hybrids of the muscovy and the domestic duck.

France is both the main consumer and the main producer of foie gras within the EU. Other producers in the EU are Belgium, Hungary, Bulgaria and Slovakia.

Farmed Game Birds

Game birds such as quail, pheasant, partridge and pigeons are raised both for slaughter, when the end product is meat, and as quarry for commercially organised shoots. Intensive rearing of these birds for either purpose gives rise to welfare concerns similar to those for mass-market poultry species. In the case of birds which are reared intensively indoors and then released for shooting, there are additional problems relating to the birds' restricted ability to react and function as wild birds normally would. There can also be problems with feather pecking in these systems, which is often minimised by the use of bits, rather than consideration of environmental enrichment or stocking density for example. It can decrease the ability of birds to feed and preen properly and can cause pain and frustration. The breeding birds used in game bird production are sometimes kept in barren cages, with little opportunity to carry out natural behaviours or space to move around, which can lead to frustration and suffering.

Ratites (Ostriches, Rheas and Emus)

The ostrich is the most common of the farmed ratites in Europe. It has been farmed in South Africa since the 1860s, originally to meet demand for ostrich feathers. However, in the long term, the future of the ostrich farming industry will primarily be meat production, supplemented by sale of skins and feathers. Farmed ostriches have been selectively bred over some twenty generations, but are still largely thought of as wild animals.

The ratite farming industry has developed since the early 1980s in Namibia, Zimbabwe, Australia, Israel, China, Canada and the USA. European interest in ostrich farming dates from around 1989. Most producers are still relatively small scale. Commercial interest is stimulated by the low-fat, low cholesterol and high protein qualities of ostrich meat, but consumer demand has not been as great as expected and many farms have closed down. Ostrich hide is used for making handbags. The feathers are used in theatrical costumes and non-static dusters used in industrial manufacturing.

⁴⁴/Source : Statistics of the Food and Agriculture Organisation : <http://faostat.fao.org/site/569/default.aspx#ancor>

Keeping of ostriches or other ratites in Europe raises a number of animal welfare questions, not least as the conditions of life are very different from those to which they are naturally adapted. Ratites are not domesticated but still principally wild animals. In the northern European climate, shelter from wet weather is particularly important, as ostriches and emus lack preen glands and their feathers lack barbs, so that their plumage can become waterlogged. Secondly, there is still a lack of experience in keeping these birds, other than in zoos. Ostriches are particularly prone to disease and suffer high levels of stress. Air sac diseases are common when the birds are kept in close proximity under relatively intensive conditions. They are prone to Avian influenza strains. The development of ratite farming has been held back to some extent by the difficulty of rearing birds in the first few weeks after hatching. It is essential that proper welfare standards are set and implemented. There are still few slaughterhouses equipped to deal with ostriches, and no specific recommendations for appropriate methods. The harvesting of feathers must also be considered. Plucking of feathers from live birds, as is done in South Africa, causes discomfort, pain and distress. Removal of large feathers can cause bleeding and adds to the risk of infection. Harvesting feathers by clipping the non-growing shafts is painless, but taking away too many affects the bird's temperature control and can cause stress.

The way ostriches are caught, transported and slaughtered can also be a source of concerns.

Feather plucking

The plucking of feathers from birds is most commonly carried out with a view to use the down in the production of items such as pillows and duvets. In general, the production of down results from the removing of feathers after the birds have been slaughtered, but the practice of live plucking hasn't ceased as birds can be plucked up to four times during their lifespan and farmers can thus choose to maximise their down production by plucking live animals. Live plucking is most common with geese, which can be plucked every 7 to 8 weeks for a period of 8 months a year (February to October). Although the feathers plucked from the bird's breast area are the most valuable, very often all feathers are plucked leaving the bird without its natural protection. The plucking of geese can be considered hard labour and is generally only conducted in EU countries where labour is relatively cheap. In Europe, bird farmers in Hungary and Poland are considered to still widely practice live plucking, though Germany and France are also recognised to engage in live plucking. Plucking can be done manually or by making use of so-called dry or wet plucking machines. Live plucking undisputedly causes a lot of distress and physical suffering for the birds. They can be seen to violently resist the plucking and panicking which often results in sprains and other injuries. They also suffer from heavy bleeding. The procedure entails a large amount of stress for the animals and does away with the natural protection from nature's elements provided by their feathers, thereby increasing their susceptibility to diseases. Following this ordeal, the birds enter a phase of shock and have been found to suffer from fever and significant loss of appetite. The birds are administered with antibiotics both before and after the plucking. They are not sedated and no effort is taken to relieve their suffering.

Legislation

Council of Europe

The Council of Europe's Standing Committee of the *European Convention for the Protection of Farm Animals* has agreed recommendations concerning turkeys, domestic ducks, muscovy ducks and muscovy duck hybrids, and domestic geese. The recommendations on domestic ducks, muscovy ducks and muscovy duck hybrids were approved in June 1999 with only one amendment to the recommendation on muscovy ducks. This amendment stated that, by 31 December 2004, new housing systems must allow ducks to perform normal behaviour (standing in normal posture, turning around, flapping wings...) prohibiting individual cages. From 31st December 2010, these requirements will be applicable to all accommodations.

In 1997, a *Recommendation concerning Ratites* was also adopted, covering ostriches, emus and rheas. It provides for a revision of the recommendation five years after adoption, but this revision has not started yet.

With regard to feather plucking, Council of Europe's standing committee has taken recommendations in 1999 stating that feathers including down can not be plucked from live birds.

European Union

Council Directive 98/58/EC of 20 July 1998 concerning the protection of animals kept for farming purposes covers all poultry, including ostriches and game species reared for slaughter, though not for shooting (rearing for sport is exempted). Under this directive, member states shall ensure that owners or keepers of farmed animals take steps to ensure the welfare of animals in their care and to avoid unnecessary pain, suffering or injury.

This is fully applicable to feather plucking, thus plucking of live birds is prohibited in the EU, only harvesting of feathers is allowed.

The *Report on Welfare Aspects of the Production of Foie Gras in Ducks and Geese*, prepared for the European Commission by the Scientific Committee on Animal Health and Animal Welfare in 1998, concluded that force feeding as currently practised is detrimental to the welfare of the birds. It points out that alternative products made from the livers of non-force fed animals are on the market. However, under current French national rules, and the Community's poultry meat marketing rules, these cannot be sold as foie gras, as the definition "foie gras" can only be used for goose liver of minimum 400 g net and duck liver of minimum 300 g net. The Community rules are laid down in *Commission Regulation (EC) No 543/2008 of 16 June 2008 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 as regards the marketing standards for poultrymeat* (Article 1.3). Under this Regulation, when meat from geese and ducks used for foie gras production is labelled as coming from free range systems, the label also must specify "*from foie gras production*" (Article 11.1).

National legislation

In the EU force-feeding is illegal in Germany, Denmark, Finland, Czech Republic, Luxembourg, Slovenia and six Austrian provinces as well as in Italy. Poland banned force-feeding in its animal welfare law adopted in 1997 and existing farms had up to 1999 to stop force-feeding. Sweden, UK, and the Netherlands do not have a specific law on force-feeding, but they consider it would be contrary to their general animal welfare law. Sweden's legislation furthermore includes a provision on the way animals can be fed, which makes force-feeding illegal.

Action needed

- The Council of Europe recommendations on turkeys, domestic ducks, geese, and muscovy ducks should be implemented as soon as possible in the legislation of the member states and of the EU.
- Force feeding of birds should be phased out by those countries which practise it.
- Standards should be set up to make sure farmed game are able to perform their natural behaviour
- The Council of Europe recommendation on ratites should be revised, taking into account the latest available scientific knowledge
- Inspections must be done and enforcement measures must be taken to ensure that no birds are plucked alive.

SHEEP AND GOATS

Current situation

Sheep are kept for their milk, meat, wool and skins. In 2007 there were in EU-27⁴⁵ approximately 96 million sheep and 13 million goats. Spain and the UK keep about 50% of EU sheep,

Sheep farming remains the most traditional branch of agriculture, and has maintained a large array of different sheep breeds, developed over centuries to cope with a diverse range of habitats and climatic conditions. Sheep may be kept outside all year under extensive conditions or may be partly housed in buildings during the winter months and for indoor lambing. Goats, once known as the poor man's cow and kept in small numbers for domestic use in many European countries, are now also kept in larger flocks.

Lambs in particular feature in significant numbers in the intra-community trade in live animals, yet it is only in recent years that research into their welfare during transportation has been undertaken. Most of the animals involved are sent for slaughter. Live sheep are imported by a number of member states to supplement shortfalls in local production, which result in surplus capacity in abattoirs.

Some of the main animal welfare concerns relating to sheep and goats include:

Live transport and markets

An area of significant concern is the welfare of young surplus lambs transported for sale at markets for fattening, and sheep that are transported long distances for slaughter. Such long, complex journeys can not only cause significant animal welfare problems, but also increase the risk of spreading diseases.

Stockmanship and inspection

Good stockmanship is crucial to the welfare of sheep and goats. Sheep may be kept in flocks of more than 1000 animals, and/or in very extensive systems, and this raises particular problems of ensuring adequate supervision.

Lameness

Major causes of lameness in sheep include scald and foot rot, both painful bacterial infections. In many flocks effective control of these conditions is not being achieved and, in some cases, is being neglected. It is not uncommon to find 10% or more of a sheep flock lame and in obvious pain and distress. There is an urgent need to convince farmers that lameness should be better controlled, with the aim to eradicate diseases such as scald and foot rot from the flock.

External parasites

External parasites, such as sheep scab mite and those associated with fly strike, cause considerable distress to affected animals. Good preventative measures such as careful dipping of the flock are vital.

⁴⁵/DG Agriculture and Rural Development, "Agriculture in the European Union - Statistical and economic information 2008". Table on number of sheep and goats available at: http://ec.europa.eu/agriculture/agrista/2008/table_en/41701.pdf

Lamb mortality

Problems such as hypothermia, exposure, starvation, mis-mothering and disease can lead to high levels of lamb mortality. Factors such as good flock management and inspection, provision of adequate shelter, and control of diseases such as internal parasites are important in safeguarding lamb welfare.

Tail docking and castration

Many lambs are subject to tail docking and/or castration. Docking is undertaken to reduce the risk of flystrike, which involves flies laying eggs on soiled wool around the tail and back-end of the sheep, and the resulting maggots then eat away at the animal's flesh. If untreated, the condition can lead to death of the sheep. However, alternative control methods do exist, and the need for such a painful and stressful procedure on a routine basis has been increasingly questioned in recent years. Similarly, castration of lambs destined to be slaughtered before puberty cannot be justified, and undertaking of either procedure without use of pain killers (as currently permitted under EU legislation) clearly causes serious welfare problems.

Care and treatment of male kids

In commercial goat herds where milk production is the main aim, male offspring are often "surplus to requirements". In many cases, they are killed shortly after birth, and the incentive to care for them properly up to the time of their death is clearly low. This can lead to poor treatment and welfare issues, whilst the killing of newborn animals raises ethical questions.

Legislation

Council of Europe

The Council of Europe agreed in 1992 a *Recommendation concerning sheep* and a *Recommendation concerning goats* under the *Convention for the Protection of Animals kept for Farming Purposes*. These lay down general principles for the husbandry and welfare of both species.

European Union

The framework of general welfare principles provided by the European Convention is implemented in the EU through *Council Directive 98/58/EC of 20 July 1998 concerning the protection of animals kept for farming purposes* which applies to sheep and goats, as to any other farmed animal. This directive provides for the drawing up of additional specific legislation for various species but as yet there is none covering sheep and goats on the farm. However, sheep and goats are covered by the provisions of *Council Directive 93/119/EC of 22 December 1993 on the protection of animals at the time of slaughter or killing* and by *Council Regulation (EC) No 1/2005 of 22 December 2004 on the protection of animals during transport and related operations*.

Council Regulation (EC) No 21/2004 establishing a system for the identification and registration of ovine and caprine animals was adopted in December 2003 and is part of the efforts to prevent the spread of animal diseases. Its objective is to be able to quickly determine the animals' place of origin and movements by gradually introducing an identification system to mark each animal. The European Commission planned to make electronic identification of individual sheep and goat compulsory. This was first postponed till 2010 and on 3 July 2008 it was decided by the Standing Committee of Food Chain and Animal Health to start with it from 1 January 2011 and for sheep born before 31 December 2009 from 31 December 2011.

National legislation

Tail docking of sheep or any other animal is banned in Finland. In the Netherlands, a ban was in place since September 2001, but under pressure from sheep breeders this ban was temporarily lifted. The ban was finally re-established from 1st January 2008 with an exemption for three breeds that may try to breed for a shorter tail with less wool.

Action needed

- The European Convention Recommendations concerning sheep and goats should be implemented in full through Community and member state legislation. Both the Community and the member states are parties to the convention.
- Further research and development on provision of effective and practical methods of delivering pain relief during/after castration and tail docking is urgently required, as are strict rules on when these two practices can be used.

COMMERCIAL RABBIT PRODUCTION

Current situation

Commercial rabbit production takes place in at least 14 EU member states, including the Czech Republic, Slovakia, Poland and Hungary. The largest producers are Italy, France and Spain⁴⁶. The EU is responsible for about 55% of world rabbit meat production.

Other European rabbit meat producers include Russia. Rabbit farming is also undertaken in Central America, the USA, parts of Africa, the Republic of Korea and China, which accounts for some 10% of world production.

Although small-scale rabbit breeding has a long tradition in Europe, as a commercial industry rabbit meat production is relatively recent. The most favoured breeds for meat production are the New Zealand Whites and the Californians. The animals are generally kept in wire cages, arranged in three or four tiers or, more commonly in Europe, on flat decks in long buildings. Rabbits reach slaughter weight in about nine weeks, and are usually fed a concentrated pelleted diet of cereals, soya, and lucerne meal. Breeding bucks and does are usually housed in individual cages. Breeding does are re-mated three weeks after the birth of each litter, and can produce about five to eight litters per year.

Rabbit skins are a secondary product of the rabbit meat industry but they are of low value as the animals are generally slaughtered while still immature and before the first moult has taken place. The hair is generally recovered from meat rabbit skins and used in felt making. Where skins are a product in their own right, they may be tanned and used for garments, trims, linings and gloves. Much of the processing is done in Asian countries with low labour costs. The dressed skins are later re-exported back to Europe. The Rex, Satin and Normal fur breeds are reared mainly for their pelts.

The wool of Angora rabbits is used in textiles. It has been much valued by the fashion industry in Italy, France and Japan because of its lightness and softness. European angora producers include Belgium, Germany, Spain and the United Kingdom, although production is mostly small-scale for hand knitting in these countries. France and Hungary are the only commercial producers in Europe, accounting for 200 tonnes and 180 tonnes of wool a year respectively.

There are many welfare concerns over the conditions in which farmed rabbits are reared.

Once weaned at four weeks, rabbits are often transferred to colony cages holding groups of five to ten animals, with about 450 cm² to 700 cm² floor space allowed per rabbit. This is insufficient space for rabbits to properly exercise, move normally and adopt normal postures (for example, take sequences of hopping steps, jump, run and rear up on the hind legs with ears fully erect). The lack of exercise and normal movement can result in vertebrae and leg problems, particularly in breeding rabbits.

⁴⁶Source : <http://faostat.fao.org>

It is most common for floors to be entirely wire mesh, which can cause sore hocks and discomfort.

Bare wire cages provide little opportunity for rabbits to express normal behaviours such as digging, hiding, investigation and jumping onto raised areas. Social behaviours such as grooming, play and avoidance of other rabbits are also severely restricted. Breeding does that are kept individually have no opportunity for social contact with other rabbits and may not be able to carry out normal absentee mothering behaviours such as nest covering and avoidance of the kits (infant rabbits).

If fed only a pelleted diet, there is a lack of dietary enrichment as rabbits have no opportunity to forage normally and manipulate long, fibrous food such as hay, and no opportunity to gnaw on hard, edible objects.

Common problems include digestive and respiratory diseases. Much higher mortality rates than for most other types of farmed animal have been reported for farmed rabbits.

Angora rabbits are often kept in individual cages and the harvesting of the wool by shearing or plucking can cause welfare issues.

Legislation

Council of Europe

The Standing Committee of the *European Convention for the Protection of Animals kept for Farming Purposes* began discussion on drafting a recommendation concerning rabbits in 1998 but it has not yet been adopted. The 18th revision of those draft recommendations took place in December and the 19th revision was to be discussed in February 2010. However, due to budgetary problems these activities have been frozen until further notice.

European Union

There is currently no Community legislation laying down specific welfare standards for commercial rabbit production. However, the general welfare principles of *Council Directive 98/58/EC of 20 July 1998 concerning the protection of animals kept for farming purposes* apply to rabbits, as to any other farmed animal. The transport of rabbits is covered by *Council Regulation (EC) No 1/2005 of 22 December 2004 on the protection of animals during transport and related operations*. Some additional provisions for rabbits are made under Chapter V of Annex I to the Regulation. Rabbits are also included within the provisions of *Council Directive 93/119/EC of 22 December 1993 on the protection of animals at the time of slaughter or killing*.

Action needed

- The Standing Committee of the *European Convention on the protection of animals kept for farming purposes* should adopt its recommendation on rabbits as soon as possible and this should serve as a basis for EU and national legislation.
- Further research is needed into commercially viable, hygienic, enriched group-pen systems that allow female and young rabbits to be kept in harmonious social groups, as well improved handling during transport and slaughter, to ensure good welfare.

FISH FARMING

Current situation

Fish farming is the world's fastest growing sector of food production, currently accounting for nearly 50% of the world's food fish. The EU-27 production increased by about 27% from 1993-2005. In the same period the production in Norway (largely of Atlantic salmon) increased by about 270%⁴⁷.

The EU aquaculture industry produces a total of 1.3 million tonnes of fishery products a year.

Atlantic salmon is economically the most important farmed fish in Europe, with Norway - the world's largest producer - producing 736,000 tons in 2007⁴⁸ (141,000 tons in the EU). In Europe, Scotland is the second biggest producer, with over 125,000 tons or 32 million salmon slaughtered for the market annually. In economic terms, Europe's second most important farmed fish is the Rainbow trout.

A wide range of other fish species is now farmed in Europe; Sea bass and Sea bream are widely farmed in Mediterranean countries, whilst traditional carp rearing is prominent in Eastern Europe. Eel farming is centred in Denmark, Italy, and the Netherlands, and involves catching elvers (young eels) from the wild for rearing in captivity. Species new to aquaculture, such as cod, halibut, tuna and turbot are now also being farmed.

The vast majority of farmed finfish in Europe are reared intensively, with large numbers of fish at high stocking density. Lighting, water temperature, feeding regime and breed selection are often manipulated to increase production. The fish are confined in a range of pens, tanks, fast-flowing raceways and earth ponds.

The main welfare issues include high stocking densities leading to tail and fin injuries, disease and behavioural abnormalities, parasitic sea lice infestation in salmon that are treated with strong chemical nerve toxins, slaughter methods, pre-slaughter starvation, and genetic manipulation.

Stocking density not only affects water quality, it is also a crucial factor affecting fish welfare⁴⁹. Crowding fish at high stocking densities can cause chronic stress, behavioural problems (e.g. stereotypic behaviours or aggression), skin injuries caused by aggression and a greater susceptibility to disease and parasitic attack.

⁴⁷/Eurostat Fishery Statistics Data 1990-2006 http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-DW-07-001/EN/KS-DW-07-001-EN.PDF

⁴⁸/EUROSTAT statistics available at: <http://epp.eurostat.ec.europa.eu/portal/page/portal/fisheries/data/database>

⁴⁹/In 2008 EFSA adopted opinions on animal welfare aspects of husbandry systems of farmed fish, covering trout, salmon, eel, carp and seabass and seabream.

Although the capacity of fish to feel pain has been questioned for many years on the basis of the different brain structure compared to other vertebrate animals, it is now recognised that fish do experience pain and stress. The Scientific Panel for Animal Health and Welfare of the EFSA states: “(...) *the results of many studies lead to believe that fish have the structures necessary and the capacity to experience fear and pain and can thus suffer and therefore, welfare considerations for farmed fish should take these into account*”⁵⁰.

The humaneness of the most common slaughter methods can be assessed on the basis of the pain and stress they cause.

The most widely used slaughter methods for farmed fish are inhumane as they cause prolonged pain and distress and result in very poor welfare for the fish⁵¹. These include:

- suffocation in air or on ice often followed by live stripping (taking away the organs of the fish): The cooling effect of the ice prolongs the time it takes for fish to become unconscious, and the fish is aware of what is happening to them almost 15 minutes after being taken from the water
- the use of carbon dioxide stunning, which causes the fish to stop moving after 30 seconds, but not to lose consciousness for 4-9 minutes. When the gills are cut as part of the slaughter process, the fish may be immobile but conscious.
- Bleeding without prior stunning by simply cutting the gill arches and allowing the fish to bleed to death. After gill cutting, fish react vigorously for 4-7 minutes.
- Eels are killed by cutting the necks when fully conscious, or anaesthetised and allowed to bleed to death. Alternatively, they are bathed in dry salt, which gradually penetrates and desiccates their bodies, before being gutted despite an estimated 80% of them still being alive. A significant proportion are still alive after 30 minutes.

Only slaughter methods that cause an instant death or render fish instantly insensible to pain until dead should be permitted. These include percussive stunning techniques and electrocution where properly designed and effectively carried out.

Farmed fish are normally starved for about 7-10 days before slaughter to empty the gut and minimise the risk of the flesh becoming contaminated when gutted. Farmed fish are conditioned to expect frequent and plentiful feed. To suddenly cut off that feed is likely to be detrimental to their welfare.

Dependent on temperature, research shows it takes 24-72 hours to achieve gut clearance. The UK Farm Animal Welfare Council⁵² (1996) recommends that periods in which fish are deprived of food prior to slaughter must be kept to a minimum and should not normally exceed 48 hours for trout and 72 hours for salmon.

Environmental threats include the impact of ‘predator control’ on wildlife such as seals. ‘Genetic pollution’ from escapees breeding with wild salmon can have a detrimental effect on the survival of wild populations. Wild fish can become infested with sea lice from salmon farms, causing increased death rates. Contrary to popular belief, the farming of carnivorous fish such as salmon, trout, halibut and cod *adds* to the pressure on wild fish stocks. Over 3 tonnes of wild-caught fish are needed as feed to produce 1 tonne of farmed salmon. For the newly farmed marine species such as halibut and cod, the ratio is over 5 to 1.

⁵⁰/EFSA (European Food Safety Authority), 2004. Welfare aspects of animal stunning and killing methods. http://www.efsa.eu.int/science/ahaw/ahaw_opinions/495/opinion_ahaw_02_ej45_stunning_report_v2_en1.pdf

⁵¹/In 2009 EFSA adopted 7 opinions on species-specific welfare aspects of the main systems of stunning and killing of farmed fish, covering turbot, trout, salmon, eel, seabass and seabream, carp, and tuna: http://www.efsa.europa.eu/EFSA/ScientificPanels/ahaw/efsa_locale-1178620753812_Opinions5.htm

⁵²/Farm Animal Welfare Council (1996). Report on the welfare of farmed fish: <http://www.fawc.org.uk/reports/fish/fishr-toc.htm>

Legislation

Council of Europe

The Council of Europe Convention on the welfare of animals kept for farming purposes applies for farmed fish. A *Recommendation Concerning Farmed Fish* covering on-farm welfare, transport and emergency slaughter was adopted in 2005 by the Standing Committee to the Convention. Since then the Standing Committee has been working on several species specific appendices to the recommendation.

European Union

There is currently no species-specific Community legislation to protect the welfare of farmed fish.

The slaughter of farmed fish is currently covered under the general provisions of Council Directive 93/119/EC on the protection of animals at the time of slaughter or killing, which specifies that “Animals shall be spared any avoidable excitement, pain or suffering during movement, lairaging, restraint, stunning, slaughter or killing.” Regulation 1099/2009 on the protection of animals at the time of killing, adopted in 2009, will replace the Directive from 1st January 2013. Farmed fish are covered by a general provision under Article 3 (1), which states: “Animals shall be spared any avoidable pain, distress or suffering during their killing and related operations”.

The specific requirements of this legislation do not cover farmed fish. The new regulation, however, includes a requirement for the Commission to submit to the European Parliament and to the Council, no later than 8 December 2014, a report on the possibility of introducing certain requirements regarding the protection of fish at the time of killing, taking into account animal welfare aspects as well as the socioeconomic and environmental impacts. This report shall, if appropriate, be accompanied by legislative proposals with a view to amending the Regulation, by including specific rules regarding the protection of fish at the time of killing.

In April 2009, the Commission presented a communication to give new impetus to the sustainable development of aquaculture.

The *Council Regulation on the common organisation of the markets in fishery and aquaculture products (104/2000/EC)* requires that fish must be labelled according the production method (taken at sea or farmed). This compulsory labelling law should help those consumers wishing to avoid intensively farmed fish.

Under *Council Regulation (EC) No 834/2007 on organic production*, the Commission has adopted detailed rules on organic aquaculture which include provisions concerning farming, transport and slaughter of fish. These are set up in Commission Regulation (EC) No 710/2009 of 5 August 2009.

International

The World Organisation for Animal Health (OIE) is developing recommendations and standards on the welfare of animals used in agriculture and aquaculture, with priority given to transportation, humane slaughter and killing for disease control purposes. At its General Assembly in 2010, a new Aquatic Code Chapter (7.3) on stunning and killing of farmed fish for human consumption was adopted. Future work will address the humane killing of farmed fish for disease control purposes.

