

## The EU—Chile Free Trade Agreement—a Boost for Animal Welfare

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# - A Boost for Animal Welfare



## Timetable

1962	first attempt to regulate in the area of animal welfare, with the presentation by the House of Representatives of a law.
1977	the Ministry of Justice prepared a project which was not finally materialised.
29/11/1989	publication in the <i>Diario Oficial de Chile</i> of the law n°18.859, which integrated in the <i>Código Penal</i> the following provision: “el que cometiere actos de maltrato o crueldad con los animales será castigado con la pena de presidio menor a su grado mínimo y multa de 1 a 10 Ingresos Mínimos Mensuales <sup>10</sup> ”.
07/09/1992	<u>Ley de Carnes</u> <sup>11</sup> n° 19.162 published at the <i>Diario Oficial</i> 03/04/2002
24/11/1995	<u>Ley Protección de los Animales</u> was introduced at the Congress level. The proposal presented key aspects of animal welfare such as transport, slaughtering.
27/11/1996	publication of the <u>Ley del Caza</u> (n°19.472) applying to Hunting, trapping, breeding, conservation, sustainable use of wildlife animals.
11/09/2009	promulgation of the law 20.380 <u>Protección de los Animales</u> in Chile. This regulation identifies products for which killing and transport need to take into account animal welfare. Also, the law establishes the rules necessary to provide an adequate care to animals with the aim to avoid unnecessary distress. Finally, the law identifies needs in term of capacity building for a department specialised in Animal Welfare.

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<sup>10</sup> *Everyone who commits acts of abuse or cruelty to animals shall be punished with imprisonment for a term less than minimum degree south and a fine of 1 to 10 minimum monthly income.*

<sup>11</sup> Establishing a classification system for cattle, and meat; regulating operations of slaughterhouses and refrigeration establishments.

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## Acknowledgements

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## Introduction

The inclusion of animal welfare in the bilateral trade agreement has clearly led to the institutionalisation of animal welfare. In this paper, we describe the contribution of the Chile-EU bilateral Free Trade Agreement in the promotion of animal welfare in Chile. We also look at trade liberalisation in Chile, animal welfare in bilateral relations, and the emergence of a regulatory system, before evaluating the impact of this process on Chile.

### Focus on the Chilean agriculture

Agriculture has always been fundamental for the economy of Latin America, together with mining and forestry. Practised in Chile since pre-Hispanic times by communities of Mapuches, Aymaras and Atacameños, agro systems changed with the arrival of a first wave of colons (around 1550) who introduced new plants and animals such as horses and cattle. A second wave (19<sup>th</sup> and 20<sup>th</sup> centuries) played a determining role in shaping the Chilean agriculture. During this process, animals facilitated the appropriation of land resources through the development of large extensive agro-system by the migrants.

Since then, farmers have taken care of animals - cattle in particular-, mainly because of their importance in food security (working animals are employed in agriculture; animals are a source of proteins) and the difficult geography (mountains in Chile limits the extent and intensity of agriculture).

Livestock is actually distributed according to the country's climate: sheep production is concentrated in the south of the country, the pig industry and the poultry sector in the central zone, and cattle are located principally in extensive farms of the South Central Region.

## Trade liberalisation in Chile

Over the past three decades, Chile has experienced a rapid increase in external trade towards Latin America, as a consequence of the implementation of a reform agenda in 1980s. This agenda was based on import tariff reduction negotiated through a number of trade and association agreements with neighbouring countries during the second half of the 1990s and with EU, the USA, China and Japan since 2003.

The Association Agreement between the European Community and its Member States and the Republic of Chile was signed on 18 November 2002. This Agreement includes a comprehensive Free Trade Agreement (FTA) that entered partially into force on 1 February 2003. All agreement's provisions enter into force two years later (1 March 2005) after being ratified by the signing parties.

Tariff elimination started in 2003 for almost 100% of Chilean products exported to the EU. Tariff elimination was accomplished from 0 to 4, 7 and 10 years. Tariff quotas are established additionally for sensitive products which include beef meat, pig meat, sheep meat and poultry meat.

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## Animal welfare in bilateral relations

In 2003, the EU asked for the introduction of a reference to animal welfare in the trade agreement with the aim of developing standards. As exporter of meat, Chile finally agreed on the proposal. The objective was to establish a mechanism of transparency and recognition of equivalence with protection of public, animal and plant health. The agreement mentioned specifically the aim of reaching a common understanding concerning animal welfare standards.

