



The Benefits of Addressing Animal Welfare in Trade Policy

Eurogroup for Animals' contribution to the consultation on the Trade Policy Review

Introduction

The COVID-19 crisis has painfully put the spotlight on the detrimental impact of economic and trade policies that prioritise profits above all¹. Now is our chance to profoundly rethink EU trade policy. Eurogroup for Animals believes the EU has the tools to develop – and implement – a trade policy fit for the 21st century, adapted to face all the challenges of our times, such as the spread of zoonoses, climate change and antimicrobial resistance. As animal welfare is closely linked to these challenges, part of the solution is to better address the impact of EU trade policy on animal welfare, as one dimension of sustainable development.

The EU's previous Trade Strategy, "Trade for All" was published in 2015 and did not address animal welfare. However, since then, the context has changed and the EU has made concrete progress in addressing animal welfare in trade policy. In 2018, the modernised EU-Mexico Global Agreement included the first standalone chapter on animal welfare and antimicrobial resistance, with a reference to animal sentience, a commitment to better implement OIE standards and an overarching goal to enhance the protection and the welfare of animals. Also, the EU has recognised, for the first time in trade policy, the link between animal welfare and sustainability of food production systems.

In 2017, the Commission included a first reference to animal welfare in its reflection paper on "harnessing globalisation". However, the text only called on trade policy to be used to enhance global governance on issues like, among others, animal welfare. It did not tackle the positive potential of animal welfare cooperation through trade agreements, nor the negative impact of unconditional liberalisation on animal welfare. In reaction to the Commission's communication, the European Parliament acknowledged this progress and called on the Commission *"to expressly include animal welfare in its next trade policy strategy (...); to ensure trade preferences are conditional upon compliance with EU animal welfare standards, guaranteeing a more level playing field and respecting the wishes of most EU citizens;"* and *"to recognise the important role higher animal welfare standards can play in achieving several SDGs, notably on health in connection with antimicrobial resistance, and on climate change"*².

¹ IPBES - <https://ipbes.net/covid19stimulus> - "As with the climate and biodiversity crises, recent pandemics are a direct consequence of human activity – particularly our global financial and economic systems, based on a limited paradigm that prizes economic growth at any cost."

² https://www.europarl.europa.eu/doceo/document/TA-8-2018-0439_EN.html

With the publication of the “Farm to Fork” and “Biodiversity” strategies, both under the EU Green Deal, it is high time to acknowledge the important role of EU trade policy in the future success of this ambitious programme. The Trade Policy Review is thus welcome, as it provides the EU with the opportunity to upgrade its trade strategy, taking into account all the recent developments that are relevant. This review should be used to design, for the first time, a clear strategic thinking on how the EU aims to address animal welfare in trade policy.

Trade policy should not undermine the Commission’s goal to deliver on the UN SDGs, rather it should fully contribute to it. As most UN SDGs will remain out of reach if animal welfare is not improved, trade policy could, by contributing to the promotion of higher animal welfare standards, help deliver on this key objective of the European Commission.

Question 1: How can trade policy help to improve the EU’s resilience and build a model of open strategic autonomy?

The Commission defines the concept of “Open Strategic Autonomy”—as “reaping the benefits of openness for our businesses, workers and consumers, while protecting them from unfair practices and building up our resilience to be better equipped for future challenges.” One of the ways EU trade policy could help build up the EU’s resilience is by better addressing animal welfare, as this would contribute to lessen the risks of future pandemics, and help fight the rise of antimicrobial resistance and the climate crisis.

Why would better addressing animal welfare in trade policy to build resilience?

At this moment, EU trade policy is blind to the production model it fosters and to the nature of the economic sectors it stimulates. Global markets and further trade liberalisation tend to favour bigger companies that can stand and win the competition and has led, in the dairy and meat sector, to increased integration and intensification³. Trade agreements, by contributing to such unconditional trade liberalisation, play a role in this. The Sustainability Impact Assessments (SIAs) recently drafted on EU-New Zealand and EU-Mercosur negotiations confirm this link between increased trade and intensification of animal production, concluding that, in both cases, any FTA scenario will lead to the further intensification of the ruminant meat sector⁴.

In addition to being intrinsically detrimental to animal welfare, the intensification of animal agriculture fostered by unconditional trade liberalisation has also fuelled three key challenges the planet is facing: zoonoses, antimicrobial resistance and the climate crisis.

Zoonoses

Many viruses can be transmitted between animals and from animals to humans; indeed, over 60% of all human infectious diseases recognised so far are zoonoses (diseases that can spread from animals to humans), and about 75% of emerging infectious diseases that have affected people over the past

³ Clay, N., Garnett, T. & Lorimer, J. Dairy intensification: Drivers, impacts and alternatives. *Ambio* 49, 35–48 (2020) & <https://feedbackglobal.org/its-big-livestock-versus-the-planet-whos-side-are-we-on/>

⁴ European Commission, Trade Sustainability Impact Assessment in support of FTA negotiations between the European Union and New Zealand, Draft Final Report, December 2019 & LSE, SIA in support of the association agreement negotiations between the European Union and Mercosur, Draft Final Report, July 2020, p.188

three decades originated from animals⁵. In fact, scientists have probably identified only a fraction of the viruses that have co-evolved in a variety of wild animals, and a wide diversity of viruses are still to be identified in wildlife⁶. A recent paper concludes an estimated 1.6 million viral species are yet to be discovered in mammal and bird populations; of those, an estimated 650,000 to 840,000 have the capacity to infect and cause disease in humans⁷. However, wild animals have carried viruses and bacteria for millennia. What has changed is the way humans interact with them, due to urbanisation, destruction of wildlife's natural habitats, and the growing legal and illegal wildlife trade.

While research is not conclusive about the source of the SARS-COV-2, the virus that causes COVID-19, it is widely believed to have been transmitted from wildlife to humans as a consequence of the proximity and variety of species sold in a Chinese wildlife market. However, the disease could just as easily have originated here. The EU is a major destination for exotic pets, including primates, reptiles, and amphibians, which are legally and illegally traded and transported to be sold and kept in EU homes, in most cases with few or no sanitary controls. Not only is this a threat to human health, it also threatens biodiversity, as is recognized in the European Invasive Alien Species Strategy. In 2018, the reported value of illegal wildlife trade in the EU was at least EUR 2.3 million⁸. Illegally smuggled animals are likely to have been transported in close confinement in unsanitary conditions and so also present a very clear risk of zoonosis infection.

Zoonoses are favoured not only by the increasing trade in wild animals, but also by the spread of intensive animal farming. Changes in land and sea use and loss of habitat for agricultural purposes, especially for the intensification of animal farming, cause more frequent and closer interactions between animals both farmed and wild, humans, and ecosystems. This pressure on biodiversity has been recognised as a major cause of the spread of zoonoses. These species and habitats not only have an intrinsic right to be protected, but should in fact be much better protected, since together they also aid human health by providing vital ecosystem services such as clean air and water, and protection against erosion and drought.

