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WORLD TRADE ORGANISATION

THE GREATEST THREAT FACING ANIMAL PROTECTION TODAY

POST CANCUN BRIEFING

For many years now the free-trade rules of the World Trade Organisation (WTO) have been wrecking progress on animal welfare. And unless they are reformed, the WTO rules will continue to be a major block to attempts to achieve improved welfare standards.

Nothing said or done at the Cancun Ministerial has helped address the problems described below, nor has the need for reform been in any way lessened.

Under the WTO rules a country, or a group such as the European Union (EU), which has enacted high welfare standards in its own territory, cannot say that it wishes its imports to come from animals reared to similar standards. Moreover, it cannot insist that its laws designed to protect animals or the environment must apply to imported products just as strongly as to domestically produced goods.

There is no doubt that the WTO rules are blocking progress on animal protection that would otherwise be made – progress that is justified by scientific research and wanted by much of the public is often simply not happening because of the WTO's destructive influence.

DAMAGE DONE BY THE WTO

Already one key EU animal protection measure – the ban on the import of certain furs from countries using the leghold trap – has largely been abandoned because of fears by the EU of a WTO challenge. For the same reason the EU for many years looked likely to drop its ban on the sale of cosmetics tested on animals, which was originally due to come into force in 1998. This will now come into effect in 2009/2013, but only years of determined lobbying have prevented it from being abandoned altogether.

Moreover, an attempt by the US to protect dolphins was ruled to breach the free-trade rules. In some seas, tuna tend to swim beneath dolphins. Fishermen often use the dolphins as a way of locating the tuna. They cast their nets around both schools, causing many dolphins to become trapped and die in the nets. To its credit, the US banned the import of tuna caught by the setting of nets on dolphins. However, this humane measure was ruled to contravene the free-trade rules.

WTO impeding good farm animal laws

The WTO rules are also making it increasingly difficult for the EU to enact good farm animal protection laws. This is because, under WTO rules, even if the EU bans a cruel farming system within its own territory, it cannot ban the *import* of meat or eggs coming from animals reared in that system in other countries. This acts as a powerful disincentive to the EU going ahead with its own ban as its farmers risk being undermined by cheap, low welfare imports.

For example, the EU has banned the battery cage as from 2012. Under WTO rules, however, it cannot ban the import of battery eggs. So apprehensive is the EU of this, that it is to review its cage ban in 2005. If by then the WTO rules have not been revised to allow the EU to require imported eggs to meet similar welfare standards to those applying to EU eggs, the EU might decide to drop its own ban on battery cages.

Indeed the EU (or any other WTO member) will face the same dilemma every time it wants to strengthen animal welfare: dare we go ahead with the improvement if it means that our own farmers risk being undermined by imported products?

REFORM IS VITAL

The WTO rules are currently being re-negotiated. They must be reformed to end their damaging impact on animal protection. The EU is pressing for 2 important reforms during these negotiations:

Reforms proposed by the EU:

1. **Include payments to promote high standards of farm animal welfare in 'Green Box'**

The EU wants payments to farmers to help them with the cost of changing to improved welfare systems to be included in the WTO Agreement on Agriculture's (AoA) 'Green Box'. 'Green Box' payments are not subject to the normal AoA rules requiring farming subsidies to be reduced.

2. Labelling

At present there is doubt as to whether mandatory (or even voluntary) labelling schemes are permitted under the WTO rules. The EU wants the WTO to recognise the legitimacy of labelling schemes. If such schemes are properly to facilitate informed consumer choice, they must be applicable to imported as well as domestic products.

The importance of this is highlighted by the fact that, due to WTO fears, the EU Regulation making it mandatory from 2004 to label eggs as to farming method only applies to EU-produced eggs, and provides a much weaker labelling regime for imported eggs.

Other necessary reforms:

The above two reforms would be welcome. On their own, however, they do not go far enough. The rules should be relaxed to permit WTO members to decline to import products derived from the cruel treatment of animals. Moreover, a country which has enacted high welfare standards in its own territory should be able to say that it wants its imports to come from animals reared to a similar standard.

3. Differential tariff rates

WTO members should be able to encourage good welfare by offering reduced tariff rates for imports from animals reared to high welfare standards. This approach would produce a classic *win-win* situation. Trade would be promoted by reduced tariffs, while at the same time exporters will be encouraged to adopt improved standards of farm animal welfare.

4. Developing countries : need for preferential access coupled with trade-related assistance and technology transfer

Some fear that developing countries would be disadvantaged if other countries could take account of animal welfare criteria in their import policies. However, this should not be the case : the kind of animal welfare standards which the EU may want to apply would be readily met by the sustainable, humane livestock husbandry systems which remain commonplace in most developing countries.

Indeed, farmers who use such extensive systems could actually gain competitive advantage by meeting requirements in the North for welfare-friendly produce.

However, developing country farmers who use humane systems need trade-related assistance to access markets in the North. The EU must be willing to make access to its markets a reality by offering support through preferential tariff rates for high welfare produce and by capacity building to help developing country farmers address issues such as:

- ?? The need to develop an export strategy which would include an analysis of key potential export markets, in order to identify opportunities for exports.
- ?? Certification that the meat or eggs reach high animal welfare standards; such certification must be reliable to instil confidence in buyers in the North, but not unduly burdensome for the developing country farmer or exporter.
- ?? Promotion and marketing of the produce in the North.
- ?? Distribution, i.e. actually getting the produce from the farm to markets in the North.
- ?? How to operate farms and slaughterhouses to high welfare standards.

The EU already offers trade-related assistance which contributes to poverty reduction by helping developing countries increase their ability to enter export markets. This assistance should now be extended to include produce from high welfare livestock farms in developing countries.

5. Process and production methods (PPMs)

Under the current interpretation of WTO rules, WTO members cannot distinguish in their import or marketing regulations between products on the basis of *the way in which* they have been produced, if that distinction applies to imported as well as to domestic products. This is a major problem as all attempts to improve animal protection are concerned with *the way in which* the animals are treated. However, as far as the WTO is concerned, an egg is an egg, whether it is battery or free-range and tuna is tuna, whether it is dolphin-friendly or dolphin-deadly.

We believe that the position on PPMs must be eased. WTO members should be able to distinguish between humanely-produced and cruelly-produced products.

The assumption that WTO members can never make PPM distinctions in respect of imported products is not necessarily correct. We say this as:

- a) The 'rule' against making PPM-based distinctions does not appear in the text of the WTO rules; it has arisen from Dispute Panels' interpretation of the rules.
- b) This interpretation flows primarily from the Panel reports in the two Tuna-Dolphin cases; neither of these was formally adopted and so neither is binding.
- c) WTO case law indicates that consumers' tastes and habits are important factors. In many countries consumers do distinguish between animal-derived products on the basis of the way in which the animals have been treated.

To allay fears that the ability to make PPM distinctions could lead to protectionist abuse, rules could provide that PPM distinctions must:

- i) be transparent, non-discriminatory and proportionate and must not constitute a disguised restriction on trade;
- ii) be science-based;
- iii) be of importance to a significant proportion of consumers in the country making the PPM distinction; and
- iv) relate to a matter of substance, rather than an insignificant point.

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