Future action

- Specific welfare standards for the stunning and killing of fish should be developed.
- The Council of Europe *Appendices of the Recommendation Concerning Farmed Fish* should be finalised and implemented by the Community and Member States.
- The EU should adopt welfare standards for farmed fish, implementing the Council of Europe recommendations
- Future OIE welfare standards and guidelines for aquaculture should include:
 - Low maximum stocking densities, taking into consideration the density-related welfare problems encountered currently in the intensive salmon and trout industries.
 - A prohibition to use genetically modified fish
 - Provisions for emergency killing using humane techniques based on research results
- The already published OIE standards on stunning and killing of farmed fish for human consumption must be amended in line with the ICFAW comments prepared in august 2010 and especially with regard to the following two points:
 - Provisions for pre-slaughter starvation periods
 - The prohibition to use inhumane slaughter methods

ANIMALS FARMED FOR FUR

Current situation

Fur farming accounts for 85% of all furs in trade. Denmark is the world's largest producer of quality skins with an annual production of around 18 million mink skins⁵³. Other big producers in the EU are, in descending order, Finland, the Netherlands, the Baltic States and Sweden. The largest producers outside the EU are the USA, Canada, Russia, Norway and China. There is also significant production in Iceland and Argentina. In 2008, 57.8% (29.4 million pelts) worldwide mink fur production and 51.8% (2.3 million pelts) worldwide fox fur production came from EU farms⁵⁴. The EU, North America, and Russia are traditionally the main markets for fur goods, although sales are expanding in Japan, Korea and China. China is also a growing manufacturing base for the Far Eastern markets. Despite fluctuating demand which continues to lag behind production, retail fur sales still generate considerable sums. Italy remains the main market for fur products within the EU.

In 2005, global pelt production was about 55 million skins⁵⁵. About 80% of the furs produced come from mink, the rest mainly from foxes, with some from polecat, raccoon dog, coypu (nutria) and chinchilla. Sometimes more than one species are kept on the same farm unit, usually minks and foxes.

The main reason for concern over the farming of fur animals relates to the compatibility of the farming conditions with the animals behavioural and physical needs⁵⁶. Most of the animals concerned do not come from long-domesticated species and largely retain the characteristics of wild animals. Attempts at domestication are made through breeding programmes which select to avoid unwanted behaviours and/or to favour temperamental traits which favour productivity and welfare.

Farmed fur animals are subjected to handling for various reasons during their lives, often being picked up with tongs - an experience which is stressful.

When intensively farmed, fur animals exhibit stereotypic behaviour which, in mink, takes the form of the animal gnawing and sucking its fur and biting its own tail. Early weaning is thought to be a factor.

An observation platform is important to foxes and mink benefit from climbing and play materials. Yet farmed fur species are still typically kept in batteries of wire cages (mostly with wire floors) in long sheds. Large farms hold many thousands of animals, so inspection may be cursory at best. Nest boxes are valuable to all animals but are often only provided to breeding females. Mink, which use water extensively in the wild, generally have no access to it in captivity, other than for drinking. Species which are solitary in the wild, except when breeding, are kept in individual cages but in close proximity to other animals.

⁵³/Kopenhagen Fur

⁵⁴/European Fur Breeders' Association

⁵⁵/EUROPA portal

⁵⁶/The Welfare of Animals kept for Fur Production - Report of the Scientific Committee on Animal Health and Animal Welfare (adopted 12-13 December 2001): http://ec.europa.eu/food/fs/sc/scah/out67_en.pdf

Proximity between dominant and subordinate vixens is linked to the killing and injury of cubs by their mothers. In Sweden and Finland, it has been estimated that up to 30% of fox cubs die before weaning.

Other concerns include the use of artificial insemination for foxes. This involves processes which are not only stressful but can result in injury.

Legislation

Council of Europe

A 1999 *Recommendation concerning Fur Animals* to the *European Convention on the Protection of Animals kept for Farming Purposes* requires that animals born in the wild should not be kept on fur farms, and that no animal should be farmed for its fur if the animal belonged to a species which cannot adapt to captivity without welfare problems. It states general conditions for the keeping of animals for fur and lists special provisions for mink, polecats, foxes, coypu and chinchilla as well as methods for the humane killing of animals farmed for fur.

European Union

Council Directive 98/58/EC concerning the protection of animals kept for farming purposes implements the *European Convention* and covers animals bred or kept for the production of skin or fur. Under Article 5, the European Commission must put forward any proposal for EU legislation which may be necessary to implement Recommendations made under the *European Convention*. In December 2001, the Scientific Committee on Animal Health and Animal Welfare adopted a report on animals farmed for fur, which made recommendations on how their welfare could be improved. One of the report's recommendations was that "efforts should be made for all species to design housing systems which fulfill the needs of the animals." The report however, was not followed by legislative proposals.

Annex F of *Council Directive 93/119/EC of 22 December 1993 on the protection of animals at the time of slaughter or killing* lists the permitted methods for killing fur animals on-farm. For mink, gassing using either carbon dioxide or carbon monoxide is commonly used. Foxes are frequently electrocuted. Article 3 requires that animals shall be spared avoidable excitement, pain or suffering during killing. However, insufficient care is often taken in handling the animals. The new Council Regulation (EC) No 1099/2009 on the protection of animals at the time of killing, to be implemented from the 1 January 2013, will bring about a few improvements, including the need for supervision of killing by a person having a certificate of competence, or technical specific requirements when carbon monoxide is used.

Animals farmed for fur are also covered by the provisions of *Council Regulation (EC) No 1/2005 of 22 December 2004* on the protection of animals during transport and related operations .

Regulation (EC) No 1523/2007 was adopted on 11 December 2007. It bans the placing on the market and the import to, or export from, the Community of cat and dog fur, and products containing such fur.

National legislation

National legislation on fur farming varies considerably within the EU. In Austria, the animal welfare law passed in 2004 specifically bans fur farming. Fox and chinchilla farming are banned in the Netherlands, but there are still large numbers of mink farms. In the United Kingdom, a law forbidding fur farms on the grounds of morality was introduced in November 2000 and all remaining mink farms disappeared by 1st January 2003. In Finland, government decrees cover the location of farms and public health aspects. They also specify cage sizes and require provision of bedding, viewing platforms and playthings for mink, fox, and polecat. In Sweden, fur farms are licensed. A 1995 Order introduces new stricter conditions for fox farming which makes this form of husbandry uneconomic, but fur breeders have been given up to 2010 to adapt to these stricter rules. New regulations for chinchilla have also been drawn up but no date has been set up for their implementation. In Denmark, an order from 2006 on the protection of fur animals is regulating fur farming. Denmark is in the process of banning fox farming. A law proposal being passed through the parliament would allow transitional periods from 8 to 15 years.

In Germany, fur farms are licensed. Fur farming has been banned in the federal states of Bavaria, Hessen, Nordrhein-Westfalen and Schleswig-Holstein. In Italy, very strict conditions came into effect on 1 January 2008 and made fur farming uneconomic. There is no specific welfare legislation in France, Greece, Portugal, Spain, Ireland or Belgium, although the last two have licensing and planning requirements. Luxembourg has no fur farms. In Bulgaria fur farming is not allowed.

Action needed

Member States should apply the recommendation concerning fur animals annexed to the Convention of the Council of Europe for the protection of animals kept for farming purposes.

EUROGROUP FOR ANIMALS / AREAS OF CONCERN 2010

3. WILD ANIMALS

PROTECTION OF WILDLIFE AND HABITATS IN EUROPE

Current situation

Farming methods, hunting, and the use of traps, snares and poisons to prevent crop damage or disease transmission to livestock all have a direct impact on wild animals and their habitats. This impact is compounded by the threat to wildlife habitats from pollution, degradation and destruction due to the development of transport, industry, intensive agriculture and tourism. In general, there is strong public awareness of the natural environment today, coupled with broad concern that it should be safeguarded.

Cruel and non-selective methods of catching animals continue to be used, except for fully protected species. As long as such methods remain in use, animals such as foxes and rabbits will suffer an inhumane death, and protected species, along with domestic pets, will continue to be caught incidentally.

Illegal use of poisons, particularly against birds of prey, but also against other protected species such as wolves, still takes place. Such species have been the traditional targets of rural persecution, and are still the subject of much prejudice. The legal use of poisons to deal with rats and mice also affects other harmless and often protected species. Rodents are increasingly resistant to common pesticides, which accumulate in their bodies. The poisons are subsequently ingested by the bird and animal predators or carrion eaters which take the poisoned rodents.

Large numbers of wildfowl and wading birds suffer from poisoning due to swallowing lead shotgun pellets and discarded fishing weights. The lead is taken up along with the gravelly substances used by birds to break up food in the gizzard. It is broken down by the bird's digestive system to form toxic salts in the bloodstream. The resulting toxemia causes severe central nervous system symptoms, paralysis and ultimately death. Lead shot pellets may remain in mud and soil for many years.

Hunting of formerly common songbird species, notably the skylark and song thrush, is still taking place in some EU countries. Both the skylark and the song thrush are migratory, and are known to be in decline across the EU due to both hunting and the impact of modern farming methods on their habitats.

The length of hunting seasons has been a problem, especially in relation with the protection of migratory species. Opening dates are sometimes set too early for some species allowing hunting at a time when their young were not all fledged, while late closing dates allow the shooting of migrating birds returning to their reproduction sites. This has been a problem in France, Greece and Italy, and well as in Cyprus and Malta.

National implementation and enforcement of EU legislation on the protection of habitats and wild birds are still a matter of concern, and this is shown by the large number of infringement proceedings started by the European Commission against member states.

Legislation

Council of Europe

The *Convention on the conservation of European wildlife and habitats (1979, the Bern Convention)*, aims to conserve wild fauna and flora and habitats, with special focus on topics where the cooperation of several countries is required. It prohibits the deliberate capture of animals listed for strict protection. It also prohibits the use of indiscriminate capture methods for generally protected animals. For example, trapping as a means of catching mammals and snaring as a means of catching birds are both prohibited. The Convention has to be put into effect through national and Community legislation.

European Union

EU efforts to protect wild animals and their habitats - both marine and terrestrial - are centred on two complementary pieces of legislation: *Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora*, which took effect in June 1994, and *Council Directive 79/409/EEC on the conservation of wild birds*, which came into force in 1981. Both texts recognise the common responsibility and need for cooperation between member states implied by the fact that many wild animal species are distributed across the national boundaries and many are migratory.

The first objective of the *Directive on the conservation of wild birds* is to ensure that all wild birds in the European territory of the Community are given basic protection from trapping and killing, and that all large scale or non-selective methods of killing and capturing birds, together with the exploitation, sale or commercialisation of most species, are prohibited. The second objective is to ensure the preservation, maintenance and re-establishment of sufficient diversity and area of habitat for all species, with special habitat conservation measures for particularly vulnerable species and migratory species. The capture of birds for scientific research and reintroduction of species may be authorised. Hunting of certain species is permitted, within limits.

However, under Article 9, derogations to strict protection can be given for controlling birds in the interests of public health and safety, air safety, prevention of serious damage to crops, livestock, fisheries and water. Killing should only be permitted after non-lethal alternatives have been tried, and must be justified on the grounds of a significant level of damage or loss, but, there is a tendency for some member states to issue general permission for killing certain birds.

The *Directive on the conservation of natural habitats and of wild fauna and flora* sets similar objectives for land, aquatic and marine animals in the territory and waters of EU member states. It is designed to help ensure biodiversity in the Community. It aims to set up a coherent European ecological network of special areas of conservation under the title of Natura 2000, which must be protected from the effects of pollution and development.

The directive bans the use of certain cruel and/or non-selective hunting and trapping methods for species controlled under the directive, and in situations where strictly protected species may be put at risk. It also requires that permitted hunting should not disturb areas frequented by protected species, particularly during the breeding season. Furthermore, permitted hunting must be regulated so that it is compatible with a favourable conservation status for the species taken.

National legislation

Norway, the Netherlands, Finland and Sweden were the first to ban lead shot for wildfowling. The UK announced a ban in April 1999 to replace a previous ineffective voluntary phase-out. In the meantime, at least 2000 tons of lead shot are used by wildfowling in Europe each season. Denmark banned lead shot use for any game with effect from 1996.

Hunting of formerly common songbird species, notably the skylark and song thrush, is still permitted in Greece, France, Italy, Cyprus and Malta. The song thrush may be hunted in Spain and Portugal as well. This takes place in accordance with Article 7.3 of the *Directive on the conservation of wild birds*, under which Annex II/2 lists the species for which individual member states may grant a hunting season.

The correct application of Article 7(4) of the wild birds directive, relative to the fixing of the opening and closure dates of hunting seasons, is still a problem in several member states which allow hunting to take place too early in the autumn when birds are still rearing their young and/or too late in the winter when migratory birds start to come back to their breeding grounds.

In new member states, Estonia has been given a derogation to continue hunting lynx until May 2009, and Malta was given several derogations under the wild birds directive: for spring hunting of turtle dove and quail, for shooting of additional 30 bird varieties in autumn and for trapping of finches for breeding.

Future action

- Member states must allocate sufficient resources to actively enforce the wildlife protection legislation which they have agreed and adopted. The first report⁵⁷ on the Conservation Status of Habitat Types and Species published in July 2009 reveals that many Member States have failed to allocate sufficient resources to monitor the implementation of the requirements set for the protection of habitats.
- The EU should set up an inspection system to ensure implementation of nature protection legislation. This has been suggested by the European Parliament in its reports on implementation of the *Directive on the conservation of wild birds* and other nature protection issues. The Community now has a European Environment Agency through which this activity might be undertaken if the agency's role were expanded.
- The Community and its member states should ban the use of lead shot in accordance with the Bern Convention Recommendation. This could be viewed as part of their obligations under the Habitats and Wild Bird Directives.
- Hunting seasons of migratory species should close no later than 31 January.

⁵⁷Report from the Commission to the Council and the European Parliament: Composite Report on the Conservation Status of Habitat Types and Species as required under Article 17 of the Habitats Directive (COM(2009)358)

WILDLIFE TRADE

Current situation

Exotic animals are traded to be kept as pets, to be displayed in zoos or other exhibitions, or to be used in scientific research. Animal products are sold as luxury, souvenir and craft products, and are used in traditional medicine. Trade – both legal and illegal - is driven by consumer demand and has increased to its present scale in parallel with the development of transport. Traffic generally flows from Africa, Asia and South America to Europe, Japan and the USA; and from Africa, India and South East Asia to China and Taiwan.

Tropical fish, reptiles, birds and mammals are all traded in the EU. Between 2005 and 2007 the EU imported 6.7 million live reptiles⁵⁸. Between 2000 and 2005 EU imports of protected live reptiles represented 20% of protected live reptiles in world trade at that time⁵⁹. These figures only represent the legal trade. It has been suggested that the fewer import restrictions on captive-bred versus wild-caught CITES animals has led to the “laundering” of wild-caught species into the pet trade⁶⁰. No complete statistics are available for illegally traded specimens, but experts estimate the illegal trade in wildlife species to be worth billions of Euros annually, second only to weapons and drug trafficking⁶¹.

The trade in wild animals and wildlife products is of concern for several reasons. The most obvious one is the threat it poses to the survival of individual species in the wild. Wild animals suffer considerably when being captured or killed. Those that are sold alive endure being transported and being kept at holding centres or at their final destination in Europe and elsewhere. A study on bird exports from Senegal estimated a 70% mortality rate during capture, export, and quarantine⁶².

Moreover, importation of exotic species can constitute a disease risk. Evidence shows that veterinary controls are not always performed as strictly as they should, increasing this health risk⁶³. Reptiles and birds transmit salmonella to owners and family members, particularly when proper hygiene is not practiced. Diseases such as rabies, monkeypox and herpes B virus have been transmitted from exotic animals to owners and pet shop workers. The fear for an avian influenza pandemic led to the establishment of stricter rules for the import of wild birds in 2006. Import of exotic species can also represent a threat to native species. For example terrapins sold as children’s pets are often dumped in local ponds when they reach adulthood, where they reproduce in warmer areas.

⁵⁸/Source : DG trade statistics at : <http://exporthelp.europa.eu/thdapp/comext/ComextServlet?languageId=EN>

⁵⁹/Engler, M. and Parry-Jones, R. (2007). Opportunity or threat: The role of the European Union in Global Wildlife Trade. TRAFFIC Europe, Brussels, Belgium.

⁶⁰/Engler, M. and Parry-Jones, R. (2007). “Opportunity or threat: The role of the European Union in Global Wildlife Trade”, TRAFFIC Europe, Brussels, Belgium.

⁶¹/IFAW, http://www.ifaw.org/ifaw_canada_english/join_campaigns/fight_illegal_wildlife_trade/index.php

⁶²/Carter and Currey(1987), “Research into the conditions of capture, transportation and export of wild-caught birds from Senegal”. In: Thorton A (ed) *The Trade in Live Wildlife. Mortality and Transport Conditions*, pp.10-18. The Environmental Investigation Agency: London, UK.

⁶³/The veterinary control in the European Union of imported pet birds and –mammals of CITES and non-CITES species – Dutch Society for the Protection of Animals, 2000

The EU spends an estimated 12 billion Euros annually on invasive species damage and controls⁶⁴.

Many species are not yet covered by conservation legislation, and may only become so when their numbers are heavily depleted. When information on the population status of a species is lacking, the decision whether to allow trade mostly does not take into account the precautionary principle. Furthermore, legislative controls on the trade in wild animals and animal products are often evaded. Poaching and illegal trade continue to affect even those animals, such as tigers and elephants, which are given strict protection under national laws and international agreement. In recent years, chameleons, geckos, monitor lizards, iguanas and various snakes have all featured in illegal shipments to the EU.

The enlargement of the EU in May 2004 and again in January 2007 shifted the EU's external borders further east, placing the 12 new member states on the frontline for controlling imports of regulated wildlife into the EU. The EU eastern land borders are now controlled by nine countries instead of three. There is concern about the lack of co-operation among enforcement agencies involved in controlling wildlife trade in the EU, and this concern has increased following enlargement.

Relevant legislation

International

The most important instrument for the control of wildlife trade is the *Convention on International Trade in Endangered Species (CITES)* which aims to ensure that international trade in specimens of wild animals and plants does not threaten their survival. The convention is implemented through the national legislation of its 175 Parties⁶⁵. It divides the species into three categories: Appendix I lists species essentially barred from commercial trade, Appendix II lists those which can be traded subject to conditions, and Appendix III lists species for which individual countries have notified their own trade and protective restrictions. Only countries can be parties to CITES, so the European Commission holds observer status and all EU member states participate as individual countries, though taking a common line on most issues.

European Union

The European Union implements CITES through *Council Regulation 338/97/EC on the protection of species of wild fauna and flora by regulating trade therein*. The regulation also incorporates controls on the sale and possession of wild animals, birds and plants found within the territory of the EU, but not listed on CITES. The EU regulation divides some 33,000 species (of which 5,000 animal species) into four separate Annexes:

Annex A: the strictest level of protection. Trade is permitted only in exceptional circumstances. It includes all CITES Appendix I species and certain species of CITES II, III and non-CITES.

Annex B: some protection is necessary. It includes CITES Appendix II species not listed in Annex A, plus some CITES III and non-CITES species.

Annex C: species for which there is no international trade protection. It includes the species listed on Appendix III of CITES not included in Annex A or B. They are protected by national legislation in some way.

Annex D: No restrictions. It includes species listed by EU for monitoring purposes because they are traded in significant numbers and could become threatened. There is no equivalent in CITES.

In addition, the regulation requires all species to be transported in a way that minimises risk of injury, damage to health or cruel treatment, and in conformity with Community legislation on live animal transport. In the case of air transport, animal shipments must comply with the most recent rules of International Air Transport Association (IATA), and must be conveyed to their destination as soon as possible.

⁶⁴/EU Commission, Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of Regions Towards an EU Strategy on Invasive Species, COM(2008) 789, http://ec.europa.eu/environment/nature/invasivealien/index_en.htm

⁶⁵/as of February 2009

For some years, EU member states have been strongly criticised for failing to coordinate their efforts to implement the Convention effectively and to stop illegal wildlife trade. The EU's 27 member states work collectively through political cooperation and economic integration, yet still function as individual countries. The free movement of goods, including live animals, must be guaranteed between member states. Where wildlife is concerned, the EU is faced with regulating a complex international trade in which it plays a major part, both as an importer and as a transit point.

The scientific authority of the member state to which an Annex A animal is to be sent must be satisfied that the accommodation and care to be provided are adequate. For Annex B specimens, dealers and owners must ensure that any person to whom the animal is sold or given away is adequately informed about the care and accommodation required.

Detailed administration rules for the implementation of *Council Regulation 338/97/EC* are laid down in Commission Regulation (EC) No 865/2006. This covers marking and identification of specimens, reporting and information requirements, and general documentation. This regulation also incorporates special rules on travelling exhibitions that were adopted at the 12th Conference of the Parties to CITES.

Council Directive 92/65/EEC of 13 July 1992 laying down animal health requirements governing trade in and imports into the Community of animals provides for the establishment of specific health requirements for imports into the Community. Under this regulation, detailed rules can be set up for the import of specific groups of species. For wild birds, restrictions on imports are established by *Commission Regulation (EC) No 318/2007 of 23 March 2007 laying down animal health conditions for imports of certain birds into the Community and the quarantine conditions thereof* which came into effect on 1 July 2007. It includes a ban on the import of wild-caught birds to the EU, and sets strict requirements for the import of captive-bred birds. Birds can only be imported if they come from a given list of third countries and they were bred in registered captive breeding establishments. The imported birds are submitted to a range of tests and to quarantine in registered quarantine centres upon arrival in the EU. Birds imported for conservation programmes, pets accompanying their owners and animals intended for zoos, circuses, amusement parks or experiments are exempted.

Future action

- It is essential that the Community and Member States take all possible steps to ensure compliance with the transport requirements of Council Regulation 338/97/EC and other Community legislation.
- Unacceptable mortality rates are suffered by many species in trade, including by those traded in very large numbers but are not yet listed under CITES. It is therefore extremely important to monitor mortality in trade, not only among CITES-listed species, but also among those which may be at risk (Annex D of Council Regulation 338/97). For that purpose, it should be compulsory for member states to record mortality rates and the resulting statistics made publicly available.
- The European Union should use the possibility given under Article 4.6.c of Regulation 338/97/EC to ban the trade in species that are likely to suffer high mortality rates, applying the precautionary principle.
- In collaboration with stakeholders, the European Commission should establish a clear procedure including criteria to define high mortality.
- Active enforcement of Council Regulation 338/97/EC is vital. Furthermore, the Commission and Member States should have the obligation to make public national reports on enforcement.
- A ban on wild-caught animals for the pet trade should be introduced.
- Clear guidelines to define the exemptions to the prohibition to import Annex A species, and the term "primarily commercial purposes" are needed.

COMMERCIAL WHALING

Current situation

The International Whaling Commission (IWC), 84 member countries in 2009, is the global organisation responsible for the management of whaling and the conservation of whales. After commercial whaling devastated many whale populations earlier last century, the IWC has taken measures to protect whales. These include a suspension of all commercial whaling from 1986 (often referred to as the moratorium), the establishment of the Indian Ocean Sanctuary in 1979 and the circumpolar Southern Ocean Sanctuary in 1994. However, between 1986 and 2008, more than 30,000 whales were killed and their meat sold. Japan, Norway and Iceland have all used a provision (Article VIII) in the International Convention for the Regulation of Whaling (ICRW) that allows IWC members to unilaterally set catch limits and issue highly controversial special permits for scientific purposes. Norway also lodged an objection to the moratorium on commercial whaling and is therefore not bound by it. Iceland did not object to the moratorium but left the IWC in 1992. At a special IWC meeting in 2002, Iceland's application for membership with a reservation was adopted with a majority of one vote. The Icelandic reservation was legally controversial and eleven countries (including EU members Sweden, UK, France, Germany, Italy, The Netherlands, Finland, and Portugal) filed formal diplomatic statements indicating that they did not accept Iceland's reservation.

Norway resumed commercial whaling for minke whales in 1993 in addition to special permit catches in 1993 and 1994. After a 14 year break, Iceland resumed whaling in 2003 and annual catches varied between 25 and 60 minke whales under special permit up to 2007 with additional commercial catches from 2006 onwards.

Japan has been steadily increasing the number of individuals and species targeted by its special permit whaling in the North Pacific and Southern Ocean. Six species of the great whales were targeted up until 2008, sperm, common minke, Antarctic minke, fin, sei and Bryde's whale. Japan's total self-allocated annual take would be 1415 whales if all the proposed catches were taken. Japan has also made repeated requests to the IWC to allow catches for what Japan has called "small-type coastal whaling" even though the IWC Schedule does not recognise such a category. In the last five years, the average number of minke whales in the North Pacific reported taken and destined for the markets of Japan and Korea has been nearly 400. About half of these are from reported accidental catch or bycatch. Actual takes allowing for illegal whaling may well be considerably greater than this. The IWC Scientific Committee concluded in 1983 that the minke whale population that occurs mainly in the East Sea/Sea of Japan was depleted and should be classified as a protection stock. Current catches in several areas around Japan are likely in excess of the limits that would be calculated under the RMP.

International Trade

Norway, Iceland and Japan have ratified CITES but have reservations to the decision to list the minke whale on Appendix I, which prohibits international trade. Thus these countries are not bound by this trade prohibition and have been known to export whale products.

Animal welfare issues

It is impossible to guarantee that hunted whales will die without suffering. The definition of humane killing used by the International Whaling Commission is that death should take place “without pain, stress or distress perceptible to the animal”. Despite forty years of research, no killing method applicable at sea, including the explosive harpoon in current use, approaches this definition. One gauge of the cruelty involved in killing whales is the length of time it takes before death or unconsciousness occurs.

In 2002 a whale harpooned in the Norwegian hunt took over an hour to die. Japan refuses to provide information on the maximum time to death but data show that over 50% of whales harpooned by the Japanese are left alive and require shooting more than once. In 1997, some progress was made when Japan was persuaded to stop using the electric lance as a secondary killing method for large whales, other than in exceptional circumstances. The lance was previously used in 70% of cases where the primary killing method - the explosive harpoon - failed. A high calibre rifle, of the type used in Norwegian operations, should now replace the lance. Japan reported to the IWC in 1999 that it had implemented this agreement, but apparently it still uses the electric lance for small cetaceans.

Whale killing for scientific reasons is as cruel as commercial hunting and is widely condemned as unnecessary, given that benign research methods are now in general use.