But the next – and potentially even worse – pandemic could also easily emerge from what is now the norm in food production in most developed parts of the world: intensive farming. Farmed animals kept by the billions (trillions, if we consider fish in aquaculture) are reservoirs and pathways for diseases that can be dangerous, if not devastating, for humans and wild animals. A recent study found that “since 1940, agricultural drivers were associated with >25% of all – and >50% of zoonotic – infectious diseases that emerged in humans, proportions that will likely increase as agriculture expands and intensifies”.⁹ In 2009, the world faced another pandemic which emerged from farm animals, the H1N1 swine flu. Back then, the US Center for Disease Control and Prevention (CDC) reported that it had killed between 151,00 and 575,000 people worldwide, 80% of which were under 65 year old¹⁰. Scientists are also warning that certain coronaviruses circulating among pigs could, in the future, be transmitted to people.¹¹ It is often argued by the poultry sector that avian influenza is mainly spread by wild birds. However, the viruses carried by these birds are usually of low

⁵ Taylor LH, Latham SM, Woolhouse ME. [Risk factors for human disease emergence](#). Philos Trans R Soc Lond B Biol Sci. 2001;356(1411):983-989

⁶ Taylor LH, Latham SM, Woolhouse ME. [Risk factors for human disease emergence](#). Philos Trans R Soc Lond B Biol Sci. 2001;356(1411):983-989

⁷ <https://science.sciencemag.org/content/359/6378/872>

⁸ <https://www.traffic.org/site/assets/files/12745/eu-seizures-report-2020-final-web.pdf>

⁹ <https://www.nature.com/articles/s41893-019-0293-3#Ack1>

¹⁰ <https://www.cdc.gov/flu/pandemic-resources/2009-h1n1-pandemic.html>

¹¹ http://english.cas.cn/newsroom/archive/news_archive/nu2018/201804/t20180409_191518.shtml

pathogenicity¹² and it is only when it reaches overcrowded sheds that such harmless viruses can evolve into a more dangerous form of avian influenza^{13 14}.

Antimicrobial Resistance

According to the World Health Organisation (WHO), antimicrobial resistance is “*one of the biggest threats to global health, food security, and development today*”. The economic costs of not mitigating AMR are immense as it will lead to the proliferation of diseases in the long-term, which might have been preventable. AMR is said to be responsible for an estimated 33,000 deaths per year in the EU¹⁵, and around 700,000 worldwide. An AMR review commissioned by the UK Government in 2016 even forecasts ten million deaths per year in 2050.¹⁶ Subsequently, the economic impact is also high. The EU considers AMR costs roughly 1.5 billion EUR per year to the EU, in healthcare costs and productivity costs¹⁷.

In September 2016, the United Nations General Assembly admitted that overuse of antimicrobials in livestock production, which are then released into soils and waterways, is the primary cause of the surge in antimicrobial resistance¹⁸. This phenomenon is mainly linked to the intensive farming systems, in which antimicrobial products are routinely and increasingly used to counterbalance poor animal welfare practices. Indeed, in their Global Action on AMR, the FAO, the WHO and the World Animal Health Organisation (OIE) indicated animal welfare as an objective to limit the emergence of antimicrobial resistance¹⁹. In 2017 the European Food Safety Authority (EFSA) and the European Medicine Agency (EMA) echoed this position²⁰, stating that “measures must be implemented that improve animal health and welfare and thereby reduce the need for antimicrobials in the first place”.

The European Commission also recognizes this link in its ‘One Health’ Action Plan against AMR, which also underlines the importance of considering these issues when negotiating trade agreements: “*as one of the largest markets for agricultural products, the EU can play a major role in promoting its AMR-related standards, measures in food production, and standards on animal welfare*”. The recent conclusions published by the Council of the EU on animal welfare²¹ also emphasised that “*good animal welfare in general improves animal health and reduces the need to use antibiotics, and consequently reduces antimicrobial resistance*”.

Climate Crises

¹² <http://www.fao.org/avianflu/en/wildlife/index.html>

¹³

https://www.cms.int/sites/default/files/Scientific%20Task%20Force%20on%20Avian%20Influenza%20and%20Wild%20Birds%20H5N8%20HPAI_December%202016_FINAL.pdf

¹⁴ Nickbakhsh, S. et al., 2016, Modelling the impact of co-circulating low pathogenic avian influenza viruses on epidemics of highly pathogenic avian influenza in poultry, *Epidemics*, 17:27-34

¹⁵ DG SANTE website on Antimicrobial resistance - https://ec.europa.eu/health/amr/antimicrobial-resistance_en.

¹⁶ https://amr-review.org/sites/default/files/160525_Final%20paper_with%20cover.pdf

¹⁷ DG SANTE website on Antimicrobial resistance - https://ec.europa.eu/health/amr/antimicrobial-resistance_en.

¹⁸ <https://www.cddep.org/wp-content/uploads/2017/10/science.0929PolicyForum-1.pdf>

¹⁹ <https://www.oie.int/en/for-the-media/amr/international-collaboration/>

²⁰ EMA (European Medicines Agency) and EFSA (European Food Safety Authority), 2017. EMA and EFSA Joint Scientific Opinion on measures to reduce the need to use antimicrobial agents in animal husbandry in the European Union, and the resulting impacts on food safety (RONAFA). [EMA/CVMP/570771/2015]. *EFSA Journal* 2017;15(1):4666, 245 pp. doi 10.2903/j.efsa.2017.4666. [\[Online\]](#).

²¹ Council of the European Union, “Council conclusions on animal welfare - an integral part of sustainable animal production”, 16 December 2019.

The livestock supply chain accounts for 14.5% of global greenhouse gas (GHG) emissions. There is an issue of quantity, but the way we raise animals also matters. According to the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) , *“approximately 25% of the globe’s GHG emissions come from land clearing, crop production and fertilization, with animal-based food contributing 75% of that. Intensive agriculture has increased food production at the cost of regulating and non-material contributions from nature”*. In addition to potentially allowing for higher animal welfare standards, grass-based and mixed-farm systems, less dependent on additional feed, also have better capacities for carbon sequestration²².

Considering all this, it is important to ensure that EU trade policy does not foster the spread of intensive farming in other countries, but also, as this type of systems are common in the EU, that trade policy does not impede the EU’s journey towards a more sustainable animal agriculture. This transition is at the heart of the EU’s “Farm to Fork” Strategy, which contains strong wording on trade policy, calling on the EU to use such policy not only to enhance cooperation, but also to obtain commitments from third partners on animal welfare²³. The EU Biodiversity Strategy also recognises the need to better assess the impact of trade agreements on biodiversity, “with follow-up action to strengthen the biodiversity provisions of existing and new agreements if relevant”²⁴.

