

## EU's WTO priorities post MC11

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# The European Union and Animal Welfare at the WTO

### BACKGROUND

This note represents Eurogroup for Animals' contribution to the debate launched by the European Commission on its WTO policy post MC11. After the failure of the latest WTO Ministerial Council to achieve any concrete outcome, the European Commission announced a reflection on its WTO priorities, on the role the EU should have in the organisation and on what the EU should wish it could achieve. In September 2018, a concept paper on the topic was presented to the public by Commissioner Malmström. The Commission is now looking for feedbacks from Member States, as well as relevant stakeholders. A discussion was held on the topic at the latest Expert Group on Trade Negotiations.

Compared to an earlier draft that had leaked in the press, the current concept paper does not refer to "advancing rulemaking on our values agenda." However, a paragraph is now devoted to Sustainable Development Goals (SDGs). According to the text, "the Sustainable Development Goals agreed by the world's leaders in 2015 already set out a detailed set of actions that need to be pursued, many of them with strong links to trade. (...) Consequently, the EU should over the coming months prepare a detailed analysis of the SDG targets and 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."

Animal Welfare is strongly linked to SDGs and it is high time that it receives more attention in the context of trade policy. This note will present the interlinkages between animal welfare and SDGs in order to illustrate how better addressing animal welfare in trade policy can contribute to achieving these SDGs. It will then describe why the WTO is important to animal protection and how the context there has evolved towards more openness vis-à-vis animal welfare over the past decade. If the EU is seriously considering better addressing SDGs in trade policy, it must raise the issue of farm animal welfare standards at the WTO.

### Animal Welfare & SDGs

The UN *2030 Agenda for Sustainable Development*, containing 17 Sustainable Development Goals (SDGs), states that "we envisage a world (...) in which humanity lives in harmony with nature and in which wildlife and other living creatures are protected." Protecting animal welfare is thus essential to sustainable

development in its own right.<sup>1</sup> It is also complementary to a number of other aspects of sustainable development. Several SDGs are either directly connected to animals or cannot be achieved without addressing animal welfare related issues. As we will see below, it is notably the case for SDG 2 on hunger, SDG 3 on health, SDG 13 on climate change, SDG 14 on seas and marine resources and SDG 15 on biodiversity loss.

### *Animal welfare and food security*



In order to eradicate world hunger, SDG 2 includes targets not only to “double the agricultural productivity and incomes of small-scale food producers” (**SDG 2.3**) but also to “ensure sustainable food production systems and implement resilient agricultural practices that increase productivity and production, that help maintain ecosystems, that strengthen capacity for adaptation to climate change [etc] ...” (**SDG 2.4**).

#### **SDG 2.3 - By 2030, double the agricultural productivity and incomes of small-scale food producers**

Industrial animal agriculture out-competes small-scale producers, thereby undermining their livelihoods. The Director General of the UN Food and Agriculture Organization (FAO) has declared at the 10<sup>th</sup> Global Forum for Food and Agriculture, in 2018, that “more than half of the world’s rural poor are livestock farmers and pastoralists (...)”, adding that we needed “to make sure that smallholders and pastoralists will not be pushed aside by large capital-intensive operations.”

Studies in Africa show that agroecology can more than double crop yields while substantially reducing pesticide use.<sup>2</sup> With sufficient access to veterinary services and improved management regarding animal health and animal welfare, global animal production could, according to the OIE, be increased by around 20%. This would enable small-scale producers to increase their productivity without industrialisation, and improve smallholders’ purchasing power, making them able to buy the food that they do not produce themselves and to have money available for other essentials such as education and health care.

