

## **Writing Animal Welfare into WTO Law: Assessing the Merits with Stakeholder Interviews**

**Abstract.** US and European stakeholders from the following interest groups were interviewed throughout the course of this study: government agencies, intergovernmental organizations, animal advocacy organizations, livestock trade groups, and selected academics. Depending on the format of the response, each respondent was asked a series of four to six questions. The questions, formulated during a literature review, concern areas of incomplete information or emerging relevance, including: 1) whether farm animal welfare language belongs in WTO law (and, if so, where); 2) whether the OIE is the appropriate organization to take the lead on international farm animal welfare (FAW) measures; 3) assessing the role of science in determining animal welfare standards; 4) evaluating the role of mandatory standards versus voluntary guidelines; and (5-6) examining broader trends in interagency cooperation and linkages between issue domains. Some questions elicited near-uniformity in responses, while others sharply divided the respondents. On question one: most interviewees felt that animal welfare language does not belong in the SPS agreement, may belong in the TBT agreement, and may already be covered by evolving legal precedents concerning GATT Article XX. On question two: the most common response to the question of OIE leadership was a ‘guarded yes’, with respondents pointing out both positives (transparent multilateral organization with legitimacy, longevity and a mandate) and negatives (no enforcement mandate, underfunded, animal welfare has few ‘roots’ in the organization). On question three: most (but not all) respondents agreed that scientific inputs are necessary but not sufficient conditions—they form an integral part of any standardization process, but public policy, by definition, cannot be ‘strictly science-based’. Intergovernmental organizations and livestock trade groups tended to emphasize instead the role of science as the only ‘common denominator’ between otherwise diverse member countries. On question four: although all respondents agreed that policy solutions need to be situation-specific, livestock trade groups and some others preferred voluntary or outcome-based mandatory standards, intergovernmental organizations highlighted the importance of flexibility, and animal welfare groups stressed the utility of using *both* voluntary and mandatory—whether internal or third-party—standards. One of the most interesting finds in this study was that the groups for and against including FAW language in the WTO legal texts have reversed roles over the last two decades, in part because animal welfare organizations—once the strongest proponents of inclusion—increasingly feel that the costs of inclusion outweigh the benefits.

**Introduction.** The “livestock revolution” in the developing world has vaulted the issue of international farm animal welfare (FAW) standards to the forefront of the international policy debate. This is true in relation to the recent global food crisis, the effects of increased livestock production on the global environment, and zoonotic dangers like BSE, avian influenza, and the current Influenza A H1N1<sup>1</sup> (“swine”) flu threat. These and other issues are converging to prioritize—or possibly marginalize—the welfare of animals raised for food production.

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<sup>1</sup> One of the respondents rightly pointed out that H1N1 is probably not of zoonotic origin. Nonetheless, the ill-named “swine” flu’s social and economic ramifications—both for the consuming public and for the hog industry—make H1N1 a useful test case for understanding potential shifts in consumer behavior.

To gauge the feasibility—and desirability—of including animal welfare in World Trade Organization (WTO) law, I contacted key stakeholders for their organizations’ position on the inclusion of FAW in the Sanitary and Phytosanitary Measures (SPS) Agreement, the Technical Barriers to Trade (TBT) Agreement, the Agreement on Agriculture (AoA), or the General Agreement on Tariffs and Trade (GATT) itself. Individuals from a range of groups were targeted, but the focus was on national and international livestock trade groups, animal advocacy organizations, governmental and relevant international organizations, and selected academics.

The interviews assess the views of those with the most power to support or oppose FAW measures at upcoming trade rounds. The interviews, conducted either via telephone, Skype, or email, address the knowledge gaps identified in the literature review: whether FAW belongs in WTO law, and, if so, where; whether the World Organization for Animal Health (OIE) is the right organization to spearhead the drive for international farm animal welfare standards; the extent to which animal welfare should be ‘strictly science-based’, and precisely what that means; and whether international FAW standards should be primarily advisory or primarily compulsory. Two follow-up questions on broader trends in animal agriculture and interagency cooperation were asked to Skype and telephone respondents. Interviews were conducted July-November of 2009.

**Background & Literature Review.** Although the likelihood of improved international FAW standards depends on improvements in animal welfare science (AWS) (see, for example, Hall 2001) and heightened public interest, this paper focuses specifically on national and international regulatory developments over the past five years. By focusing on the policy implementation developments—whether legislative, treaty-based, or voluntary—and the views

of particularly engaged and influential stakeholders, we can see both how recent research is bearing legal fruit in the form of international FAW standards and where the legislative framework is not in line with stakeholder perspectives.

With some caveats, the voluntarist and top-down models correspond to the U.S. and European approaches to managing FAW; various EU Directives back up the promulgated FAW standards with legal force, whereas the USDA has historically accepted livestock industry standards as the norm. However, American state-level ballot initiatives and European and American retailers' voluntary actions to capture niche markets indicate that the two approaches are often complementary rather than—or in addition to—competing policy approaches.

At the international level, recent science-based initiatives at the OIE include establishing guidelines initially on the slaughter and transport of animals; current production animal standard-setting priorities relate to broiler chickens and beef cattle, with dairy cattle the next agreed priority. Understanding the content, scope, enforceability, and repercussions of these guidelines was among the primary questions my interviews sought to answer. Alongside voluntary codes of conduct and top-down directives, then, various NGOs—and some governments—are focusing on a 'soft law' approach: getting international support for a Universal Declaration of Animal Welfare (UDAW), while inter-governmental organizations (IGOs) and others are working on institutional capacity building for implementing and monitoring FAW standards and member state buy-in through the building of political capital.

New stakeholders and initiatives include: the World Bank's International Finance Corporation (IFC), which has addressed the linkage of animal welfare standards to lending practices; the UN Food and Agriculture Organization (FAO), which has confirmed interest in capacity building work on animal welfare and has recently established an animal welfare portal

on their web site<sup>2</sup>; and the US Department of Agriculture (USDA), which has shown recent interest in engaging with international stakeholders. Updates on existing stakeholders' ongoing projects include: progress with the OIE strategic animal welfare initiative; assessing national buy-in for regional OIE Animal Welfare strategies; evaluating the 2008 2<sup>nd</sup> OIE Global Conference in Cairo and the Global Trade and Farm Animal Welfare Conference held in Brussels in January, 2009; examining the OIE and individual country endorsements for the proposed Universal Declaration on Animal Welfare; and explaining the results and implementation of the 2005-2009 EU Welfare Quality project in a conference held in Uppsala, Sweden in October, 2009. Taking stock of this new and existing stakeholder engagement formed the basis of the second follow-up question.

A paper of this scope cannot examine any of the above developments in great detail,<sup>3</sup> although one of the follow-up questions did ask for the respondents' views on which, if any, of the above developments are most useful. Instead, I perused the relevant sources for useful patterns on the policy progress in international FAW standards and their relevance to international trade, considering demographic and other factors throughout. Such factors include, but are not limited to: the ongoing "livestock revolution" (Fraser 2008, Pehu and de Haan 2005); the recent global food crisis; the growing awareness of the environmental and food safety impacts of intensive agriculture as described in the FAO Livestock, Environment and Development (LEAD) paper *Livestock's Long Shadow*; and the various reports about BSE, avian influenza, the current "swine flu" pandemic, and other perceived zoonoses. Assessing whether

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<sup>2</sup> See <http://www.fao.org/ag/againfo/programmes/animal-welfare/en/>.