How can the EU do better?

Conditional Liberalisation

According to a study carried out by DG SANTE on the EU’s international activities on animal welfare, the EU’s most effective tool to promote animal welfare abroad has been the EU regulation on welfare at the time of killing, which applies to imported products. Foreign producers were surveyed and most considered they gain more from accessing the EU market than the cost of upgrading their animal welfare standards²⁵. The optimal solution to ensure a level playing field for EU producers - and thus make sure our standards can still improve as much as needed - would be to apply all EU animal welfare standards to imported products.

As long as our standards are not all applied to imported products, it is important to not favour the entry into the EU market of more imports produced under lower animal welfare standards. This can be done by applying conditional liberalisation, which means by only granting trade preferences to products respecting animal welfare standards that are applied in the EU in relevant sectors. The draft EU-Mercosur agreement contains the first conditional trade preference based on animal welfare standards for shell eggs. However, this approach should be extended to other animal based products. In the midst of the EU-Mercosur negotiations, 12 EU Member States (Austria, Belgium, France, Greece, Hungary, Ireland, Latvia, Luxembourg, Poland, Romania, Slovakia and Slovenia) called on the European Commission to impose non-tariff conditions – such as the respect of animal welfare standards, as well as SPS and environmental standards – on trade with Mercosur in sensitive products like beef and

²² Canu & Forabosco (UNEP DTU 2018), [Greenhouse gas emissions of livestock raised in a harsh environment](#), International Journal of Global Warming, 2018 Vol.15 No.4, pp.431 - 446

²³ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52020DC0381>

²⁴ <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1590574123338&uri=CELEX%3A52020DC0380>

²⁵ <https://op.europa.eu/en/publication-detail/-/publication/dc039353-ca9c-11e7-8e69-01aa75ed71a1>

chicken²⁶. Unfortunately, this call from Member States was not reflected in the text as it stands. Yet, with Commissioner Hogan indicating that conditional liberalisation is the direction of travel when it comes to animal welfare in trade policy²⁷, the new EU trade strategy represents the perfect opportunity to add this mechanism to our official toolbox.

Conditional liberation based on animal welfare standards is in line with the most recent Eurobarometer study on animal welfare²⁸ which showed that over 90% of Europeans want such a requirement. This is also what requested Member of the European Parliament in their resolution commenting on the latest Communication published by the Commission on Trade Policy, “Harnessing Globalisation”²⁹, where they called for the Commission “*to ensure trade preferences are conditional upon compliance with EU animal welfare standards, guaranteeing a more level playing field and respecting the wishes of most EU citizens;*”

Such mechanisms would be agreed bilaterally and would thus raise no concern at WTO level. Yet, it needs to be reminded that trade restrictions based on concerns related to animal welfare could be justified using the exception regarding public morals contained in the General Agreement on Tariffs and Trade, Article XX (a). This was confirmed by the WTO Dispute Settlement Body in the EC - Seal Products case.³⁰

A stronger standalone chapter

Animal welfare is a cross-cutting concern that impacts a number of types of trade and trade-related issues. For this reason, it is unlikely to be comprehensively tackled if dealt with by just one of the existing chapters in EU FTAs, as it is done at the moment. It would be beneficial to group all of these considerations together in a separate chapter that would recognise that all animals are sentient beings and cover all issues related to animal welfare and trade comprehensively: farm animals, animals used in research, fish welfare and wildlife.

Eurogroup for Animals published model animal welfare provisions for FTAs in October 2017.³¹ These provisions aimed to ensure enhanced trade does not lead to the weakening of animal welfare standards in the EU (right to regulate) and to provide a framework for dialogue and cooperation to improve animal welfare standards on the ground, especially in developing countries (cooperation and technical assistance).

To ensure the right to regulate, the agreement should clarify that trade should not result in a downward spiral or chilling effect of animal welfare regulations. A provision stating that countries would not challenge at the WTO any trade restriction based on animal welfare concerns could be

²⁶ Eurogroup for Animals, News, [12 Member States write to defend Animal Welfare Standards in beef imports](#), 2 October 2017.

²⁷ <https://webcast.ec.europa.eu/dg-trade-civil-society-dialogue-with-commissioner-hogan-18-02-20>

²⁸ <https://www.eurogroupforanimals.org/eurobarometer>

²⁹

https://ec.europa.eu/commission/presscorner/api/files/attachment/494079/Reflection_Paper_Globalisation_EN.pdf.pdf

³⁰ Offor & Walter, *GATT Article XX(a) Permits Otherwise Trade-Restrictive Animal Welfare Measures*, Global Trade and Customs Journal, Volume 12, Issue 4, 2017

³¹ Eurogroup for Animals, [Model Animal Welfare Provision for EU Trade Agreements](#), October 2017

useful for that purpose. A reminder of the EC - Seal case law could also be included in “Trade in Goods” chapters.

Cooperation is the primary means through which the EU can assist third countries to improve their animal welfare standards. However, these provisions have, so far, not delivered much tangible results (see Question 4). It is important to improve their language to make them more ambitious. As of today, there is only one draft FTA - the modernised EU-Mexico Global Agreement - in which animal welfare cooperation aims explicitly at enhancing the protection and welfare of animals. In other agreements - apart from DCFTAs with Eastern Countries where better opening of the market was linked with approximation of the EU acquis, notably on animal welfare - animal welfare provisions aim at exchanging views and cooperating. These should be seen as tools, rather than objectives. The EU should always strive to include the general objective of improving animal welfare in its trade agreements, but also a more specific one of upward regulatory alignment with EU rules, or at least the implementation of OIE standards in the case of developing countries. The provisions should always include the mandatory creation of an animal welfare working group between the Parties, and the definition of a working plan.

Including all of these provisions as a standalone chapter on animal welfare in an FTA would underline the importance of the topic for the European Union, similarly to Small and Medium Enterprises (SMEs) or Gender-related issues. It would also give them the best chance of achieving substantial gains for animal welfare. Agreeing on a standalone animal welfare chapter may not be achievable in negotiations with each and every trading partner. However, the EU should at least improve the substance of the provisions in all relevant existing chapters. The most relevant chapters in this respect would be those on regulatory cooperation, sustainable development and SPS.