#### **SDG 2.4 - By 2030, ensure sustainable food production systems and implement resilient agricultural practices that increase productivity and production, that help maintain ecosystems and that progressively improve land and soil quality**

In the past decades, the relentless focus on cost-cutting and competitiveness on a global scale has driven the livestock sector into an increasing industrialisation, which is based on intensive animal confinement that intrinsically negates the possibility to respect animal welfare, cramming animals into tiny and barren spaces where they cannot express natural behaviour, and where they are more vulnerable to diseases. As claimed

<sup>1</sup> Read more in our report on [‘Animal Welfare, Trade and Sustainable Development’](#)

<sup>2</sup> Pretty et al., *Resource-conserving agriculture increases yields in developing countries*, Environmental Science and Technology, 40:4, 2006, pp.1114-1119 & Pretty et al., *Sustainable intensification in African agriculture*, International Journal of Agricultural Sustainability, 9:1, pp.5-24

by the UK Farm Animal Welfare Council (FAWC)<sup>3</sup> in a recent report discussing sustainable intensification of livestock agriculture, “agriculture cannot be considered sustainable if it is achieved at an unacceptable cost to animal welfare.”<sup>4</sup> Industrial animal agriculture undermines the key resources on which long-term productive farming depends. In addition, industrial livestock’s huge demand for feed has fueled the intensification of crop production which, with monocultures and agro-chemicals, has led to overuse and pollution of ground- and surface-water,<sup>5</sup> soil degradation,<sup>6</sup> biodiversity loss,<sup>7</sup> and air pollution.<sup>8</sup>

Several studies argue that the only sustainable and efficient role for livestock is to convert materials that humans cannot consume – grass, by-products, crop residues and unavoidable food waste – into food that can then be eaten by humans.<sup>9</sup> This approach would result in reduced use of arable land, freshwater, energy and pesticides as well as reduced greenhouse gases (GHG) emissions, deforestation and soil erosion.<sup>10</sup>

Producing meat is also not an efficient way to feed the world. Intensive farms require high amount of feed and vast areas of land are being given over to feed farm animals, diverting grains from people to livestock. Studies have shown that around 36 to 40 percent of the world’s crop calories are fed to animals and that for every 100 calories fed to animals only 17 to 30 calories are returned for human consumption as meat or milk.<sup>11</sup> This is insufficient and unsustainable. The FAO has already warned that further use of cereals as animal feed could threaten food security by reducing the grain available for human consumption. The earth cannot sustain humankind's demands for food if we do not find a more environmentally friendly way to feed ourselves.

The targets established by SDG 2 can only be achieved simultaneously if higher welfare farming techniques are adopted.

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<sup>3</sup> The FAWC is a consultative body of the UK government.

<sup>4</sup> FAWC, [Sustainable agriculture and farm animal welfare](#), 2016

<sup>5</sup> Mekonnen, M. and Hoekstra, A., 2012. A global assessment of the water footprint of farm animal products. *Ecosystems*. DOI: 10.1007/s10021-011-9517-8

<sup>6</sup> Edmondson, J.L. et al., 2014. Urban cultivation in allotments maintains soil qualities adversely affected by conventional agriculture. *Journal of Applied Ecology* 2014, 51, 880–889

<sup>7</sup> World Health Organization and Secretariat of the Convention on Biological Diversity. 2015. Connecting global priorities: biodiversity and human health

<sup>8</sup> Lelieveld et al, 2015. The contribution of outdoor air pollution sources to premature mortality on a global scale. *Nature*, Vol 525

<sup>9</sup> Van Zanten et al, *Defining a land boundary for sustainable livestock consumption*, *Glob Change Biol.* 2018;1–10; Bajželj B. et al, [Importance of food-demand management for climate mitigation](#), *Nature Climate Change*, 2014; Schader C. et al, [Impacts of feeding less food-competing feedstuffs to livestock on global food system sustainability](#). *J. R. Soc. Interface* 12: 20150891, 2015

<sup>10</sup> *Ibid*

<sup>11</sup> Cassidy E.M et al., *Redefining agricultural yields: from tonnes to people nourished per hectare*, 2013, University of Minnesota *Environ Res Lett* 8, p.1

*Animal welfare and climate change*



According to a report published by the FAO in 2013, emissions produced by the livestock sector amount to 14.5% of all global emissions.<sup>12</sup> This is higher than emissions produced by all transport combined.<sup>13</sup> According to GRAIN, a non-profit organisation supporting small farmers and social movements, and to the Institute for Agriculture and Trade Policy (IATP), the top 20 meat and dairy companies emit more greenhouse gases (GHGs) than Germany, and the top 5 combined more than either Exxon, Shell or BP.<sup>14</sup> Projections, even supposing efficient growth, still forecast that in 2050 livestock emissions will amount to 52% of the sustainable maximum level of GHGs planned.