<sup>3</sup> Indeed, the following sources demonstrate a range of academic interest in FAW issues that spans from behavioral economics to applied animal welfare science. Stakeholder attitudes towards farm animal welfare (FAW) have received greater academic scrutiny in recent years (Vanhonacker *et al* 2008, Austin *et al* 2005, Heleski *et al* 2005, Frewer *et al* 2005, Te Velde *et al* 2002, Fraser 2001), as have the various schema for assessing welfare determinants (Liljenstolpe 2008, Zaludik *et al* 2007, Thompson *et al* 2007, Broom 2007, Scott *et al* 2007, Watanabe 2007, Wechsler 2007, Dawkins 2006, Mendl and Paul 2004, Jensen *et al* 2004) and the methods of testing consumer willingness to pay (WTP) for higher welfare standards (Carlsson *et al* 2007, Mann 2005).

these and other developments are ‘on net’ good or bad for the farm animal welfare formed the core of the first follow-up question.

The remainder of this section provides a background on the lay of the legal land with respect to FAW standards. Looking both at academic scholarship and regulatory developments, I outline some general trends in recent FAW standards, with emphasis placed on the dominant approaches in the U.S.A., Europe, and the international community more broadly. First, however, I begin with a brief overview of the relevant WTO law.

**Relevant GATT Law in Brief.** Just as the range of developments covered in this review cannot all be addressed in depth, the potentially applicable WTO laws are too numerous and complex to fall under the purview of this study (see my Fletcher School thesis, “Farm Animal Welfare and WTO Law”<sup>4</sup>, for a thorough legal analysis). The following, however, should provide the basic information necessary to understand the structure of WTO law as it pertains to this study. First and foremost, it is important to understand that the GATT is a treaty of cumulative application. What this means in context is that inclusion of FAW in the clause covering measures “necessary to protect human or animal health” language of SPS Article 2:1 would not exempt animal welfare measures from scrutiny under the obligations of the GATT proper. Instead, the legality of the measure in question would have to pass muster *both* under the SPS and under the GATT 1994.

Obligations under the GATT itself include, most prominently, “most favored nation” (MFN) (Article I) and “national treatment” (NT) (Article III) requirements, which stipulate that countries cannot discriminate between similarly situated trading partners and that imported and locally produced goods should be treated equally. Member states are also prohibited from

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<sup>4</sup> Available online at <http://fletcher.tufts.edu/research/2008/Sharpless.pdf>.

imposing bans or quantitative restrictions (Article XI). If found to be in violation of one of the above articles, member states have recourse to a limited range of policy exemptions under GATT Article XX. The following Article XX exemptions may be relevant to the legality of a FAW measure: if a measure is “necessary to protect public morals” (XX(a)); “necessary to protect human, animal or plant life or health” (XX(b)); or “relating to the conservation of exhaustible natural resources” (XX(g)).

To greatly oversimplify a complex legal question: the crux of the matter from a FAW policy measure perspective is whether or not welfare friendly and unfriendly food and fiber products should be considered “like products” (in which case the measure would be found to violate one or more sections of GATT Article III, as well as other specified GATT documents). For the purposes of this analysis, it suffices to underline that merely changing the wording of the SPS Agreement would not help to defend otherwise justifiable FAW measures.

**The Voluntarist Template: Private Standards.** In the U.S.A. and internationally, large retailers and supplier groups have recently begun to institute humane animal care standards, both as a means to defuse growing public criticism and to capture untapped niche markets for humanely raised meat. Although the motives for such actions are complex and contested, standards can generally be classified as: 1) responsive to public or NGO pressure as a means to avoid bad PR or onerous government regulation, or 2) intended to capture market demand for humane food products. While not mutually exclusive, voluntary standards tend towards one or the other of these two groupings.

Responsive actions by retailers and suppliers are, in many respects, part of a multi-tiered trend towards corporate social responsibility (CSR) brought about as a response to activist

pressure from social, environmental, and, in this case, animal groups. The literature on responding to activism gravitates around the disciplines of public relations research and mass communication. Drawing on J.E. Grunig's situational theory of publics and Hazleton and Long's public relations process model, Werder (2006) uses People for the Ethical Treatment of Animals' (PETA's) McCruelty campaign circa 2000 to evaluate which public relations strategies work best under which conditions.<sup>5</sup> The underlying assumption is that the actions of activist organizations do matter to companies, if only because they seek to manage or preempt adverse reputational effects; this insight is in line both with Skapinger's (2008) view of "CSR as a form of reputational risk management" and with recent work indicating that fast-food business responses to animal activists are "low-key" responses meant to satisfy the pressuring group rather than hypervisible green marketing campaigns (Adams 2008).

Whatever their motives, however, it remains true that dominant retailers and suppliers have endorsed improved voluntary standards over the last few years. Prominent retailer actions include McDonald's 2001 decision to require improved egg-laying hen space allowance standards for its suppliers and the animal welfare expert committees developed by the National Council of Chain Restaurants and the Food Marketing Institute (FMI-NCCR) in 2000 (Mench 2008). Other retailers to announce welfare plans include Wolfgang Puck (Jennings 2007), Burger King (Walkup 2007), and Chipotle Mexican Grill in partnership with the supplier Niman Ranch. On the supply side, large-scale cases of action by agribusiness groups include the United Egg Producers' (UEP) 2006 decision to institute third-party auditing and to remove forced molting from its animal care guidelines, and the January 2007 announcement by Smithfield, the largest

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<sup>5</sup> "Specifically, [Werder] seeks to determine the influence of informative, persuasive, facilitative, promise and reward, threat and punishment, cooperative problem solving, and bargaining strategies on individuals' problem recognition, level of involvement, constraint recognition, and goal compatibility toward an organization responding to activism" (Werder 2006, 336).

pork producer in the U.S.A., that it would phase out the use of gestation stalls in favor of group housing over a ten-year period (Mench 2008).

Paralleling these actions by large retailers and dominant suppliers, U.S. agribusiness in the new millennium has also seen a trend towards private third-party FAW auditing, a development that is especially useful in a domain otherwise dominated by unsubstantiated welfare claims. The Certified Humane standard, for example, is modeled on the British Freedom Food scheme of providing third-party auditing and scientific advisory panels (Duecy 2005). Certified Humane uses third-party verification through the non-profit NGO Humane Farm Animal Care, and is the only label to receive both ASPCA and HSUS backing. Various other such standards exist, including most prominently American Humane Certified (formerly Free Farmed), Animal Welfare Approved, and the multi-tiered Global Animal Partnership system.

