

# *Animal Welfare Barriers under the Framework of International Trade and China's Legal Responses*

Barreiras ao bem-estar animal no âmbito do comércio internacional e as respostas legais da China

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## ABSTRACT

With the improvement of animal welfare standards in global trade, animal welfare trade barriers have gradually become a new means for developed countries to restrict the import of animal-derived products from developing countries. Based on the framework of international trade, this paper systematically analyzes the legal connotations, causes and legal disputes of animal welfare trade barriers, and explores their impact on China's export trade and legal response strategies. The study shows that animal welfare barriers have both ethical rationality and trade protection concealment, and their formation stems from the agricultural protection tradition in developed countries, consumer safety needs and the fragmentation of international rules. At the level of international law, WTO provisions (such as Article 20 of the GATT<sup>2</sup> and the SPS Agreement<sup>3</sup>) provide a legal basis for animal welfare measures, but they are prone to cause trade disputes due to the ambiguity of their standards and discrimination in practice. For China, such barriers have led to restrictions on the export of traditional Chinese medicine, livestock and aquatic products, increased production costs and intensified trade frictions, but they have also forced domestic animal welfare legislation and technological upgrades. At the international level, it is necessary to make good use of the WTO dispute mechanism and promote negotiations on mutual recognition of standards; At the domestic level, phased legislation should be improved, technical subsidies strengthened and early warning systems established. This article argues that developing countries need to balance ethical goals for animal welfare and trade fairness on the basis of respecting international rules and differences in national conditions and resist unilateral protectionism in order to achieve sustainable development.

**Key words:** Animal welfare trade barriers, WTO rules, legal responses, international trade, developing countries

## RESUMO

Com a elevação dos padrões de bem-estar animal no comércio mundial, as barreiras comerciais de bem-estar animal vêm se tornando um novo meio para os países desenvolvidos restringirem as importações de produtos de origem animal provenientes de países em desenvolvimento. Com base no quadro do comércio internacional,

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<sup>2</sup> [http://ipr.mofcom.gov.cn/hwwq\\_2/WTO/Standards\\_and\\_safety.html](http://ipr.mofcom.gov.cn/hwwq_2/WTO/Standards_and_safety.html).Last access: May 5,2025.

<sup>3</sup> <http://gec.customs.gov.cn/customs/ztzl86/302310/5366122/gjmylyflgf/gjmyzbpgsjdgtxxdx/5383216/index.html>.Last access: May 5,2025.

o presente trabalho analisa sistematicamente as implicações jurídicas, os agentes de criação e as controvérsias de legalidade das barreiras comerciais ao bem-estar animal, bem como suas implicações para o comércio de exportação da china e as estratégias legais de enfrentamento. O estudo mostra que as barreiras ao bem-estar animal são simultaneamente justificáveis eticamente e insidiosas quanto à proteção comercial, e que sua formação decorre da tradição de proteção agrícola dos países desenvolvidos, da necessidade de segurança do consumidor e da fragmentação das normas internacionais. A nível do direito internacional, as disposições relevantes da omc (por exemplo, o artigo 20.º do GATT e o acordo SPS), embora constituam uma base legal para as medidas de bem-estar dos animais, são susceptíveis de provocar conflitos comerciais devido à sua ambiguidade de normas e à sua prática discriminatória. No caso da china, tais barreiras resultaram em restrições à exportação de produtos medicinais, pecuários e aquáticos, aumento dos custos de produção e atrito comercial, mas também impediram a melhoria da legislação nacional e da tecnologia em matéria de bem-estar animal. Quanto às estratégias de resposta, a nível internacional é necessário otimizar a utilização do mecanismo de litígios da omc e promover as negociações sobre o reconhecimento mútuo das normas; A nível nacional, a legislação por etapas deve ser aperfeiçoada, os subsídios técnicos devem ser reforçados e um sistema de alerta precoce deve ser construído. Este artigo defende que os países em desenvolvimento precisam equilibrar os objetivos éticos do bem-estar animal com a justiça comercial e resistir ao proteccionismo unilateral para alcançar o desenvolvimento sustentável, com base no respeito pelas diferenças entre as regras internacionais e as condições nacionais.

**Palavra (s)-chave:** Bem-estar animal barreiras comerciais, regras da omc, resposta jurídica, comércio internacional, países em desenvolvimento

## **SUMMARY:**

1. AN OVERVIEW OF TRADE BARRIERS IN ANIMAL WELFARE ; 2. THE IMPACT OF ANIMAL WELFARE BARRIERS ON CHINA ; 3. CHINESE LEGAL RESPONSE TO ANIMAL WELFARE BARRIERS ; 3.1 FROM AN INTERNATIONAL PERSPECTIVE ; 3.2 FROM A DOMESTIC PERSPECTIVE; 4. CONCLUSION ; 5. REFERENCES

## **1. AN OVERVIEW OF TRADE BARRIERS IN ANIMAL WELFARE**

### **1.1 The legal implications and developments of animal welfare**

The idea of animal welfare has long been ingrained in people's consciousness, and respect for life is an ancient humanitarian concept. Since the time of the Yellow Emperor, the ancestors of China have attached great importance to the value and conservation of wild animals. For instance, in ancient China, there were prohibitions for the four seasons of the year, stipulating that during the breeding season, it was not allowed to cut grass, burn ash, or catch birds and beasts with nets, etc. The Field Law of the Qin Dynasty also imposed specific restrictions on the hunting of larvae, young birds, and fish and turtles. In 1822, the British Parliament passed the Prohibition of Cruelty to Animals Act, which was the first law in human history to explicitly guarantee animal rights, providing

a good reference for the enactment of the Animal Protection Act in Britain, which includes many aspects of animal welfare, and for legislation related to animal welfare worldwide.