Emissions produced by the livestock sector will have to be lowered, and this means that global consumption of meat and dairy products will have to be reduced. The scale at which animals are being reared for meat and dairy across the globe is leading to vast environmental degradation due to the waste, the freshwater footprint and soil degradation caused by intensive farming methods. The increasing demand for animal products is such that supply-side measures will not be able to prevent an increase in the sector's GHG emissions. Without reducing consumption of meat and dairy, we will not be able to meet SDG 13 and the Paris targets.

*“There is no pathway to achieve the Paris climate objectives without a massive decrease in the scale of animal agriculture.” (UNEP 2018)<sup>15</sup>*

*Animal welfare and Public Health*



**Antimicrobial resistance (AMR)**, the ability of microorganisms to resist antimicrobial treatments such as antibiotics, is according to the World Health Organisation (WHO) “one of the biggest threats to global health, food security, and development today”.<sup>16</sup> This threat has also economic implications that the European Commission assesses to be around €1.5 billion per year due to the costs of treatments and of reduced productivity.<sup>17</sup> According to DG SANTE, “AMR is responsible for an estimated 25,000 deaths per year in the EU”, and around 700,000 worldwide. Several reports predict that this number will only get higher: for instance the AMR review commissioned by the UK Government in 2016 forecasts ten million deaths per year in 2050.<sup>18</sup>

<sup>12</sup> Gerber et al., Tackling climate change through livestock – A global assessment of emissions and mitigation opportunities, Rome, FAO, 2013, p.15

<sup>13</sup> GRAIN, [Grabbing the bull by the horns](#) – it’s time to cut industrial meat and dairy to save the climate, January 2017

<sup>14</sup> Infographics developed by GRAIN and IATP available [here](#)

<sup>15</sup> <https://www.unenvironment.org/news-and-stories/story/tackling-worlds-most-urgent-problem-meat>

<sup>16</sup> WHO [webpage](#) on AMR

<sup>17</sup> DG SANTE [webpage](#) on Antimicrobial resistance

<sup>18</sup> Review on Antimicrobial Resistance, [tackling drug-resistant infections globally: final report and recommendations](#), May 2016

In its “One Health” Action Plan against AMR, the European Commission recognizes the link between the increase of antimicrobial resistance and poor farm welfare practices, by indicating as an objective the need to “continue to promote animal husbandry, including aquaculture and livestock farming systems, and feeding regimes, which support good animal health and welfare to reduce antimicrobial consumption.” Furthermore, the action plan underlines the importance of considering those issues when negotiating trade agreements by recognizing that “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 WHO also identifies a clear link between the two concepts by listing the improvement of animal welfare and hygiene as a way to in turn improve biosecurity on farms and thus “prevent and control the spread of antibiotic resistance”.

In September 2016, the United Nations General Assembly admitted that overuse of antimicrobials in livestock production is the primary cause of the surge in antimicrobial resistance.<sup>19</sup> This phenomenon is not due to small-scale productions, but to the spread of intensive farming systems, in which antimicrobial products are used routinely and increasingly. Due to the density in which animals are kept, treating one animal for a specific disease generally means treating them all, as any infection is likely to have spread throughout the entire group of animals. In addition medication is often used to compensate for poor hygiene and bad welfare practices. Intensive farming has thus an impact not only on animal but also on human health.