The inclusion of the annex “Agreement on sanitary and phytosanitary measures applicable to trade in animals and animal products, plants, plant products and other goods and animal welfare” made the EU-Chile Association Agreement the first bilateral on trade to mention animal welfare.

### Article 1 of the Annex<sup>1</sup> Objectives

1. *The objective of this Agreement is to facilitate trade in animals and animal products, plants, plant products and other goods between the Parties, whilst safeguarding public, animal and plant health, by :*
  - (a) *ensuring full transparency as regards sanitary and phytosanitary measures applicable to trade;*
  - (b) *establishing a mechanism for the recognition of equivalence of such measures maintained by a Party consistent with the protection of public, animal and plant health;*
  - (c) *recognition of the health status of the Parties and applying the principle of regionalisation;*
  - (d) *further implementing the principles of the WTO SPS Agreement;*
  - (e) *establishing mechanisms and procedures for trade facilitation; and*
  - (f) *improving communication and co-operation between the Parties on sanitary and phytosanitary measures.*
2. *Furthermore, this Agreement aims at reaching a common understanding between the Parties concerning animal welfare standards.*

With the FTA, Chile was engaged in a continuous learning process, which takes into account regulations of trade and consumer demands in Third countries. Chile also established together with Uruguay a Collaborating Centre on Animal Welfare with the support of the OIE *Instituto de ciencia animal de la Universidad Austral de Chile & Instituto de Biociencias veterinarias de la facultad de Veterinaria de Montevideo*).

Chilean’s expertise on animal welfare has already been used with American partners (collaboration on transport with Argentina, exchanges and training with Canada and the USA, possible cooperation with Cost-Rica, Bolivia).

## Conclusion

The Association Agreement has played a positive role in the institutionalization of animal welfare in Chile, in particular for livestock production.

The signature of the agreement involved Chilean stakeholders from the production sector, to agree on the harmonisation of national rules with EU standards. The trade opportunities provided by the Association Agreement were the main motivation, which is the second destination of Chilean exports in 2010, is the EU -after China.

Chile is a good example for Latin America’s producers whose interests are focalised on the competitive advantage of Animal Welfare.

Apart from the law on animal welfare and the creation of a sub-department in charge of animal welfare<sup>9</sup>, there is a better understanding of animal welfare by meat producers in Chile through a participative process led by the Ministry of Agriculture. The respect of animal welfare brought new economic opportunities for Chilean exporters. For example, pig meat, beef and poultry meat exported to the UK.

<sup>1</sup>“Agreement on sanitary and phytosanitary measures applicable to trade in animals and animal products, plants, plant products and other goods and animal welfare”

<sup>9</sup> Resolución n°1.757



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For the EU, Chile serves as a good example of collaboration in animal welfare and reinforces the EU strategy on animal welfare at the international level. “*The inclusion of animal welfare in the bilateral agreement between the EU and Chile represented an international milestone to achieve a shared understanding on international animal welfare standards as well as to clarify the aims of the European Commission in this field,*” said Andrea Gavinelli, Head of Unit in charge of Animal Welfare at DG Sanco (European Commission). He further remarked that, “*the technical collaboration within the bilateral agreement with Chile represented an example of a successful modus operandi with an EU trading partner that raised the interest of many other countries not only in the Latin American Region. The Chilean experience has definitely helped to highlight the added value of animal welfare to livestock production.*”

In addition, it is interesting to note that the inclusion of animal welfare in the bilateral agreement between the EU and Chile took place even before the adoption of the OIE animal welfare standards in 2005. EU and Chile worked together to build a common understanding on applying animal welfare standards, exchange of expertise and informal harmonisation of their position at international level (e.g. OIE). There is also, a strong collaboration between the EU and Chile at institutional and academic level (e.g. organization of seminars).