Whaling in Greenland

The IWC has agreed catch limits for takes of fin and minke whales in Greenland for aboriginal subsistence purposes although the IWC Scientific Committee has repeatedly expressed concerns about the lack of data on which to provide management advice. In 2008 the Commission adopted for the first time a common position prior to the 60th meeting of the IWC *inter alia* to support proposals for the management of aboriginal subsistence whaling on the condition that conservation of relevant stocks is not compromised, having due regard to the precautionary principle and the advice of the Scientific Committee. In addition, whaling operations must be properly regulated and catches remain within the scope of documented and recognised subsistence needs.

Greenland requested in 2008 a new quota for 10 humpback whales. This request was defeated by vote with EU members of the IWC except Denmark voting against as a bloc. Countries expressed concerns about whether Greenland had demonstrated a genuine subsistence need for additional whales.

Legislation

Within the Community, *Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (the Habitats Directive)* requires member states to maintain all cetacean species in, or restore them to, a favourable conservation status. All cetacean species are strictly protected from deliberate disturbance, capture or killing within Community waters. The same directive also prohibits the keeping, transport and sale or exchange, of specimens taken from the wild.

Council Regulation 338/97/EC of 9 December 1996 on the protection of species of wild fauna and flora bans the introduction of cetaceans into the Community for primarily commercial purposes by implementing the provisions of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

Out of the 27 EU member states only 6 were not party to the ICRW in 2008: Bulgaria, Estonia, Latvia, Lithuania, Malta and Poland. In preparation to the annual IWC meeting in 2008, the Council of the European Union adopted a joint position on behalf of the European Community. This required member states to co-ordinate a single position on key issues.

Action needed

In order to establish a common position to be adopted on behalf of the European Community at IWC meetings an EU Council Decision is needed.

An objective of a common position is to bring international measures in line with those in EU waters. Key items for inclusion in an EU common position are:

- Continuing support for the moratorium on commercial whaling and agreement that EU member states will not permit exemptions that would allow commercial whaling regardless of this landmark decision.
- Take action towards ensuring an end to whaling within the IWC's Southern Ocean Whale Sanctuary.
- Support for the CITES ban on international trade in whale products and efforts to ensure that this ban is respected.
- Support for aboriginal whaling, providing that the IWC scientific committee has sufficient evidence to agree that it is sustainable and subsistence needs have been demonstrated. Proposals for any expansion of aboriginal whaling, either in terms of numbers of whales killed, or to additional species or countries conducting such whaling should be vigorously opposed.
- The creation of any new categories of whaling should be opposed (such as Japan's small type coastal whaling and similar proposals from Norway in the past).
- The EU should make its policy on whaling clear in discussions with Norway, Iceland and Japan (which conduct whaling). Also the policy should be made clear to the many countries in the Caribbean, West Africa and elsewhere, which have chosen to vote with Japan at IWC despite having no direct interest in promoting whaling.
- No exemption to allow whaling must be granted to Iceland should it become an EU member State.

SEALS AND WALRUS

Current situation

HARP AND HOODED SEALS (*Phoca groenlandica* & *Cystophora cristata*)

There are three distinct populations of harp seals, the northwest Atlantic, the east Greenland and the Barents Sea population. Hooded seals breed on the drifting heavy pack ice near Jan Mayen Island (the “West Ice”), off Canada’s east coast, and in the Davis Strait.

Harp seals are subjected to commercial hunts in all of their breeding grounds, the largest of which takes place in Canada each spring. To a much smaller extent—a few thousand—hooded seals are also targeted annually in Canada’s commercial seal hunt.

In 1983, responding to overwhelming international pressure, the European Union introduced a prohibition on trade in the skins of “whitecoats” (newborn harp seal pups) and “bluebacks” (hooded seal pups). Kill levels in the Canadian seal hunt declined dramatically and in 1987, Canada finally prohibited the killing of whitecoats and bluebacks.

However, in the mid 1990s, the Canadian government rejuvenated the commercial sealing industry, providing generous subsidies to seal hunters and seal processing plants. Sealers were allowed to kill the pups as soon as they had begun to moult their white coats, as young as 12 days old. Bluebacks were also protected in Canada, but seal hunters could still kill adult hooded seals. Between 2006 and 2009 alone, more than one million harp seals, and a much smaller number of hooded seals, have been killed in Canada. The seals are killed for their fur, which is exported for use in fashion markets.

Smaller annual hunts of harp and hooded seals are also carried out in Greenland, Norway and Russia. Contrary to what some sealing advocates claim, Greenland’s harp seals catches actually increased following the 1983 EU prohibition on trade in skins from seal pups. Government data clearly shows Greenland’s annual harp seal catches increased from a mere 7,000 in 1975, to about 50,000 throughout the late 1980s, to more than 100,000 by 2000. Greenland’s commercial seal hunt is heavily subsidised by the Home Rule government, with more than three million Euros budgeted in 2008 for the purchase of sealskins.

The hunts are a source of concern principally because of the extreme cruelty involved. Veterinary experts have concluded that Canada’s commercial seal hunt is inherently inhumane because of the environment in which the killing operates (far offshore, in extreme and unpredictable weather conditions, amidst unstable sea ice), and the speed at which it must be conducted (hundreds of thousands of seals are often killed in just a few days). In 2007, a team of European veterinary experts studied the slaughter. Their disturbing report found that over 80 percent of the seals they observed being shot were not killed with the first bullet, nearly 40 percent of clubbed seals were not even rendered unconscious with the first blow, 67 percent of seal hunters did not check seals to ensure they were unconscious prior to impaling them on hooks or cutting them open, and 44 percent of seals showed responses to stimuli after being impaled on hooks and dragged across the ice. Later that year, the European Food Safety Authority (EFSA) released its report, “Animal Welfare Aspects of the Killing and Skinning of Seals,” which noted that some seals were being moved or skinned whilst conscious, resulting in avoidable pain, distress, fear and other forms of suffering.

Commercial hunts for harp and hooded seals also pose serious threats to seal populations, particularly in light of the impacts of global warming on these ice dependent animals. Global warming has caused the ice cover in the northwest Atlantic to diminish, causing increased rates of mortality in pups. In recent years, the Canadian government has estimated up to 100 percent mortality of pups born in key whelping areas, when the sea ice melted before the pups were strong enough to survive in open water.

CAPE OR SOUTH AFRICAN FUR SEALS (*Arctocephalus pusillus*)

Cape fur seals have been commercially hunted off the coast of southern Africa since the early 17th century. By the late 1800s, 23 colonies had already been eradicated. The decimation of the Cape fur seal population eventually led to the introduction of sealing restrictions in South Africa (1893) and Namibia (1922).

The South African commercial seal hunt finally ended in 1990 and a moratorium on hunting remains in place today. However, the commercial hunting of Cape fur seals continues unabated in Namibia. The Namibian hunt targets three mainland colonies in Cape Cross, Wolf Bay and Atlas Bay. About 60% of all Cape fur seal pups (ca. 180,000) are born in Namibia, of which about 75% (ca. 135,000) are found in the aforementioned colonies.

The Namibian commercial seal hunt takes place between July and November. The seals are killed for their fur and for their penises (which are sold as aphrodisiacs in traditional Asian medicine). Throughout the past decade, hunting quotas have increased significantly. In 1999, the slaughter of 30,000 pups and 5,000 adult males was permitted. By 2008, this quota had risen to 80,000 pups and 6,000 bulls. The Namibian seal hunt is now the third largest commercial seal hunt in the world.

Cape fur seal pups are killed at approximately seven months of age; this is before they have been weaned. Namibian sealing regulations require that pups be killed according to the “stun and stick” method. Pups must first be struck on the head using a club, generally a wooden pick-handle; their hearts must then be pierced using a knife to bleed them out. During the hunt, several hundred pups may be killed within a rapid time frame (one to two hours).

There are serious animal welfare problems associated with the “stun and stick” killing method. Stunning is often ineffective and several blows may be necessary before the animal is rendered unconscious. Moreover, it has been found that bleeding-out is frequently carried out incorrectly because the major vessels are not cut properly during “sticking”. Animals which have been insufficiently stunned may also regain consciousness before bleeding-out.

In contrast to the prescribed killing methods for pups, the Namibian regulations stipulate that adult seals (i.e. seals of three years and above) must be shot in the head while on land using a rifle. There is, however, no requirement for these animals to be bled-out after having been shot. Given the low inertia of the ammunition used and the thickness of their skulls, adult seals may not necessarily be killed outright by a single shot.

The most recent aerial survey of the Namibian seal population estimated the number of pups at 184,103 and adults at 700,000, 70% of which were found in the colonies targeted by the sealing industry. There is a natural mortality rate of 30% among the Cape fur seal pups. However, in the past, there has also been a high level of mortality due to a scarcity of fish, which was the result of environmental conditions. It is estimated that in 1994 and 2000 300,000 seals, virtually all of which were pups, died. The entire population was reduced by a third to a half on each occasion.

GREY AND COMMON SEALS (*Halichoerus grypus* & *Phoca vitulina*)

Globally, grey seals are split into three separate populations: the Western Atlantic, the Eastern Atlantic and the Baltic population. Canada holds most of the Western Atlantic population, which is distributed along the shores of eastern Canada. In 2004, the Canadian government estimated the population to be in the region of 250,000. In the Northeast Atlantic, grey seals chiefly breed on British coasts, and the population numbers up to 170,000 animals. Small groups are found along the Irish, French and Spanish coasts. The Baltic population of grey seals has been in a decline for about fifty years, with pollution believed to be a major contributing factor.

The common (harbour) seal is found on both sides of the Atlantic and in the Pacific. In European waters it breeds on land around Iceland, the British Isles, and the coasts of the Netherlands, Germany, Denmark and Norway. Concern for both species is based on the continuation of hunting, killing for fisheries protection, and the effects of habitat disturbance and pollution.

Both species, but particularly the common seal, have been hunted throughout their range. Both grey and common seals are hunted for their fur. The blubber is processed for oil.

Canada still sets annual catch quotas for land-based sealers. The common seal has been radically reduced or eliminated in some localities. Within European countries, fishermen are allowed to shoot seals of either species if they are near fishing gear. Both species are sensitive to disturbance from human activity and may desert breeding areas and their pups. In 1988 and again in 2002, a distemper virus spread rapidly through European populations of the common seal. More than 20,000 seals succumbed in each outbreak.

MEDITERRANEAN MONK SEAL (*Monachus monachus*)

Despite its highly protected status, the Mediterranean monk seal is still in decline. It continues to be threatened by fishing activities and disturbance of its habitat. In the summer of 1997, the largest surviving Mediterranean monk seal population, along the Western Sahara coast of Mauritania, suffered an epidemic which is estimated to have killed more than 70% of the 300 animals. Currently, their total world population is at only a few hundred animals, and the Mediterranean Monk seal is considered the most endangered marine mammal in Europe.

WALRUS (*Odobenus rosmarus*)

The walrus is one of the largest members of the Pinniped family, and is the largest member of this group to live in the Arctic. Two distinct subspecies are recognised: Atlantic and Pacific walrus. The Atlantic walrus is found on Spitzbergen, in the Barents Sea, on the east and west coasts of Greenland, and in the eastern Canadian Arctic. The Pacific walrus is located around the eastern Arctic coasts of the Russian Federation and Alaska. There are approximately 18,000-20,000 walruses in the Atlantic and the population of about 200,000 in the Pacific is in decline.

The walrus was substantially hunted for ivory in the 19th and early 20th centuries. Following a radical decline in numbers, controls were introduced by all countries of origin. Commercial hunting was stopped in Canada in 1931, but continued in Greenland. Catches in Greenland declined after about 1940, most likely due to a decline in the population. Inuit hunting of walruses in both Canada and Greenland has continued since then. Substantial hunts occur in the western north Atlantic, across Nunavut in Canada and in western Greenland. On the eastern coast of Greenland, walrus are hunted on a more limited scale. Further east, on Svalbard, Franz Josef Land and in the western Russian Arctic walruses are fully protected from hunting.

Traditionally, the walrus has been killed for its meat, only 35% of which is fit for human consumption (the rest is fed to dogs). Ivory from the tusks, which both males and females produce, is locally made into craft items including amulets. Since the introduction in 1989 of an international ban on trade in ivory from the African elephant, and with Asian elephant previously banned from trade, there has been renewed interest in walrus ivory as a substitute.

It is difficult if not impossible to accurately measure the number of walruses killed in hunts. In all regions where walruses are hunted, animals are frequently shot and wounded, but not retrieved. Loss rates of up to 50 percent have been reported in some areas, but these animals are not counted in the official kill statistics. Without good information about population levels and total removals, any level of hunting should not be considered sustainable. The estimates of walrus numbers suggest they are less abundant than African elephant populations, which have been accorded full international protection.

Moreover, there are many other human activities that are negatively impacting walrus populations. The noise generated by boats, low-flying aircraft and other human caused disturbances can cause walruses to flee, which can lead to death of calves and other walruses by trampling. Walruses are

also vulnerable to loss of habitat and food caused by global warming and over fishing. Other potential threats to walrus populations include pollution and disturbance from oil and gas exploration.

Finally, walruses have low reproductive rates. While a walrus can live to be 40 years old, females can only give birth a maximum of once every two years, though it is more common for calves to be born every three years.

Legislation

European Union

In 1983, the EU banned the import of skins from whitecoat and blueback seal pups. The original ban, introduced under *Council Directive 83/129/EEC of 28 March 1983 concerning the importation into Member States of skins of certain seal pups and products derived therefrom*, was renewed provisionally in 1985 and indefinitely in 1989.

A Regulation of the European Parliament and of the Council was adopted in July 2009, which bans the placing on the EU market of products from seals killed for commercial purposes. It was due to enter into force in August 2010 but the European Court of Justice temporarily suspended the ban following a legal challenge by a specific group of Canadian sealers and Inuits. This move came just one day before the implementing rules to the ban would have come into force. The placing on the market of seal products will be allowed only where the seal products result from hunts traditionally conducted by Inuit and other indigenous communities and contribute to their subsistence.

Both harp and hooded seals are listed on Appendix III of the *Bern Convention on the Conservation of European wildlife and habitats* which is implemented in the European Union through *Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora* (the habitats Directive). This means that the species are to be generally protected, but may be subject to control measures.

Most southern fur seal species, including the Cape fur seal, are listed on Annex B of *Council Regulation 338/97/EC on the protection of species of wild fauna and flora by regulating trade therein*. This means that trade is permitted, and the Community may choose to set quotas or other import restrictions as necessary. Two *Arctocephalus* species (the Juan Fernandez fur seal and the Guadelupe fur seal) are listed on Annex A of the EU Regulation, which prohibits commercial trade.

The grey and common seal are both listed on Annex II of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora. This means that their habitat (i.e. land and sea of certain coastal areas) required designation as a special area of conservation. The seals themselves are otherwise covered by Annex V of the same Directive, which allows them to be subject to management measures. This legislation came into force in July 1994, and takes account of the 1988 Bern Convention *Recommendation on protection of the common seal*.

All monk seals are listed on Annex A of *Council Regulation 338/97/EC*. This also bars the species from commercial exploitation. Since it is found in Community waters, the Mediterranean monk seal is listed on Annex IV of the habitats Directive, and is moreover a priority species on Annex II, which means that its habitat should be designated as a special area of conservation. This reflects the level of protection accorded to the species under the *Convention on the conservation of European wildlife and natural habitats* (Bern). The EU also supports the Mediterranean Action Plan for the monk seal drawn up under the *Convention on the Protection of the Mediterranean Sea against Pollutants* (Barcelona Convention).

The walrus is listed on Annex B of *Council Regulation 338/97/EC*, allowing trade to be regulated by quotas or other restrictions as necessary. However, since September 2008 the European Union has suspended the importation of walrus parts and products from Greenland⁶⁶.

⁶⁶/Commission Regulation (EC) No 811/2008 of 13 August 2008 suspending the introduction into the Community of specimens of certain species of wild fauna and flora

International legislation

The Cape fur seal, along with almost all other *Arctocephalus* species, has also been listed on Appendix II of the Convention on International Trade in Endangered Species (CITES) since 1977. The Guadelupe fur seal is on Appendix I.

As far as northern European populations are concerned, the walrus is listed on Appendix II of the *Convention on the conservation of European wildlife and natural habitats* (Bern). This means it is to be considered strictly protected.

Measures to protect the common seal are taken under the 1990 *Agreement on the Conservation of Seals in the Wadden Sea*, drawn up under Article IV of the *Bonn Convention on the Conservation of Migratory Species*. The agreement involves Denmark, Germany and the Netherlands. It provides for the development of a conservation and management plan, coordination of research, prohibition of taking (with limited exceptions), habitat protection, reduction of pollution and public awareness initiatives. The agreement was drawn up in response to the dramatic 60% reduction of the Wadden Sea seal population caused by the 1988 morbillivirus epidemic.

National legislation

In 1972, the USA enacted the Marine Mammal Protection Act (MMPA), which prohibited trade in marine mammal products, including seal products.

Canada banned the killing of whitecoats and bluebacks in its commercial seal hunt in 1987.

In the early 1990s Norway introduced a ban, renewed annually, on the taking of whitecoats by Norwegian sealers.

Before the EU Regulation was agreed, Slovenia, Belgium, the Netherlands, Italy, Germany, Austria and France, had either prohibited the trade in seal products, or announced their intentions to do so. Outside the EU, Croatia and Mexico have also banned the import of seal products.

The South African government suspended the hunt of South African fur seals in 1990, but the governmental authorities in Namibia set annual quotas for the catch of pups and bulls.

Most European countries give general protection to grey and common seals, but allow fishermen to shoot them in the vicinity of nets or fish farms.

Action needed

- The Cape fur seal should remain on Annex B of *Council Regulation 338/97/EC* so that precautionary action can be taken to control imports.
- Implementation of the habitat protection required under Council Directive 92/43/EEC is vital and should be monitored. Management provisions should also be monitored.
- Efforts should be made by the Community and the member states to ensure that methods other than killing are used wherever possible in connection with fisheries protection. Further research to assess the effects of seal predation on fisheries, as well as further work on the influence of pollution is important.
- Work to ensure the full protection of the monk seal should continue. The quality of the implementation measures under Council Directive 92/43/EEC is vital.
- Trade in walrus ivory should be strictly monitored and limited through *Council Regulation 338/97/EC*. The EU and its Member States could call for the introduction of increased international controls through CITES for all walrus populations, and an upload to Appendix II for the Atlantic walrus.
- The walrus protected status accorded by the Bern Convention must be taken into account.

DOLPHINS AND PORPOISES

Current situation

Small cetaceans (a collective term including dolphins, porpoises and all toothed whales apart from the sperm whale) are subject to a range of threats globally and within European waters. These threats raise both conservation and animal welfare concerns, which include incidental takes in fisheries, directed takes, collisions with vessels, pollutants, loss of prey, disturbance in breeding and feeding areas and underwater noise pollution from military sonar, seismic surveys, off-shore construction, commercial shipping and leisure craft.

There are two regional agreements under the Convention on Migratory Species which are particularly important for small cetacean conservation in European waters. These are the Agreement on the Conservation of Small Cetaceans of the Baltic, North East Atlantic, Irish and North Seas (ASCOBANS⁶⁷) and The Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean Sea and contiguous Atlantic area (ACCOBAMS).

Incidental capture in fisheries involves the deaths of the largest number of animals. In Europe the takes of harbour porpoise in gill-net fisheries have been of particular concern. Estimates⁶⁸ for the period 1992-2001 indicated a mean annual bycatch of around 5,800 harbour porpoises killed annually in Danish bottom set gill-nets fisheries in the North Sea. These estimates were well in excess of 1.7% of the best population estimate at the time⁶⁹, the maximum level agreed at ASCOBANS.

Bycatch has also been of particular concern for the common dolphin, especially around the south west coasts of UK, and for the Baltic harbour porpoise population, due to major declines in numbers (only around 600 individuals in 1995)⁷⁰. In 2002, ASCOBANS finalised a recovery plan for harbour porpoises in the Baltic Sea. The EU agreed in 2004 a ban on the use of drift nets in the Baltic which came into effect on January 1st 2008. Pingers were also made compulsory on any tangle-net (drift-net or bottom-set net) in the Baltic from 1 June 2005.

ACCOBAMS held a workshop in September 2008 on cetacean bycatch. Four EU countries (Spain, France, Italy, Slovenia) and Ukraine have established monitoring programmes involving at sea observations of fishing activity within the ACCOBAMS area, which have only recently been implemented.

⁶⁷/ASCOBANS was originally the Agreement on the Conservation of Small Cetaceans in the Baltic and North Seas, but the range of the agreement was expanded in February 2008 with the addition of Ireland, Portugal and Spain as members.

⁶⁸/Vinther, M. and Larsen, F. 2002. Updated estimates of harbour porpoise by-catch in the Danish bottom set gillnet fishery. Paper SC/54/SM31 presented to IWC Scientific Committee, Shimonoseki, Japan.

⁶⁹/Hammond, P.S., Berggren, P., Benke, H., Borchers, D.L., Collet, A. Heide-Jørgensen, M.P., Heimlich, S., Hiby, A.R., Leopold, M.F. and Øien, N. 2002. Abundance of harbour porpoise and other cetaceans in the North Sea and adjacent waters. *J. Applied Ecology* 39:361-376

⁷⁰/Berggren, P., Wade, P., Carlstrom, J. and Read, A. 2002. Potential limits to anthropogenic mortality for harbour porpoises in the Baltic region. *Biological Conservation* 103:311-322.

The common dolphin was once one of the most common species in the Mediterranean but has declined throughout the region for the last 30-40 years and has almost completely disappeared from large portions of its former range. Over-fishing of prey species is believed to have been a major contributing factor⁷¹.

In 2003, the Mediterranean population of common dolphins was classed as Endangered on the IUCN Red List and included in Appendix I and II of the Convention on the Conservation of Migratory Species in 2005.

Directed takes of all cetaceans are prohibited in EU waters but occur in the Northeast Atlantic off Greenland and the Faroe Islands, a self-governing nation within Denmark and not an EU member. The Faroe Islands and Greenland do not recognise the International Whaling Commission (IWC) as having authority to manage small cetaceans including the pilot whale and there is no internationally agreed procedure for setting catch limits for small cetaceans.

Pilot whales are hunted in the Faroe Islands by driving them into bays where they can be dragged ashore and killed by cutting the spinal cord with a knife⁷². Bottlenose whales, bottlenose dolphins, white-sided dolphins and harbour porpoises are also killed in smaller numbers. There is no recent assessment of the conservation implications of the pilot whale hunts, and the welfare aspects of the hunts have been most controversial.

Pilot whales, beluga, narwhal and other small cetaceans are hunted in Greenland. Beluga and narwhal are considered sources of food and the tusks of narwhals are sold. There is a considerable risk that the levels of take of both species may not be sustainable.

Legislation

Within the Community, Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (the Habitats Directive) requires Member States to maintain all cetacean species in, or restore them to, a favourable conservation status. All cetacean species are strictly protected from deliberate disturbance, capture or killing within Community waters. The same Directive also prohibits the keeping, transport and sale or exchange, of specimens taken from the wild. The bottlenose dolphin and harbour porpoise are also listed on Annex II of the Directive, which requires that important areas of their habitat should be designated as Special Areas of Conservation.

Council Regulation 338/97/EC of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein bans the introduction of cetaceans into the Community for primarily commercial purposes by implementing the provisions of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

In 2004 the EU adopted, as part of the Common Fisheries Policy, Council Regulation (EC) No 812/2004 laying down measures concerning incidental catches of cetaceans in fisheries, to reduce and quantify the levels of incidental deaths of small cetaceans. Acoustic deterrent devices (pingers) were made mandatory on nets in specified fisheries. At the time, there was good scientific evidence that pingers could be successful in reducing cetacean bycatch in static net fisheries, although concerns were expressed about possible negative effects including habituation, habitat exclusion and the possibility that some species may learn to associate these sounds with food. Regulation 812/2004 also required cetacean bycatch monitoring schemes to be implemented for various fisheries from either January 2005 or January 2006. Concerns were expressed that monitoring requirements only covered vessels of greater than 15m in length. In many fisheries there was considerable, but not well quantified use of static nets by smaller vessels. Member States were required to report annually on the use of pingers

⁷¹/ACCOBAMS Res 3.17

⁷²/Olsen, J. 1999. Killing Methods And Equipment In The Faroese Pilot Whale Hunt. NAMMCO/99/WS/2 - presented to the NAMMCO Workshop on Hunting Methods, Nuuk, Greenland, 9 – 11 February 1999

and the implementation of the on-board observer programmes, and include all information collected on the incidental capture and killing of cetaceans in fisheries.

In 2008, the ICES⁷³ study group for bycatch of protected species (SGBYC) noted the lack of comprehensive information on the bycatch of harbour porpoise in fisheries in EU waters and the lack of recent estimates of total bycatch for harbour porpoise or any other marine mammal species in the North Sea. The reports required by 812/2004 show little evidence of member state cooperation and the failure in introducing the use of pingers into the identified problem fisheries. Management authorities have not been able to enforce the Regulation, citing difficulties in testing whether devices are attached to gear and functioning. Further scientific research in the US has also indicated that correct use of pingers is essential for them to be effective⁷⁴.

Future action

Within EU waters, effective co-ordinated action is required to address all threats to small cetaceans populations throughout their ranges, taking into account both conservation and welfare implications. Specific actions should include:

- Work towards the adoption of binding international measures for the protection of small cetaceans
- Oppose all small cetacean hunts except limited hunts for subsistence purposes by indigenous people. Subsistence hunts should have due regard to the precautionary principle and scientific advice and not compromise the conservation of relevant stocks. Hunting operations should be properly regulated, efforts undertaken to reduce the cruelty of the hunt and catches should remain within documented and recognised subsistence needs
- Work to ensure hunts in Greenland are reduced to levels that do not raise concerns over the status of the stocks, and improve animal welfare standards
- Ensure that Regulation 812/2004 is implemented by all Member States in an effective way that both reduces bycatch in fisheries where there is a clear problem, and ensures adequate monitoring of all fisheries where bycatch may occur
- Address the request from ACCOBAMS (Resolution 3.17) to include the common dolphin in Annex 2 of the Habitats Directive in view of the deep concern that insufficient action had been taken to ensure its recovery in the region.