This issue has to be discussed at global level. As reported by Greenpeace, “in 2010, the five countries with the largest shares of global antimicrobial consumption in food animal production were China (23%), the United States (13%), Brazil (9%), India (3%), and Germany (3%). By 2030, this ranking is projected to be China (30%), the United States (10%), Brazil (8%), India (4%), and Mexico (2%).”<sup>20</sup>

Intensive farming is also worsening the occurrence of **zoonoses** (infectious animal diseases that can naturally be transmitted to humans) and devastating animal disease epidemics (e.g. avian flu and African swine fever) as well as the vast global costs associated with dealing with such outbreaks. The World Bank estimates the direct economic cost of zoonotic diseases over the past decade to be US\$20 billion (with further indirect losses estimated at over US\$200 billion).<sup>21</sup>

Finally, the high levels of consumption of red and processed meat that have been made possible in the West by industrial animal agriculture contribute to heart disease, obesity, diabetes and certain cancers.<sup>22</sup>

### *Animal welfare and conservation*

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<sup>19</sup> Van Boeckel et al., [Reducing antimicrobial use in food animals](#), Science Mag, vol.357, issue 6358, September 2017

<sup>20</sup> According to Van Boeckel et al. (2017) in Greenpeace, Less is More, 2018

<sup>21</sup> World Bank, People, Pathogens and Our Planet, Vol 1: Towards a One Health Approach for Controlling Zoonotic Diseases, Report (2010) 50833-GLB.

<sup>22</sup> Friel S. et al, *Health and Climate Change 4: Public health benefits of strategies to reduce greenhouse-gas emissions: food and agriculture*, published online November 25, 2009 DOI:10.1016/S0140-6736(09)61753-0; Aston LM et al. [Impact of a reduced red and processed meat dietary pattern on disease risks and greenhouse gas emissions in the UK: a modelling study](#), BMJ Open Vol 2, Issue 5, 2012; Anand, S. et al, *Food Consumption and its Impact on Cardiovascular Disease: Importance of Solutions Focused on the Globalized Food System*, Journal of the American College of Cardiology, 66, no 14



**SDG 15 - Sustainably manage forests, combat desertification, halt and reverse land degradation, halt biodiversity loss**

Preserving the various ecosystems and the environment is only possible if the survival of animal species is ensured. The concepts of animal welfare and conservation differ: welfare concerns the quality of life of individual animals while conservation concerns the survival of groups of animals making up a species. Nonetheless, the two topics have interlinking goals. For example, the ways in which animal species are being driven to extinction frequently harm their welfare.

Overfishing and overhunting are unsustainable practices because they will make it impossible for future generations to meet their own needs. The Living Planet Index (LPI), which measures biodiversity abundance levels based on 14,152 monitored populations of 3,706 vertebrate species, shows a persistent downward trend. Since 1970, there has been a 58 percent overall decline in the numbers of species of fish, mammals, birds and reptiles worldwide; the decline, which is defined as the sixth mass extinction, is likely to reach 67 per cent by the end of the decade.<sup>23</sup> If accurate, that will mean wildlife across the globe is vanishing at a rate of 2 percent a year.

Animals are a vital aspect of the Earth’s ecosystems and of “the environment.”. Living systems keep the air breathable and water drinkable and provide nutritious food. To continue to perform these vital services they need to retain their complexity, diversity and resilience. Biodiversity also plays an important role in ecosystem processes by providing the regulating, cultural and supporting services. The simple knowledge that diverse and rich forms of life are populating our forests and oceans provides humankind with a sense of contentment and wellbeing. The latter cannot be underestimated and is becoming increasingly recognised as valuable to humankind’s sustainable development, as highlighted by one useful study on the value of wildlife.<sup>24</sup>

As we have seen in previous section, the welfare of farm animals has an impact on conservation. Livestock production is said to be “the single most powerful driver of habitat loss on Earth”<sup>25</sup> and 80% of terrestrial birds and mammal species currently considered as threatened are challenged by the loss of habitat driven by agricultural activities.<sup>26</sup> Most of this is due to the need to use lands to produce animal feed allowing to quickly fatten industrially farmed animals, but not only. The extension of both grazing pastures and fields to grow crops deeply affects the balance of the existing ecosystem. Increasing livestock production has put pressure on large carnivores as well: they face persecution because of the fundamental change in farming and husbandry systems observed during the last century.