This trend corresponds to a similar trend in the global agrifood system towards third-party certification more generally (Fulponi 2006), with greater power being placed in the hands of supermarkets (Hatanaka *et al* 2005) to differentiate products both based on physical characteristics and on process characteristics such as FAW. Some researchers (Jacobsen and Dulsrud 2007) are wary that political consumerism can have only limited impacts on the methods of goods' production, that information asymmetry will necessarily complicate the role of traceability systems in global agribusiness (Hobbs 2004), and that the food industry may not have incentives to effectively police itself (Zhang 2007). In light of this diversity of opinion, understanding the net national and international effects of the voluntarist model is one of the primary objectives of the stakeholder interviews.



**The Legalist Template: Regional Directives.** The landscape of U.S. law regulating farm animal care (Wolfson 1996) is comparatively barren. The 1958 Humane Methods of Slaughter Act (HMSA)—which the USDA interprets to exclude poultry—and the 1873 Twenty-Eight Hour Law are the only apposite federal laws, and relevant environmental law defining pollution “point sources” under the Clean Water Act and the Clean Air Act has often been ignored or underutilized (Merkel 2006). In contrast, relevant EU law has progressed steadily from the British Brambell Report<sup>6</sup> of 1965 through to the 2004-2009 Welfare Quality Research Project.

In addition to the various national laws enacted primarily by northern and western European nations,<sup>7</sup> three legal instruments are available to the EU at the regional level: regulations (which become binding and controlling law within all member states), directives (which bind member states to shape domestic law accordingly), and decisions (which are non-binding and recommendatory in nature). Between 1968 and 1987, the Council of Europe enacted six Conventions on animal welfare issues, including transport (1968), farm animals (1976), slaughter (1979), wildlife (1979), experimentation (1986), and pets (1987) (Hughes and Meyer 2000). A first wave of Directives on laying hens (1988) and pigs and calves (1991) required incremental improvements in space allowance and other welfare indicators, and have been amended (1997-2001) to include: a ban on veal calf crates by 2006, a ban on standard battery cages by 2012 (larger cages will be permissible), and a partial ban on stalls for pregnant sows by

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<sup>6</sup> The Brambell Report popularized the “Five Freedoms” approach to animal welfare, which are universally regarded as good FAW practice even between differing welfare assessment methods. The Five Freedoms include the ability to: turn around, groom, stand, lie down, and stretch.

<sup>7</sup> In the UK, a country with a long history of animal protection and which boasts the first animal protection act on record anywhere in the world (Martin’s Act, passed in 1822), Parliament banned the veal crate in 1987, enacted the Pig Husbandry Law of 1991, and is currently phasing out intensive battery cage and broiler poultry production.

2013 [use for a maximum four week period per gestation will be permitted] (Fraser 2006) (See Blokhuis 2004 for a good overview of housing, slaughter, and transport specifics).

EU protocols have repeatedly made clear the European Community's commitment to animal welfare. The 1992 Treaty on European Union (the Maastricht Treaty) contains a binding Declaration on the Protection of Animals. The EU adopted a binding Protocol at the June 1997 Amsterdam Inter-Governmental Conference that recognizes animal sentience and obliges members to "pay full regard to the welfare requirements of animals" used in agriculture, transport and research (Brooman and Legge 2000). More recently, on October 12, 2006, the European Parliament adopted an Action Plan on the Protection and Welfare of Animals 2006-2010, by 565 votes to 29. Finally, the ongoing Welfare Quality project—a five-year Europe-wide study concluded in May of 2009—has provided innovative and ongoing FAW capacity building, monitoring, and implementation.

However, just as California's recent proposition 2 (and similar ballot initiatives in other U.S. states) "deviates" from the voluntarist model dominant in the U.S., it would be incorrect to assert that the E.U. model is purely legalist. European retailers like Marks & Spencers, Waitrose, and Sainsbury have been marketing welfare-friendly animal products for some years (Roe and Marsden 2007), and countries, retailers, or suppliers wishing to go beyond the regionally mandated welfare minimums can and do publish Codes of Practice to ensure better husbandry practices (Veissier *et al* 2008) and to otherwise capture untapped market demand for humane food and fiber products. Whether this array of above-and-beyond measures runs the risk of falling foul of current or proposed OIE FAW guidelines is a key question that has yet to be properly addressed.

**The International Template: Science-Based Consensus and Capacity Building at the OIE.** Now called the World Organization for Animal Health, the Office Internationale des Épizooties (OIE) was founded to deal with global health pandemics in 1924. It has since branched out to become the leading international body working on the assessment and codification of farm animal, and other animal welfare standards. All OIE and the majority of WTO member states have indicated support for allocating prescriptive jurisdiction over FAW to the OIE, but the diversity of stakeholder voices is such that some may view it as a suboptimal choice. The stakeholder interviews will also seek an answer to this question concerning choice of forum.

First identified as a priority in the OIE Strategic Plan 2001-2005, the OIE adopted its animal welfare mission in 2002, and has subsequently sponsored the first Global Conference on Animal Welfare (which met in Paris from 23-25 February 2004) and the second Global Conference in Cairo in October 2008. A Permanent Animal Welfare Working Group was established by the Member states at the 70<sup>th</sup> OIE General Session in May 2002, and five animal welfare standards to be included in the OIE *Terrestrial Animal Health Code* were adopted at the 73<sup>rd</sup> General Session, in May 2005, which cover conditions pertaining to transport and slaughter.

Animal welfare does not fall within the scope of the WTO's Sanitary and Phytosanitary Standards (SPS) Agreement. Rather, the SPS designates the OIE as the authoritative body for matters of animal *health*. Nonetheless, under bilateral and eventual multilateral guidance<sup>8</sup> from the OIE Animal Welfare Working Group, the 175 OIE Member States are working with various national and international NGOs and UN agencies to improve FAW standards and coordination

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<sup>8</sup> As Bernard Vallat, OIE Director-General, notes in the foreword to the First Global Conference, "the OIE's aims in the field of animal welfare consist first and foremost of proposing guidelines for adoption by our International Committee. Member countries wishing to engage in trade in animals or animal products will then be able to use these guidelines on a bilateral basis...Ultimately, these guidelines will also lead to a gradual harmonization of existing national and regional legislation."

while minimizing adverse impacts on international trading relations. Such improved coordination of international standards would have a range of positive effects, from increased trading between member states to the avoidance of low animal welfare havens<sup>9</sup> (Stevenson 2002).

Especially in light of the recent scares of zoonotic disease transference and the possible culpability of intensive animal housing systems, the mismatch between stakeholder engagement in FAW standard promulgation and the absence of animal welfare language anywhere in the corpus of WTO law may—or may not<sup>10</sup>—need to be reexamined. This study seeks to understand the barriers to, and potential benefits of, such an inclusion.

**Methods.** Although the works discussed in the literature review present a broad range of topics and issues that applied FAW scholars have tackled, a proper understanding of expert opinion on whether or not animal welfare belongs in the GATT provisions is still lacking. Accordingly, this paper assesses the opinions of expert stakeholders from a range of domains (contacts are listed in **Appendix A**) regarding the selected question and related follow-ups corollaries.