⁷³/the International Council for the Exploration of the Sea is an organisation that coordinates and promotes marine research in the North Atlantic

⁷⁴/Palka, D., Rossman, M., Vanatten, A. and Orphanides, C. 2008. Effect of pingers on harbor porpoise and seal bycatch in the US northeast gillnet fishery. 27pp. Paper SC/60/SM2 presented to IWC Scientific Committee, Santiago.

ANIMALS TRAPPED AS PESTS OR FOR FUR

Current situation

Wild animals are trapped either for their fur, or because they are considered as pests which can cause damage to crops, livestock, forests, fisheries, water and other types of properties.

Every year 10 to 15 million animals are trapped every year for their fur worldwide. Animal pelts obtained through trapping account for about 15% of the total world trade in furs. The rest comes from fur farms.

In the European Union animals are trapped primarily for reasons of pest control. Muskrats can cause serious damage to dikes, rivers and canals and large numbers are killed annually by drowning traps in the Netherlands, Belgium, Germany and France.

Snares are thin wire loop which tightens around the foot, neck or body. They are set to trap any animal perceived to be a pest or threat. The primitive design of a snare silently strangles its victims and often leads to a painful and lingering death. Commonly used several EU Member States by gamekeepers to catch foxes, rabbits and stoats, many protected mammals such as badgers and otters plus livestock and even domestic pets are either caught, seriously injured and killed in snares.

The device most commonly used to capture wild animals for their fur is the leghold trap. It is designed to immobilise an animal by trapping its leg between two jaw clamps. In the process it causes injuries ranging from lacerations and bruising to broken bones. As it does not kill, the trapper usually clubs the animal to death. Versions of the trap may be set on land or under water. Due to the length of trap lines in remote areas, it may take days before a trapper returns to check his traps. In the meantime trapped animals have been found to starve to death, to become prey to other animals, or in some cases to chew off a trapped foot in a desperate effort to escape.

Other devices in regular use are the conibear trap, which is designed to break an animal's neck or back, and the snare. All these devices work unpredictably and none are selective, and may take animals which are not the trapper's target, causing needless suffering and posing a threat to protected species. In Canada non-target animals amount to more than half of the trapped animals.

Legislation

EU Leghold Trap Ban and International Trapping Agreements

The EU adopted in 1991 Council Regulation (EEC) 3254/91 to ban the use of the leghold trap and the imports of fur and products derived from wild animals caught by leghold traps. The sale of leghold traps is, however, still allowed in the EU.

Canada threatened to initiate a complaint against the EU under the General Agreement on Tariffs and Trade (GATT), which, with pressure from the USA, led to the negotiation of a Agreement on International Humane Trapping Standards (AIHTS) between the EU, Canada and Russia⁷⁵. The USA associated itself with the Agreement⁷⁶.

The objectives were to establish and implement humane trapping standards and facilitate trade. The agreement applies to trapping methods, and the certification of traps, for taking 19 species of wild land or semi-aquatic mammals for wildlife management purposes, including pest control, for obtaining fur, skin or meat, and for the capture of mammals for conservation.

To be certified for use, traps need to meet the criteria of the agreement. An annex to the agreement sets out indicators to assess the welfare of animals caught in restraining traps, and thus to evaluate the “humaneness” of the traps. For killing traps, the main criterion is the time from capture to unconsciousness and death, currently set at 45 seconds for ermine, two minutes for marten, sable and pine marten, and up to five minutes for all other species.

Commission Regulation (EC) No 35/97 on conditions for certification of pelts and goods comprised by Council Regulation (EEC) 3254/91 lays down terms on the issue of certificates for fur imports which meet Community trapping criteria.

Council Decision 97/602/EC lists the 22 countries which complied with the Community criteria on the basis of non-use of the leghold trap and the wild-caught species exported by each country.

At Canada’s request an ISO Technical Committee on trap standards was set up in 1987. No humane trapping standards could be agreed due to different views among the 12 countries involved. USA, Canada and Russia wished to allow restraining traps which cause considerable injury and killing traps which take several minutes to kill. The European countries wanted more restrictive criteria. Finally the ISO Committee agreed to limit its discussions to developing a standard for trap testing methodology, which was agreed in 1999⁷⁷.

Implementation of the agreement on humane trapping

The agreement came into force on 22 July 2008, within 60 days of ratification by all parties. The EU gave its formal approval in 1998, Canada completed its ratification procedure at the end of 1999, and Russia finally ratified it on 26 April 2008 only.

Canada accepted to prohibit the use of all conventional jaw-type leghold traps for marten, ermine, North American beaver, muskrat, fisher, North American badger and North American otter from the date the agreement entered into force. By autumn 2007, only certified traps were legally allowed in Canada for trapping the species listed in the agreement. Killing traps found, through testing, to meet the requirements of the agreement and certified for legal use in 2007 and beyond, are available for beaver (on land and underwater), fisher, marten, muskrat, otter, weasel, lynx and raccoon. Leghold restraining traps (non-toothed version of the trap with jaws encased in rubber or plastic sleeves) are certified for bobcat, coyote, wolf and lynx so far.

At the end of July 2004, the European Commission adopted a proposal for a directive establishing humane trapping standards, requirements for trapping methods, technical provisions for the testing of trapping methods and the certification of traps for certain wild species. The proposal was rejected by the European Parliament at first reading, for failing to ensure humane trapping and killing of the

⁷⁵/Council Decision 98/142/EC of 26 January 1998 concerning the conclusion of an Agreement on international humane trapping standards between the European Community, Canada and the Russian Federation and of an Agreed Minute between Canada and the European Community concerning the signing of the said Agreement.

⁷⁶/Council Decision 98/487/EC of 13 July 1998 concerning the conclusion of an International Agreement in the form of an Agreed Minute between the European Community and the United States of America on humane trapping standards

⁷⁷/International standard ISO 10990-4 Animal (mammals) traps – Part 4:Methods for testing killing-trap systems used on land or underwater and ISO 10990-5 Animal (mammals) traps – Part 5:Methods for testing restraining traps

targeted animals. The European Commission then withdrew its proposal and commissioned a study to compile existing scientific information in view of identifying the trapping standards which reduce unnecessary pain, distress and suffering of trapped animals as much as technically possible. The results of the study should be available in July 2009 and on that basis the European Commission is expected to present a new legislative proposal to set up humane trapping standards.

EU and national legislation on catching protected species

Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora, prohibits the use of traps which are non-selective according to their principle or their conditions of use, to catch species protected under the directive. These would include drowning traps and snares but only for the capture of these protected species.

Under national legislation the use of snares is still allowed to catch non-protected species in some EU member states. Snares are fully prohibited in Estonia, Denmark and Hungary. In other countries snares may be prohibited but possible exemptions generally weaken the law.

Future action

- The sale of leghold traps should be banned in the EU.
- The EU should use the review of trap criteria to press for improved standards for killing traps, particularly with regard to reducing the time-to-death measure. It should also work for the phasing out of all restraining traps of the leghold variety, and not merely the “conventional” steel-jawed type.
- Alternative, animal welfare friendly methods of pest control should be used instead of trapping.

EUROGROUP FOR ANIMALS / AREAS OF CONCERN 2010

4. ANIMALS USED IN RESEARCH

PROTECTION OF ANIMALS USED IN EXPERIMENTS

Current situation

Animals are used widely in testing and research in the EU. Based on the most recent statistical report of the Commission (2008), more than 12 million animals are used on a yearly basis in scientific procedures for research and testing in the EU's 27 Member States. However, this number only includes vertebrate animals and excludes for example invertebrates and pups of vertebrate animals.

Rodents are by far the most used species followed by cold-blooded animals then birds, the least used include horses, donkeys, pigs, goats, sheep, cattle and non-human primates. Nearly two-thirds of these animals are used in research and development for human medicine, veterinary medicine, dentistry and in biology education. Production and quality control of products and devices in human and veterinary medicine required the use of around 15% of the total number of animals used for experimental purposes, while toxicological and other safety evaluations represented 8% of this total.

The most significant changes over the years is the slow decrease in the number of animals used for toxicological and other safety evaluation. The percentage of animals used for education and training is also showing a decreasing trend. This latter decrease can be attributed to both an uptake of alternative techniques and the re-use of animals.

Overall, the number of animals used in testing is steadily increasing in the EU since the Commission started producing statistical reports in 1996. With REACH, the EU chemicals policy coming into force, this number is expected to increase drastically.

There are a number of initiatives in the EU and internationally which aim to decrease the number of animals used for testing and research including Interniche, an International network for humane education, which works with teaching institutions and schools to ensure high quality education without the use of animals.

Legislation

Council Directive 86/609/EEC on the protection of animals used for experimental and scientific purposes regulates animal experiments in the European Union. It has recently been revised and the updated legislation will most likely take effect on 1 January 2013. The revision was urgently required due to new scientific developments, greater knowledge of the physical and behavioural needs of animals and new applications of animal use, which called for more stringent legislation. Member States have two years to adopt the laws, regulations and administrative provisions necessary to comply with the Directive.

The new Directive lays down rules on the replacement and reduction of the use of animals in procedures and the refinement of the breeding, accommodation, care and use of animals in procedures; the origin, breeding, marking, care and accommodation and killing of animals; the functioning of breeders, suppliers and users; and the evaluation and authorisation of projects involving the use of animals in procedures.

Its scope mainly covers live non-human vertebrate animals, including independently feeding larval forms, and foetal forms of mammals as from the last third of their normal development. Live cephalopod invertebrates are also covered.

The directive covers all scientific procedures involving the use of animals including basic and applied research, safety and quality testing or risk assessment, higher education, preservation of the species and forensic inquiries. It shall also apply where animals are bred specifically so that their organs or tissues may be used. It applies to the life of animals from birth to death or until they are re-homed.

Member States may maintain stricter national provisions which were in force before the directive came into force.

The Directive makes explicit reference to the importance of the principles of the 3Rs for Replacement, Reduction and Refinement of Animal Experiments. Member States must ensure that, wherever possible, a scientifically satisfactory method or testing strategy, not entailing the use of live animals, shall be used instead of a procedure. In addition, Member States shall ensure that the number of animals used in projects is reduced to the minimum without compromising the objectives of the project

The use of non-human primates for testing and research in procedures is also regulated in the Directive, but provides no urgency or need for 'replacing' primates. Non-human primates shall not be used in procedures but a safeguard clause allows their use where there is a scientific justification that the purpose of the procedure cannot be achieved by the use of other species and when it is undertaken with a view to the avoid, prevent, diagnose or treat a debilitating or potentially life-threatening clinical condition in human beings. There are also several other exemptions concerning breeding or applied research.

The Commission shall keep under review the sourcing of non-human primates and conduct a study on the feasibility of sourcing animals only from self-sustaining colonies. Furthermore the Commission shall, where appropriate, conduct periodic thematic reviews of 3Rs paying specific attention to non-human primates.

The recently overhauled guidelines on the housing and care of laboratory animals under the *European Convention for the Protection of Animals used for Experimental and Other Scientific Purposes* are also integrated into the directive.

Under the new directive each establishment must set up an animal welfare body to provide advice to the staff dealing with animals on matters related to their acquisition, accommodation, care, use and on the application of the 3Rs and the related technical and scientific developments. Each Member State shall also establish a national ethics committee that shall advise the competent authorities and animal welfare in similar issues and ensure best practice is shared.

All breeders, suppliers and users of animals must be authorised. This authorisation is granted for a limited period of time. If establishments are not in compliance, the authorisation must be withdrawn or suspended. An authorisation is also required for projects, even if a simplified administrative procedure exists.

Every five years the Commission shall submit to the European Parliament and the Council a report on the implementation of the Directive. The Commission shall, where appropriate, conduct periodic thematic reviews of the 3Rs, paying specific attention to NHP and technological developments and new scientific and animal welfare knowledge.

The Commission will need to review the Directive seven years after it enters into force to take into account the advancement in development of alternative methods and non-human primates.

Future Action

- Significant reductions in the numbers of animals used and levels of suffering can only be achieved if the new directive is correctly implemented. Society needs a paradigm shift in the need of animal experiments.
- The ultimate goal in the EU should be to replace the use of animal experiments with alternative methods all together. The necessity of and justification for animal use should therefore be critically challenged in each individual case.
- The best approach to reducing experiments on animals is through the introduction of alternative methods and more needs to be done on their development and validation to ensure they replace animal tests as soon as scientifically possible.
- In the case of non-human primates, animals used for education, for xenotransplantation and for all but the most pressing social priorities, replacement is an immediate goal.
- People must think of animals as sentient beings instead of tools for research. Currently there are particular concerns about the exponential rise in the use of animals in genetic manipulation and cloning and all such use needs to be strictly regulated and monitored.
- All scientific procedures involving animals must be subject to a strict, transparent and publicly accountable system of regulation, control and inspection which includes a critical review of their validity, necessity and justification, and of the application of the 3Rs. This must include review by an ethics committee incorporating a broad range of perspectives on animal use and on the use of alternative methods.
- A coherent strategy on legislation regulating animal is needed, comprising a more horizontal approach across all areas concerned with the legislative process. As a start all impact assessments commissioned prior to drafting legislation must take into account all possible implications on animal welfare and latest developments in safety testing and research.

GENETIC MANIPULATION OF ANIMALS IN RESEARCH

Current situation

Genetic manipulation involves the deliberate modification of an animals' genome - its DNA - the material that codes for inherited characteristics. It is either copied, added to, deleted or edited and includes both genetically modified (GM) as well as cloned animals.

The range of species that have been genetically manipulated is expanding alongside the fields of research in which these animals are used. Current applications include:

- Models for basic fundamental research to understand gene function.
- Models of human or animal disease.
- Bioreactors to produce therapeutic proteins in milk or blood.
- Sources of tissues or organs for xenotransplantation.
- Livestock with improved production traits and, or disease resistance.
- Better subjects for vaccine and toxicity testing.

There are specific welfare and ethical concerns associated with the genetic manipulation of animals. In addition, the pace of scientific developments in this area of research often outstrips meaningful ethical debate. The crossing of boundaries between species and human interference with the genetic integrity of animals has also evoked strong moral objections.

Welfare Concerns

Genetic modification (GM) - Laboratory use of GM animals is increasing dramatically. Within the EU statistical comparison of figures on GM animal use is not available, but where GM animals numbers are recorded by member states they are generally increasing. For example, over the last ten years there has been a shift ongoing from other species to the use of GM mice⁷⁸. In the UK, GM animals also account for one third of all procedures⁷⁹.

GM animals are created using:

1. Gene targeted methods, where the DNA within a specific gene of interest is modified in some way, and
2. Non-gene targeted approaches such as mutagenesis - a method used to create completely random mutations in DNA.

⁷⁸/Commission of the European Communities (2010) Sixth report from the Commission to the Council and the European Parliament on the statistics on the number of animals used for experimental and other scientific purposes in the member states of the European Union (data for 2008) CEC, Brussels.

⁷⁹/Home Office (2006) Statistics of Scientific Procedures on Living Animals -Great Britain 2005: The Stationary Office, London.

Ethical and welfare concerns that apply to the production and use of GM animals include:

- The requirement to use large numbers of animals to both create and breed GM animals because current methods are inherently inefficient and wasteful of animals' lives.
- Specific procedures are used that are highly invasive or require surgery (depending on species), such as the transfer of modified embryos into recipient animals, that can cause pain, suffering and distress.
- Genetic modification can alter the characteristics of an animal in ways that can cause pain, suffering, distress, or lasting harm. When using non-gene targeted methods these effects can be especially difficult to predict.
- Many GM animals are 'born to suffer', for example if they have been genetically modified to create an animal model of a disease.
- Some GM animals experience a poor quality of life such as animals used in toxicology studies, or as a source of xenotransplant organs. They are often housed in pathogen free environments that may be relatively barren and do not provide for their complex behavioural and social needs.
- GM animals are viewed within science according to their value as biological tools, rather than as sentient beings with intrinsic value and the capacity to experience pain, suffering and distress.
- GM animal use in research and testing seems set to continue to grow, reversing what was a downward trend in the use of animals.

Cloning

Cloning involves taking DNA from an existing animal (dead, or alive) to create a new living animal with the same genes. Species that have been cloned to date include sheep, mice, cattle, horses, cats, monkeys and goats. Cloning is thought to have some potential in creating standardised livestock animals for food production and in creating copies of sports animals, or pets.

Cloning raises a number of animal welfare issues in addition to those mentioned above for GM animals such as:

- A large proportion of animals produced by this technology die shortly after birth as a result of physiological problems and other abnormalities.
- Many cloned livestock animals at the time of birth are much larger than traditionally bred animals, which can make giving birth extremely difficult and which may necessitate caesarean section delivery.
- The long-term effects of cloning on animal welfare are unknown. However, there is evidence that some cloned animals experience a reduced life-span in comparison with non-cloned animals, and that all animal clones are more likely to suffer from a range of abnormalities, including tumours, liver disease, pneumonia and disorders of the immune system.

Relevant legislation

Council Directive 86/609/EEC – currently under revision - regulates the use of animals for experimental and other scientific purposes. It transposes into EU legislation the Council of Europe Convention ETS 123 (1986), which covers all aspects of animal use in research, including fundamental research. However Directive 86/609 covers only those animals used in experiments for safety testing and protection of the environment and neither makes specific reference to genetically manipulated animals.

Council Directive 98/58/EC (1998) covers the protection of animals kept for farming purposes. It gives no specific mention to genetically manipulated animals but does state that "*natural, or artificial breeding, or breeding procedures which cause, or are likely to cause suffering or injury to any of the animals concerned must not be practiced*" (Annex, point 20). Similarly point 21 of the Annex states that "*no animals shall be kept for farming purposes unless it can reasonably be expected, on the basis of its genotype or phenotype, that it can be kept without detrimental effect on its health or welfare*".

Genetic modification

Two different pieces of legislation specifically reference genetic modification:

- *Directive 2001/18/EC (2001) on the deliberate release into the environment of genetically modified organisms* (this repealed Directive 90/220).
- *Regulation (EC) No 258/97 (1997) concerning novel foods and novel food ingredients* (currently being revised)

Directive 2001/18/EC covers aspects concerning the release of a GM organism into the environment, risk assessments, traceability and labelling. It does not cover the welfare of released GM organisms. Similarly Regulation (EC) No 258/97 applies to food and food ingredients containing, or consisting of genetically modified organisms, but not the source (animal or plant) of such food, or food ingredients.

Action needed

- Policies, guidelines and legislation must be developed to ensure that techniques to genetically manipulate animals are only applied where there is very strong justification and when the use, suffering, and wastage, of all the animals involved is minimised. More specifically such policies must clearly state that primates should not be genetically manipulated for any purpose and that other animal species should not be genetically manipulated for the following purposes:
 - to create any genetically modified animal whose suffering will not, or cannot, be alleviated;
 - to clone or genetically modify animals for the purpose of food production;
 - to create cloned or GM animals for use as companions, or for other trivial purposes, e.g. the glowing rabbit that was created as a “work of art” and cloning sports animals and pets;
- Greater consideration must be given to an animal’s capacity for suffering, the likelihood of suffering occurring and how that suffering will be alleviated before GM animals are created.
- Greater public understanding and debate – link to Commission Action Plan and their stated aim to ensure a better informed public in relation to science and technology.

ALTERNATIVES TO ANIMAL EXPERIMENTS

Current situation

Animal experiments are being replaced by a range of alternative methods that frequently prove cheaper, quicker and more effective. There has been good progress in the development of alternatives in many areas, using computer simulations, cell culture, advanced molecular methods, and new techniques to support safe studies in human volunteers.

There are three types of alternatives to animal experiments. They are procedures which can replace the need for animal experiments (**replacement**), reduce the numbers of animals required (**reduction**) or diminish the amount of pain or distress suffered by the animals (**refinement**). This definition, known as the three Rs, was first proposed in 1959⁸⁰ by the British scientists W.M. Russell and R.L. Burch and is now internationally accepted as a means of reducing the use and suffering of animals in experiments. It underpins key provisions in Community legislation on the protection of laboratory animals.

Replacement methods include the so-called *in vitro* or “test tube” methods, which use cells and tissues from human and animal sources cultured in the laboratory. They also include mathematical and computer models, which use knowledge of chemical structure to predict the properties of substances, including their toxicity. Replacement methods may be used alone or as part of a tiered series of tests for a particular purpose. In principle an alternative test must be at least as good scientifically as the method it replaces.

Implementation of the three Rs requires the evaluation of proposed animal experiments, to ensure use of suitable non-animal methods or to minimise both the suffering and the numbers of animals to be used. It also requires investment in research and technology. International cooperation in the validation of new tests is vital, especially where regulatory standards (those required by law) are concerned. In EU member states investment comes from various sources: the Community research budget, additional national government programmes, and the pharmaceutical and chemical industries. Stakeholder cooperation and involvement varies from country to country, with the most active characterised by an important pharmaceutical industry and strong animal welfare movement.

EU framework programmes fund numerous projects working towards alternative ways to assess safety. Already this investment has produced some important results, and made it possible to reduce the number of animals used in meeting legally-required tests. But in certain cases the only way at present to understand the safety risks posed by medicines, consumer goods, chemicals or pesticides is to conduct tests that use animals. So more research - and better co-ordinated research - is still needed to continue refining, reducing and replacing animal use.

The use of alternative methods in education is also gaining ground. The development of humane teaching aids, and of databases containing information about them, has largely been sponsored

⁸⁰“The Principles of Humane Experimental Technique”, Methuen, London, 1959

by animal welfare organisations. National consensus platforms, bringing together all stakeholders, continue to be formed to promote alternatives for other purposes. In 2002, a European Consensus Platform for the Promotion of Alternatives (ECOPA) was established in Brussels. Fourteen national platforms – from Belgium, the Netherlands, Switzerland, Finland, Sweden, Hungary, Czech Republic, Denmark, Italy, Spain, France, Germany, Norway, and Austria - are currently members of ECOPA, and Poland and Ireland are associated members.

Relevant legislation

The new Directive of the European Parliament and of the Council on the protection of animals used for scientific purposes, like Council Directive (EEC) 86/609, which it replaces, provides for Member States to ensure that wherever possible, a scientifically satisfactory method or testing strategy, not entailing the use of live animals, shall be used instead of a procedure (Article 4 (1), Article 13).

It also states that: *“the Commission and member states contribute to the development and validation of alternative approaches that could provide the same or higher level of information as that obtained in procedures using animals but that do not involve the use of animals or use fewer animals or that entail less painful procedures and shall take such other steps as they consider appropriate to encourage research in this field”* (Article 45). However, progress towards finding alternatives to animal tests and thereby a reduction in the number of animals that suffer has been slow. There is a need to enhance consideration of alternatives by researchers planning projects who should justify their use of live animals, and who should ensure that alternatives are used wherever possible.

The European Commission established the European Centre for the Validation of Alternative Methods (ECVAM) in 1991, in response to the European Parliament’s demands for more action to ensure the development and acceptance in legislation of non-animal alternative test methods.

ECVAM’s main goals, as defined by its own Scientific Advisory Committee, are:

1. To coordinate the validation of alternative test methods at the European Union level.
2. To act as a focal point for the exchange of information on the development of alternative test methods.
3. To set up, maintain and manage a data base on alternative procedures.
4. To promote dialogue between legislators, industries, biomedical scientists, consumer organisations and animal welfare groups, with a view to the development, validation and international recognition of alternative test methods.

Its tasks include the identification of potentially useful new methods, coordination of the validation process by which these are tested for suitability and reliability, and promotion of validated alternative methods. It also makes recommendations for the deletion of obsolete or unsuitable animal methods from EU legislation and international test guidelines. Recommendations on the acceptability of test methods are issued by the ECVAM Scientific Advisory Committee (ESAC).

Since its establishment, ECVAM has organised workshops aimed at establishing the current status of non-animal test development in all the various fields of application and at promoting the use of newly validated methods. As of 2007, ECVAM had validated 28 alternative methods since it was established in 1991. Without ECVAM the advances of recent years would not have taken place.

The use of alternative methods to minimize the use of animals in testing products is promoted in all EU related legislation. The 7th Amendment to the cosmetics directive, adopted in 2003, established a prohibition to test finished cosmetic products and cosmetic ingredients on animals (testing ban), and a prohibition to market in the European Community finished cosmetic products and ingredients included in cosmetic products which were tested on animals (marketing ban), with deadlines coming into force in 2009 and 2013.

Alternatives to animal testing are also strongly promoted throughout REACH, the European Union Regulation for the Registration, Evaluation, Authorisation and Restriction of Chemicals, adopted in December 2006. The agency set up under REACH is obliged to submit a report to the Commission every three years on the implementation of non-animal test methods, with the first report scheduled for 1 June 2011. Additionally, the Commission must publish a report every five years on the funding of alternative test methods, and this report is scheduled for 1 June 2012.

The use of alternatives is also promoted in the recently adopted Regulation (EC) No 1107/2009 concerning the placing of plant protection products on the market and in the draft Regulation on the placing of biocidal products on the market currently being discussed by the European Parliament and the Council.

A European Partnership for Alternative Approaches to animal testing (EPAA) was launched in November 2005 by the Vice President of the European Commission Gunter Verheugen and Commissioner Janez Potocnik. The EPAA is a collaboration between the European Commission services and major companies from seven industry sectors. They, with additional experts and stakeholders, have committed to pooling knowledge, research and resources to accelerate the development, validation and acceptance of alternative approaches outlined in an action programme over an initial five-year period which started in 2005.

Every two years a World Congress on Alternatives and Animal Use in the Life Sciences is organised, which on average is attended by 1,000 people, committed to decreasing the use of animals in experiments; from animal welfare, industry, government institutions and academia. The objectives of these congresses are to provide a global overview of the present status of the 3Rs (Reduction, Refinement, Replacement) in education, research, and testing. It also aims to encourage constructive discussions between animal protection groups and scientific communities.