The link with Sustainable Development

The TSD chapters in EU FTAs should contain a recognition of the link between sustainable development and animal welfare. While protecting animal welfare is essential to sustainable development in its own right (and is recognised as a dimension of a sustainable agriculture),³² it is also complementary to a number of other aspects of sustainable development. Among the UN SDGs, several are either directly connected to animals or cannot be achieved without addressing animal welfare related issues.³³ The challenges we are facing will require compromised solutions and it is important to clarify that animal welfare cannot be traded off, to the contrary. (see more in Question 8)

The EU should also include provisions on sustainable agriculture in its TSD Chapters, mirroring what exists for sustainable aquaculture. These provisions should make clear animal welfare is a dimension of sustainable agriculture. Intensive industrial farming has a very negative impact on the environment (on air, water and ground pollution), on biodiversity (as related land-use changes lead to a loss of habitat), on antimicrobial resistance and on climate change (both as animals emit greenhouse gases and because of the related deforestation), on livelihoods and wildlife conservation. This type of

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

³³ Eurogroup for Animals, [Animal Welfare, Trade and Sustainable Development Goals](#), October 2019 & Linda Keeling et al, [“Animal Welfare and the United Nations Sustainable Development Goals”](#), *Frontiers in Veterinary Science*, 6:336, October 2019

farming is also detrimental to animal welfare as it implies a confinement of the animals that intrinsically negates the possibility to respect their welfare, cramming them into tiny and barren spaces where they cannot express natural behaviour, and where they are more vulnerable to diseases.

The TSD chapters should include more proactive and detailed language on wildlife conservation and fighting illegal wildlife trafficking. The EU must build up on the stronger language included in the modernised EU-Mexico Global Agreement, notably on promoting the inclusion of new species in CITES and fighting the spread of invasive alien species. The EU should also consider species-specific commitments and strong provisions on deforestation – a clear driver of biodiversity loss.

This language should also cover trade in wild animals, and species that are not yet protected under CITES. The EU is an important destination for the exotic pet trade, which has a detrimental impact on the welfare of animals and on biodiversity, but also on public health as it may play a role in the spreading of zoonoses. Regulating better this trade will be important in ensuring the resilience of the EU. The EU could thus introduce with its trade partners the notion of a ‘positive list’ for the trade in exotic pets. Although CITES is a powerful tool to reduce or even ban the international trade of threatened species, there are several criminal ways to circumvent it – export quotas may be systematically exceeded or inappropriately set. A lack of knowledge and expertise on certain species, especially reptiles, also contributes to an increase in the trade of more endangered species. In addition, many species that deserve to be protected under CITES are not, and even if they are protected under local law, their trade in the EU would be deemed legal. Adopting a ‘positive list’ approach (listing the species that can be traded, rather than those that cannot) would ensure the trade in animals that are exotic to Europeans is not stimulated, and that only the animals that are considered as domestic in both the EU and the third country are traded. This approach would also facilitate enforcement by customs authorities and constitutes a more precautionary procedure adopted towards species about which not much is known at the moment.

Despite clear violations of commitments made on labour and environmental standards occurring in certain partner countries, the enforcement mechanism contained in the TSD chapters has only been triggered for the first time in July 2019, with South Korea.³⁴ Eurogroup for Animals believes TSD chapters should include stronger enforcement mechanisms with last-resort sanctions, accompanied by a complaint mechanism open to stakeholders other than the Parties and by detailed road maps of issues that must be addressed by the countries. The EU should also improve its monitoring systems on issues related to animal welfare and biodiversity, by designing better benchmarks and indicators.

The European Commission affirms in its plan to reform TSD chapters that sanctions in trade agreements “would not guarantee that [they] will result in effective, sustainable and lasting improvement of key social and environmental standards”. In addition, government and EU officials often consider that while trade can contribute to promoting our values, it cannot solve all the problems in the world. Most NGOs, including Eurogroup for Animals, do agree with this statement. However, trade has an impact on animals, the environment and labour conditions, and it should not aggravate existing situations by increasing animal suffering, illegal wildlife trafficking or biodiversity losses.

³⁴ <https://trade.ec.europa.eu/doclib/press/index.cfm?id=2044>

Regarding the use of sanctions, while one can agree that nothing can guarantee changes in a sovereign country, it would be wrong to imply that the threat of sanctions never leads to lasting results. Taking the example of the EU regulation on illegal, unreported and unregulated (IUU) fishing, the EU has shown it can adopt a stronger approach to preserve the environment. This regulation, enacted in 2008, set up what is commonly called the ‘carding system’ whereby the EU can warn a country that its fisheries does not respect the established criteria (or grant the country a ‘yellow card’) and even list that country as uncooperative (or grant him a ‘red card’), which automatically implies its fishery imports will be banned from the EU market. Once a country is warned, a proper dialogue between the EU and the partner starts. This is often the occasion for the EU to provide intense capacity-building assistance. In most cases, the ‘yellow card’ does not lead to a ‘red one’ as the partner country improves the situation in the fishing industry to prevent a ban on its import. The lessons learned from almost a decade of using that procedure show it can achieve concrete results, and this by using both a carrot (technical assistance from the EU) and a stick (potential ban on imports). The recent case of Thailand has even shown that the EU was ready to include the question of slavery aboard and labour rights in its assessment of the sustainability of the Thai fishing and processing industry.

The debate around the enforceability of the TSD provisions has been ongoing since the conclusion of CETA, where an additional Joint Instrument promised a review of these chapters “with a view to the effective enforceability of CETA provisions on trade and labour and trade and the environment”³⁵. Since then, the European Parliament has also strongly called for improved enforceability of TSD provisions, but no concrete progress has been made, even in the context of CETA. The debate around the EU-Mercosur agreement, which follows the usual structure of EU TSD chapters, has reignited the discussions on the weaknesses of such provisions. The non-paper published by the Dutch and French governments take up a number of proposals, such as tariffs connected to the respect of sustainability criteria, and should constitute a basis for a renewed discussion among member states on the matter.

In 1995, the EU fought for the objective of sustainable development to be included in the preamble of the WTO agreement. Today it needs to prove that sustainable development is still its main objective, and that trade is a means through which to achieve it, rather than an objective in itself.

Question 3: How should the multilateral trade framework (WTO) be strengthened to ensure stability, predictability and a rules-based environment for fair and sustainable trade and investment?

The WTO has been the subject of intense scrutiny throughout its lifespan and it has often been criticised, in particular for mission-creep. The question of potential contradictions between WTO rules and progressive measures in favour of the animals, the environment and the people has often been raised as a source of concerns, especially as the world faces pressing crises that generate policy dilemmas. At the moment, the Appellate Body blockage concentrates all attentions, but it is only the tip of the iceberg. Another key issue is the trust that citizens have in this organisation. In this increasingly globalised and interconnected world where the social and environmental impact of trade is increasingly understood, it is essential for the EU to advocate strongly for the protection of so-called “non-trade issues”, among which animal welfare.