Livestock production is considered one of the main drivers of deforestation, as forests are replaced by grazing or arable land to produce food for intensive livestock systems. This also contributes to increasing GHGs emissions. The case of the Amazon illustrates this phenomenon perfectly: there all deforested land has been used for the purpose of rearing livestock; 80% has been transformed into pasture while the remaining 20% is now used to grow animal feed.<sup>27</sup>

<sup>23</sup> WWF, Living Planet Report, 2016

<sup>24</sup> P Chardonnet et al., The value of wildlife (2002), 21(1) Rev Sci Tech 15, 38

<sup>25</sup> Machovina et al (2015) quoted in Greenpeace, Less is More, 2018, p.25

<sup>26</sup> Tilman in Greenpeace, Less is More, 2018, p.28

<sup>27</sup> Machovina & Feeley (2014) in Greenpeace, Less is More, 2018



**SDG 14 - Conserve and sustainably use the oceans, seas and marine resources & SDG 6 - Ensure access to water and sanitation for all**

feed.<sup>28</sup>

Industrial livestock production generally uses and pollutes more surface- and ground-water than grazing systems. This is due to dependence of industrial systems on grain-based

To grow the grains that serve as animal feed, nitrogen fertilisers must be used. However, only 30 to 60 percent of the huge quantities of nitrogen fertilisers that are used to grow animal feed is taken up by feed crops, with the rest running off to pollute water and marine ecosystems.<sup>29</sup>



Further intensification of animal production systems will result in increasing use and pollution of water per unit of animal product.<sup>30</sup> The UN has already recognized that “intensive livestock production is probably the largest sector-specific source of water pollution”<sup>31</sup>

***Animal welfare and the social dimensions of sustainable development***

The eradication of poverty and the development of the world’s third countries are an integral aspect of sustainable development. Eradication of poverty is the very first listed goal amongst the SDGs and failing to protect animal welfare may seriously hinder the ability of the world’s poorest people to develop.

The world’s poorest people rely disproportionately on animals for their livelihood. Livestock provides underdeveloped populations with a source of income. Working animals are also essential for people living in least developed countries to continue with their way of life. Failing to protect the welfare of these animals will result in poor communities being less able to develop. For example, recent increases in demand for donkey skin products has led to working donkeys being stolen from their owners and populations being slaughtered at an unsustainable rate. This is having an increasingly harmful impact on those who rely on donkeys for their livelihood. Protecting the welfare of animals will help eradicate poverty by ensuring that the animals are healthy and able to work, that they do not contract zoonotic diseases before being eaten by humans, and that their populations survive through sustainable management which will provide longer-term benefits for poverty reduction.

<sup>28</sup> Mekonnen, M. and Hoekstra, A., 2012. A global assessment of the water footprint of farm animal products. Ecosystems.: DOI: 10.1007/s10021-011-9517-8

<sup>29</sup> Eds. Sutton M.A., Howard C.M., Erisman J.W., Billen G., Bleeker A., Grennfelt P., van Grinsven H. and Grizzetti B., 2011. The European Nitrogen Assessment. Cambridge University Press

<sup>30</sup> Mekonnen, M. and Hoekstra, A., 2012. Op. Cit.

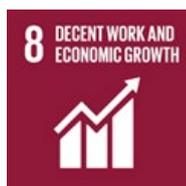
<sup>31</sup> José Graziano da Silva, 2018, Statement at the 10<sup>th</sup> Global Forum for Food and Agriculture: Shaping the Future of Livestock – sustainably, responsibly, efficiently.