Action needed

- ECVAM's work is increasingly recognised on an international level, but political and financial support is still inadequate. More funds should be allocated to support ECVAM's work, as EU policies on cosmetics and chemicals require development of alternative methods and there is great potential to replace animal tests in other fields.
- At a national level, member states should take seriously their legal obligation to encourage research into alternatives. It is also vital that the Commission and member states act on the results of ECVAM's work by implementing without delay newly developed alternative testing strategies.
- The Commission and member states must actively promote research into the development and validation of complete replacements for animal experiments. To ensure that new alternative methods are developed rapidly and efficiently, all EU member states must provide additional support for alternatives research.

ANIMAL TESTS AND COSMETICS

Current situation

Testing of cosmetic products is probably the aspect of animal experimentation which is best known to the general public. Cosmetics, which include personal hygiene products, are found in every home and the EU is the world's largest market for cosmetic products. In 2009 the retail sale value of cosmetics and toiletries in the EU was €69.5 billion, three times bigger than that of Japan and one third larger than America

In 2004, about 9,000 animals were used for the toxicity testing of cosmetics⁸¹. Many more animal tests were conducted outside the EU for cosmetics that are developed elsewhere, but sold in the EU.

New legislation adopted in 2003 aims to eliminate live animal testing of substances for use in cosmetics and imports of products tested on animals. The latest Commission report⁸² shows that numbers of animals used for cosmetic testing had already fallen to 1818 animals in 2007 and 1510 in 2008, with only France and Spain still performing tests on mice, rats, guinea pigs and rabbits.

Relevant legislation

The marketing of cosmetics in the EU has been regulated since 1976 by *Council Directive 76/768/EEC* but this directive has been amended several times, most notably in 1993 and 2003.

In 1993 a number of major changes to the text were made by *Council Directive 93/35/EEC*. The most important change for animal welfare was the introduction of a ban on the sale of products containing ingredients tested on animals after 1 January 1998. However, the legislation allowed for the ban to be postponed if no alternative test methods were available. The ban was subsequently postponed in 1997 and 2000. By 2000 only non-animal alternative test methods for phototoxicity and skin corrosion had been scientifically validated and adopted into EU legislation.

In 2003 the seventh amendment to Directive 76/768/EEC established a prohibition to test finished cosmetic products and cosmetic ingredients on animals (testing ban), and a prohibition to market in the European Community, finished cosmetic products and ingredients included in cosmetic products which were tested on animals (marketing ban) and these both became effective in 2004.

⁸¹/COM(2010) 480 final. Report from the Commission to the Council and the European Parliament. Report on the Development, Validation and Legal Acceptance of Alternative Methods to Animal Tests in the Field of Cosmetics.

⁸²/COM(2008)416 final . Report from the Commission to the Council and the European Parliament. Report on the development, Validation and Legal Acceptance of Alternative Methods to Animal Tests in the Field of Cosmetics (2007)

Deadlines to phase out animal-based tests were set and the use of EU-approved alternative test methods were introduced instead. The amending Directive⁸³ laid down the following main provisions:

- A marketing ban on new animal-tested cosmetics and complete ban on all animal testing for cosmetics six years (2009) after the directive came into force
- A marketing ban on new animal-tested cosmetics in relation to tests for repeated-dose toxicity, reproductive toxicity and toxicokinetics ten years (2013) after the directive came into force.

Furthermore:

- Validated alternative test methods are to be placed in Annex V of Council Directive 67/548/EEC. This directive lists test methods approved for use in safety testing of chemicals marketed in the EU (alternative *in vitro* methods for testing skin corrosion and phototoxicity were listed in 2000).
- Validated alternative methods which are applicable to use of substances as cosmetics, but not necessarily to other uses, will be listed in a new Annex IX to Directive 76/768/EEC. The contents of the new Annex IX had to be established by 11 September 2004 at the latest, however to date the completion of this requirement is still pending.
- The Commission may grant a derogation from the ban on animal testing of ingredients in exceptional circumstances, if an EU member state raises concerns over safety. However, a derogation may only be granted if two conditions are fulfilled:
 - The ingredient is in wide use and cannot be replaced by another
 - The specific human health problem is substantiated and the need to carry out animal tests is justified and supported by a detailed research protocol.

In addition, substances listed in Council Directive 67/548/EEC as carcinogenic, mutagenic or toxic for reproduction are generally banned from cosmetics. However, there are some exceptions which are listed in category 3, Annex I, of this directive, which may be permitted, subject to approval by the Scientific Committee on Cosmetic and Non-Food Products (SCCNFP).

Use of animal tests will be monitored through the safety dossier which the manufacturer or importer must maintain for each product. All data on animal testing performed by the manufacturer, his agent or suppliers in connection with the product or its ingredients must be included, whether the testing was done to satisfy the requirements of the EU or of non-EU countries. The data must be readily accessible for inspection by the authorities responsible for marketing and safety.

Under Recommendation 2006/406/EC establishing guidelines on the use of claims referring to the absence of tests on animals pursuant to Council Directive 76/768/EEC, the Commission issued guidelines for labelling cosmetics as not having been tested on animals. Such labelling can only be used if no animal test has been carried out on the product or on any ingredient for the purpose of use as a cosmetic.

Each year the Commission must present a progress report to the European Parliament and the Council of Ministers. The report must cover:

- The development, validation and adoption of alternative methods.
- Timetables for validation and introduction of alternative methods.
- Data on animal testing of cosmetics (member states are obliged to collect the information), including any exceptional derogations from the ban on animal tests.
- The Commission's efforts to achieve international acceptance of alternative methods validated by the Community. This involves acceptance into the test guidelines issued by the Organisation for Economic Cooperation and Development (OECD), which are recognised worldwide, and the use of cooperation agreements with individual countries outside the EU to ensure that the results of new alternative test methods will be accepted.

⁸³Directive 2003/15/EC of the European Parliament & of the Council of 27 February 2003 amending Council Directive 76/768/EEC on the approximation of the laws of the Member States relating to cosmetic products

Action needed

- The new Annex IX to Directive 76/768/EEC must be established as a matter of urgency, listing all validated alternative methods which are applicable to use of substances as cosmetics, but not necessarily to other uses. The deadline for building this annex was set as 11 September 2004 but there is still no new Annex.
- There is a need to monitor the implementation of the testing and marketing ban by Member States. In particular the Commission should take action in order to ensure that all EU member States provide data on time for its regular reports. If necessary the Commission should open infringement proceedings against those member states who do not respect their obligations under the directive.

ANIMALS IN GENERAL CHEMICAL TESTING

Current situation

The EU is the world's largest chemicals producing region, accounting for 34% of world production. Germany, France, the UK and Italy are the four main producer countries, followed by the Netherlands, Spain, Belgium and Ireland. In 2007 sales by the EU chemicals industry amounted to 537 billion €.

In the EU, 30.3% of chemical consumption is absorbed by end users in private households, government and non-profit organisations. There are four main categories of chemical products: base chemicals (such as plastics and synthetic rubber, fertilisers), specialty chemicals (such as paints and ink), pharmaceuticals, and consumer chemicals (soaps and detergents, cosmetics and perfumes).

Following the revision of EU chemicals legislation, it was estimated that an additional 9 million animals would be used for safety tests needed for chemical registrations.

The European Inventory of Existing Commercial Chemical Substances (EINECS) lists 100,106 substances reported by industry to be on the market in the Community up to 18 September 1981. After that date a notification system for new substances registered over 3,000 new marketed substances which appear in the European List of New Chemical Substances (ELINCS).

Eurogroup recognises the need for the effective control of chemicals. Apart from the obvious need to protect human health and the environment, there is abundant evidence that chemical pollution causes harm to wildlife, and farm and pet animals are also at risk.

Relevant legislation

European harmonisation of chemicals legislation dates back to the 1960s. The main purpose of *Council Directive 67/548/EEC on the classification, packaging and labelling of dangerous substances* was to ensure free movement of goods within the EU, while at the same time protecting human health. Council Directive 79/831/EEC amended this Directive and made protection of the environment an objective of chemicals policy. It also introduced the first registration system for new substances. Community test requirements for new substances henceforth included a base set of data to be provided by approved methods. In 1992, Council Directive 92/32/EEC set even stricter testing and labelling requirements and introduced common principles for risk assessment. It also aimed to reduce animal testing through data sharing. Improved chemicals legislation subsequently became a priority action under the 6th Environmental Action Programme in 2002.

REACH

In December 2006, the EU adopted the new EU Regulation for the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), to harmonise and improve European chemicals legislation. The objectives of the new legislation are to promote the safe use of chemicals and improve the protection of human health and the environment from hazardous substances. It also aims to maintain and enhance the competitiveness of the European chemical industry, increase transparency, and promote non-animal testing.

REACH replaced most of the previous EU legislation on chemicals.

Within REACH there are two types of substances 'phase-in' and 'non-phase-in'. Phase-in substances are the 100,000 or so chemicals that were put on the market before 1981 and which account for more than 97% of the chemicals in the EU. Non-phase-in substances include new chemicals manufactured or imported after the registration came into force.

REACH entered into force on 1 June 2007 and its main provisions started to apply on 1 June 2008. Chemical substances that are manufactured or imported in quantities of 1 tonne or more per year must be registered. In order to register, the manufacturer or importer must submit information on the substance, which is dependent on the quantity produced. It is expected that approximately 30,000 of the chemical substances which are in use today will require registration over a period of 11 years. The most dangerous among them will be progressively phased out and replaced by safer substances.

Under REACH, a European Chemicals Agency (ECHA) was set up in Helsinki. This Agency is responsible for the registration of chemicals manufactured, imported, marketed or used in the EU. Registration is phased and substances of high concern, such as strong carcinogens, and substances produced or sold in quantities of 1000 tonnes or more annually per manufacturer or importer, must be registered within three years, substances produced or imported in quantities of 100 tonnes or more must be registered within six years and substances produced or imported in quantities of 1 tonne or more must be registered within eleven years.

The REACH Regulation will dramatically increase the number of animals used in testing in the EU. Most of this testing will occur during the first 11 years of REACH. It does however include a number of provisions intended to lessen its impact on animal use.

Animal testing is expected to decrease from original estimates due to mandatory sharing of animal test data. Companies testing the same chemicals are obliged to share their data to ensure there is no duplication of animal testing. Available studies must be shared and, where no data is available, safety testing can only be carried out once. Companies will face penalties if they don't comply. Article 25 of the Regulation sets out the objective of these rules, which is to reduce testing on vertebrate animals (such tests shall be carried out only as the last resort) and to avoid the duplication of tests, thus reducing the costs for industry and increasing the efficiency of the registration system.

Furthermore, to decrease the duplication of animal testing, the testing proposals of high tonnage chemicals must be approved by the ECHA, after 45 days during which the public may comment, before new tests involving animals can be performed.

Nanomaterials

There is presently no legislation regulating the testing of Nanomaterials in the EU. There are concerns over the adequacy of current test strategies and guidelines to deliver accurate results for the testing of nanomaterials.

International rules

The Organisation for Economic Co-operation and Development (OECD) is an economic alliance of 30 of the world's industrialised countries. Based in Paris, the OECD co-ordinates the development of standardised chemical testing guidelines which are then adopted by the organisation's member countries. The OECD also co-ordinates the development of chemical testing programmes, such as its current programme on endocrine disruptors. International animal protection organisations came together to form the International Council on Animal Protection in OECD Programmes (ICAPO) which works to fully incorporate alternative methods that can replace, reduce, and refine animal use (the "3 Rs") in OECD activities, in the interest of animal protection, public health and sound science.

Furthermore, chemical testing legislation is based on the implementation of Good Laboratory Practice (GLP). GLP arose from a Decision by the OECD in 1981 on the mutual acceptance of data for the evaluation of chemical products. GLP principles are intended to ensure that laboratory tests are comparable and of high quality. These principles are part of the basis for mutual recognition of test results between the EU and its trading partners. Mutual recognition is essential to reducing the number of animal experiments.

Action needed

- *Pre-emptive testing* It is important that the ECHA advises companies registering chemicals that undertaking animal testing, before waiting to see if the standard test regimes can be adapted by using the mechanisms established in the REACH Regulation or as a result of existing data being brought forward that such testing is in breach of the Regulation.
- *Redundant tests:* There are concerns that the requirement for registrants of certain chemicals to provide animal data could be made redundant by subsequent tests. This represents duplicative/redundant animal testing that can be avoided. It is imperative that, if the Regulation's aim that animal testing is a last resort is to be maintained, the ECHA advises companies clearly on their testing requirements openly and up front.

PESTICIDES AND ANIMAL TESTING

Current situation

Pesticides are substances or mixtures of substances intended to prevent, repel or kill any pest which may cause harm for example to crops, wood and wood products or animal feedstuffs. Pesticides are comprised of plant protection products (PPP) and biocidal products which can be a chemical or mixture, micro-organism (bacteria, fungus etc), extract from plant etc. They may have the potential to kill, deter or control harmful organisms, but there are concerns they can also cause unwanted adverse effects on non-target organisms, human health and the environment. A pest can be a weed, a disease, an animal or a bacteria.

In the European Union, pesticides can only be used when it has first been scientifically established that they have no harmful effects on consumers, farmers and local residents or passers-by; they do not cause unacceptable effects on the environment and animals; and they are sufficiently effective against pests.

Unwanted amounts of certain pesticides can however still be found in the environment (in particular soil and water) and residues exceeding regulatory limits still occur in agricultural produce. The risks from pesticide use are closely evaluated. The EU regulatory framework concerning pesticides focuses particularly on the placing on the market and the end of the life cycle of such products.

Concerning plant protection products, there were about 1000 active substances on the EU market in 2001, and tens of thousands of products containing them. After a review process launched by the European Commission and finalised in March 2009, only 250 active substances have been registered and authorised. The remaining substances were either withdrawn from the market because they were too dangerous, or not submitted for registration by the industry.

Plants need to be protected from a variety of different pests that present a threat to the crop. Insecticides, fungicides and herbicides are all plant protection products. Plant growth regulators (used to influence particular growth processes in plants) and herbicides (which control unwanted plants) are also treated as plant protection products under EU legislation. However, biocides, which are intended for non-plant uses to control various pests and disease carriers such as insects, rats and mice, do not fall into this category.

Biocides are divided into four main groups: Disinfectants and general biocidal products, preservatives, pest control products (and other biocidal products).

Legislation

In 1991, the European Community developed a regulatory framework for pesticides, including plant protection products and biocidal products. The legislation controlling the placing on the market of plant protection products was recently replaced by a new Regulation which will enter into force in June 2011. Part of the previous Directive 91/414/EEC will continue to apply for a number of years to certain active substances according to the date on which they were put on the market. The Directive covering biocidal products (98/8/EC) is also currently under review.

A large number of animals are used to test pesticide ingredients and products. Until their revision, both directives provided for a tick-box approach of testing where a large number of tests involving the use of animals took place which are not relevant to the use of the product. Additionally, many pesticides which are put on the market cause great suffering to the target and non-target vertebrates.

Plant Protection Products (PPP)

Regulation (EC) No 1107/2009 repeals Council Directives 79/117/EEC and 91/414/EEC and provides that carcinogens, mutagens, endocrine disruptors, substances toxic for reproduction or which are very persistent will not be approved, unless exposure to humans is negligible. It also establishes a mechanism for the substitution of more toxic pesticides by safer (including non-chemical) alternatives.

In addition, Directive 2009/128/EC was adopted establishing a framework for Community action to achieve the sustainable use of pesticides aims at improving the quality and efficacy of pesticide application equipment, ensuring better training and education of users and developing integrated pest management schemes.

Regulation 1107/2009/EC applies from 14 June 2011 and requires strict authorisation of plant protection products before they are placed on the market. The purpose of the Regulation is primarily to ensure a high level of protection of both human and animal health and the environment and secondly to safeguard the competitiveness of Community agriculture.

Animal testing for the purposes of this Regulation should be minimised and tests on vertebrates should be undertaken as a last resort. In addition, the development of non-animal test methods are promoted in order to produce safety data relevant to humans and to replace animal studies currently in use.

Tests and studies involving vertebrate animals will be subject to obligatory data sharing. Therefore, rules are laid down to avoid duplicative testing and duplication of tests and studies on vertebrates are prohibited.

Since the end of 2003, the European Food Safety Authority (EFSA) deals with the risk assessment of pesticides to evaluate whether, when used correctly, these products have no direct or indirect harmful effect on human or animal health, e.g. through drinking water, food or feed and do not too adversely affect groundwater quality. In addition, the environmental risk assessment aims to evaluate the potential impact on non target organisms when the products are correctly used.

A study conducted by the European Crop Protection Association's Toxicology Expert Group (ECPA TEG) estimated that, under the current requirements of Annex II, the number of animals needed to generate the human safety information required for registration of a new active ingredient is approximately 6,500. ECPA TEG also estimated that a significant reduction of the number of animals tested could be achieved (to 2,250) by switching from the current test paradigm to the proposed tiered testing approach developed in the framework of the ILSI-HESI-ACSA project⁸⁴.

⁸⁴/Neil G. Carmichael, Hugh A. Barton, Alan R. Boobis, Ralph L. Cooper, Vicki L. Dellarco, Nancy G. Doerr, Penelope A. Fenner-Crisp, John E. Doe, James C. Lamb, Timothy P. Pastoor. January 2006. Agricultural Chemical Safety Assessment: A Multisector Approach to the Modernization of Human Safety Requirements. *Critical Reviews in Toxicology*. Volume 36, Number 1

Biocidal Products

The Biocidal Product Directive, Directive 98/8/EC, was adopted in 1998 and member states should have transposed it into national law by May 2000. It aims at harmonising the European market for biocidal products and their active substances whilst providing a high level of protection for humans, animals and the environment.

The basic principles of the biocidal directive look at assessing the active substances and the decision taken at Community level on their inclusion into Annex I (List of active and basic substances); and the authorisation of biocidal products by member states in accordance with set rules and procedures.

In June 2009, the European Commission adopted a proposal for a Regulation concerning the placing on the market and use of biocidal products (COM(2009)267) which will replace the current Directive.

The objective of the proposal is to improve the functioning of the internal market in biocidal products while maintaining the high level of environmental and human health protection. The proposal will build on the principles laid down in the current Directive, in particular the two-tier authorisation process: firstly, the inclusion of the active substance in Annex I and secondly, the authorisation of the biocidal product. In addition, it calls for the obligatory sharing of data on vertebrate studies. The proposed regulation will go through the codecision process of the EU institutions and once finalised and adopted, is scheduled to enter into force on 1 January 2013.

Future action

It is vital that legislation ensures that animal testing is kept to an absolute minimum, that alternative methods are used where available and that there is less suffering to target vertebrate animals.

- The legislation must include provisions which ensure that data requirements are defined with an obligation to minimise animal testing and ensure the application of non-animal test methods and intelligent testing strategies.
- Testing requirements must be in line with actual requirements for each product and not follow a general 'tick-box' approach where unnecessary testing on animals takes place.
- If tests are performed, they should comply with the relevant requirements for the protection of laboratory animals, set out in the Directive which will soon replace Council Directive 86/609/EEC of 24 November 1986 on the approximation of laws, regulations and administrative provisions of the Member States regarding the protection of animals used for experimental and other scientific purposes⁸⁵.
- Only products which cause less suffering on the target vertebrates it aims to control should be allowed.

⁸⁵/OJ L 358, 18.12.1986, p. 1. Directive as amended by Directive 2003/65/EC of the European Parliament and of the Council (OJ L 230, 16.9.2003, p. 32).

PHARMACEUTICALS

Current situation

The pharmaceutical sector is extensively regulated at the European Union's level in the dual interest of ensuring the highest possible level of public health and patient confidence in safe, effective and high-quality medicinal products, while continuing to develop a single EU-wide market for pharmaceuticals in order to strengthen European pharmaceutical industry's competitiveness and research capability.

To guarantee the highest possible level of public health and to secure the availability of medicinal products to citizens across the European Union all medicinal products for human and animal use have to be authorised either at the Member States or at Community level. Special rules exist for the authorisation of medicinal products for paediatric use, orphan drugs, herbal medicinal products, vaccines and clinical trials.

The European Medicines Agency (EMA), established in 1994, is a decentralised body of the European Union. Its main responsibility is the protection and promotion of public and animal health, through the evaluation and supervision of medicines for human and veterinary use that must undergo a scientific authorisation procedure. Under the centralised procedure, companies submit a single marketing authorisation application to the EMA. Once granted, the authorisation is valid in all EU and EEA-EFTA states (Iceland, Liechtenstein and Norway).

Additionally, the Agency also plays a role in stimulating innovation and research in the pharmaceutical sector. It gives scientific advice and protocol assistance to companies for the development of new medicinal products and publishes guidelines on quality, safety and efficacy testing requirements.

Approximately 425,000 laboratory animals are used in the European Union every year to produce vital human and veterinary vaccines which are invaluable in preventing diseases. Laboratory animals used include dogs, cats, horses, hamsters and guinea pigs.

Vaccines are of biological origin and have the potential to vary from batch to batch. Consequently, vaccines are tested for batch-to-batch consistency and many of these tests involve animals. Although veterinary vaccines are used to protect animals, this is at the expense of large numbers of other animals that are used in quality control tests before vaccines are released onto the market. There is enormous potential for replacing or refining many of the tests that cause the most suffering, and there is also scope for discontinuing some tests altogether.

The International Council on Animal Protection in Pharmaceutical Programs (ICAPPP) was formed to promote animal protection in pharmaceutical testing guidelines developed internationally through discussions among Japan, Europe, and the United States under the banner of the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH) and other similar harmonisation programmes.

The ICH was established in 1990 to align regulatory requirements across the USA, The European Union and Japan. It brings together the regulatory authorities and experts from the pharmaceutical industry in the three regions to discuss scientific and technical aspects of product registration. The purpose is to make recommendations on ways to achieve greater harmonisation in the interpretation and application of technical guidelines and requirements for product registration in order to reduce or obviate the need to duplicate the testing carried out during the research and development of new medicines.

EMA contributes to the EU's international activities through its work with the European Pharmacopoeia, the World Health Organisation, and the ICH and VICH (for veterinary medicines) conferences. ICAPP has *Interested Party status* at the EMA.

Legislation

The basic rules defining the framework for pharmaceutical medicinal products in the EU date back to 1965 (Council Directive 65/65/EEC on the approximation of provisions laid down by law, regulation or administrative action relating to medicinal products). Since then a score of Community legislation has followed with the aim of achieving a single EU-wide market for pharmaceuticals. In 2001 the legislation regulating medicinal products was codified into two main directives: Directive 2001/83/EC on the Community code relating to medicinal products for human use and Directive 2001/82/EC on the Community code relating to veterinary medicinal products. These Directives set the rules for the placing on the market of medicinal products destined for human and veterinary use respectively. The primary purpose of these rules for the production and distribution of medicinal products are to safeguard public health, without hindering the development of industry and trade in medicinal products within the Community.

Vaccine testing is also regulated by these two directives, as vaccines are biological and their results can vary. Many of these quality control tests involve infecting animals with serious diseases, which causes considerable suffering. The EU legislation specifies that vaccines are tested in accordance with the monographs of the European Pharmacopoeia, which works under the aegis of the Council of Europe which, having 49 member countries, cannot be expected strictly to align its activities with EU law.

Future Action

- More humane, alternative ways of testing must be sought. Some manufacturers and regulators are already working on these issues, but a more consolidated approach is urgently required.
- Regulators, policy makers and manufacturers must find new ways of testing essential vaccines through the development and use of alternatives to tests on animals and by cutting the red tape as currently it can take more than 10 years for alternative tests to be approved. It is important unnecessary tests on animals are stopped and there is a greater effort to reduce the numbers of animals used and levels of suffering until new methods can be developed.

FOOD AND FEED TESTING

Current situation

Food and feed risk assessment covers hugely diverse areas, including additives, colours, flavours and sweeteners for use in foodstuffs; food supplements; novel foods and novel food ingredients; plastic materials and articles intended to come into contact with foodstuffs; analysis of marine biotoxins; plant protection products; additives for use in animal nutrition and genetically modified organisms.

The European Food Safety Authority (EFSA), which was set up in January 2002 as an independent body, provides scientific advice and communication on risks associated with the food chain. Requests for scientific assessments of feed and food are received from the European Commission, the European Parliament and EU Member States. Accordingly, EFSA's advice frequently supports the risk management and policy-making processes covering feed and food.

The EFSA policy is to include in its Opinions statements on unjustified (animal) studies or animal use. Additionally they provide all panels with sufficient information on animal studies for which there are accepted alternative approaches and details of all regulations referring to animal welfare issues. Animal welfare issues related to food and feed producing animals are covered by the Panel on Animal Health and Animal Welfare (AHAW).

On 8 June 2009, EFSA published its opinion on 'Existing approaches incorporating replacement, reduction and refinement of animal testing: applicability in food and feed risk assessment'⁸⁶. The opinion focused on food and feed aspects which fall under the remit of EFSA.

Analysis of marine biotoxins is extremely important as these toxins from algae (phytoplankton) which are eaten by shellfish (bivalve molluscs) can cause diseases in humans that range from diarrhoea to possibly lethal paralytic diseases. The algal toxins are not destroyed by heating or any other means of food preparation. Therefore, in accordance with the EU food hygiene legislation, shellfish may only be put on the market for human consumption, when it has been established that they do not contain such biotoxins.

Legislation

Marine biotoxins

Under EU regulatory requirements, the standard safety test is the mouse bioassay (MBA) which is a very distressing animal test using death as an endpoint. During this test, mice are injected with extracts from the shellfish and the time until death is recorded. The mouse bioassay is poorly reproducible, not very sensitive and not reliable. According to EU legislation, shellfish are withdrawn if two out of three mice die, i.e.: if only one mouse dies, the shellfish are put on the market for human consumption.

⁸⁶/Available at: <http://www.efsa.europa.eu/en/scdocs/doc/1052.pdf>

Alternatives to the MBA exist including chemical assays and biological test methods which are much more reliable, highly sensitive and highly reproducible.