³⁵ <http://data.consilium.europa.eu/doc/document/ST-13541-2016-INIT/en/pdf>

The Preamble to the Marrakesh Agreement establishing the WTO includes direct references to the objective of sustainable development, which is thus key in international trade. The initial reflection paper on the modernisation of the WTO drafted by the European Commission included a paragraph on Sustainable Development Goals (SDGs) which indicated that the EU would strive to “identify ways in which trade policy could contribute to achieving them”. “The EU should then together with other Members actively pursue putting forward these issues for exploration and discussion in the WTO.” Eurogroup for Animals commends this proposal, encourages the European Commission to start work on this at the earliest and would be pleased to share its expertise and proposals in the field.

Animal Welfare is strongly linked to achieving the UN SDGs, which is now a key objective in all Commissioners’ portfolio, including Trade. The first academic study on this topic, published in October 2019³⁶, scored the interactions between SDGs and Animal Welfare, in both directions. The conclusion of this exercise was that, even if animal welfare is not explicitly mentioned in the SDGs, it is positively linked with all of them, to various degrees. Higher welfare does not impede any SDG. To the contrary, while, for some of them, the mutually beneficial effect is strong (SDG 12 “Sustainable Consumption and Production” and 14 “Life Below Water”), in some cases, higher welfare would have a direct positive impact on the SDGs (SDG 1 “End Poverty”, SDG 2 “Zero Hunger”, SDG 3 “Good Health and Wellbeing”). Our 2019 report on “Animal Welfare, Trade and SDGs” explains these interactions in depth³⁷.

The EU can thus have a positive impact on SDGs by using trade policy to promote higher animal welfare standards, and working on this topic at WTO level is crucial. Improving animal welfare standards is needed all around the world, and necessary to achieve the UN SDGs. The chilling effect induced by WTO challenges and fears regarding competitiveness should not persist. In that context, the EU should:

- insist upon discussion on animal welfare amongst the membership with the goal of a WTO that acknowledges and acts on the issue of animal welfare
- not hesitate to apply certain animal welfare rules enacted domestically to imported products provided this is done in such a way that there is no element of discrimination that favours domestic producers or certain exporting countries as compared with others. The WTO Appellate Body has now proven itself to be amenable to trade restrictions which aim to protect animal welfare.
- take up, once more, the historic position it had tabled on animal welfare within the WTO Agriculture Committee, which at the time, included a call for, among others, the development of a multilateral agreement dealing with the protection of animal welfare, and more labelling systems to enable consumers to make informed choices.
- Raise the issue of product differentiation based on non-product related Process and Production Method (NPR-PPM), such as animal welfare.
- pursue an approach to the Green Box subsidies that includes and reaffirms subsidies aiming at improving animal welfare as permitted

³⁶ Linda Keeling et al, [“Animal Welfare and the United Nations Sustainable Development Goals”](#)

³⁷ Eurogroup for Animals, [Animal Welfare, Trade and SDGs](#), October 2019

- seek for the Environmental Goods Agreement to include goods that would assist in spreading agroecology and small-scale, non-industrial farming, as well as technology that is beneficial to animal welfare
- ensure that the WTO includes consideration of animal welfare (especially in intensive livestock production) in any work on sustainable development

All this should be done in a manner sensitive to the needs of lesser developed members of the WTO. It is good to note that animal welfare is not anymore an issue restricted to developed countries. Nowadays intensive farming has unfortunately been spreading to emerging countries as well, increasing the scale of the damages. This expansion of intensive farming (to meet the increasing global meat and dairy demand) represents an increasing threat to efficiently fighting global challenges such as antimicrobial resistance and climate change and it needs to be addressed by all countries.

Why should the EU do this now? Firstly, because the recent case law from the WTO Dispute Settlement Body (DSB) has shown more openness towards non-trade issues, and more specifically animal welfare. Secondly, because the political context has changed. Major societal threats to the planets, as well as SDGs, are now clearly linked with animal welfare. In addition, the EU has been active for the past 15 years raising awareness on animal welfare on the international stage. It has successfully contributed to create a context in which more decisive actions could be taken.

Development in the WTO case-law

As WTO Treaties are silent on animal welfare, much of the knowledge regarding the WTO's stance on this issue has come from rulings rendered by the WTO Dispute Settlement Body (DSB). In the early days, before the establishment of the WTO, the DSB appeared quite hostile to animal welfare and environmental interests, as displayed by the position it adopted in the first US-Tuna disputes. While the ruling did not mention animal welfare per se, it has had significant consequences in the field as the ruling found the measure set up by the US to be an import ban not justified by any of the exceptions contained in the General Agreement on Tariffs and Trade (GATT). It was seen as a way to impose animal welfare regulations extraterritorially. The Appellate Body report in the US - Shrimp case marked a change in course. In that ruling, the DSB found that the GATT exception on 'exhaustible natural resources' applied to an endangered species. This positive trend has culminated in the recent EC - Seal Products case in which animal welfare has been recognised as a legitimate issue of public morality which can be relied upon to restrict trade on the basis of Article XX(a) of the GATT. More recently, the latest ruling in the US-Tuna case (US-Tuna II) has also confirmed that labelling criteria could differ depending on the risk encountered by animals in terms of their welfare.

It is now clear that if the measures are crafted carefully in a non-discriminatory way, trade can be restricted to protect the welfare of animals, and therefore trade policy can be used to promote higher animal welfare standards and to ensure that market demand in the EU does not encourage inhumane practices in other countries.

EU as a global leader on animal welfare

In 2000, the European Commission tabled a proposal on animal welfare and trade to the WTO Committee on Agriculture. Back then, animal welfare was seen as “an issue of growing importance, notably in the European Community (EC)” but not only. To make this affirmation, the Commission was basing itself on a study it conducted - finally published in 2002 - on “animal welfare legislation on farmed animals in third countries and the implications for the EU”.

These two documents reflect conclusions very similar to the ones drawn by Eurogroup for Animals. The proposal to the WTO recognizes that the WTO did not ‘provide a framework within which to address animal welfare issues’ and argued that there was a ‘genuine need’ to discuss animal welfare in the WTO context. It set two objectives for the EU WTO policy: to ensure trade does not undermine the EU’s effort to improve animal welfare standards and to avoid protectionist views on this issue. At the time, the EU also noted the need to create common understanding on animal welfare. The work led at the OIE for the past 15 years has contributed to that goal.

The EU’s initiative to discuss animal welfare at the WTO was not met with enthusiasm by other members at large and the EU has not approached the subject again. Yet, it should do so.

Question 4: How can we use our broad network of existing FTAs or new FTAs to improve market access for EU exporters and investors, and promote international regulatory cooperation—particularly in relation to digital and green technologies and standards in order to maximise their potential?

In this section, we will focus on how the EU can use its broad network of existing FTAs or new FTAs to promote international regulatory cooperation. Our key recommendation would be to allocate sufficient resources, materially and politically, to cooperation mechanisms included in FTAs, notably on animal welfare.