**SDG 1.4 - ensure the poor and the vulnerable have equal rights to economic resources, as well as ownership and control over land and natural resources**

Industrial animal agriculture also has destabilizing social and economic effects on rural communities. The UN has noted that “intensive agricultural systems are associated with negative effects on employment, wealth distribution, ancillary economic activity in rural areas [and] service provision in rural areas (such as schools and health facilities).”<sup>32</sup>

Intensifying animal agriculture results in job insecurity, low wages, greater poverty, and contributes to rural abandonment. Additionally, water, soil and air pollution; land-use change and degradation; and market concentration are concomitant with livestock intensification, resulting in less access to land and to economic and natural resources for the rural poor. Conflicts with industrialized animal operations over land and forest resources threaten the ability of smallholders and indigenous peoples to overcome poverty.<sup>33</sup>



**SDG 8 - Decent work for all**

“Smallholders must not be pushed aside by large capital-intensive operations.”<sup>34</sup> Industrialized systems typically employ fewer people than traditional systems, as many integral tasks become automated, and those who are employed face poor working conditions, with a high level of occupational health hazards such as disease and injuries. Wages are low, and the seasonal nature creates prolonged job insecurity, with

many migrant workers. Migrant workers are especially vulnerable due to their precarious legal status, and are particularly likely to experience poor working conditions, unfair wages and limited access to services.<sup>35</sup> Instead, smallholders should be helped to enhance their animals’ productivity – and hence their livelihoods - through improved healthcare and nutrition.

**Conclusions**

Considering all the above facts, the conclusion should be clear: Moving away from industrial livestock to extensive animal agriculture is essential if we are to meet most SDGs. Two key complementary shifts are needed:

- A shift towards rearing animals in extensive systems to high standards of animal welfare. Such animals are healthier and therefore not dependent on routine preventive use of antimicrobials. Free-range animals can enjoy good welfare and – because they consume fresh forage and have higher activity levels – often provide meat of better nutritional quality with less fat and higher proportions of omega-3 fatty acids than grain-fed animals.

<sup>32</sup> HLPE. 2016. Sustainable agricultural development for food security and nutrition: what roles for livestock? A report by the High Level Panel of Experts on Food Security and Nutrition of the Committee on World Food Security, Rome.

<sup>33</sup> *Ibidem*

<sup>34</sup> José Graziano da Silva, 2018, Statement at the 10<sup>th</sup> Global Forum for Food and Agriculture: Shaping the Future of Livestock – sustainably, responsibly, efficiently.

<sup>35</sup> HLPE. 2016. Sustainable agricultural development for food security and nutrition: what roles for livestock? A report by the High Level Panel of Experts on Food Security and Nutrition of the Committee on World Food Security, Rome.

- A shift away from the excessive levels of meat and dairy consumption seen in High Income Countries and some emerging economies, which are only reachable using industrial livestock farming. This would reduce the incidence of heart disease and certain cancers, enable the Paris climate targets to be met and allow animals to be raised extensively to high welfare standards. It would reduce deforestation and pressure on wildlife habitats. It would help feed the growing world population as an increased proportion of crops could be used for direct human consumption

## THE EUROPEAN UNION AND ANIMAL WELFARE AT THE WTO

*“If economics were only about profit maximization, it would be just another name for business administration. It is a social discipline, and society has other means of cost accounting besides market prices.”<sup>36</sup>*

The World Trade Organization (WTO) is immensely impactful. It has near global membership and covers 96.4% of all trade.<sup>37</sup> The WTO has been the subject of intense scrutiny throughout its lifespan and it has often been criticised, in particular for mission-creep. First, the WTO is home to an increasing number of treaties which are reaching ever-closer to traditionally “green” topics and second, its dispute settlement mechanism has passed judgements related to animal welfare and environmental measures. There is very little governance of animal welfare at the international level<sup>38</sup> and in the context of (and perhaps because of) this legislative and governance void, the WTO has had a tremendous influence and impact on animal welfare.

It is questionable that an international economic organisation of this kind should have such an influence, at least without sufficient checks and balances in place. In that context it is worth underlining that in the report on the EU’s animal welfare international activities, recently published by the European Commission, claiming that the EU has had a ‘lighthouse’ effect in promoting animal welfare across the globe, no mention is made of the World Trade Organisation. This is a particularly glaring omission of the role this institution has had in past decade.