The European Commission requested 9 EFSA Opinions on marine biotoxins, their detection methods and regulatory limits. EFSA tasked its scientists to address the question to “*assess the current EU limits with regard to human health, as well as new emerging toxins*”. The opinions were adopted between January 2008 and July 2010 as well as a summary on regulated marine biotoxins, which advised the Commission to use alternative methods to the mouse bioassay.

GMO – Food and feed testing

Regulation (EC) No 1829/2003 on genetically modified food and feed lays down the general framework for regulating genetically modified (GM) food and feed in the Community. The Regulation is complemented by *Regulation (EC) No 1830/2003 that ensures traceability and labelling of GMOs at all stages of placing on the market*. Previously GM foods were regulated under the Novel Food Regulation 258/97, whilst GM feeds were partially regulated under Directive 2001/18 on the deliberate release of GMOs into the environment.

The new regulatory framework was adopted at a time where the authorisation process of GMOs and GM food and feed had come to a halt. In fact, between 1998 and 2004, no new authorisations had been granted. With the entry into force of the new legislative framework, the regulatory approval process for GM food and feed has been re-launched. Nevertheless the authorisation of GM food and feed remains a very sensitive issue.

Novel foods

Novel foods are foods and food ingredients that have not been used for human consumption to a significant degree before 15 May 1997. Regulation EC 258/97 lays out detailed rules for the authorisation of novel foods and novel food ingredients. In January 2008, the European Commission adopted a proposal to revise this Regulation with a view to improving the access of new and innovative foods to the EU market, while maintaining a high level of consumer protection and ensuring food safety (COM(2007)872). The proposal foresees covering food from cloned animals. It is presently going through the co-decision process in the European Parliament and the Council.

In order to ensure the highest level of protection of human health, novel foods must undergo a safety assessment before being placed on the EU market. This safety assessment includes testing on animals. Only those products considered to be safe for human consumption are authorised for marketing.

Future action

- Presently, there are a number of visible discrepancies in data requirements which need to be resolved, these include: level of detail for active ingredient testing (food, feed, pesticides, enzymes, flavourings); extensive testing of preparations (feed) versus limited (food supplements); efficacy testing required (feed) or not (food); mandatory data requirements mentioned (chemicals) or not (food, feed additives); Assessment of individual substances (additives) or groups of related substances (flavours); and data requirements based on exposure assessments (chemicals) or unrelated to exposure (additives).
- The Commission must start procedures to work towards replacing EU regulation which obliges the use of outdated animal tests as is the case in the safety testing of shellfish biotoxins. The use of the MBA should be stopped immediately. Instead, the development of alternative methods should be promoted and those alternatives which are more reliable and sensitive should replace the MBA immediately.
- Good stakeholder interaction is necessary on all levels to ensure adequate exchange of information and transparency.

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5. COMPANION ANIMALS

GENERAL WELFARE OF COMPANION ANIMALS

Current situation

Animal welfare organisations give a high priority to encouraging responsible pet ownership and proper pet care. Thousands of unwanted dogs are humanely destroyed each year because they are abandoned and/or their previous owners cannot be found, and the dogs cannot be kept indefinitely in most shelter accommodation.

Most EU Member States operate a dog registration system but the systems and their effectiveness vary from country to country. In countries where compulsory registration is enforced, the stray dog population is small, and the number of dogs humanely destroyed is reduced. The microchip system is also beginning to supersede the system of tattooed identity numbers, and can be used for other animals, as well as dogs.

In recent years, serious incidents involving aggressive dogs in several Member States led some of them to take measures against specific dog breeds, ranging from the compulsory use of the leash and muzzle in public to sterilization, and even euthanasia. Dog bite injuries may be caused by various factors such as uncontrolled playing behaviour, lack of training, fear, pain, inappropriate offensive or defensive reactions. The most effective means of preventing and controlling aggression is however to direct measures at the individual dog and its owner.

Domestic cats which have strayed or been abandoned may form feral groups which base their territories around human habitation and food sources including hotels and hospitals. They may be welcomed and fed by local people, or they may be viewed as a serious nuisance. Depending on the circumstances, in some areas the cats are collected, and, if healthy, neutered and returned to the colony. Elsewhere, they are caught and killed for the public health risk they can represent. Humane methods of capture and euthanasia should be used, but there is concern that this is not always the case.

Selective breeding of cats and dogs to produce particular characteristics, such as size and conformation have long aroused welfare concerns because the resulting exaggeration of some physical traits may often be accompanied by health problems.

Pedigree dogs may undergo a form of mutilation, largely due to the requirements of breed societies in connection with exhibitions. This has involved both ear cropping and tail docking, although today ear cropping is widely prohibited, leaving tail docking as the most common “cosmetic” procedure still carried out. In some countries the operation may still be carried out on young puppies without anaesthesia, often by the dog breeder, causing pain and potentially later health problems.

Pet animals are most often purchased in shops or direct from the breeder, but may also be found on sale in street markets in some places. They may also be given as competition prizes in fairgrounds or under other circumstances, and in these cases the welfare of the animals cannot be guaranteed.

Current problems include the display of animals in unsuitable cages or containers and the sale of young animals which have been weaned earlier than is desirable for their health and welfare.

Legislation

Council of Europe

General principles for the welfare and protection of animals kept by man for companionship and enjoyment are set down in the *European Convention for the Protection of Pet Animals*. This Convention deals with the care of pet animals of all kinds, the humane control of dog and cat populations, and control of the trade in pet animals. It has been open for signature since 1987, and entered into force in 1992, but so far has only been ratified by 19 countries (including 15 EU Member States). Council of Europe Member States must implement the Convention through national legislation.

The Convention requires:

- Dogs to be registered, in recognition of the public health, environmental and animal welfare problems associated with stray and abandoned dogs.
- Taking into account the anatomical, physiological and behavioural characteristics in selection which can threaten the offspring or the female parent's health and welfare.
- Registration of premises breeding, trading or boarding animals commercially, and of animal sanctuaries.
- Banning tail docking, and other procedures undertaken for non-therapeutic reasons. However, countries ratifying the Convention were allowed to exempt themselves from that provision.

European Union

There is no EU legislation dealing with the welfare of companion animals due to the absence of legal basis in the Treaty to draw up legislation purely on animal welfare grounds. It is left to Member States to regulate it through their own national legislation. However, in relation to international trade and health regulations, various laws have an impact on the companion animals' welfare.

Council Regulation (EC) No 1/2005 on the protection of animals during transport and related operations covers commercial transportation of companion animals. It provides for a minimum age of 8 weeks for the transport of cats and dogs and for feeding and watering intervals of respectively 24 and 8 hours.

Council Directive 92/65/EEC specifies import requirements of dogs and cats to and from the premises of registered breeders.

Regulation (EC) No 998/2003 on the animal health requirements applicable to the non-commercial movement of pet animals lays down specific rules for companion animals travelling with their owners within the EU or entering to the EU from third countries. Since 1st October 2004, for movements of cats, dogs and ferrets between Member States other than Ireland, Sweden, the UK and Malta, valid rabies vaccination is required for travel across borders. Animals have to be identified with an electronic microchip (or a tattoo for a transitory period of 8 years) and an EU-passport facilitates veterinary checks. The same rules apply to Switzerland and Norway. The Regulation also includes specific provisions for animals of less than 3 months and additional provisions for controls at borders and for blood testing. The European Food Safety Authority adopted in February 2007 a report on the need to maintain the blood testing requirements. On that basis, the European Commission proposed to extend the transitory period, originally set at June 2010, until 31 December 2011. This was agreed by the European Parliament and the Council through Regulation (EU) No 438/2010 in May 2010.

Companion animals coming from most third countries (except Switzerland, Norway and a number of countries listed in one of the annexes) must be submitted to an antibody test certifying that they are vaccinated against rabies, and if they go to Sweden, UK, Ireland or Malta, they will also be quarantined under national legislation rules. In the case of import from all third countries, the passport is replaced by a certificate issued by an official veterinarian.

National legislation

Several Member States have a law on dangerous dogs, with specific measures applying to a range of breeds considered as dangerous. This is the case in UK since 1991, as well as in Belgium (1998), France and the Netherlands (1999), in Germany (2000), where provinces have different rules, and in Spain (2002). These laws make it compulsory for the owners of specific breeds to identify and register their dogs. In France, UK, the Netherlands and Germany, dogs from breeds listed in the law have to be sterilised, and trade in these breeds is prohibited in UK, France and Germany. Additional measures vary from country to country and include the use of muzzle and leash, a minimum age for owners of these breeds, the performance of character/aggression tests and the holding of a license.

A number of countries such as Finland and Sweden have introduced legislation banning ear cropping and/or tail docking for other than medical reasons and prohibiting anyone other than a veterinary surgeon from carrying it out.

In some countries, such as Denmark, national legislation has been enacted to address the problem of animals being sold at very young age.

Future action

- All the countries which are members to the Council of Europe and have not yet ratified *The European Convention for the Protection of Pet Animals* should do so as soon as possible, ensuring that tail docking is prohibited for other than curative purposes and that the other provisions of the Convention are fully implemented in national legislation.
- Member States which have not already done so should introduce national legislation on the sale of pet animals to ensure their welfare, with particular reference to the special problems posed by exotic species and the sale of very young animals.
- Shops and commercial breeders should be licensed on the basis of inspection to ensure that the premises and conditions in which the animals are kept are suitable from the point of view of animal welfare, as well as the public health, and that proper care is provided and the EU should come forward with suitable legislation as soon as possible.

KEEPING OF EXOTIC ANIMALS AS COMPANION ANIMALS

Current situation

There is increasing evidence that the import of exotic species for the pet trade threatens not only the survival of wild species but the risk for health of humans, domestic animals and native wildlife. For many species of animals their welfare and the safety of humans and other animals cannot be assured when they are kept in captivity by private individuals.

The origin of exotic companion animals is one source of concern in the debate over keeping such species. In 2005, the EU was the largest importer of live reptiles with trade valued at seven million Euros⁸⁷. Imports appear to be increasingly from captive-bred sources, yet wild-caught specimens once represented about 90-95% of the trade⁸⁸. The standards of care in mass-breeding centres have also generated animal welfare concerns⁸⁹. It has been suggested that the fewer import restrictions on captive-bred versus wild-caught CITES animals has led to the “laundering” of wild-caught species into the pet trade⁹⁰.

Many exotic species have complex needs when it comes to nutrition, housing, temperature requirements, exercise and social structures. Few countries require pet shops or breeders to provide customers with information on housing and care for the animals. Consequently, animals suffer from metabolic bone disease, inappropriate feed and medical treatment, burns from the misuse of artificial heating devices, and behavioural problems from being kept in isolation. A German study found that over 40% of European tortoises died after one year⁹¹.

As animals reach maturity, become costly to maintain, develop behavioural problems and turn into a long-term commitment (parrots can live up to 80 years), owners no longer able or willing to handle the animals are hard-pressed to find a solution as many zoos refuse such animals and rescue centres are full. Consequently, animals are often neglected, euthanized or released into the wild.

Exotic species can be carriers of dangerous diseases such as rabies, monkeypox, herpes B virus and salmonella. Trade in amphibians with a fungus causing chytridiomycosis has been lethal for certain amphibian populations and the cause of recent extinctions⁹².

⁸⁷/Engler, M. and Parry-Jones, R. (2007). “Opportunity or threat: The role of the European Union in Global Wildlife Trade”, *TRAFFIC Europe*, Brussels, Belgium.

⁸⁸/Altherr, S and Freyer, D (2001), “Morbidity and Mortality in private husbandry of reptiles”, A report by Pro Wildlife to the RSPCA.

⁸⁹/Animal Welfare Institute Quarterly (2009), “Life behind bars: the exploitation of caged-birds”, Vol.58, No.1, p.6-7.

⁹⁰/Engler, M. and Parry-Jones, R. (2007). “Opportunity or threat: The role of the European Union in Global Wildlife Trade”, *TRAFFIC Europe*, Brussels, Belgium.

⁹¹/Blatt, G and Muller, P (1974), Die Mortalitätsrate importierter Schildkroten im Saarland, *Salamandra* Vol.10, cited in Altherr and Freyer (2001).

⁹²/Schloegel et al. (2006), “The Decline of the Sharp-Snouted Day Frog (*Taudactylus acutirostris*): The First Documented Case of Extinction by Infection in a Free-Ranging Wildlife Species?”, *EcoHealth*, Vol.3, No.1, p.35-40.

A rabies infected Egyptian fruit bat sold in a pet shop in France led to the vaccination of nearly 130 people and the euthanasia of animals in which it had contact before its own death from the disease⁹³.

The collection of exotic animals for the pet trade is contributing to declines in wild species and threatens biodiversity, when non-target species are killed, trees cut down to reach animals, and poison used to stun fish. A study on bird exports from Senegal estimated a 70% mortality rate during capture, export, and quarantine⁹⁴.

Experts estimate the illegal trade in wildlife species to be worth billions of Euros annually, second only to weapons and drug trafficking⁹⁵. Wildlife products that are traded legally are also subject to illegal trade.

Some exotic species can directly threaten local wildlife and environments when accidentally or intentionally released into the wild. Europe spends an estimated 12 billion Euros annually on invasive species damage and controls⁹⁶. EU Wildlife Trade regulations restrict the import of ecologically threatening species including the red-eared terrapin and American bullfrog, yet many other exotic species threaten habitats, native wildlife, and economies⁹⁷.

Relevant legislation

Conservation

The most important instrument for the control of wildlife trade from a conservation standpoint is the *Convention on International Trade in Endangered Species (CITES)* which aims to ensure that international trade in specimens of wild animals and plants does not threaten their survival. The convention is implemented through the national legislation of its 175 Parties⁹⁸. It divides the species into three categories: Appendix I lists species essentially barred from commercial trade, Appendix II lists those which can be traded subject to conditions, and Appendix III lists species for which individual countries have notified their own trade and protective restrictions. The EU implements CITES through *Council Regulation 338/97/EC* which also incorporates controls on the sale and possession of wild animals, birds and plants found within the territory of the EU as well as CITES species through the creation of four separate Annexes. Additionally, Article 8.2 allows Member States to prohibit the holding of certain species. Unfortunately, CITES regulations are focused on trade and not the welfare of the animals. Many of the exotic animals kept as pets are not CITES species, as there is a lack of data on the conservation status of many amphibians and reptiles.

In future the invasive species policy currently under development could become an important tool for regulating the keeping of exotic species as companion animals. The EU is currently revising its strategy on invasive species⁹⁹ and the control on imports and keeping of wild species could be fully included in the prevention part of the policy. It could take the form of a white list of species which are authorised for importation and keeping or a black list of species for which the trade is banned.

⁹³/Moutou, F (2008), "Biodiversite et zoonoses", *Urgence pratique*, Vol.87, p.21-23.

⁹⁴/Carter and Currey(1987), "Research into the conditions of capture, transportation and export of wild-caught birds from Senegal". In: Thorton A (ed) *The Trade in Live Wildlife. Mortality and Transport Conditions*, pp.10-18. The Environmental Investigation Agency: London, UK.

⁹⁵/IFAW, http://www.ifaw.org/ifaw_canada_english/join_campaigns/fight_illegal_wildlife_trade/index.php

⁹⁶/EU Commission, Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of Regions Towards an EU Strategy on Invasive Species, COM(2008) 789, http://ec.europa.eu/environment/nature/invasivealien/index_en.htm

⁹⁷/EU Wildlife Trade Regulation, Council Regulation 338/97, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31997R0338:EN:NOT>

⁹⁸/As of February 2009.

⁹⁹/http://ec.europa.eu/environment/nature/invasivealien/index_en.htm

Health

The EU has established a few requirements for health controls related to the trade in animals to and within the Community. *Council Directive 92/65/EEC of 13 July 1992 laying down animal health requirements governing trade in and imports into the Community of animals* provides for the establishment of specific health requirements for imports into the Community. Health controls for the movement of circus animals are applied through *Commission Regulation (EC) 1739/2005 laying down animal health requirements for the movement of circus animals between Member States*. Circuses and their animals must be registered to move to another member state. A passport must be issued for each animal of the circus, except for birds and rodents, for which collective passports are issued. A ban on the import of wild-caught birds to the EU, *Commission Regulation 318/2007*, came into effect 1 July 2007. This regulation also sets strict requirements for the import of captive-bred birds. Birds imported for conservation programmes, pets accompanying their owners and animals intended for zoos, circuses, amusement parks or experiments were exempted.

Welfare

While all EU Member States have an Animal Protection Law, levels of protection, animals covered and related details vary greatly, including restrictions on keeping of exotic animals. Two-thirds of EU countries have signed the Council of Europe Convention for the Protection of Pet Animals, which includes a 1995 resolution discouraging the keeping of wild animals as pets.

Belgium created a positive list of mammals which are allowed to be kept, and any mammal not on this list is prohibited in private ownership. Other countries have developed a negative list of species that may not be kept, usually dangerous and poisonous animals such as large carnivores or snakes. In theory any animal not appearing on the negative list is allowed to be kept. The United Kingdom has a list of dangerous animals which can be kept with a license. Currently, only Belgium has a true positive list, while 17 countries have negative lists covering only a few species (e.g. great apes) to extensive lists with many animal species including mammals, reptiles and amphibians. Even though 16 countries require some variant of notification of authorities or licensing, few provide guidance on minimum requirements for the keeping of exotic animals to ensure the safety of owners, the community and the animal.

Future action

- Member States should create a positive list of animal species that encompass the whole animal kingdom (not simply mammals) which are allowed to be kept by private owners. A set of clear criteria can be used to determine which species are suitable as companion animals¹⁰⁰.
- Improve education on the requirements for the keeping and handling of species to discourage purchases and to ensure the welfare of animals currently in captivity. Breeders and pet shops selling exotic animals should provide prospective owners with detailed information on the physiological, ethological and ecological needs of the animals.
- Improve enforcement and oversight of the exotic animal species currently being kept by private individuals through strict recordkeeping and permitting by Competent Authorities and CITES Authorities (for those species covered by CITES).
- In the framework of the Invasive Alien Species policy currently being developed, the EU should adopt strict control measures on the import and keeping of exotic animals which present a risk of invasiveness, and a precautionary approach for those species where insufficient data is available. These measures could take the form of a white list of species which can be imported and kept, the other species being prohibited.

¹⁰⁰The suggested criteria is a combination of that used in for the Belgian positive list for mammals and criteria suggested by Schuppli, C and Fraser, D (2000), "A Framework for Assessing the Suitability of Different Species as Companion Animals", *Animal Welfare*, Vol.9, p.359-372.

EUROGROUP FOR ANIMALS / AREAS OF CONCERN 2010

6. ANIMALS USED FOR ENTERTAINMENT

USE OF ANIMALS IN CIRCUSES

Current situation

According to a 2005 survey there are about one thousand circuses in the European Union¹⁰¹. The limited but steady circus trade in wild-caught primates, bears, elephants and other species is considered a conservation issue, but one which often escapes the attention of wildlife trade enforcement authorities. Indeed, some authorities are said to turn a blind eye to infringement of wildlife trade rules by circuses because they lack facilities in which to place confiscated animals.

Circuses present a number of potential welfare problems. Training methods may not always be humane and, furthermore, are used to make animals perform acts for which they would otherwise have no normal inclination. The circus performance itself subjects animals to potentially stressful factors, such as loud noise and the presence of an audience. Additionally, the unnatural positions assumed during acts can result in physical ailments, such as joint and hernia problems in circus elephants^{102,103}

The animals must travel constantly during the performance season, during which they live in cramped mobile wagons that are on average only 27.5% of the recommended size for zoo indoor enclosures¹⁰⁴. In such conditions it is impossible to provide larger species with an environment suitable to their natural behaviour. It is still common for elephants to be kept shackled in tents most of the time between performances. Stereotypic behaviour, such as “weaving” is frequent¹⁰⁵. Primate species, which normally live in social groups, are often kept by themselves. The limiting of social interactions can negatively impact behaviour, welfare and reproduction in some species¹⁰⁶

The mobile nature of circuses inhibits the creation of complex, stimulating environments for the animals, leading to their diminished welfare. Housing facilities in circus winter quarters may also be inadequate, with the animals confined in buildings with no outdoor access for two to three months. In countries where circus animal health and welfare is subject to inspection or licensing, the officials responsible have no specific training in the welfare of many of the species concerned.

Reports by the RSPCA and TRAFFIC Europe note the prevalence in circuses of species which are subject to the controls of the *Convention on International Trade in Endangered Species (CITES)*. According to CITES trade data, over 25,500 animals were globally exported for circuses and travelling

¹⁰¹/Animals in circuses: legislation and controls in the European Union. L. Galhardo, Eurogroup for Wildlife and Laboratory Animals, 2005

¹⁰²/Lameness in circus elephants: a result of training?, K Lindau, *Erkrankungen der Zootiere*, Vol 12, 1970

¹⁰³/Work-related illness: Hernia perinealis, Bursitis praepatellaris and Tyloma olecrani in femal circus elephants (*Elephas maximus*), A Kuntze, *Erkrankungen der Zootiere*, Vol 31, 1989.

¹⁰⁴/Are wild animals suited to a traveling circus life? G Iossa, CD Soulsbury and S Harris, *Animal Welfare*, Vol 18, No 2, 2009.

¹⁰⁵/Keeping Circus Elephants Temporarily in Paddocks, J Schmid, *Animal Welfare* Vol 4, No 2, 1995

¹⁰⁶/Group size: determinants in the wild and implications for the captive housing of wild mammals in zoos, E Price and T Stoinski, *Applied Animal Behaviour Science*, Vol 103, 2007.

exhibitions between 1975 and 2005¹⁰⁷. These include lions, tigers, leopards, primates, bears, parrots, elephants and even crocodiles. Young animals are sought, so there is a frequent turnover in some species, as adolescent and older animals are replaced. Controls for welfare or wildlife trade and possession are difficult to exercise and monitor, given that circuses are not only on the move much of the time, but that they also change their names and the acts they employ.

Circus animals, particularly larger species, are expensive to maintain properly. In some countries, many members of the public are aware of the welfare problems and boycott performances where animals are used, but this attitude is not universal. Circus owners claim that their use of animals can be educational and even that it promotes conservation. However, it is hard to see the educational value in performance of tricks which exploit an animal's natural abilities, but are far removed from its natural behaviour. Circus use of animals is more likely to be detrimental to conservation than beneficial. It is estimated that circuses hold 31% of all captive African and Asian elephants¹⁰⁸.

Studies suggest that some of the most popular species kept in circuses, elephants and carnivores, are the least suited to such environments. Lossa et al. (2009) conclude that "circuses may be suitable environments for animals with low space requirements, simple social structures, low cognitive function, non-specialist ecological requirements and which are capable of being transported without adverse effects"¹⁰⁹.

Relevant legislation

European Union

There is no EU legislation dealing with circus animal welfare as such. However, circuses are supposed to comply with the provisions of *Council Regulation 338/97/EC of 9 December 1996 on the protection of endangered species of wild fauna and flora by regulating trade therein*. They must also comply with the provisions of *Council Regulation (EC) 1/2005 on the protection of animals during transport and related operations*. *Council Directive 92/65/EEC of 13 July 1992 laying down animal health requirements governing trade in and imports into the Community of animals* provides for the establishment of specific health requirements for imports into the Community for animals intended for circuses, according to the species.

Health controls for the movement of circus animals are applied through *Commission Regulation (EC) 1739/2005 laying down animal health requirements for the movement of circus animals between Member States*. Circuses and their animals must be registered to move to another member state. A passport must be issued for each animal of the circus, except for birds and rodents, for which collective passports are issued.

Commission Regulation (EC) 865/2006 laying down detailed rules concerning the implementation of Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade therein provides for special certificates to be issued for legally acquired specimens in traveling exhibitions either if they were born and bred in captivity or if they were acquired before the species was listed on the annexes of EU CITES regulations. In addition the animals must be uniquely and permanently marked, and specific rules apply to their movement within the EU.

¹⁰⁷/Same as footnote 104.

¹⁰⁸/Same as footnote 104.

¹⁰⁹//*ibid.*, p. 137.

National legislation

There is increasing doubt about the ethics of using live animals, particularly of non-domesticated species, for public entertainment and this is reflected in the national legislation of some member states. **Finland** has, since 1996, prohibited the use in circuses of apes, elephants, carnivores, seals, rhinoceros, hippopotamus, ruminants, ungulates, marsupials, birds of prey, ostriches and crocodiles. All circuses must apply for a permit from the Ministry of Agriculture and Forests, which is empowered to set safety and welfare conditions for performances by visiting foreign circuses. **Denmark's** national legislation bans the use of animals of non-domesticated species for circus performances. However, this has allowed the continuing use of Asian elephants, camels and llamas, on the basis that these animals are, or can be, domesticated in their countries of origin. The granting of exemptions to other species, such as pythons, sea lions and crocodiles is also permitted. In **Sweden**, monkeys, predators (with the exception of domesticated dogs and cats), pinnipeds (with the exception of sea-lions) rhinoceroses, hippopotamuses, deer (with the exception of reindeer), giraffes, kangaroos, birds of prey, ratite birds and crocodilians must not be taken from place to place and exhibited to the public in performances or otherwise at circuses, variety shows or similar entertainments. In **Austria**, the keeping of wild animals (defined as non-domestic) in circuses is prohibited since 1st January 2005. **Bulgaria** has a prohibition on the use of wild mammals in circuses, with a transitional period up to 2015 for animals already acquired and used when the Act became effective. In the **Czech Republic**, it is prohibited to use new born primates, walrus, seals, whales and porpoises (excluding dolphins), rhinoceroses, hippopotamuses or giraffes in circuses. **Estonia** prohibits the use of wild born animals in animal shows. **Hungary** prohibits the use of wild caught animals, the purchase and training of new primates and elephants, and the use of CITES Appendix I species starting in 2010. **Croatia** prohibits the use of wild animals in circuses. **Poland** prohibits the use of wild-born animals. **Latvia** prohibits the showing of animals in travelling menageries. In the **UK**, local authorities need to give permission to perform on public land, which means they can refuse to grant authorisation to circuses using wild animals. In **Germany** the federal law requires circuses to demonstrate that they can provide winter quarters for their animals before they can obtain a licence to perform. Guidelines for keeping, training and use of animals in circuses and other institutions were issued in connection with the German animal welfare law in 1990. In **Belgium** there is no national law prohibiting the keeping of wild animals in circuses, but strict rules regulate the way animals are kept, their performance and the contact with the public. In addition local authorities can refuse to grant authorisation to circuses keeping wild animals to perform on their territory. This is also the case in **Italy**.