Over the past decade, the EU has increasingly included in its FTAs a chapter on regulatory cooperation. Regulatory cooperation is the approach that has also been favoured on animal welfare. As early as 2002, the EU-Chile Association Agreement contained the first ever provisions on this issue, within the chapter on sanitary and phytosanitary (SPS) measures. Chile is often seen as a lighthouse for animal welfare in Latin America and the cooperation with the EU that followed the conclusion of the Association Agreement led to the adoption of an animal welfare law in 2009, and of further decrees in the following years, which incorporate OIE Standards mainly on transport and slaughter of animals.

Apart from Chile, provisions on animal welfare cooperation included in most EU FTAs have not led to tangible progress within partner countries.

- The EU-Korea FTA foresees the exchange of information, expertise and experiences on animal welfare, the cooperation on developing standards in international fora - notably on stunning and transport - as well as the adoption of a working plan for these activities. This working plan has never been published and no information on this cooperation is available, either online or in the EU’s FTA implementation reports. It is a missed opportunity, especially as South Korea,

under President Moon, has shown willingness to improve its animal welfare standards tangibly.

- The Association Agreement between the EU and Andean countries also includes a provision indicating that parties may cooperate on animal welfare. While the FTA has a limited impact on the trade in animal products between the EU and these countries, addressing animal welfare with them would have had positive consequences for the sustainability of their food production systems. Colombia, for instance, saw in the recent years an increase and an intensification of its egg, chicken meat, pig meat and milk production sectors. In that context, it is unfortunate that the EU funding provided to the Colombian dairy sector “to contribute to the eradication of poverty, promotion of sustainable and inclusive growth and the consolidation and improvement of democratic governance and economic life” (2014-2018) did not encompass an animal welfare dimension.
- In CETA, the chapter on regulatory cooperation included animal welfare as a potential topic for the “Regulatory Cooperation Forum” (RCF). Eurogroup for Animals commended the Commission’s decision to suggest the welfare of animals undergoing long distance transport as a field for the RCF. Back then, Canada had been in the process of reviewing its very old animal transport rules for several years, and sharing scientific expertise with them could have been very helpful. Unfortunately, Canada adopted a silo-approach and published its new animal transport rules only a few months after the start of this cooperation process. The rules were similar to the draft published in 2016. We appreciate the quick reaction of the EU who has now decided to raise the topic of mobile slaughter with the Canadians but this situation still underlines the shortcomings of an approach solely based on cooperation. The EU imports of Canadian fresh beef, for instance, have increased in the past years (597 tonnes in 2014 to 1926 tonnes in 2019), meaning more animals were transported in such poor conditions to generate exports going to the EU³⁸. It is also important to note that animal welfare is the only topic of cooperation where objectives are not operational. The talks only aim at “exchanging information”, where, in other fields of cooperation, objectives range from eliminating a Canadian rule or obtaining a specific outcome. The second report on the work of the RCF (2020) simply reiterates that parties are committed to share information.
- The EU-Japan Economic Partnership Agreement (JEEPA), which entered into force in February 2019, provides the EU and Japan with the possibility to set up a technical working group on animal welfare, and to adopt a working plan to define priorities in this area of cooperation. The first meeting of the Parties on the “Regulatory Cooperation chapter”, which includes the animal welfare provisions, did not lead to the parties acting upon this provision. The EU and Japan are still considering whether they will start this needed cooperation process. While Japan does not yet export much animal products to the EU, it is an important producer of eggs and chicken meat. In 2018, it ranked sixth in the world for egg production (2.6 million tonnes) and eight for poultry meat (2.3 million tonnes). According to the Animal Protection Index established by World Animal Protection, the country has the lowest animal welfare standards among G7 countries and OIE animal welfare standards are often disregarded. The situation needs to be addressed, and the EU could share with Japan its experience in improving animal welfare standards, especially in the laying hen and broiler industry, and of the positive impact

³⁸ Eurostat figures and <https://www.eurogroupforanimals.org/news/canadas-new-rules-animal-transport-fall-very-short>

it has had on the sustainability of these sectors in Europe. Japan is also an important market for cosmetics and several key Japanese cosmetic companies, like Shiseido, have already stopped relying on animal testing. However there is no move to ban animal testing for cosmetics by law. This topic could be at the heart of EU-Japan animal welfare cooperation, as the EU could share its experience in moving toward an animal testing free cosmetic industry.

It is crucial to hold the EU accountable for the result, it delivers through cooperation mechanisms included in trade agreements, or the lack thereof. While we argue for the adoption of stronger measures, the Commission often portrays cooperation provisions as the most effective tool to promote animal welfare with partners. Yet the experience of existing FTAs reveal that once the provisions are adopted, there is a lack of political willingness and resources to generate concrete progress for animals. It is crucial to underline the importance of ensuring that other DGs in the European Commission, which will be in charge of the dossier in the implementation phase, are sufficiently staffed and willing to follow up once the FTA is concluded. In recent years, the animal welfare unit, located in DG SANTE, has been downsized, which constrained its ability to make the best use of cooperation mechanisms set up by the various FTAs. Unless there is implementation, provisions on cooperation are only window-dressing.

It would also be helpful to design a process to better involve stakeholders in these discussions, and not only in the selection of topics. This would help restore trust that these cooperation processes are used to push for progress, rather than to put pressure on the EU regarding specific standards.

Question 5: With which partners and regions should the EU prioritise its engagement? In particular, how can we strengthen our trade and investment relationships with the neighbouring countries and Africa to our mutual benefit?

Eurogroup for Animals believes there are many opportunities to use trade policy to promote higher animal welfare standards in third countries, if trade agreements are designed properly (see Question 1). Countries exporting high volumes of animal products (Mercosur countries, Australia, New Zealand, Ukraine, Chile) are evident targets for such an approach. However, countries that do not export much to the EU should not be left out. The EU must use its trade policy to promote more sustainable trade and production systems. By working on animal welfare with a partner that is an important global player in animal food productions (Japan, Indonesia), it can also have a positive impact on SDGs and on transnational crises linked to climate, AMR or zoonoses. In addition, a lot could also be done with countries.

It is also important to increase the work on wild animals, be it with countries that face much trafficking (Singapore, Vietnam) but also with the ones from which the EU sources many exotic pets.