The methodology for contacting the sources and coding the data is as follows. I sent a uniform email contact—both in the body of the email and attached as a PDF to each individual, introducing myself and requesting their professional opinion on the relative merits of FAW inclusion at the WTO. I also ask the experts’ opinion on the role of voluntarist vs. legalist policy regimes, the role of science in assessing FAW, the choice of the OIE as controlling institution,

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<sup>9</sup> For one example: the banning of veal crates in the UK resulted in the collapse of the British veal industry, with the result that veal was imported to the UK from nations with lower standards, resulting in a net loss for FAW.

<sup>10</sup> The array of issues are not included in original GATT text—a document drafted over a half century ago—is extensive, and it is not entirely clear that including a list of relevant issues (potential ‘non tariff barriers’, in the language of trade theorists) would be preferable to working within the somewhat malleable framework of the existing case law.

and the optimal location for FAW language in the GATT itself. All of these arose as potential controversies or knowledge gaps in the literature review. The text of the message is listed in **Appendix B**.

In the case of non-response, I sent a follow-up email seven days later. The preferred method of communication was via telephone interview using Skype to facilitate interview recording for subsequent transcription and coding. If the respondent preferred otherwise, however, a list of general questions and the option to respond by email was provided. Upon completion of the phone interview or receipt of an email response, I sent another email thanking the respondent for their time, and another with a draft appended for approval. A final email was sent to all respondents with the draft completed study attached as a PDF and abstracted in the body of the email.

Upon receipt of written or oral responses, answers were coded by organizational background and interest prior to a detailed evaluation of different stakeholder positions. Because the sample size is, in some cases, not large enough to justify a respondent grouping by category, I examined trends in the different groupings (national/international, governmental organization, intergovernmental organization, livestock trade group, animal welfare organization, academic) primarily through detailed analysis of respondent transcriptions. When possible, the analysis is decoupled from individual responses, seeking instead to provide a pattern of views and responses from which to draw useful conclusions.

The coding seeks particularly to tease out an answer to the following: is there a generalized support for including an FAW provision in WTO law? If so, why? And, if not, why not, and how do the stakeholder preferences break down according to the above-described parameters? Similar trends in the other questions are also examined, although the thrust of the

analysis concerns the nuances of animal welfare and the role of GATT and the OIE. Special attention is paid to stakeholder responses that don't line up with preconceived notions of what each stakeholder group is likely to believe, insofar as such divergences indicate previously untapped reservoirs of potential cooperation.

**Results and Analysis.** The analysis proceeds in six parts, examining respondents' answers to the four core questions and then to the first and second follow-up questions. I begin each section by restating the question and, if necessary, highlighting any potential red flags in the wording that might have provoked unanticipated responses. Although I have attempted to elicit responses from a representative range of stakeholders, respondents' answers cannot be viewed as authoritative across the board. In some cases, respondent's answers are presented as the relevant organization's official position on the issues in question. Other respondents, however, are responding only in a personal capacity. Thus, whenever I cite this or that "respondent organization", I am necessarily referring only to the individual's views on an issue, which are intended here to provide greater clarity for the national and international policy debate on the issue of farm animal welfare and international standardization. Additionally, it is important to keep in mind that issues on which respondents "generally agreed" received relative but not necessarily universal support.

A study of this nature faces a range of possible criticisms. First and foremost among these is the critique that the range of stakeholders contacted was somehow not representative, or that the process of coding interviews granted unequal weight to specific points of view. These are both potentially valid criticisms, and I have addressed each as described below.

To respond to the critique regarding the representativeness of the sample: the biggest gap in responses came from the US livestock trade groups, who are represented by only one respondent interview. Although it is possible that a broader range of respondents should have been contacted (three individuals were contacted, but only one interview was granted) to guarantee a greater diversity of input, much of this problem might also be attributable to the “trench warfare” status of the farm animal well-being debate in the USA. The social divisiveness of the FAW issue in the US substantially prevents rational progress, and this critique can arguably be leveled both against animal advocates and livestock farmers (Indeed, the livestock farming community and the respondent from USDA APHIS were both generally averse to the word “welfare”, primarily because of its supposed appropriation by the animal welfare advocates).

A wealth of nuance and rich personal discussions also had to be foregone, both to protect respondents’ confidence and to provide a general overview of opinions rather than an over-specific endorsement of individual perspectives. Nonetheless, each section in the analysis contains a brief overview of all of the primary points raised by each written or oral response. Any emphasis in attention in the paper corresponds to an emphasis in attention during a substantial number of the interviews or in a substantial number of the written responses. Attempting to mediate between potentially hostile groups, however, is inevitably a challenging proposition, and any failures in doing so are my own.

### **First question: Should WTO Law Include an Animal Welfare Clause?**

The GATT’s Sanitary and Phytosanitary Standards Agreement and Agreement on Agriculture currently contain references to animal health only. Do you think that

including animal welfare in the WTO serves the purposes of GATT?<sup>11</sup> If so, what do you think are the main barriers to, and benefits of, inclusion? If not, what do you think are the main drawbacks to inclusion? Finally, should animal welfare be included in the SPS Agreement, the Agreement on Agriculture, in the GATT itself, or as a combination of the above?

Most respondents began with an introductory comment on their views concerning the nature and purpose of the international trading system, which were somewhat varied but generally affirmed that ‘freeish’ trade is useful but that consumers should be granted meaningful moral standards in various domains. One respondent also pointed out their concerns regarding precisely why the livestock revolution has brought animal welfare to the forefront, highlighting the possibility that developed countries are merely shielding higher-cost domestic producers from lower-cost foreign producers. My analysis, however, focuses instead on the technical aspects of this question and their implications for future developments.

The near-consensus view among respondents was that animal welfare language: does not belong in the SPS agreement, may belong in the TBT agreement or in the Agreement on Agriculture, and may already be covered under GATT Article XX and elsewhere by evolving legal precedents. At least one livestock trade group respondent, however, felt that such language does not belong in the WTO legal texts. One of the most interesting developments I noted is that the stakeholder group that was previously most interested in pushing for animal welfare language—animal welfare organizations—is now potentially among the most opposed to its inclusion if certain conditions are not met. I address each of these points in turn.

**SPS.** Although the Sanitary and Phytosanitary Measures (SPS) Agreement is the WTO document that grants OIE jurisdiction over matters of animal health, most respondents felt that it is not the vehicle to deal with animal welfare, and for a range of different reasons. The view from

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<sup>11</sup> This question was substantially reworded in conversation, such that the actual question was closer to ‘do you think that including animal welfare somewhere in GATT law is a good idea’, with a relative devaluation of the phrase ‘serves the purposes of GATT’, which was interpreted in different and sometimes counterproductive ways.



USDA's Animal and Plant Health Inspection Service (APHIS), which monitors and provides comments on OIE FAW standards, is that SPS deals primarily with the technical aspects of animal health and food safety, and that inclusion of animal welfare would create unnecessary muddling and confusion regarding the interpretation of member states' obligations. Respondents from the European Commission (EC), while not categorically opposed to inclusion under the SPS Agreement, focused much more on the TBT Agreement and GATT Article XX. Although one respondent suggested that inclusion under the SPS would be tactically easier than under the GATT itself due to the human and animal health consequences of certain animal welfare concerns, the majority view was that the SPS is not the right vehicle for inclusion.