Action needed

- EU legislation on the protection of animals during transport, on health requirements and on the implementation of CITES should be actively enforced where applicable to circuses.
- Movements of circuses should be monitored by CITES management authorities.
- The use of non-domesticated species, including all CITES Appendix I species, by circuses should be banned. A ban on circus use of Appendix I species, even if captive bred, could be enacted at Community level. Member states should enact legislation to outlaw use of non-domesticated species without exception.

THE WELFARE OF ANIMALS IN ZOOS

Current situation

There are more than 1500 zoos in the European Union today. Some collections are publicly owned, some privately. Zoos throughout the world collectively attract hundreds of millions visitors each year. The experience of seeing a live animal at close quarters is a fascinating one which many people recall with pleasure. However, the unsuitable and downright poor conditions in which some animals are kept has come under increasing criticism in Europe.

Animal collections are expensive to house and maintain properly, especially those for dolphins and orcas. Their specialised veterinary and environmental requirements coupled with the imposition of standards for keeping them in certain member states is probably the reason behind the decline in the number of dolphinariums in northern Europe, although dolphin shows appear to have retained their popularity in some tourist resorts. Many of them are expected to close if they have to upgrade facilities due to the imposition of general standards for zoos.

The definition of a zoo used by the European Commission incorporates any establishment, except circuses and pet shops, where live animals are kept for exhibition to the public for seven or more days a year. The definition therefore embraces zoological collections, animal parks, safari parks, bird gardens, dolphinariums, aquaria and specialist collections, including those for invertebrates.

Modern zoos claim to fulfil four objectives: conservation, research, public education, and public recreation. The emphasis on particular objectives varies from zoo to zoo. Some zoos are involved in captive breeding programmes, such as the European Endangered species Programme (EEP)¹¹⁰, to conserve over 170 endangered species, such as the European otter and the Siberian tiger. There is considerable concern that more than half the establishments qualifying as zoos do not fulfil these objectives and, in addition, do not ensure that the welfare of the animals is safeguarded.

Surveys of zoos in Portugal, Belgium, Spain and Italy carried out by Eurogroup for Animals member organisations in 2007-2008 suggest that conditions vary drastically. Lack of enrichment, lack of natural cover, and lack of companionship for social species were highlighted.

¹¹⁰European Association of Zoos and Aquaria, Breeding Programmes – European Endangered species Programme (EEP), <http://www.eaza.net/EEP/3EEPtext.html>.

Welfare problems such as the following are widespread:

- barren, cramped conditions in which the animal has neither the space nor the materials to carry out its natural behaviour
- enclosures where the animal has no opportunity to avoid the constant public gaze
- enclosures constructed in such a way as to risk causing injury to the animals lack of facilities to care for sick animals
- inadequate or unsuitable diet
- animals of normally social species kept by themselves

The closure of zoos which do not meet EU criteria is also a reason for concerns. Not only do many countries fail to have a clear procedure in place to deal with the animals, there is also a lack of sanctuaries to re-home them. This problem can influence the decision to close zoos, as inspecting authorities might be reluctant to recommend the closure of a zoo if no facilities are in place to take care of animals.

Relevant legislation

European Union

Council Directive 1999/22/EC relating to the keeping of wild animals in zoos lays down conditions for the licensing and inspection of zoos. However, it allows member states to exempt animal collections if they do not exhibit a significant number of animals or species to the public. The objectives of the directive are to protect wild fauna and to conserve biodiversity by providing for the licensing and inspection of zoos, thereby strengthening the role of zoos in the conservation of biodiversity. Under Article 3, zoos are required to accommodate the animals under conditions satisfying the biological and conservation requirements of the individual species, inter alia by providing species specific enrichment of the enclosures and maintaining a high standard of animal husbandry.

Member states had to transpose the directive into national law by 9 April 2002 but many did not achieve this deadline. They had until April 2005 to inspect and license existing zoos, as well as ensuring that new zoos are licensed before they open to the public. At present, Italy and Bulgaria have failed to even begin the licensing process.

Community level harmonised health controls are provided for by *Council Directive 92/65/EEC of 13 July 1992 laying down animal health requirements governing trade in and imports into the Community of animals, semen, ova and embryos not subject to animal health requirements laid down in specific Community rules referred to in Annex A(I) to Directive 90/425/EEC*. This directive deals with the importation of certain species, including non-human primates. In addition to the basic certification of health, the directive provides for specific animal health and documentation requirements for imports into the Community of animals intended for zoos, and additional guarantees to protect Community species (Articles 19 & 23).

The trade and exchange of endangered or vulnerable species is governed by the Convention on International Trade in Endangered Species (CITES). Within the EU, this is implemented by *Council Regulation 338/97/EC of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein* (see Wildlife Trade section). These instruments limit the import or export of the most strictly protected wild animal species to essentially non-commercial purposes, such as captive breeding for conservation, or at least for purposes in which the commercial element does not predominate. Animals which are permitted to be traded subject to quotas may be imported and exported for commercial purposes, such as public exhibition, subject to certain conditions. Zoos may import, export or exchange any animal in connection with conservation work related to the particular species.

National legislation

Some member states had national legislation in place before the directive was adopted, and have either tightened it or adapted it to conform to EU requirements. Certain member states put in place more comprehensive and stricter legislation than the basic requirements of the directive, while others just transposed minimum requirements. An analysis of national laws transposing the EU zoo directive carried out by Eurogroup shows that the majority of national laws lack detailed provisions concerning scientific and educational activities, and some laws also lack detailed provisions concerning welfare standards.

A Eurogroup report on the implementation of the Zoo Directive in EU Member States, updated in 2008¹¹¹, shows that the Directive has been transposed in all EU Member States, although with varying levels of detail. While the majority of national laws include provisions related to the care of animals, housing and infrastructure, the level of detail decreases for provisions related to direct conservation measures and educational and scientific activities, with most laws referencing the general statements of the Directive. Licensing and inspection procedures vary in frequency and periods of validity amongst countries. Data suggests that countries with more zoos and a decentralized administrative structure are more problematic (e.g. regions in Germany, Austria and Spain). A lack of national strategies for dealing with animals from closing zoos, partly due to the limited number of rescue centres, contributes to poor enforcement of the Directive.

Following the general lack of implementation in all Spanish autonomous communities, NGOs submitted a complaint to the European Commission in October 2006. Consequently the European Commission started infringement proceedings against Spain. This procedure has led to substantial improvements of the situation, with the closure of 12 zoos. Nevertheless the European Commission considered that more progress was needed, and decided in 2009 to refer Spain to the European Court of Justice¹¹².

Action needed

- *Council Directive 1999/22/EC of 29 March 1999 relating to the keeping of animals in zoos* should be enforced by all member states without further delay, including detailed guidelines concerning the research and education role of zoos and minimum standards for the keeping of different categories of animals in zoos
- Member states should apply licensing and inspection requirements to all animal collections, including those in private hands which are infrequently open to the public.
- The European Commission should compare the legal standards of Member States to evaluate the credibility of the respective licensing systems.
- Member states should put in place a procedure to deal with animals coming from closed zoos. All existing re-homing possibilities should be examined and taken into account when designing such a procedure.
- The European Commission should request the establishment of relevant enforcement tools such as guidelines and training courses as well as the allocation of adequate resources for improved implementation of the Zoo Directive. The European Commission could coordinate the production of these tools.
- The European Commission should conduct an Effectiveness and Enforcement Study of the Zoo Directive for all Member States.
- The European Commission should pursue infringement procedures against those Member States failing to meet the requirements of the Zoo Directive.

¹¹¹/Available at: <http://www.eurogroupforanimals.org/pdf/reportzoos1208.pdf>

¹¹²/Case C-340/09 - OJ C 256 p. 15-16: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2009:256:0015:0016:EN:PDF>

EUROGROUP FOR ANIMALS / AREAS OF CONCERN 2010

7. ANIMAL WELFARE IN THE TREATY

ANIMAL WELFARE AND THE EUROPEAN UNION TREATY SYSTEM

Current situation

The Legal Basis of Community Legislation for Animal Protection

In the successive versions of the Treaty establishing the European Community, animal welfare has not been included as an objective of the EU. The entry into force of the Lisbon Treaty in December 2009 did not change this situation. Animal protection has been dealt with primarily as a spin-off from the need to ensure the functioning of the internal market and common commercial policy, and secondarily from the development of Community environmental policy, which is itself derived from the need to apply common rules to ensure reasonable approximation of trading conditions. Animal welfare laws have therefore been based on a small group of trade-related articles (see table below).

Through the numerous Treaty changes the animal welfare movement has aimed to introduce animal welfare as a basic principle of the EU. These efforts resulted in a Declaration on Animal Welfare in the Maastricht Treaty. After a long European-wide campaign, Member States agreed in 1997 to annex a Protocol on Animal Welfare to the Amsterdam Treaty, which entered into force on 1 May 1999. This Protocol was an important step forward as it imposed an obligation on Community institutions and Member States to take account of animal welfare considerations. For the first time animals were recognised as “sentient beings”, a higher status than the former recognition as “agriculture products”.

Treaty Articles on which animal welfare laws are based

Animal welfare issue	Article	Legal basis	Comments
Animals used for experimental and other scientific purposes, (incl. testing on cosmetic and chemical products)	115 (ex 94)	Internal market: harmonization of MS laws	Includes a procedure for MS to introduce national measures to protect environment and public health based on scientific information
	114 (ex 95)	Internal market: harmonization of legislation to protect health, safety, environment and consumers	
Farm animals	43 (ex 37)	Common organization of market in agricultural products	Animals are considered as agricultural products. Legislation is introduced to prevent distortion of competition within the internal market
	39 (ex 33)	CAP objectives	

Trade in wildlife (incl. CITES), habitats, wild birds, ban on leghold trap	192 (ex175)	Environment Policy	Since 1986, when a legal basis was created in the Treaty to protect the environment
Ban on imports of fur products	207 (ex133)	Common Commercial Policy	
Restriction on imports, exports or transit of goods	36 (ex 30)	Public morality, protection of health and life of humans, animals and plants	Strictly limited use by individual MS but very difficult to use in practice.

With the Protocol, animal welfare began to enter the Treaty system as a consideration in its own right, because Protocols are given the same status as an article within the body of the Treaty itself, by virtue of Article 311 to the Amsterdam Treaty, which asserts that “The Protocols annexed to this Treaty by common accord of the Member States shall form an integral part thereof”.

Although the protocol did not provide a proper legal basis for legislation aimed primarily at protecting animals, it increased the importance of animal welfare considerations within the EU Institutions. In 2006, the European Commission adopted an “Action Plan on the Protection and Welfare of Animals”¹¹³ which was welcomed by the European Parliament and the Council of the European Union as a means to respect their obligations under the protocol. Through this action plan, the three institutions have an important role to play in promoting animal welfare in all relevant areas of EU policy, as well as at the international level, in line with citizens’ expectations.

Latest developments

The text of the protocol on animal welfare was integrated as an article in the Treaty of Lisbon, which entered into force on 1 December 2009.

In strict legal terms there has been little change to the provisions for animal welfare. The Protocol text has been changed and integrated in the Treaty as Article 13 of the Treaty on the Functioning of the European Union, under Title II “provisions having general application”. This means that the obligations related to animal welfare now also apply to policies on fisheries, technological developments and space policies, for example. The change in terms, from Protocol to an Article, only has a symbolic value as Protocols have the same legal value as Articles and both are legally binding. Although this does not provide a guarantee that animal welfare will be systematically taken into account by the EU (only in the policy areas specifically mentioned), nor does it provide a legal basis for animal welfare measures because it is just a “provision having general application”. The Article increases nevertheless the importance of animal welfare. It requires the EU institutions and Member States to integrate animal welfare considerations in their policy-making. For the Commission, it means that an “animal welfare impact assessment” is a compulsory part of the impact assessments which are required to be carried out before adopting any new policies. Not only does it ensure consideration of animal protection in all relevant contexts, but it also enhances the status of the Community’s existing and future legislation for this purpose, and it is hoped that it will therefore lead to both optimum provision and better implementation. In the process, it should also confer political recognition on animal protection as a legitimate and integral part of the common European interest.

Article 13: “In formulating and implementing the Union’s agriculture, fisheries, transport, internal market, research and technological development and space policies, the Union and the Member States shall, since animals are sentient beings, pay full regard to the requirements of animal welfare, while respecting the legislative or administrative provisions and customs of Member States relating in particular to religious rites, cultural traditions and regional heritage.”

¹¹³http://ec.europa.eu/food/animal/welfare/com_action_plan230106_en.pdf

Other impacts of the Lisbon Treaty for animal welfare

The European Parliament

Under the Lisbon Treaty, the power of co-decision (which gives nearly as much power to the European Parliament as to the Council of the EU) now becomes the ordinary legislative procedure extended to most areas of EU policy-making including the common organisation of agricultural markets and the other provisions necessary for the pursuit of the objectives of the common agricultural policy and the common fisheries policy. This means that a large majority of decisions relating to agriculture (around 95%) now falls under the co-decision procedure. Concerning the EU budget, the Parliament is now on the same footing as the Council for all budget headings, including the ones relating to agriculture. The Parliament also retains its vote on the appointment of the President of the European Commission.

The Council

The Council now has a full-time president, who is elected for two years and a half by EU Member States. He or she chairs the European Council meetings and has a predominantly administrative role. However, the system of rotating presidencies is not entirely replaced as this system remains in place for the preparation and chairing of most Council of Ministers meetings (including Agriculture and Environment). The Council's Presidency is managed by predetermined groups of three Member States sharing a common 18 months programme. Each Member State still assumes the presidency for six months.

Forthcoming Presidencies of the Council of the European Union

Year	January-June	July-December
2010	Spain	Belgium
2011	Hungary	Poland
2012	Denmark	Cyprus
2013	Ireland	Lithuania
2014	Greece	Italy
2015	Latvia	Luxembourg
2016	Netherlands	Slovakia
2017	Malta	United Kingdom
2018	Estonia	Bulgaria
2019	Austria	Romania

Voting procedure

From 1 November 2014, Qualified Majority Voting (QMV), which applies to most dossiers (including most agricultural issues), will prevail. This means that texts can be adopted or agreements reached when at least 55% of the members of the Council approve, whilst also comprising representatives of at least fifteen Member States, and at least 65% of the population of the Union. Currently the qualified majority requires 255 votes and a number of member states representing 62% of the EU total population.

Blocking minority - A blocking minority must include at least four Council Members, representing over 35% of the population of the participating Member States. This rule was created as a result of a concern formulated by the EU's smaller Member States, to ensure that the bigger Member States cannot form a block to secure a QMV decision on their own. In addition, the "Ioannina Compromise" will allow Member States that are able to form a 75% blocking minority (i.e. three Member states representing 26.25% of the population) to ask the Council to delay the vote and try to find broader support for a decision, within a reasonable time within the decision-making deadlines. After 2017, this delaying veto will be even easier to use.

Following enlargement of the EU with 10 new member States in 2004, and 2 additional ones in 2007, the total number of votes is now 345. The number of votes per member state is shown in the table.

Number of votes per member state

Countries	Number of votes
Germany, France, Italy, UK	29
Spain, Poland	27
Romania	14
Netherlands	13
Belgium, Czech Republic, Greece, Hungary, Portugal	12
Austria, Sweden, Bulgaria	10
Denmark, Finland, Ireland, Lithuania, Slovakia	7
Cyprus, Estonia, Latvia, Luxembourg, Slovenia	4
Malta	3
Total	345

National Parliaments

The Lisbon Treaty gives national parliaments a direct say in the law-making process of the EU. Within eight weeks after the launch of a draft legislative act, one third to one half of national parliaments (depending on the procedure under which the draft legislation is presented) can present a reasoned opinion asking for a review of the proposal, if they believe the proposal threatens the subsidiary¹¹⁴ principle. Under the ordinary legislative procedure (co-decision), this reasoned opinion also needs to carry the support of 55% of Member States and/or a majority of members of the European Parliament to ask for a review.

Greater openness and transparency

In their efforts to bring the EU closer to the citizens and to ensure citizens views are integrated in policy-making, the Lisbon Treaty has included the principle of dialogue with civil society as part of the provisions on democratic principles (Article 11). Therefore, the institutions are duly bound to give citizens and representative associations the opportunity to make known and publicly exchange their views in all areas of Union action and maintain an open, transparent and regular dialogue with representative associations and civil society. The Commission is obliged to carry out broad consultations with parties concerned in order to ensure that the Unions actions are coherent and transparent.

The Lisbon Treaty also states that the Council shall meet in public when it deliberates and votes on a draft legislative act. All meetings of the Council of Ministers on legislative acts will in future be taken in public session.

Petition power for Citizens

Although the European Commission keeps the monopoly for initiating legislative proposals, citizens' petitions are officially recognised. A petition signed by more than one million citizens coming from a significant number of Member States may invite the Commission to submit an appropriate proposal, provided this is required for the purpose of implementing the treaties. Therefore, petitions can only be on issues which are included in the list of competences of the EU.

The details of organising such a "citizen initiative" are still being discussed. A public consultation took place and was followed by a Commission proposal, which is currently being discussed by the European Parliament and the Council under the co-decision procedure. The proposal includes rules concerning the minimum number of member states and of citizens per participating member state, the minimum age for citizens to participate in such an initiative, the modalities for citizens to register their support and for authorities to verify the citizens' identity, the period during which signatures should be collected, and modalities concerning the admissibility.

Future Action

- The European Commission is currently preparing its strategy on animal welfare as a continuation to the current action plan. It should serve as a basis for better integration of animal welfare within all policy areas, in line with Article 13 provisions, and to ensure continuity and consistency in EU actions in the field of animal welfare.
- The Commission should evaluate the impact of policy initiatives on animal welfare, through the impact assessments it must conduct when proposing new legislation or important policies.

¹¹⁴The Subsidiarity principle requires that individual Member States are to be allowed to legislate in areas that affect their citizens. This follows that principle that action is to be taken as close to the citizens as possible (national level) unless the topics requiring legislation falls under (exclusive) EU competences and if community action would be more effective than national action.

8.

ANIMAL WELFARE AND INTERNATIONAL TRADE

ANIMAL WELFARE AND INTERNATIONAL TRADE

Current situation

General Framework on International Trade

Goods and services are sold every day across national boundaries. These transactions are subject to a variety of laws, regulations, restrictions and special arrangements. Those laws and regulations are comprised of unilateral measures, meaning national or domestic laws, and further by the international law expressed in trade agreements. There are basically three levels of international trade agreements: bilateral relationships (EU-Chile Free Trade Agreement), multilateral arrangements (GATT), and regional agreements (MERCOSUR).

The objectives on animal welfare within a trade policy are to seek convergence between internal and external policies. Looking at the international scene, the European Union has so far been the most active in addressing the problem of animal welfare and international trade. The European Union fully subscribes to the view that animal welfare provisions must not be used for trade protectionist purposes but it also advocates the view that animal welfare needs to be addressed in international trade law.

Animal Welfare and Bilateral Agreements

The inclusion of animal welfare into trade agreements between countries has been somewhat neglected, even in so-called veterinary agreements. So far, animal welfare points have been included only in the SPS chapters of the EU-Chile Agreement in 2002, the EU-Canada Agreement in 2006 and the EU-Korea Agreement in 2010. A veterinary agreement with New-Zealand to facilitate trade in live animals and products entered into force in 2003.

Two FTAs signed by the US, DR-CAFTA and US-Peru, contain references to the protection of biodiversity and wildlife in their environmental chapters. The EU-Chile Agreement resulted in an increased involvement of the Chilean authorities, training for veterinarians and abattoir workers, organisation of conferences, development of public awareness also in other Latin American countries such as Argentina and Uruguay.

The European Commission is now consistently proposing the inclusion of animal welfare in its negotiations for FTAs, like in the EU-Korea FTA, so it is reasonable to expect some more provisions of this kind to be present in future trade agreements with the EU. It is nevertheless important that other trade pacts where neither EU nor US are involved look at animal welfare as an important issue to integrate.

Animal Welfare and multilateral Agreements (WTO)

Since 1947, world trade has been organised and regulated under the General Agreement on Tariffs and Trade (GATT). In 1994, following some years of negotiation, the World Trade Organisation (WTO) was established as the forum through which GATT would be developed, mainly by elaboration of agreements on the various categories of commercial activity. The WTO aim is promote free trade on a global basis. By December 2008 it had 153 member countries.

Nothing in the WTO rules prevents a country from raising its own animal welfare standards, but there are some important consequences that can occur if standards are raised:

Under WTO law animal welfare standards fall within the concept of non-product related process and production methods (PPMs). With a non-product related PPM, there is no observable trace of the production process in the final product. For instance an egg produced by intensive farming systems will look the same as one that is produced free-range

Decisions from dispute mechanisms in the WTO are mandatory and require the offending government to amend its national legislation or pay compensation or risk retaliatory actions. These have sharpened the potential impact of the trade rules on animal welfare legislation. So far no concrete rules have been established under the WTO panel system in relation to animal welfare, leaving the issue as a somewhat “grey” area.

The original GATT established a series of general exceptions to the rules under its Article XX, which provide the framework within which WTO members can continue to pursue measures which are otherwise inconsistent with WTO rules. Three of the sub clauses of Article XX are potentially relevant:

Article XX (a) deals with the protection of public morals, Article XX (b) with the protection of animal life or health, and Article XX (g) with the conservation of exhaustible natural resources. If a measure is deemed to fall within the scope of one of the specified objectives, it must also satisfy the conditions of the headnote (or chapeau) of Article XX. This requires that the measure should be non-discriminatory and not a disguised restriction on trade.

Generally, animal welfare measures are likely to be dealt with in the context of Article XX (a) or (b), whereas conservation issues would be dealt with under XX (g). In effect, this sets a higher test for animal welfare measures because both (a) and (b) require that the measure is “necessary” whereas (g) only requires that the measure is “relating to” conservation.

The uncertainty is that Article XX has never been tested with specific respect to animal welfare and so it is not clear whether a panel would deem such measures to be within the scope of the Article. However, a reasonable interpretation of XX (b), would suggest that animal welfare can be considered as relevant to both the life and health of animals. This is further supported by the fact that measures to control the spread of disease are dealt with separately under the WTO Agreement on Sanitary and Phytosanitary measures.

The only ways to introduce some clarity regarding the application of Article XX (a) and (b) to animal welfare would be either through argument at a relevant WTO dispute panel, or by seeking an interpretative note or guidance through dialogue at the WTO. To date, the EC has been reluctant to do either, leaving animal welfare in something of a vacuum. The EC’s cautious approach has also adversely affected the implementation and development of EU animal welfare measures, e.g. **leghold traps and cosmetics tests**.

Leghold traps

In the mid-1990s Canada, with support from the USA, threatened to challenge an EU ban on imports of fur obtained from countries where wild animals were still legally caught in leghold traps. The purpose of the fur import ban was to discourage the use of cruel and nonselective trapping methods. Under the threat of retaliation through GATT, the EC, with support from the Council, controversially decided to suspend implementation of the import ban to allow time for the EU, US, Canada and Russia to negotiate an international agreement on humane trapping standards. The agreement is a compromise, widely condemned by animal protection organisations. The EC argues that its conclusion avoided the possibility of a GATT judgement which might have set an unhelpful precedent.

Cosmetics

In 1993 when the Cosmetics Directive (76/768) was amended for the 6th time by Directive 93/35, a marketing ban on cosmetics tested on animals after 1 January 1998 was included. This date was however postponed twice, as alternative non-animal testing methods had not been developed and scientifically validated. The Commission was also concerned about non-compliance of the marketing ban with WTO rules. In April 2000, the European Commission published a proposal to amend the cosmetics directive which did not include a marketing ban on cosmetic products tested on animals. The European Commission stated that it had scrapped the marketing ban as a result of fears that it “would appear to raise certain difficulties in relation to the WTO”, “to avoid any difficulties with our trade partners” and to “provide a more effective way to protect animal welfare. It reflected the wish of the majority of European citizens to end animal testing for the purpose of putting new cosmetic products on the market, by no longer allowing them to be sold. Through the co-decision procedure, the European Parliament included a marketing ban again in the Commission’s proposal, which, after conciliation with the Council of Ministers, is part of the amending directive adopted in 2003, although it allows some exemptions and long delays before the real sales ban enters into force. This case illustrates the needs for the EU to challenge the interpretation of WTO rules and advocate a complementary and balanced relationship between trade liberalisation and the protection of animals in the WTO negotiations.

WTO Negotiations on Agriculture

Higher welfare standards result in higher production costs and may lead to a loss of competitiveness for livestock producers - for example in the EU - and it could be argued that financial compensation should be paid to solve this problem. The possibility of making such direct payments to producers has already been proposed by EU at WTO level in 2000. Under the proposal these payments would be in the green box of permitted domestic measures.

WTO members are trying to reach an agreement for modalities in agriculture, as outlined in the Doha Development Agenda set up at the Ministerial Meeting held in Doha (Qatar) in November 2001. An agreement was reached in July 2004 on a framework paper for the modalities negotiations of the Agriculture Agreement. Under this agreement there are certain benefits to animal welfare:

1. Export subsidies. It has been agreed that export subsidies will be eliminated by an end date. The decision is welcomed as it is unlikely that exports to third countries will still occur without subsidies.
2. Market access: There is a category exemption from tariff reduction for “sensitive” products. These still have to be defined and proposed by the EU but it opens the door for products such as eggs. There is still a concern that a large decrease in tariff lines for products where the EU has higher welfare standards such as laying hens or pork, could affect EU production and standards, unless other measures are allowed such as Green box subsidies.