Eastern neighbourhood

The case of the DCFTAs with the Eastern European Countries is of particular interest. These agreements are the first to include, in return for an unprecedented opening of the market, an obligation to gradually approximate the EU acquis, including on animal welfare. Among the three

countries, Ukraine is a major source for imported animal-based products coming into the EU. However, almost five years after the provisional entry into force of the agreement, there has been no concrete progress on animal welfare legislation, while imports of animal products have dramatically increased. Compared to 2015, EU imports of Ukrainian poultry meat has tripled (from 29,551 to 111,392 tonnes in 2019). Imports of Ukrainian dairy products have started, reaching, in 2019, 5,828 tonnes (with Ukraine often in the EU's top 5 of EU sources). Ukraine has also become the first source of shell eggs and egg products imported into the EU (respectively 3,642 and 2,772 tonnes in 2019). Considering the current conditions in Ukrainian productions³⁹, the EU-Ukraine DCFTA has, so far, fueled a very unsustainable trade and production. Once the new legislation in Ukraine will be adopted, it should approximate 95% of EU standards. However, the legislation also provides for a transition period until 2026 for the poultry sector, meaning poor animal welfare conditions on farms could be, in theory, maintained for another six years. Considering the size of the trade flows, it would have been more impactful to condition the access to the relevant tariff-rate quotas, or to the duty free tariff, on the respect of animal welfare standards applied in the EU, notably on broiler and laying hens. This would have protected better the level playing field for EU producers, which have been complaining in the last years about the surge of imports from that country. Especially for poultry meat as Ukraine used a loophole in the agreement to even further improve its market access conditions, leading to the EU increasing officially the volume of poultry meat allowed in at preferential rates.

Southern Neighbourhood

Contrary to the more recent Association Agreements established with Eastern European countries (Ukraine, Georgia and Moldova), the existing agreements with Euro-Med countries do not address animal welfare. Neither is the topic included in the ongoing negotiations towards a DCFTA with Morocco and Tunisia. The main rationale for this seems to be that the EU does not import – and does not see itself importing in the near future - much meat, dairy or eggs from such countries (notably because these countries do not match sanitary requirements established by the EU). However, these agreements have had a detrimental impact on animal welfare. The EU exports numerous farm animals to these countries, for slaughter or breeding purposes. A careful analysis of statistics and of the agreements confirms that the number of animals exported dramatically increased in correlation with the trade preferences granted to the EU by Euromed countries in these agreements - or in the related protocols.

Live exports are problematic for two reasons. The first is the very poor conditions endured by the animals while traveling. This is the reason why Eurogroup for Animals is calling for a ban on live exports, and a transition towards a trade only in meat and carcasses⁴⁰. The second reason is the living and slaughtering conditions endured by these animals in most destination countries they are sent to, where OIE standards are often not respected when it comes to slaughter, let alone EU rules.

³⁹ Eurogroup for Animals, [Animal Welfare in the implementation of the EU-Ukraine DCFTA](#), May 2019

⁴⁰ Eurogroup for Animals, [A Strategy to Reduce and Replace Live Animal Transport](#), November 2019 - https://www.eurogroupforanimals.org/wp-content/uploads/Eurogroup-for-Animals_A-strategy-to-reduce-and-replace-live-animal-transport.pdf

Eurogroup for Animals' contribution to the consultation on Euro-Med FTAs⁴¹ details, for each partner, the situation in terms of live exports from the EU, and analyses the existing trade agreements between the EU and such countries and the impact it has had on the relevant trade flows. It also describes slaughter conditions witnessed by NGO investigations. As a general consideration, the practices documented by investigating NGOs not only breach OIE standards, but are also not in accordance with religious principles which strongly speaks to the need to reduce suffering during the slaughter process. In many cases, brutal disabling methods (tendon slashing and eye stabbing) are the result of a lack of both training of the workers and infrastructure to handle large animals safely and humanely.

While transitioning towards a meat and carcasses only trade, the EU - being a global leader on animal welfare - should take its responsibility. If it outsources animal welfare concerns by sending live animals to Euro-Med countries, it must cooperate with these countries to improve living and slaughtering conditions for animals exported over there. This could be achieved by including provisions on animal welfare cooperation in the updated trade agreements, and by allocating sufficient resources to the implementation of such provisions.

Cooperating on animal welfare standards with Euro-Med countries would also have a positive impact on achieving the United Nations Sustainable Development Goals (SDGs). As explained by our report on Animal Welfare, Trade and SDGs, and confirmed recently by academics, there is a "mutually beneficial relationship" between improving animal welfare and achieving SDGs (see Question 8).

Africa

Africa is an important partner to the EU. At the moment, Economic Partnership Agreements (EPAs) do not contain wording on animal welfare. However, negotiations to upgrade the Eastern South African EPA will cover this topic. It is important that, in the future, cooperation and technical assistance is always included in discussions with our African partners. The reasons are three-fold. The first is simply that several African countries are relevant sources of beef for the EU. Namibia is fourth (after Mercosur, Australia and the US) on fresh beef and third on frozen beef (after Mercosur and New Zealand). The second is that, as with Euro-Med countries, the EU does export many live poultry to these countries (in 2019, more than 33 million chicken were exported to Sub-Saharan Africa). The third reason is that implementing comprehensive animal welfare cooperation, not only on farm animals but also on working ones, like equines, can have a very positive impact on sustainable development in the region. Working animals and their socioeconomic value are often taken for granted, and most do not realise the long-term benefits that can arise from ensuring better health and welfare for these animals. A study carried in Ethiopia showed that 54% of equids were thin, 93% had body lesions from poor handling, and 60% were lame. In rural areas, working animals facilitate farming and transportation; they pull ploughs and carts, deliver goods to market, herd livestock and collect water from wells. Urban uses include construction, the transport of people and goods and refuse collection. By enabling their owners to participate in work, they boost economic capacity and further benefit communities by enabling education, providing access to basic services and supporting gender equality. Simple interventions, such as improved access to good, affordable harnessing, hoof care and veterinary

⁴¹ Eurogroup for Animals, [The detrimental impact of the absence of animal welfare provisions in Euro-Med FTAs](#), November 2019

services, can empower owners to keep their animals healthy, therefore ensuring they remain productive, as well as increasing overall awareness of animal health and welfare.

Healthy and well-treated working animals better contribute to achieving the following SDGs:

SDG 1 (End Poverty) and 8 (Decent work and Economic Growth):

- In Mali, research found the income of two-thirds of donkey owners was more than three times the average monthly income per capita of \$55.
- In Mexico, income generated just through working animals in the farms studied was equivalent to 30% of the minimum daily wage, plus an additional saving from their use for daily chores and transport that would normally incur a cost.
- In Ethiopia, rural households demonstrated a significant reliance on working equids for income and employment, with related earnings contributing on average 14% of total family income.
- In India, a study of the construction industry showed that equid-based income opportunities generated 80% of income.
- In India, Pakistan, Kenya and Ethiopia, research highlighted that rural communities ranked working equids as their most important livestock due to their capacity to provide and support regular income generation;

SDG 3 (Ensure Healthy Lives) and 6 (Clean Water and Sanitation)

- In Tunisia, 80% of respondents to a survey in remote and mountainous regions relied on their donkeys or mules to access and carry fresh water.
- In Mauritania, access to clean piped water is scarce. In the city of Nouakchott, water carriers use donkeys to carry 400 litres of water at a time supplying the majority of households and businesses.