The most vocal opposition to inclusion of an animal welfare clause under the SPS Agreement via OIE auspices came from the various animal welfare organizations, primarily for the following two reasons. First, because the OIE's guidelines for on-farm husbandry are neither comprehensive nor complete, they could become an unacceptably low de-facto ceiling on FAW standards. Second, some respondents felt that animal welfare is at least as closely related to ethical and philosophical as well as purely technical considerations, and should thus be considered more of a cognate with labor standards than with plant and animal health standards—the SPS's 'exclusively' science-based risk analysis mechanism would be insufficient to address the normative concerns inherent in FAW standards.

**TBT and AoA.** Compared with the reaction to using the SPS Agreement, most respondents were much more receptive to the idea of using the TBT Agreement's labeling provisions and the Agreement on Agriculture's Green Box provisions, with the caveat that labeling and Green Box support could not, for many respondents, cover the full range of FAW issues concerning the trade ramifications of public and private standards. Although the TBT

agreement does require governments to use relevant international standards when putting regulations into place, it gives governments more leeway to claim that an international standard is not appropriate for what they want to achieve. Additionally, various humane advocacy and EC respondents indicated that the European Community's recent bans on seal products and cat and dog fur are likely to serve as a relevant template for the applicability of TBT measures to FAW labeling. Respondents from the EC were generally positive to inclusion under the TBT, whereas the respondent from USDA APHIS indicated that one would need to ask US trade representatives.

**GATT Article XX and the Evolution of DSU Review.** Some academic respondents felt that animal welfare and other moral issues needed to be included in GATT proper, while some livestock trade groups and IGO representatives felt that doing so would foster rampant and undue protectionism. Regarding GATT Article XX in particular, some respondents felt that existing coverage under the “public morals” clause of XX(a) would be sufficient to address animal welfare in the case of a possible trade dispute. Indeed, some animal welfare group respondents indicated that they would be more comfortable with existing GATT law—in light of recent DSU review on cases such as *Asbestos*, *Brazil-Tyres*, *Turtle-Shrimp*, and others—than with the potential welfare ceiling attributable to an animal welfare provision linked directly to the OIE.

## **Second Question: Should the OIE be the Global Leader on FAW Guidelines?**

Is the World Organization for Animal Health, currently the WTO-sanctioned body for issues of animal health, the right institution to serve as arbiter of what constitutes good animal welfare practices under section 3.7 of the Terrestrial Animal Health Code? Why or why not?

The responses to this question ranged from enthusiastic support to ‘maybe’, with a ‘guarded yes’ being the most common answer. None of the respondents were categorically

opposed to OIE taking a leadership role on FAW, and most were generally supportive of its initiatives to build support for FAW in developing countries. For one academic, the matter hinged fundamentally on whether the experts involved could disassociate themselves from their vested interests. The livestock trade groups affirmed the OIE's role as the international standard-setting body with the necessary capacities, veterinary know-how and international respect while cautioning that the OIE cannot usurp the DSU's role as arbitrator but should focus instead on pushing for the five freedoms as an internationally agreed upon minimum (cited by one respondent). The view from all three animal advocacy organizations was reasonably uniform: that OIE standards should serve as a minimum mandatory basis across the world, but that it has neither the expertise nor the range of qualifications necessary to pass judgment on more ambitious standards that are either planned or currently in place.

Because the respondents highlighted a wide array both of positives and negatives, I proceed by listing each in bullet form before examining the organization's relative strengths and weaknesses in the domain of FAW standardization, and a possible solution as gleaned from respondent answers.

**The Positive:** The following strengths, attributes, and positions were all cited as points in the OIE's favor. EC representatives and some academics had the most positive commentaries.

- multilateral body that's recognized by the WTO as the international standard-setting body
- representative of the veterinary profession worldwide and well known in veterinary circles (as one respondent put it, they are also "not lawyers" and have a firm grounding in animal husbandry)
- already has a mandate to develop norms on animal welfare
- transparent: draft measures are published, working groups' reports are widely circulated and discussed
- a helpful vehicle for raising awareness of animal welfare in less industrialized countries

**The Negative:** The following shortcomings and potential pitfalls were all cited as points against an overreach in the OIE's leadership role. Animal welfare organizations and, again, some academics had the most critical commentaries.

- creating conflict and potential opposition to private or public standards that exceed the forthcoming draft OIE on-farm guidelines
- ad hoc committees have to have one member from each of the five regions, which don't represent a balanced division of the world into five parts, and from which scientific expertise cannot be equally drawn (greater likelihood that North America, Europe, New Zealand and Australia will have experts in the field)
- doesn't have any teeth: little to nothing in the way of sanctions
- OIE member delegates are chief veterinary officers from an older generation of vets for whom the notion of animal welfare was never part of their training, and as a result doesn't have much depth of involvement with the issue
- lack of resources (underfunding)
- difficult for animal welfare experts—or 'outsiders' generally—to influence policy formation
- getting 174 member countries to agree on guidelines via unanimity requirements may lead to the adoption of 'lowest common denominator' standards

Some of these 'negatives' may also contain positive offshoots or elements. The lack of enforcement inherent in the setting of 'guidelines' as against 'standards' may—or may not—result in a relatively weak lobbying process from interested stakeholders, allowing for the development of stronger standards. The problem of squaring the competing interests of regional representation and expert input is similarly double-edged; it has the benefit of being regionally diverse and accounting for a greater plurality of developing country concerns. The requirement for unanimous agreement, a core feature of the international legal system, also accords greater legitimacy to the promulgated guidelines.

Most respondents agreed that the OIE has a central role to play in this debate, with possible disagreements falling under the following two umbrellas: 1) that the OIE standards could become de facto 'welfare ceilings' under WTO jurisprudence (primarily cited by animal welfare groups), 2) that the OIE standards will be most enforceable if they are outcome-based rather than process-based (primarily cited by livestock trade groups and by USDA APHIS).

### **Third Question: The Role of Science in Determining Guidelines**

Would you only endorse a decision if it were strictly science-based? Would you view a standard promulgating animals' ability to engage in species-specific behaviors that have little immediate health repercussions as science-based? Why or why not?

The majority of respondents shared the following view: that scientific inputs and data form an integral part of any standardization process, but that no public policy can ever be ‘strictly’ science-based: too many other political, economic, cultural, and ethical variables are inevitably included. This is not to say that all respondents agreed on a uniform answer to this question. Far from it: the responses ran the gamut from “there are no standards that are strictly science-based” to a view of science-based standards based on optimal animal weight gain.

There was, however, relative agreement within respondent groups, with the most noticeable difference among functionally similar groups coming from USDA APHIS and the EC. Animal welfare organizations and academics generally espoused the above definition, with some variation. Livestock trade organizations and APHIS emphasized the importance of sound science as the only basis for reliable data (often with a specific focus on veterinary science), although some of the respondents acknowledged that other variables do enter in. Representatives from the EC emphasized the three-part risk analysis model and the work of the European Food Safety Authority (EFSA) in researching the relevant science.