In this increasingly globalised and interconnected world where the social and environmental impact of trade continues to grow it is essential for WTO members to advocate strongly for the protection of so-called “non-trade issues”. Eurogroup for Animals commends the EU for its international activities on animal welfare. However, if the EU wants to be an effective global leader on animal welfare, Eurogroup for Animals contends that it is necessary for it to include action at the WTO level within its repertoire.

<sup>36</sup> Dani Rodrik, The Globalization Paradox: Democracy and the Future of the World Economy

<sup>37</sup> [https://www.wto.org/english/thewto\\_e/acc\\_e/cbt\\_course\\_e/c1s1p1\\_e.htm](https://www.wto.org/english/thewto_e/acc_e/cbt_course_e/c1s1p1_e.htm)

<sup>38</sup> There is no treaty on animal welfare, and a proposed Universal Declaration on Animal Welfare never came to be. Most of what has been accomplished is not enforceable, such as the animal welfare standards recommended in the World Organisation for Animal Health’s Terrestrial Animal Health Code.

The EU is well placed to do so as it markets itself as a global leader on animal welfare.<sup>39</sup> As shown by the latest relevant Eurobarometer, promoting animal welfare at the WTO would align with European values<sup>40</sup> and would satisfy the requirement set out in the EU's founding treaties to pay due regard to animal welfare.<sup>41</sup> In addition, as demonstrated earlier, higher animal welfare level would contribute in achieving SDGs, one of the aims stated by the EU in its concept note on WTO modernisation.

The EU has already made some attempts to raise animal welfare at the WTO in the noughties but the context has changed and it is high time to pick up where we left off. Eurogroup for Animals calls for the EU to adopt as one of its WTO priorities post MC11 the promotion of higher animal welfare standards through global trade rule-making.

### *A changing context at the WTO*

EU action on animal welfare at the WTO is even more necessary not only because of the WTO's mixed history in dealing with animal welfare issues but also considering the more positive trend in the field that could be observed at the WTO Dispute Settlement Body (DSB) level recently.

Initially WTO Treaties are silent on animal welfare. For this reason, much of the knowledge regarding the WTO's stance on the issue has come from rulings rendered by the WTO 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.

However, 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.<sup>42</sup> 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.<sup>43</sup>

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

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<sup>39</sup> [https://ec.europa.eu/food/animals/welfare\\_en](https://ec.europa.eu/food/animals/welfare_en). This accolade is also frequently ascribed to the EU by the media, by academia, and even by animal welfare NGOs.

<sup>40</sup> As demonstrated in the Eurobarometer. - that revealed that around 90 % of Europeans wanted the EU to do more to promote better animal welfare abroad,

<sup>41</sup> TFEU, Art 13 establishes the sentience of animals etc (write a one-liner on the article)

<sup>42</sup> Eurogroup for Animals, [Animal welfare protection legally permitted in trade policy](#), 7 April 2017

<sup>43</sup> Eurogroup for Animals, [Briefing - US Tuna II](#), 3 November 2017

standards and to ensure that market demand in the EU does not encourage inhumane practices in other countries.

### *EU's Historic Position on Animal Welfare at the WTO*

In the noughties, the EU adopted a bold approach towards animal welfare and trade policy. In 2000, the Commission even tabled a proposal on the matter to the WTO Committee on Agriculture.<sup>44</sup> 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”.<sup>45</sup>

The 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.

#### **Ensuring EU’s Animal welfare standards**

This objective has not been fulfilled and while the EU adopted in 2009 the Slaughter Regulation, one of its flagship legislation imposing criteria on welfare at the time of killing to imported products as well, the Commission has not produced any new animal welfare legislation in the past eight years. This corresponds roughly to the publication of the “Global Europe” trade Strategy and the intensification of bilateral trade negotiations. Interestingly, the EU also adopted in 2009 a landmark ban on seal products that it had to defend at the WTO for years until it got cleared in 2014. This has also contributed to the EU’s shyness in the field.<sup>46</sup>

In addition, already before 2009, many animal welfare legislations that were passed did not include a trade dimension, meaning that they did not automatically apply to imports. The “laying hen” directive (1999) or the “broiler” directive (2007) are good examples of that shortcoming.