SDG 2 (Zero hunger) and 13 (Climate Action)

- 93% of the income of Ethiopian farmers and 100% of the income of Mexican farmers who sold milk and crops depended on the presence of working animals.
- In India, extreme weather events such as flooding and cyclones have left communities vulnerable as the loss of working animals restricts their access to resources and therefore the capacity to rebuild their livelihoods.

SDG 5 (Gender Equality)

- In Senegal, young women are being trained in what were traditionally roles designated for men, e.g. farriery, and are able to earn a living with their new skill set.
- In India, training women to act as change agents for communities has led to female-led equine welfare groups being set up.

SDG 4 (Quality Education)

- In Kenya, basic equine welfare is now taught at primary level in many schools and in Senegal, there are an increasing number of apprenticeships in equine health focussed subjects such as farriery
- Humane education programmes to promote prosocial behaviours including compassion for animals, environmental protection and social justice are also accessible, meaning that education professionals with an International Certificate in Humane Education (ICHE) can transfer knowledge to mainstream settings

Question 8: How can trade policy facilitate the transition to a greener, fairer and more responsible economy at home and abroad? How can trade policy further promote the UN Sustainable Development Goals (SDGs)? How should implementation and enforcement support these objectives?

Animal Welfare is strongly linked to achieving the UN SDGs, which is now a key objective in all Commissioners' portfolio, including Trade. The first academic study on this topic, published in October 2019⁴², scored the interactions between SDGs and Animal Welfare, in both directions. The conclusion of the exercise - since then reiterated with roughly the same results - was that, even if animal welfare is not explicitly mentioned in the SDGs, it is positively linked with all of them, to various degrees. Higher welfare does not impede any SDG. To the contrary, while, for some of them, the mutually beneficial effect is strong (SDG 12 "Sustainable Consumption and Production" and 14 "Life Below Water"), in some cases, higher welfare would have a direct positive impact on the SDGs (SDG 1 "End Poverty", SDG 2 "Zero Hunger", SDG 3 "Good Health and Wellbeing"). Our 2019 report on "Animal Welfare, Trade and SDGs" explains these interactions in depth⁴³.

The EU can thus have a positive impact on SDGs by using trade policy to promote higher animal welfare standards, and working on this topic (see Question 1 on how to better address animal welfare in trade policy)

Question 9: How can trade policy help to foster more responsible business conduct? What role should trade policy play in promoting transparent, responsible and sustainable supply chains?

Trade policy could help promote transparent, responsible and sustainable supply chains by defending the application of a future EU method-of-production labelling scheme (reflecting product sustainability) to imported products.

⁴² Linda Keeling et al, "[Animal Welfare and the United Nations Sustainable Development Goals](#)"

⁴³ Eurogroup for Animals, [Animal Welfare, Trade and SDGs](#), October 2019

As a result of the proliferation of industrial farm animal production on the one hand and growing global crises such as climate change and antimicrobial resistance on the other, food sustainability - including animal welfare - has become an increasingly important item on a long list of pressing concerns for people around the world. However, consumers may find it hard to act on these concerns due to the lack of information on the methods of production for animal products.

With over half of EU citizens expressing willingness to pay more for high welfare, and therefore more sustainable products,⁴⁴ a mandatory 'method-of-production' label on the farming of animals used for food could enable consumers to make informed purchasing decisions. Such a label could also eventually lead to farmers favouring methods of production that are the least detrimental to the planet, the animals and consumers, thereby hastening a transition towards more sustainable and humane farming systems. Given the correlation between farm animal welfare standards and higher food safety levels, the use of fewer antibiotics, a lower carbon footprint, and even the quality of labour conditions of workers involved in the food production chain, mandatory method-of- production labelling would also contribute to achieving the UN Sustainable Development Goals (SDGs).⁴⁵ Last but not least, mandatory method-of-production labelling for animal products would contribute to leveling the EU market's playing field. However, to be fully effective, this label needs to be applied to imported products.

WTO rules are often brandished as an obstacle to progress in the area of labelling⁴⁶. In 2009 the European Commission addressed the issue of the compliance of a method-of-production label for animal agricultural goods with WTO rules. Back then, the Commission's study concluded that "it [was] not possible to predict whether a mandatory animal welfare standard could be successfully challenged and, thus, become incompatible with WTO law."⁴⁷ However, much has changed in ten years, and the more recent case law (see Question 3) indicates that such a label would now comply with the EU's obligations under WTO rules, especially as it relates to the Technical Barriers to Trade (TBT) Agreement⁴⁸.

It is also important to ensure that provisions on marking and labelling included in TBT chapters of EU bilateral trade agreements do not preempt the adoption of such mandatory universal informative labels. On this matter, we would like to draw your attention on the potential negative impact of the provision included in JEEPA:

*Art 7.11.2 In particular, the Parties agree that, if a Party **requires marking or labelling** of product in the form of a technical regulation: (a) **information required** for such marking or labelling of products shall **be limited to what is relevant** for persons concerned, including consumers, users of the product or authorities, **for** indicating the product's compliance with regulatory requirements;*

or in the EU-Mercosur draft agreement:

⁴⁴ European Commission, Special Eurobarometer 442: Attitudes of Europeans towards Animal Welfare, 48, 2015

⁴⁵ Eurogroup for Animals (et al.), Achieving the sustainable development goals: the role of animal welfare in trade policy, October 2018, available at: https://www.eurogroupforanimals.org/wp-content/uploads/549070_R0090_Animal_welfare_in_trade_report_A4_8PP.pdfhttps://www.eurogroupforanimals.org/wp-content/uploads/549070_R0090_Animal_welfare_in_trade_report_A4_8PP.pdf

⁴⁶ Notably in the case of products derived from cloned animals (see *infra*).

⁴⁷ European Commission, Feasibility Study Part1: Animal Welfare Labelling, 34, 2009, available at: https://ec.europa.eu/food/sites/food/files/animals/docs/aw_other_aspects_labelling_feasibility_study_report_part1.pdf

⁴⁸ Eurogroup for Animals, Method-of-Production Labelling - the way forward to sustainable trade, October 2019

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

Similar Provisions in other agreements (Vietnam, Mexico, draft for the UK-EU FTA, proposals to Australia and New Zealand) read differently, leaving more options for mandatory labelling schemes. For instance, in the EU-Vietnam FTA:

*Art 5.9.2. "When requiring mandatory marking or labelling of products, a Party shall: (a) only require information which is relevant for consumers or users of the product **or** which indicates the product's conformity with the mandatory technical requirements;"*

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