Although the Doha Declaration included a statement that non-trade concerns (NTCs) need to be taken into consideration during negotiations in particular in the context of the Agriculture Agreement, only the EU has raised the issue of animal welfare as a legitimate “non-trade objective” to be addressed in this negotiation. Many countries expressed opposition to such a principle although the European Union received support from Switzerland, Norway and Japan.

Failure to achieve the acceptance of animal welfare as a legitimate “non-trade objective” may undermine the value of current and future domestic welfare policies such as production standards, compensation payments or labelling schemes to promote higher welfare, or indeed with regard to measures taken in accordance with international agreements on animal welfare.

It is vitally important, therefore, to try and promote a wider understanding and acceptance of animal welfare concerns amongst developed, developing and least developed countries.

ANIMAL WELFARE AND THE WORLD ORGANISATION FOR ANIMAL HEALTH

Current situation

The OIE (World Organisation for Animal Health) is an intergovernmental body based in Paris which is responsible for improving animal health worldwide. Set up in 1924 it currently (2010) has 176 members and agrees standards by consensus.

The OIE develops normative documents relating to rules that Member Countries can use to protect themselves from the introduction of diseases and pathogens, without setting up unjustified sanitary barriers. OIE standards are recognised by the World Trade Organisation as reference international sanitary rules.

The OIE prepares standards through its four commissions, which work with internationally renowned specialists elected for a three year term:

- The Terrestrial Animal Health Standards Commission (“Code Commission”) is responsible for drawing up the Terrestrial Animal Health Code, based on current scientific information. It prepares draft texts for new standards which are presented to the OIE’s members for agreement.
- The Aquatic Animal Health Standards Commission (“Aquatic Animals Commission”) compiles information and sets standards on diseases of fish, molluscs and crustaceans and on methods used to control these diseases.
- The Scientific Commission for Animal Diseases identifies the most appropriate strategies and measures for disease prevention and control and oversees each Member Country submissions regarding their animal health status.
- The Biological Standards Commission is responsible for establishing or approving methods for diagnosing diseases of mammals, birds and bees and for recommending the most effective biological products such as vaccines.

Relationship to animal welfare

In 2001 the OIE took up the task of developing global animal welfare standards and in 2002 established a permanent working group which oversees its work on animal welfare issues. This has a number of committee members including one representative from the animal welfare groups.

The OIE establishes ad hoc working groups of relevant experts which represent a variety of regions and expertise and whose role is to review the scientific literature on the specific subject, draft a standard on that issue and then present it to the working group and ultimately the Code Commission for adoption before it goes to a meeting of all member countries for agreement. Once agreed the standard becomes part of the OIE *Terrestrial or Aquatic Code*. These Codes are regularly reviewed as new science becomes available.

To date the OIE has agreed six standards on animal welfare, on the transport of animals by land, the transport by sea, the transport by air, the slaughter of animals for human consumption the killing of animals for disease control purposes, and the stray dog population control.

It has currently working groups drawing up standards in further areas of animal welfare. These are on the use of animals in research and education, the keeping of broiler chickens for food, the keeping of beef cattle, the transportation, and the stunning and killing of farmed fish for human consumption.

These draft standards will be drawn up and presented via the code Commission to the member countries for agreement in due course.

Relationship to WTO

There are two important differences between the OIE standards on animal health and the standards on animal welfare.

The standards on animal health are global standards which are recognised by the WTO's standards setting body, the Codex Alimentarius and by the SPS Agreement to the WTO which regulates animal and plant health issues. In trade disputes brought to the WTO, the OIE animal health standards are used as a reference to judge whether a country has breached WTO rules on trade. For instance if a country wishes to ban the import of live beef cattle from another country because of an outbreak of foot and mouth disease, it is allowed to do so provided that the OIE recognises that the other country is suffering from the disease and has not put in place the OIE standards on foot and mouth disease to deal with and eradicate the disease. Once the OIE has recognised that the country is disease free and has used the appropriate vaccine or disease control methods it can no longer prohibit imports. Its ban may be found by a WTO panel to contravene international trade rules and the country could be subject to sanctions.

However the OIE's animal welfare standards are not recognised by the WTO, mainly because it has not yet agreed that animal welfare is part of WTO's portfolio.

OIE and private standards

There is only one standard on animal health, set by the OIE but there are many animal welfare standards, including the standard set by the OIE, standards set by assurance schemes such as Freedom food, Neuland or retailers and standards set by legislation. The OIE standards do not represent the only standard and it is important that they are not used as the only standard. This assumes particular importance when discussing the issue of private standards or assurance scheme standards. The OIE in 2008 adopted a Resolution on this issue which asked the Director General of OIE to work with all parties on private standards and ensure that any private standards do not conflict with those of the OIE. This resolution raises high concerns, as private standards are an integral mechanism to improve the welfare of animals in developing and developed countries, and should be strongly supported. Private companies and institutions should be encouraged to adopt animal welfare standards and/or purchasing policies that go beyond welfare requirements put forth in legislation and indeed OIE standards. Private standards can bring market opportunities for developing countries. There is a difference between private standards for animal welfare, which are not covered by the SPS but by the TBT and GATT, and private standards for animal health, which are covered by the SPS.

At its General Assembly in May 2010, the OIE adopted a Resolution (No 26)¹¹⁵ on the “Roles of public and private standards in animal health and animal welfare”. Some aspects as specified below are particularly worrying and clarification has been searched through a letter sent to the Director-General of OIE in August 2010.

The Resolution still appears to suggest that private standards on animal welfare should ideally not be stronger than those of the OIE. It expresses concern that some private standards have the potential to conflict with OIE standards (citation 6). Its objective appears to be that private standards on animal welfare should be consistent with and not conflict with those of the OIE (recommendation 7). It seeks compatibility and increased harmonisation of private standards with those of the OIE (recommendations 9 and 11) and encourages the use of OIE standards as benchmarks against which private standards are referenced (recommendation 10).

The overall message emerging from the Resolution appears to be one of reluctance to see private standards on animal welfare setting higher standards than those of the OIE. This approach is worrying as it could impede valuable initiatives by the food industry to improve animal welfare. This is a matter of particular concern in the EU where it is recognised that food businesses and consumers are likely to play an increasing role in improving animal welfare.

Enforcement

One of the most critical areas is the implementation and enforcement of OIE standards once they have been agreed. The OIE convened a global conference on animal welfare in 2004 targeting the veterinary services in OIE member countries and livestock producers in the meat sector, veterinary practitioners and international non governmental organisations (NGOs). The main objective of the Conference was to raise awareness of, and to explain, the OIE’s animal welfare initiative. This was followed in 2008 by a second conference looking at the enforcement of OIE standards. However although OIE standards on animal health are enforced through the trade sanctions threat from the WTO, there is no enforcement mechanism in the OIE to ensure its standards are implemented and enforced.

Future action

- It should be ensured that any of the standards OIE is drawing up are agreed to as high a standard as possible.
- There is a need to work through all the OIE member countries to ensure that the agreed standards are implemented in legislation and enforced.
- The OIE should not stop private standards being agreed and implemented that reward animal welfare practices that are higher than OIE standards.

¹¹⁵http://www.oie.int/fr/normes/FR_RESO_2010_PS.pdf

EUROGROUP FOR ANIMALS / AREAS OF CONCERN 2010

9. ANIMAL WELFARE AND SUSTAINABLE DEVELOPMENT

ANIMAL WELFARE AND SUSTAINABILITY

Sustainable development has been defined as “development that meets the needs of the present without compromising the ability of future generations to meet their own needs” (Brundtland Commission, 1987). The EU’s Sustainable Development Strategy (SDS) was set up in 2001 and designed to address serious threats to sustainable development within Europe and globally. Key threats identified included: climate change; public health; transport and land use; management of natural resources.

In June 2006, a comprehensive, renewed Sustainable Development Strategy for the enlarged EU was adopted. It attempts to set out a single, coherent strategy on how the EU will effectively live up to its long-standing commitment to meet the challenges of sustainable development on a European and global basis. The renewed strategy recognises that win-win opportunities need to be exploited in order to reconcile environmental protection and smart economic growth. Animal protection has been recognised as an opportunity for realising some of the objectives of the EU SDS, such as “continuing to promote high animal health and welfare standards in the EU and internationally” and “to avoid overexploitation of natural resources”, in the field of agriculture “through the new legislative frameworks for organic farming and animal welfare”. In several areas of the EU SDS, common actions can be identified which contribute to both improved animal welfare and sustainable development.

A “key objective” of the EU SDS is “to promote good public health on equal conditions and to improve protection against health threats”. In achieving this objective, several areas present potential win-win opportunities between sustainable development and animal welfare.

- **Reducing health risks of intensive livestock production:**

In intensively managed livestock farms, overcrowded conditions facilitate the rapid transmission of infectious diseases, which are also spread through long distance live animal transport. Some of these diseases have a zoonotic potential, representing a risk for human health as well. High economic loss is associated with their control and eradication. Promoting disease prevention has the potential to improve animal welfare and limit the health risks both to animals and humans as well as make large economic savings.

- **Reducing threats from the trade in exotic animals:**

Factors which lead to the emergence of zoonoses in humans include close contacts with wild animals imported through international trade. The EU is a major importer of wild-caught exotic animals for the pet trade, with very few regulations in place for sanitary control. Researchers have warned that the trade in some species should be prohibited on the basis of the risks they represent for human health. Focusing efforts to reduce, or in some case eliminate the trade in wildlife would provide a cost-effective approach to decrease the risks of disease for humans and animals, as well as the animal welfare problems associated with it, reducing at the same time the economic consequences of epidemics.

- **Limiting the use of antibiotics to avoid the development of antimicrobial resistance:**

Many pathogens responsible for serious human disease have developed resistance to antimicrobials partly due to excessive use of antibiotics in current industrial farming.

- **Promoting good animal welfare as part of food quality:**

The link between food quality and animal welfare has been recognised in the 2003 Common Agricultural Policy reform. Some quality assurance schemes have already included animal welfare among their standards, understanding that better animal welfare also brings better food quality, in addition to better economic return.

- **Promoting high animal welfare standards in international trade:**

many developing countries have extensive land and relatively cheap labour, which are needed among other requirements for good animal husbandry. They can use these advantages in trading their agricultural products, with potential for targeting high-value organic and welfare markets in developed countries.

- **Promoting alternative testing methodologies to reduce the threat from chemicals:**

Under the REACH programme 30,000 chemicals will be tested to ensure that they do not pose a threat to the environment or public health, involving the use of millions of animals. The use of alternative non-animal test methods is more ethical, and delivers better scientific results. Most alternatives also present the competitive advantage of being cheaper and quicker to use.

A second “key objective” of the EU SDS is “to improve management and avoid overexploitation of natural resources, recognising the value of ecosystem services”. Win-win opportunities exist in the following areas:

- **Wildlife trade and halting global biodiversity loss:**

The EU is one of the world’s largest importers of wild animals, this trade being fuelled by the growing demand for exotic pets. As a major wildlife consumer, the EU has a particular responsibility to ensure that the trade does not endanger species. Reducing the volume of traded exotic animals would also reduce the inherent animal welfare problems.

- **Agricultural extensification:**

Well-managed extensive farming can offer a win-win opportunity in avoiding problems of poor animal welfare and pollution from excess manure that characterises intensive systems.

- **Marine environment and the sustainable development of fisheries and aquaculture:**

reducing catches of non-target species will help preserve marine wildlife and ensure the protection of dolphins and porpoises which are frequently caught accidentally in fishing gears. Whaling continues to threaten the survival of small cetaceans. From an animal welfare point of view no humane way of killing whales exists and the only solution is to ban whaling. In the same way, to be a sustainable alternative to depleted wild fish stocks, aquaculture must be conducted in an environmentally and animal welfare friendly way.

A third “key objective” is “to limit climate change and its costs and negative effects to society and the environment”. Policies that support more extensive forms of agriculture present potential win-win opportunities between sustainable development and animal welfare.

A fourth “key objective” is “to promote sustainable consumption and production patterns”. The market for animal welfare friendly, and thus more sustainable, products is growing along with increasing public awareness. This concretely contributes to the key objective of promoting sustainable consumption and production patterns.

Action needed

To help improve animal welfare and sustainability in the areas highlighted above, the following actions are needed at both EU and national level:

- Introducing market-based instruments designed to internalise costs, such as a tax on excess manure production; and reducing tax on livestock products coming from sustainable production systems.
- The use and increase of CAP rural development funding and a requirement that measures to encourage extensive animal farming and high animal welfare standards are included in all Member States’ rural development plans.
- Promoting changes in consumption and production patterns that support a move away from unsustainable animal exploitation.
- Public procurement policies that support delivery of sustainable and animal welfare friendly consumption.
- Private procurement: the adoption by supermarkets, food manufacturers and chain restaurants of a policy – under their Corporate Social Responsibility Strategies - of sourcing products that have been produced sustainably and under good animal welfare standards.
- Legislative frameworks and enforcement mechanisms that encourage livestock production to develop sustainably, profitably and in an animal welfare friendly way.
- A negotiating position in the WTO negotiations which recognises animal welfare as a consumer preference and a non-trade concern allowing governments to support farmers financially for applying high animal welfare standards.
- Including measures of improved animal welfare among the indicators to the EU and national SDS.
- Promoting sustainable livestock production in developing countries as an alternative to industrial livestock production, through development aid and training.
- Ensuring animal welfare is included in bilateral/multilateral trade and veterinary agreements.
- Reducing the import of exotic animals for the pet trade.

CLIMATE CHANGE AND ANIMAL WELFARE

Current situation

There is scientific consensus that human activity is causing a rapid increase in global average temperatures. Of high concern are the greenhouse gases released by anthropogenic sources and consequently, current policy making is focusing on ways to mitigate the human impact on the world's climate.

Since the industrial era, increased human activities have added enormous amounts of greenhouse gases (GHG) to the atmosphere, the main ones being carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O) and ozone (O₃). These come mainly from fossil fuels, the clearing of forests and intensive agricultural activities, with serious implications for the stability of the earth's climate.

Efforts to tackle climate change are putting agriculture and in particular livestock farming in the spotlight. Agriculture is one of the major anthropogenic sources of GHG with an estimated 18% of greenhouse gas emissions stemming from this sector, exceeding by 4% the emissions produced by transport¹¹⁶. Meat and dairy production account for 13.5% of total GHG emissions in the EU25¹¹⁷. Livestock production systems – including the area used for feed production - occupy 45% of the world surface.

Livestock farming is indirectly responsible for the increase of CO₂ concentrations in the atmosphere as large forest areas in several parts of the world have been cut down to grow feed crops. Forests play an essential role in absorbing carbon dioxide.

One third of the world's total arable land is dedicated to animal feed-crop production; over 90% of the world's soya beans and 60% of maize and barley are grown for livestock feed. The constantly increasing demand for feed not only contributes to deforestation but is also one of the main reasons for the desertification of large areas of land worldwide.

The agricultural sector is also the source of 41% of methane emissions from human activity. These arise mainly from the digestive process of ruminants like cattle, sheep and goats. Estimates vary but a single cow produces between 500 and 1000 litres of methane a day for 25 litres of milk¹¹⁸. A significant amount of methane also comes from the decomposition of livestock manure and slurry.

¹¹⁶/FAO livestock's long shadow Steinfeld, H.; P. Gerber, T. Wassenaar, V. Castel, M. Rosales, C. de Haan (2006). Livestock's long shadow. <http://www.fao.org/docrep/010/a0701e/a0701e00.HTM>.

¹¹⁷/EIPRO (2006). European Commission. *Environmental impact of products* (EIPRO). Analysis of the life cycle environmental impacts related to the final consumption of the EU-25. http://ec.europa.eu/environment/ipp/pdf/eipro_report.pdf

¹¹⁸/UN Food and Agriculture Organisation homepage www.fao.org

Emissions of Nitrous oxide come from manure and slurry as well as from the use of nitrogen fertiliser to grow feed crops for animals. Livestock farming is responsible for 65% of nitrous oxide emissions. As the amount of meat and dairy produce consumed globally is set to double by 2050, livestock farming, as it is carried out presently, will have very strong detrimental effects on the balance of greenhouse gas concentrations in the atmosphere.

Animal welfare concerns

The conventional livestock industry focuses on maximum productivity at the lowest costs. This not only impacts on the environment and on climate change due to massive production of manure and slurry; it is also harmful for the animals' welfare. In industrial facilities animals are kept at high stocking densities and in barren environments which threaten their welfare by hampering movement and normal behaviour. Billions of meat chickens are kept in ammonia-saturated sheds, pigs are confined in crowded slatted floor pens with no litter, and dairy cows, the greatest producers of methane among the farm animals, are bred to produce yet more milk. In these conditions the animals' physiological needs are not respected and this negatively affects their health and welfare.

Moreover, the long distance transport of animals for slaughter or further fattening caused by the concentration and specialisation of the industry in precise geographical areas both impacts the animals' welfare and contributes to increased emissions of the transport sector.

Mitigation measures

Switching to more sustainable systems of livestock production can significantly contribute to climate change mitigation. Several measures represent concrete win-win opportunities for the improvement of animal welfare, the conservation of biodiversity and the protection of the environment.

Extensive grazing systems can enhance the storage of CO₂ from the atmosphere, via improved grassland management and adapted stocking densities¹¹⁹. A reduction of stocking densities will also reduce the total amount of methane and nitrous oxide emitted by livestock in a given area. Conversion of arable land into pasture would also allow reducing nitrous oxide emissions, supporting land-based livestock production systems.

Developed countries have a situation of unsustainably high production and consumption of animal products. Meat-based diets require 10-20 times as much land as plant-based diets. A planned and well-managed reduction in the production and consumption of meat, dairy products and eggs would be an effective step in order to reduce greenhouse gas emissions. There is a need to raise awareness about the influence of livestock farming on climate change in all Member States to change consumer behaviour. In this context consumers should be informed about the global warming potential of meat, dairy and egg products which derive from intensive livestock farming and should be encouraged to buy less but higher animal welfare friendly products from more sustainable systems.

Public Procurement Policies should also promote more sustainable consumption. A meat-free day, for example could be introduced once a week. Such an initiative has already been introduced by the commune of Gent in Belgium.

Producing high quality products under animal welfare friendly conditions which could get a price premium and this might compensate the potential loss of revenue linked to a reduction of quantities produced and consumed.

To feed locally produced fodder instead of imported feed would reduce international transport and would contribute significantly to habitat conservation in other parts of the globe where the production of feed crops is destroying the forest and highly diverse ecosystems.

¹¹⁹<http://www.ifpri.org/publication/mitigating-greenhouse-gas-emissions-livestock-systems>

EU policy

The European Union has acknowledged the serious implications of climate change and is committed to working constructively on concrete mitigation measures¹²⁰.

As party to the Kyoto Protocol¹²¹, the EU is committed to implement and work out policies and measures which promote sustainable agriculture in line with national circumstances.

Support to mitigation measures under the Common Agricultural Policy

In its "Health Check" of the Common Agricultural Policy (CAP)¹²², the European Commission has underpinned climate change as a crucial new challenge for European agriculture.

Article 68 of Council Regulation (EC) 73/2009 on direct support schemes under the CAP foresees that Member States may grant specific support to farmers who are applying inter alia mitigation measures against climate change and higher animal welfare standards than the legal ones.

Mitigation and adaptation measures to fight climate change have also been introduced in the EU's rural development Regulation¹²³. Since 1 January 2010, the rural development programmes of the Member States shall include operations that will help to mitigate and adapt to climate change. For this, Annex II of Council Regulation (EC) No 74/2009 provides an indicative list with types of operations and concrete measures, among which conversion of arable land to pasture or extensification of livestock.

Introduction of agriculture in the EU Emissions Trading System

Currently, agriculture is not part of the EU's Emissions Trading System, and Member States are free to decide whether or not to include it into their emissions reduction efforts. This should be changed given the high impact of the agricultural sector on global warming.

Action needed

- Greenhouse gas emissions from livestock systems can be reduced significantly through better management, new technologies, policies and the provision of adequate incentives for their implementation.
- Changing the demand of animal-based products to less and more sustainable products through awareness rising would lead to reduced greenhouse gas emissions, improved farm animal welfare and reduced pressure on natural habitats.
- Many mitigation measures represent a win-win opportunity for animal welfare and contribute to a more sustainable development. Before putting innovative mitigation measures into practice, their impact on animal welfare must be carefully assessed, as required by article 13 of the Lisbon Treaty.

¹²⁰/White paper - Adapting to climate change : towards a European framework for action {SEC(2009) 386} {SEC(2009) 387} {SEC(2009) 388}/* COM/2009/0147 final */

¹²¹/Council Decision 2002/358/EC of 25 April 2002 concerning the approval, on behalf of the European Community, of the Kyoto Protocol to the United Nations Framework convention on Climate change and the joint fulfilment of commitments there under (OJ L 130, 15.5.2002,

¹²²/Communication on Preparing for the "Health Check" of the CAP reform, COM(2007) 722 final

¹²³/Council Regulation (EC) No 74/2009 of 19 January 2009 amending Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)

SUSTAINABLE CONSUMPTION AND PRODUCTION & GREEN PUBLIC PROCUREMENT

Current situation

The production and consumption patterns of modern society significantly exceed the carrying capacity of the planet, which causes major environmental, societal and animal welfare problems. These pressures continue to increase as the world population continues to grow. Therefore one of the major challenges of our time has become finding more sustainable ways of managing consumption and production.

In a bid to halt the destructive trends of production and consumption the European Union has introduced a Sustainable Development Strategy as well as a range of specific policies which will contribute to improving the environmental and animal welfare related performance of products and increasing the demand for more sustainable goods.

Animal welfare is an integral part of sustainable development. It provides a practical vehicle for realising many of the strategy's objectives as it is as an established, well developed and science based discipline. In addition it is supported by a mature market for welfare friendly goods, and by the public and private sector alike.

Green Public Procurement

Animal welfare concerns also have a significant role to play in Green Public Procurement. Public authorities such as civic administrations, municipalities, schools, hospitals and the armed forces spend 16% of the EU GDP on the purchase of goods and services. As such they are important players in the food market, purchasing a substantial amount of meat, eggs and dairy products. High standards for animal welfare in public procurement policies can have a significant impact on the way primary producers treat and house their livestock.

Many EU member states have already established national guidelines on Green Public Procurement¹²⁴ or have adopted national action plans as recommended by the European Commission. For example, the United Kingdom has launched a *Food Procurement Action Plan*¹²⁵ in which it sets clear goals for food and catering services to help deliver the aims of other government strategies such as the ones for food and farming and on health and obesity.

Concerning the use of cleaning products public authorities can have a major impact by purchasing where possible products that have not been tested on animals. The market offers a steadily growing selection of such products as a result of increased consumer demand.

¹²⁴http://ec.europa.eu/environment/gpp/pdf/national_gpp_strategies_en.pdf

¹²⁵<http://www.defra.gov.uk/farm/policy/sustain/procurement/pdf/unlocking-opps.pdf>

Relevant EU actions and proposals

EU member states adopted in 2006 a target for Green Public Procurement (GPP) under the renewed *Sustainable Development Strategy (EU SDS)* of 2006¹²⁶, stating that by 2010 the average level of GPP should be the same as in the best performing EU countries at the time. Since then the Commission has fixed a baseline and requests that by 2010, 50% of all tendering procedures should be green.

The European Commission presented on 16 July 2008 a package of proposals on sustainable consumption and production¹²⁷ which are intended to improve the environmental performance of products and stimulate the demand for more sustainable goods and production technologies.

This set of proposals addresses animal welfare concerns in the context of Green Public Procurement, through a *Communication on Public Procurement for the Environment*, a related *Working Document* and an *Impact Assessment on GPP*¹²⁸. Its chief goal is to reduce the environmental impact of public expenditure and stimulate eco-innovation. It will also ensure an EU-wide harmonisation and thus consistently increase the quality and quantity of Green Public Procurement in all member states.

The communication establishes a set of requirements which are graded as “core” and “comprehensive” criteria.

The **core GPP criteria** are formulated as minimum specifications that all bidders have to comply with in their tenders. They are designed to allow easy application of Green Public Procurement. Monitoring will take into account compliance with core criteria.

The **comprehensive GPP criteria** consider more aspects or higher levels of environmental performance, for use by authorities that go further in supporting environmental and animal welfare related innovation goals.

The criteria are set for products and service groups in 10 priority sectors. Two of them are relevant to animal welfare: food and catering services, and cleaning products and services.

Food and catering services

For food and catering, the core GPP criteria require that a certain percentage of a defined product group such as dairy, meat, vegetables or a list of specific products must be organically produced according to Regulation (EC) 834/2007 on organic production and labelling of such produce. Proof must be supplied by the bidders that the food has been certified as organically produced. The contracting authority will verify compliance on the basis of award criteria during the contract period and appropriate penalties will be applied for non-compliance.

Comprehensive GPP criteria for food and catering services address a broader range of requirements including higher animal welfare standards, integrated production processes, and the absence of GMOs. Suppliers are required to give evidence that they meet the relevant national voluntary standards for higher animal welfare.

Cleaning products and services

So far the GPP criteria for cleaning products do not require the use of animal test free detergents. However, bidders have to prove that their products meet the EU biodegradability standards.

126/Review of the EU Sustainable Development Strategy, Council of the European Union, 10117/06

127/http://ec.europa.eu/environment/eussd/escp_en.htm

128/SEC(2008) 2124, SEC(2008) 2125 SEC(2008) 2126

Action needed

- Priority should be given to local produce, which would avoid long distance transport.
- Public catering should offer a selection of vegetarian options, which is more sustainable.
- Public catering, which applies comprehensive GPP criteria, should use a voluntary public single-issue label scheme which makes clear “*we contribute to healthier and happier animals*”. This promotion tool should be easily visible to consumers.
- A fixed percentage of animal test free detergents and toiletries should be purchased with a commitment to steadily increase the share.
- Animal products should only be purchased if they have been produced according to EU rules. This applies also for imported animal products from third countries.
- Comprehensive information on animal welfare should be provided in the Commission’s training toolkit for purchasers.

EUROGROUP FOR ANIMALS / AREAS OF CONCERN 2010

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