The view from the animal welfare organizations was generally uniform, with most academic respondents highlighting similar points. A common view was that science provides the essential inputs, but the actual policymaking decision is inevitably normative in that it has to decide which preferences to prioritize. (Growth rate and economic factors? Ethological variables? Physiological variables? Carcass examination? Cross-evaluation of farm animal welfare and zoonotic disease risk? All of these matter to select stakeholders but are generally underemphasized by others.) In other words, as one academic respondent put it, “if it’s only science based then you don’t take a decision.” Within this view, however, some respondents had stronger normative preferences for one specific variable than did others—one respondent, for

example, strongly preferred outdoor husbandry systems, while others were somewhat more ambivalent on that point.

Specific opinions from the animal welfare and academic perspectives highlighted the following points on a range of related issues:

- Too little emphasis has been placed to date on the *positive* experiences of animals. Welfare systems should focus not only on preventing pain and suffering but on whether a life is, on balance, worth living. (mentioned by only one respondent)
- Too little emphasis has also been placed on the ethical implications of genetic uniformity in strains of birds that may have little or no interest in going outside—and these questions can't be answered strictly scientifically, but require normative understandings of whether one is intending to prioritize physiological and cognitive disturbances over behavioral characteristics, or vice versa.
- More emphasis should be placed on interdisciplinary work of the sort that the Welfare Quality report emphasizes. (mentioned by only one respondent—another respondent actually indicated that they saw the WQ Report as having relatively little impact outside of Europe)
- The adoption of a precautionary principle to give animals the benefit of the doubt—i.e., to move from a baseline under which any practice is legitimate unless it has been proven harmful to a baseline where only practices that cause little or no demonstrable harm are acceptable.

These critiques notwithstanding, the OIE respondent points out that “science is the only ‘common denominator’ between the [organization’s] 174 [member] countries.” In response to this point, one of the academics noted that “you can have a technical or science-based standard, or you can have a process where 174 member country representatives vote on something. But if it’s democratically chosen by consensus of 174 countries, then it can’t be just science based.” The imperative, then, is to use the scientific inputs about animal needs, animal growth, various risk analyses, etc., as the best available ‘common denominator’, but to understand that international organizations’ policy decisions involve myriad political and ethical compromises between competing interests and points of view. Indeed, as one of the animal welfare group respondents pointed out, the Second Global Conference on Animal Welfare held by the OIE in Cairo in October 2008 included a recommendation that guidelines should be science-and-ethics based.

The respondent perspectives with the greatest divergence on this issue were, predictably, those put forth by the EC respondents as against those presented by the respondent from USDA APHIS. The USDA respondent emphasized the production-oriented aspect of science-based standards in which animal health necessarily optimized production, and little emphasis should be placed on prescribing methods as long as the end result is the same. The EC respondents, on the other hand, presumed that science-based standards required a wide array of possible inputs and values; they focused instead on the importance of having an independent body like the European Food Safety Authority (EFSA)—which itself carries out scientific assessments in the domain of animal welfare—involved in the process of engaging in the foundational scientific research upon which the scaffold of policy can be erected. (One academic pointed out problems with relying too heavily on this approach, however: science-based standardization is much more straightforward when you’re establishing disease risk than when you’re involved in a domain like FAW, which is founded on certain moral assumptions and involves a range of potential trade-offs.)

One of the EC respondents also pointed out that the WTO has a long history of jurisprudence around these issues, and a corresponding formula that has developed to deal with science-based standards through risk assessment, risk management, and risk communication. In keeping with the position laid out above (that science-based standards can assess a range of ‘risks’, from food safety to animal welfare parameters to environmental impacts, for example), the policymaker’s task is to balance the competing risks—assessed scientifically—and to provide for a socially agreed-upon level of public input (which may or may not correspond to the science).

When responding to the question's second part—whether “a standard promulgating animals’ ability to engage in species-specific behaviors that have little immediate health repercussions [should be viewed as] science-based”—a near-uniform majority of respondents from across the board said that species-typical behaviors are easy to assess scientifically with a body of work in animal welfare science that has built up over the last 40-odd years. One respondent from a livestock trade group originally said such standards wouldn’t be considered science-based because they were ‘natural’, but upon examination agreed that if they can be assessed scientifically then they are science-based.

A key distinction between animal welfare organizations’ perspectives and those of livestock trade organizations concerns where on the spectrum between health and welfare the policy discussion should lie. The animal welfare organizations and academics were generally universal in their acknowledgement that certain behaviors have been shown to be very strongly motivated for certain species (e.g., rooting for pigs, dustbathing and perching for chickens), while the livestock trade groups focused instead on the correlation between the above data and microbial load in milk, carcass quality, and other similar indicators.

#### **Fourth Question: Voluntary vs. Mandatory Standards**

There has been a substantial divergence recently between the US and European approaches to managing farm animal welfare, with the Europeans generally favoring mandatory legal controls and the Americans generally favoring voluntary industry-driven standards and third-party audits. In your expert opinion, which of these approaches do you find to be more effective?



The only near-uniform answer to this question<sup>12</sup> was, predictably, ‘it depends’. Most respondents agreed that there is no one-size-fits-all model for how to promulgate guidelines and standards, and that historical, social, and cultural differences between regions of the world have to be taken into account. That said, strong preferences for or against a specific approach did tend to break down according to identifiable lines: livestock trade groups and the USDA APHIS and WTO respondents prefer voluntary standards or outcome-based mandatory standards; intergovernmental organization respondents generally emphasized the need for flexibility in standards and the role of markets; animal welfare advocates and EC respondents highlighted the importance of having both kinds of standards simultaneously (with some respondents pushing for mandatory standards on those issues that portray elements of a public good, which companies have little or no incentive to address); and academics underlined the utility of both but inserted a note of skeptical caution about the actual enforceability, effectiveness, and content of the guidelines and standards in question.

Although some of the livestock trade groups acknowledged the role of government regulation in animal husbandry practices as being responsive to public demand, respondents from this domain demonstrated a preference either for voluntary industry-driven standards or—if mandatory—for product/outcome-based rather than process-based standards. In other words, most livestock trade groups (and APHIS) supported an ‘equivalent outcomes’ rather than ‘identical systems’ approach (this was a key point of opposition for CIWF, insofar as their respondent felt that certain systems were inherently poor in regard to animal welfare; the livestock trade groups’ perspective is at odds with this position). Two livestock trade group respondents specifically endorsed the use of mandatory OIE standards for universal minimum

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<sup>12</sup> Some of the academic and EC respondents pointed out that question four, as phrased, is somewhat inaccurate: *both* industry-driven standards and third-party audits are in play in the EU to a much greater degree than they are in the USA, which at the federal level is nearly void of relevant legislation.

guidelines, with voluntary private standards going above and beyond the specified minimums being paid for by consumers who are willing to pay for it and who seek out the appropriate labels or brands. At least one of these respondents was very clear that national or regional standards, however, should not go above the specified OIE minimum (this position is at odds with those of the animal welfare groups and some of the academics).