The process of institutionalisation has been accompanied with a number of seminars:

- 11-12 November 2004: Seminar on institutionalization of Animal Welfare organised by *Secretaría de Agricultura y Ganadería*, European Commission, *Universidad de Talca* in the context of a Chile-EU SPS agreement.
- 26-27 September 2005: Seminar on animal welfare organized by the OIE and supported by the EU in Chile with scientific experts from Europe and South America.
- 29-30 June & 1 July 2010: workshop for OIE animal welfare focal points (Americas) organised by OIE and the *Servicio Agrícola y Ganadero* of Chile.
- 13-14 September 2010: Seminar on animal welfare in intensive and production systems organised by the *Universidad de Chile* (Facultad de Ciencias Veterinarias y Pecuarias) and the *Servicio Agrícola y Ganadero* of Chile, with the support of the European Commission (Dg Sanco).
- 4-5 October 2011: Seminar on animal welfare during transport organised by the *Universidad Austral de Chile*, with the support of the EU.
- 21-23 June 2011: Seminar on “*Bienestar animal durante el transporte y el sacrificio*”<sup>6</sup> organised in Santiago de Chile by Dg Sanco (EC) in the framework of the programme “Better training for safer food”<sup>7</sup> with participants from Americas.

<sup>6</sup> Animal welfare during transport and slaughtering.

<sup>7</sup> Commission training initiative covering food and feed law, animal health and welfare and plant health rules.

<sup>8</sup> Interview of Mr. Stuardo, Coordinador de Bienestar Animal, División de Protección Pecuaria, Servicio Agrícola y Ganadero del Ministerio de Agricultura de Chile, 29/02/2012.

The SPS Agreement applicable to trade is established in article 89(3) of the Association Agreement between the European Community and its Member States and the Republic of Chile. This article “*establishes that the Association Committee when dealing with SPS measures, shall be composed of representatives of the European Union and Chile with responsibility for SPS matters. This Committee is called the “Joint Management Committee for SPS matters and it is empowered to modify, by means of a decision, Appendices I to XII to the SPS Agreement, as established in its Article 16 (2)”*”.

Appendix I determines animals and animal products<sup>2</sup>, products of animal origin<sup>3</sup> covered and the animal welfare standards. When signing the association agreement, the two parties mentioned stunning and slaughter of animals as standards concerned.

Animal welfare standards are defined as “*standards for the protection of animals as developed and applied by the Parties and, as appropriate, in compliance with the OIE standards (...)*”.

## The Joint Management Committee

Set-up in the article 16 of the Annex IV<sup>4</sup>, the Joint Management Committee has as an objective to harmonize measures applicable to trade in animals, plant & other goods, and animal welfare.

According to it, the Joint Management Committee:

- Monitors the implementation of the agreement and examines all matters arising;
- Reviews all the appendices of the agreement in the light of progress made under consultations and review;
- Provides recommendations for modifications of the agreement.

Furthermore, the parties agreed to establish technical working groups, consisting of scientific experts. When further expertise is needed, additional ad hoc groups can be established.

<sup>2</sup> *Equidae*, bovine animals, ovine and caprine animals, porcine animals, poultry, live fish, crustaceans, molluscs, eggs and gametes of live fish, hatching eggs, semen-ova-embryos, other mammals, other birds, reptiles, amphibians, other vertebrates, bees.

<sup>3</sup> Fresh meat of domestic species and game including offal of blood for human consumption; liquid milk and powdered milk for human and not for human consumption; milk products for human and not for human consumption (including colostrum); fishery products for human consumption including bivalve molluscs and crustaceans; eggs products, products produced by bees; snails and frogs legs for human consumption; hides or skins of ungulates, wool, hair, bristles, feather, down, or parts of feathers, game trophies; bones, horns, hooves, and their by-products other than meals; gelatine for human consumption, raw material for the production of gelatine of human consumption; blood and blood products of ungulates and poultry (including serum of equidae), amniotic fluid for use in the pharmaceutical industry or for technical use other than in animal feeding stuffs; pathogens agents; other animal waste : low risk materials for the pharmaceutical industry or technical use or for use in feeding stuffs (including pet food); pet food, processed or unprocessed manure .

<sup>4</sup> It refers to article 16 attached as Annex IV (the SPS agreement). The annex IV deals with *measures applicable to trade in animal products and other goods & animal welfare*.



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Equivalence for trade purpose is a key notion in the work of the Joint Management Committee. Referred to as equivalence in the Annex IV, the notion “*means the state where in measures applied in the exporting Party, whether or not different from the measures applied in the importing Party, objectively achieve the importing Party’s appropriate level of protection or acceptable level of risks*”. Concretely, equivalence can be recognized in relation to an individual, a group of measures or a system. The determination of equivalence is achieved following a consultation process. Once established, equivalence can be suspended or withdrawn by the importing Party acting in accordance with its legislation and administration system.