#### **Avoid protectionism**

In this section, the EU argues that most of the issues it is raising on animal welfare are linked to highly-industrialised intensive systems, which were found in developed rather than developing countries.

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<sup>44</sup> European Communities proposal, [animal welfare and trade in agriculture](#), 28 June 2000

<sup>45</sup> European Commission, [Animal welfare legislation on farmed animals in third countries and the implications for the EU](#), 18 November 2002

<sup>46</sup> Read more in our [blog post](#) on the chilling effect

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 fighting efficiently global challenges such as anti-microbial resistance and climate change (see above). Action is needed before it is too late.

The proposal also describes some ways to act that could be discussed in the light of the changing political context. First, the recognition by the EU that every country can choose its level of animal welfare standards, while still entirely valid, is challenged by the need for global action to tackle challenges such as antimicrobial resistance and climate change. The EU has an even greater interest to promote higher standards in every country, by addressing the topic at the WTO, by ways of cooperation, technical assistance and capacity-building programmes and by including conditional liberalisation in its bilateral trade agreements. 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 towards that goal.

### *Conclusion*

This 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. It should do so.

Improving animal welfare standards is needed all around the world, and necessary to achieve SDGs. The chilling effect induced by WTO challenges and fears regarding competitiveness should not persist. Firstly, the WTO DSB has shown more openness towards animal welfare in its rulings. Secondly, the political context has changed and put into questions the conclusions made by the EU at the time. Major societal threats, as well as SDGs, now clearly link with animal welfare. According to the WHO, antimicrobial resistance will kill around 10 million humans each year in 2050 if nothing is done. The excessive use of antimicrobials on farms often directly correlates with the intensity of the farming system: higher animal welfare often reduces the need for antimicrobials. In addition, the world's climate objectives cannot be fulfilled if the emissions from meat and dairy farming are not addressed. The spread of intensive farming to less developed countries brings additional pressure to address the issue in a fair but efficient way.

In addition, the EU has been active for the 15 years at least 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.

## Recommendations for EU Actions

Eurogroup for Animals believes the Commission should pick up on its previous work and recognize the context has changed and the time is ripe for more efforts at the WTO level to better protect animals. As well as more ripe, the time is also more pressing due to increasingly important global challenges such as antimicrobial resistance and climate change. Eurogroup for Animals recommends the EU to undertake the following actions:

### *In the framework of agricultural negotiations at the WTO*

- 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
- The EU should 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:
  - ‘The development of multilateral agreements dealing with the protection of animal welfare’
  - Fulfilling the desire of consumers to make informed choices by pursuing ‘appropriate labelling, compulsory or voluntary, as provided for under Article 2.2 of the TBT Agreement’
  - Thinking around a compensation mechanism that could contribute to the additional costs [of animal welfare protection] where ‘it can be clearly shown that these additional costs stem directly from the higher standards in question’. This reflection process should take into account the findings of the study recently published by DG SANTE on the impact of EU’s international animal welfare activities on competitiveness of producers.
- This should be done in a manner sensitive to the needs of lesser developed members of the WTO
- The EU should pursue an approach to the Green Box subsidies that includes and reaffirms subsidies aiming at improving animal welfare as permitted

### *In other arenas at the WTO*

- Environmental goods agreement
  - The EU should seek for the 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
- Sustainable development
  - The EU should seek to ensure that the WTO includes consideration of animal welfare (especially in intensive livestock production) in any work on sustainable development

*Internally*

- Domestic trade rules
  - The WTO Appellate Body has now proven itself to be amenable to trade restrictions which aim to protect animal welfare. Thus, the EU should 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.
  
- Trade for All strategy
  - The next DG Trade strategy should include points on animal welfare and the WTO.
  - Considerations for animal welfare should be better mainstreamed to all relevant document produced.

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