In effect, a similar view was endorsed by some of the animal welfare groups, with an important caveat: there was a sense of worry, returning to the content of the second question (regarding OIE competency on FAW), that OIE guidelines could act as a de facto *maximum* on standards beyond which private standards could not go. Especially because the OIE standards are largely unfinished and are intended to incorporate all OIE member countries, this was viewed as a serious concern. An additional critique specified that voluntary standards are only meaningful if they are an actual improvement over the ‘industry norm’; some animal welfare group respondents indicated that many of the industry-driven standards in the US are merely a codification of existing practices.

More generally, the animal welfare groups welcomed private standards as supplements to—but not replacements for—mandatory controls: a common view, shared in some cases by both animal welfare and livestock trade groups, was that legislation helps foster a level playing field by establishing minimums, and interested producers can capture additional market demand by catering to niche markets with private standards. Voluntary standards as put forth by big retailers (McDonald’s was a commonly cited example) were also lauded. (One EC respondent pointed out that the private standards were also the subject of considerable attack by developing countries in trade rounds, although such countries shouldn’t be surprised when, after they refuse to discuss these issues in the context of international standards, they evolve as national and

private standards.) Some animal welfare respondents also noted that much of the European progress in the last 5 years has been through retailers, food service operators, and feed manufacturers, citing the difficulties of enacting EU-wide legislation with 27 rather than 13 member states. The relative agreement between animal welfare groups and livestock trade groups on a policy template emphasizing legally mandated minimums and private standards capturing niche markets presents a fruitful avenue for collaborative exploration.

Most academic respondents, however, were generally more critical of voluntary standards. One respondent categorically disfavored anything driven by industry on the grounds that industry's goals—usually the profit motive—could allow for certain practices that are clearly unethical to ‘the man on the street’: the example was given of using genetically sightless strains of hens so that they can't see each other and would therefore engage in less injurious pecking. Economically such arguments may—or may not—make sense (and, indeed, similar but less extreme arguments are presented in the case of tail docking in pigs or debeaking in chickens), but ethically they may call out for regulation.

Additionally, respondents from a range of backgrounds all highlighted the importance of distinguishing industry-driven standards from third-party auditing and state-level legislation from federal/region-level legislation. In particular, multiple respondents noted that the public is generally less likely to trust industry-driven standards (hence the proliferation of third-party auditing). Some respondents also made a point to clarify the terms in play, preferring “demand-driven” or “market-driven” to “industry-driven” standards. Finally, a range of respondents focused on the role of education campaigns to supplement the promulgation of standards (whether voluntary or mandatory), especially in light of what a number of respondents view as a poor enforcement record.

### **Follow-up Question 1: Food Safety, Food Scarcity, and FAW**

Two follow-up questions were put to each of the phone respondents. The first question asked how respondents felt that the global food crisis, the impending effects of climate change on agriculture, the livestock revolution, avian influenza and the H1NI “swine” flu threat (among other potential zoonoses and food-borne pathogens) would all impact the drive for improved farm animal welfare around the world. In other words, would these and other developments, on net, have a positive or negative impact on FAW?

The most common answer was that it presents both concerns and opportunities, and that whether one or the other dominates tends to depend on where you are. In some contexts, the above-mentioned issues could compete for policy attention with animal welfare, especially when food security and human health are concerned. In other places, however, the mounting environmental, zoonotic, and other problems are forcing a rethink of animal agriculture’s role in the world.

In particular, the question of zoonotics elicited a range of possibly conflicting responses. One respondent pointed out that the spread of avian influenza in Asia was closely tied to the growth of backyard (outdoor) farms, while another pointed out that avian influenza most likely became highly pathogenic in confinement sheds. There is still a good deal of disagreement between stakeholder groups on the issue of zoonotics (responses within groups were generally in agreement on this issue): as of the academic respondents indicated: “there does need to be some good science [on] whether an indoor confinement system encourages the development of a pathogen or inhibits its spread; it could be both, actually.”

Animal welfare advocates were generally more critical of intensive livestock production as a long-term system, while some other respondents pointed out that accounting for global demand for meat will require greater efficiencies in production, which in effect will lead to more intensification, not less. Whether or not such a scenario can be managed in a way that is positive for animal welfare or not is one of the key dividing points between some of the animal welfare group respondents and a range of other respondents; barring a global shift away from increased meat-based protein diets in the developing world—which one respondent felt was extremely unlikely to happen—few short-term alternatives<sup>13</sup> present themselves.

That being said, most respondents agree that the increasing public awareness about all of these issues will put animal welfare more up-front on the global agricultural agenda (not least because animal welfare-friendly production provides access to value-added markets, as one of the EC respondents pointed out). Some respondents highlighted the role of educating the next generation about the impacts of their food choices, and one respondent noted the publication of *Livestock's Long Shadow* was a watershed moment in how the impacts of animal agriculture are assessed on a global scale. Nonetheless, the demand for access to cheap protein and the overriding concerns about human health may take precedence in many parts of the world, both now and for the foreseeable future.

## **Follow-up Question 2: Which Initiatives, Which Institutions?**

Highlighting a range of relevant international developments, the second follow-up question asks which of the following institutions or initiatives are bearing more fruit than others, or whether a multi-stakeholder approach is essential. The instruments and institutions mentioned

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<sup>13</sup> Protein sourced from in-vitro meat, algae, and other as-yet undiscovered sources are on the long-term horizon, but questions over consumer acceptance, scalability and safety remain.

include: the Universal Declaration on Animal Welfare; the IFC/World Bank linking their lending practices to good animal welfare practices; the European Welfare Quality report; FAO engagement in capacity building; and the OIE strategic animal welfare initiatives and global conferences.

The near-universal response was that a multi-stakeholder response is crucial to address the range of issues at stake, in part because of the qualitatively distinct nature of addressing farm animal welfare in developed- versus developing-world scenarios. Regarding the Welfare Quality report, most respondents who mentioned it agreed that it has been quite influential in Europe but will have little effect elsewhere—especially so outside of the developed-world context. One academic respondent indicated that the FAO involvement would be most useful at getting developing-world engagement “in a human-centered way—helping poor farmers prevent deaths and losses of productivity that are animal welfare problems.” Both of these developments are welcomed, in other words, because they respond to very different kinds of needs.

Another reason why some animal welfare groups and academics felt that a multi-stakeholder approach was essential is precisely because they felt that *excessive* OIE leadership may cause harm to welfare standards in the developed world by setting a de facto limit on WTO-compliant private or public standards. This criticism was voiced, in one way or another, by three of the respondents. Positively, approximately half the respondents indicated that the range and scope of stakeholder engagement was itself a very positive sign.

Regarding specific instruments and documents, some clearly stood out while others have lost importance in relative terms. Positively, one development that multiple animal welfare groups and academics all highlighted was the IFC’s 2006 “Good Practice Note on Animal

Welfare in Livestock Operations”,<sup>14</sup> a document which some of the animal welfare groups feel is setting a better template for on-farm guidelines than the relevant OIE progress to date. Negatively, a few of the respondents indicated that the UDAW is probably less important today than it was a few years ago (although the Declaration’s success in raising awareness, its primary objective, has arguably succeeded).