When the parties signed the agreement, the standards concerned were stunning and slaughtering of animals. However, a year after the entry into force of the association agreement (1 March 2005), the Committee was due to adopt a working plan on “*other animal welfare standards which are important for the parties*”. On 9 November 2006, the Joint Management Committee adopted a recommendation to extend the scope of the agreement to other animal welfare standards concerning the transport of animals by land and sea<sup>5</sup>.

Every year, the Joint Management Committee organises working group meetings to improve coherency between Chile and EU. Since November 2010, the working group on animal welfare has established several annual action plans and programmes. The 2012 action programme included activities to establish equivalence in the area of the welfare of animals during stunning and slaughter. Thanks to the working group, the EU and Chile are cooperating more closely in their work within the sphere of the World Organisation for Animal Health (OIE) as well. In 2012, the working group focused on the entry into force of Council Regulation (EC) No 1099/2009 on the protection of animals at the time of killing.

## Emergence of a regulatory system on animal welfare in Chile

The provision on animal welfare in the Chile-EU agreement triggered the institutionalisation of animal welfare in Chile. Through the SAG (Agriculture and Livestock Service), Chile has developed rules for the welfare of animals, mainly during transport and slaughter, based on a voluntary or binding approach with a scientific basis.

Chile doesn’t have a single regulation on animal welfare. The country first considered the problematic from the perspective of animal production, which was later on incorporated into general regulations. Specific laws were adopted in order to approximate European regulations and processes on slaughter:

- After the publication of the law n° 19.162 (07/09/1992) “*Ley de Carnes*”, a decree was promulgated (*Decreto Supremo* n° 94) integrating animal welfare aspects before and during the slaughter (entrance, reception, management, stunning of animals). This decree applies to cattle,

In the case of poultry, the Ministry of Health (Ministerio de la Salud) adopted the norm number 117, which details the conditions of arrival in slaughterhouses and aspects *ante* and *post mortem*. In the case of livestock for food and meat, the Ministry of Health adopted the norm number 62, which details the inspection procedure and qualifies meat for human consumption.

In addition to Law n° 19.162 and norm n° 54, Chile adopted specific rules for slaughterhouses for meat to be exported. The procedure for inspection P-PP-IT-005 includes requirements on animal welfare of each country of destination.

Specific rules were adopted on transport:

Regulation n° 240 (law n°. 19.162) establishes rules regarding the transportation of cattle and beef. It includes rules on transport by land, sea and air. It establishes conditions for transport vehicles, standards for loading, unloading and transport. It also refers to 8 hours rest periods for every 24 hours’ journey. Law n° 20.380 adopted in 2009 takes into account the different aspects of animal welfare (companion animals, sports animal, zoos and circus animal, production animals, use of animals in education, farmed fish). Its elaboration was made possible after a long process. The Ministry of Agriculture in charge, mobilised stakeholders through a participative approach. Stakeholders included producers (syndicates of rangers, small farmers, producers of poultry, pig and sheep), veterinaries, national institutions (*Oficina de planificación Agrícola* of the Ministry in charge of Agriculture, Ministry of Health), representatives of the civil society (NGOs dedicated to animal welfare such as CEFU, consumers), scientists.

## Impact of the recent institutionalization of animal welfare in Chile

Today, Chile and the EU can positively evaluate the mutual benefit of the harmonization in animal welfare.

Even if Chile originally considered the inclusion of animal welfare as an EU demand, the bilateral agreement definitively played a role and brought several benefits, *as explained by Coordinador de Bienestar Animal, División de Protección Pecuaria, Servicio Agrícola y Ganadero del Ministerio de Agricultura de Chile* : “*The cooperation we have had received from the European Union, in the framework of the Chile - UE bilateral agreement has been an adjuvant for the development of an animal welfare policy in the area of competency of the Agriculture and Livestock Service (SAG) in particular and in for Chile in general. An example of this cooperation is the participation of internationally renowned experts in different training and dissemination activities organised by SAG, which have significantly increased the understanding of the animal welfare concept in our country*”<sup>6</sup>.

<sup>5</sup> Decision No 1/2006 of the Joint Management Committee set up under the agreement between the European Community and the Republic of Chile on sanitary and phytosanitary measures applicable to trade in animals and animal products, plants and plant products and other goods and animals