**Conclusion.** This study had three primary goals. One, to assess up-to-date stakeholder perspectives on a range of issues that are, in some cases, too recent or rapidly changing to have been properly assessed in the reviewable literature to date, and to evaluate what each respondent or respondent group sees as the optimal way forward. Two, to locate common ground between these diverse stakeholder perspectives by identifying issue domains of respondent overlap<sup>15</sup> or potential linkage. And three, to facilitate dialogue between stakeholder groups and to provide engaged stakeholders with a common vocabulary of current and comprehensive viewpoints.

To briefly summarize the closest thing to a majority view respondents reached on each question:

- 1) Is there a generalized support for including FAW in WTO law? **SPS no, TBT /‘Green Box’ maybe, and possible coverage under Article XX already**
- 2) Is the OIE the right institution to lead the effort for international FAW standardization? **A cautious yes; endorsing legitimacy, competency and mandate, but with concerns about overreach and resourcing**
- 3) Can multilateral policy be ‘strictly science-based’? **Probably not, but verifiable scientific inputs—of various kinds—form an essential core for policymakers’ deliberation**
- 4) Which are better, mandatory government controls or voluntary internal or third-party audits? **It depends; most respondents affirmed the need for all of the above while acknowledging that each can have their drawbacks.**

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<sup>14</sup> Available at:

[http://www.ifc.org/ifcext/sustainability.nsf/AttachmentsByTitle/p\\_AnimalWelfare\\_GPN/\\$FILE/AnimalWelfare\\_GP\\_N.pdf](http://www.ifc.org/ifcext/sustainability.nsf/AttachmentsByTitle/p_AnimalWelfare_GPN/$FILE/AnimalWelfare_GP_N.pdf).

<sup>15</sup> Domains of “goal compatibility”, to use Werder’s language.

The two follow-up questions, concerning the effects a spate of recent crises and a series of institutional engagements are respectively having on FAW, elicited mostly equivocal responses while acknowledging both the need for a multi-stakeholder approach and the fact that crises present opportunities as well as risks.

Within the points of relative consensus presented above, a few ideas stood out as potential common ground. The Technical Barriers to Trade agreement appears the most likely forum for inclusion of animal welfare language, with the drawback that its effect on non-private standards would range from limited to negligible. On the topic of OIE involvement, both animal welfare groups and at least one livestock trade group representative affirmed both that OIE standards should set a universally acceptable minimum and that private standards should be free to capture surplus market demand with niche labels. Finally, some stakeholders showed a possible willingness to engage in discussion concerning broader definitions of what constitutes ‘science-based’, although such a dialogue would necessarily entail give-and-take on all sides.

None of these ideas are without controversy, of course; some stakeholders were strongly in favor of allowing nations or regions to set national standards higher than existing or proposed OIE code, just as others uncompromisingly defended two very different ideas of ‘science’. Looking for areas of potential cooperation, however, is crucial, especially in light of all of the worrisome developments mentioned in the first follow-up question. But just as the range of food safety, food supply, and animal welfare concerns demonstrates the need for concerted multi-stakeholder action, the array of initiatives under way and the willingness of stakeholders to engage constructively with each other point to a way forward that can improve both human and animal life and the prospects for long-term global sustainability.



In a study of this nature, I have inevitably been forced to exclude both a wide range of potential respondents and a wealth of material drawn from over ten hours of transcribed interviews. For example, I have attempted to cite interviewed sources with the same general level of frequency that specific points were mentioned by different stakeholders, but some participant bias may inevitably have crept in. I nonetheless hope that this project will foster greater collaboration between involved stakeholders, to the betterment of all concerned.

## Appendix A: List of Contacts

<b>Organization</b>	<b>Contact</b>	<b>Manner of Response</b>
United States Department of Agriculture, Animal and Plant Health Inspection Service	Michael David	Skype interview
Humane Society International	Sarah Stewart Miyun Park	Skype interview
U.S. Meat Export Federation	Philip Seng	Skype interview
World Trade Organization	Gretchen Stanton	Phone interview
World Organization for Animal Health (OIE)	Leopoldo Stuardo	Written response
World Society for the Protection of Animals	Adolfo Sansolini Mike Appleby	Written response
Compassion in World Farming	Peter Stevenson	Skype interview
The European Commission	Andrea Gavinelli Michael Scannell	Skype interview Skype interview
International Meat Secretariat	Laurence Wrixon	Written Response
International Federation of Agricultural Producers	Fabienne Derrien	Written Response
International Dairy Federation	Joerg Seifert	Written response
University of British Columbia	David Fraser	Skype interview
University of Cambridge	Don Broom	Skype interview
Farm Animal Welfare Council	Christopher Wathes	Skype interview
University of Michigan	Paul Thompson	Skype interview
University of Michigan	Lawrence Busch	Written response

## **Appendix B: Draft Contact Letter and Interview Questions.**

Dear [contact],

I am a master's student at the Tufts Center for Animals and Public Policy researching the role of farm animal welfare at the WTO (I have attached my resume for your optional perusal). I would greatly appreciate it if you could provide me with your professional opinion on the following questions. I know that you are very busy, and I again appreciate your taking time to answer these questions. I will use the information gleaned to provide interested stakeholders with up-to-date information on the status of expert opinion concerning animal welfare and the WTO.

Ideally, I would like to conduct an interview over the phone concerning the questions below. If you could respond—either to my phone at 617-913-4969 or with a convenient time for me to call you—I would greatly appreciate it. If, however, you are currently too busy to take time for a phone interview, an email response outlining your thoughts on the questions below would be much appreciated. In appreciation for your participation, I will send you a copy of the completed study by the end of August.

- 1) The GATT's Sanitary and Phytosanitary Standards Agreement and Agreement on Agriculture currently contain references to animal health only. Do you think that including animal welfare in the WTO serves the purposes of GATT? If so, what do you think are the main barriers to, and benefits of, inclusion? If not, what do you think are the main drawbacks to inclusion? Finally, should animal welfare be included in the SPS Agreement, the Agreement on Agriculture, in the GATT itself, or as a combination of the above?
- 2) Is the World Organization for Animal Health, currently the WTO-sanctioned body for issues of animal health, the right institution to serve as arbiter of what constitutes good animal welfare practices under section 3.7 of the Terrestrial Animal Health Code? Why or why not?
- 3) Would you only endorse a decision if it were strictly science-based? Would you view a standard promulgating animals' ability to engage in species-specific behaviors that have little immediate health repercussions as science-based? Why or why not?
- 4) There has been a substantial divergence recently between the US and European approaches to managing farm animal welfare, with the Europeans generally favoring mandatory legal controls and the Americans generally favoring voluntary industry-driven standards and third-party audits. In your expert opinion, which of these approaches do you find to be more effective?

My sincerest thanks,  
Ike Sharpless

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