The concept of animal welfare originated in the West and has achieved certain theoretical research results. As early as 1976, Western scholar Hughes was the first to define animal welfare as the state of complete health of farmed animals in harmony with their environment, including both mental and physical conditions (Yang Lianru, Kong Weiguo, 2004). Taiwanese scholars believe that animal welfare, in short, means treating living animals well, reducing the pain of their death when they end their lives, and by extension, treating all living creatures well (Chen Songzhou, Wen Zequn, 2009). The concept of animal welfare originated in the West and has achieved some theoretical research results, but it has developed rather slowly in China. There is no strict and uniform standard for the interpretation of this term in the international community. From this, we can understand that animal welfare refers to the state in which animals meet their basic needs and adapt to their environment. In another sense, it refers to certain actions taken by people to bring animals to a level of well-being (Shi Xiaoping, Wang Luzeng, 2004). According to the Land Animal Health Code of the World Organisation for Animal Affairs (OIE), if an animal is healthy, comfortable, well-nourished, safe, able to express its nature freely and free from the threat of pain, fear and stress, it meets the requirements of animal welfare.

## 1.2 Trade barriers to animal welfare

### 1.2.1 Concepts

Animal welfare trade barriers are generally regarded as a kind of trade barrier formed by some countries taking advantage of their high level of animal welfare protection and setting up trade control barriers to restrict or even reject the import of animals and animal-derived products from other countries, in order to maintain the market competitiveness of their own products.

The introduction of animal welfare into international trade is, on the one hand, ethical considerations, which reflects, from the side, the relative improvement of people's awareness of animal protection and the advancement of human civilization, which is a gratifying phenomenon; But on the other hand, some Western developed countries may have imposed animal welfare barriers for more than that. In practice, these countries, under the pretext of animal welfare, use the seemingly

morally reasonable need to protect animals as a weapon of trade protection, and set up strict laws and regulations to curb imports and protect the development of their own industries. This has also become a major cause of trade discrimination and inequality among countries.

### 1.2.2 Causes

The historical roots of agricultural protection in developed countries have a potential impact on the formation of animal welfare barriers. In the field of international trade, agriculture is an exception to trade liberalization. Since agriculture is the foundation of the national economy and an important source of human material resources, the state of agricultural development directly affects the stability of the economy and population of a country or region. Therefore, considering macro factors such as food security, social stability, and economic structure, governments tend to be agricultural protectionist. This has become a common practice in the agricultural policy of developed countries. Since animals, especially farm animals, can be classified as agricultural to some extent, historical reasons for agricultural protection should be taken into account when studying the formation of barriers to animal welfare.

The improvement of food safety standards by consumers is an indirect psychological factor in the formation of animal welfare barriers. With the development of the social economy, people's lives have generally improved and the quality of consumption has gradually increased. Especially in developed countries, the attention to food safety has been growing. Coupled with the spread of zoonotic diseases such as avian influenza and foot-and-mouth disease worldwide, consumers in various countries are more inclined to buy animals and animal-derived products with higher animal welfare. Because such products produced in a good environment are of relatively higher quality and more beneficial to people's health, this has led to a higher threshold for export for countries with lower animal welfare standards, and the entry rate and competitiveness have declined significantly.

The disparity in the level of understanding and practice of "animal welfare" among countries is an objective factor contributing to the barriers to animal welfare, which is mainly reflected in several aspects: First, in terms of public perception and awareness, in Western developed countries, the sentiment of protecting animals, which is rooted in religious doctrines, is stronger than in other countries. At the same time, due to differences in economic development levels and levels of civilization, the concept of protecting and caring for animals is more widespread, while in developing

countries, animal welfare is a neglected common sense. In China, for example, People do not have the moral standards to treat every animal with emotion, and all kinds of slaughter and abuse are very common, which is directly related to a country's level of civilization and is unlikely to change qualitatively in the short term. Second, in terms of animal welfare legislation, Western countries have earlier theoretical research and legislation on animal welfare, and after years of summarization and improvement, they have a relatively complete legal system. China, however, has not given much attention to this area. The scope of legal protection for animals is small, the theoretical level is low, and there is no complete animal welfare legislation. From this, it is not surprising that Western countries, with their complete animal welfare laws, openly shut out Chinese animals and animal-derived products under the guise of humanitarianism. Furthermore, the rules on animal protection in the WTO provide a model and guidance for the implementation of trade barriers in animal welfare. Some countries even want to expand the influence of animal welfare to gain international recognition for their own ideas and legislation on animal welfare. Therefore, if more content on animal welfare is included in future WTO rules, especially legislation that leans towards developed countries, animal welfare barriers will have a deeper and more comprehensive impact on international trade.

The promotion of the government's trade protection policies and the advocacy of various international animal protection organizations are the internal driving forces for the formation of animal welfare barriers. Since it is the government that decides a country's foreign trade policy, and the state of a country's national economy is directly linked to the government, the implementation of animal welfare barriers is also a manifestation of the government's purpose. Governments of all countries tend to maintain the development of their own industries to stabilize the domestic market and promote the development of their own economy. Therefore, curbing imports has become a common practice. Therefore, governments of countries with higher levels of animal welfare often rack their brains to set up various obstacles to restrict the import of foreign animal products. At the same time, international animal protection organizations are also a major force in influencing animal welfare barriers. Their media effect often inspires public enthusiasm for animal protection and to some extent influences trade decisions of governments and even the international community.

### 1.2.3 Characteristics

First, theoretical legitimacy and rationality.

The purpose of the implementation of animal welfare barriers is to protect the health and safety of animals, promote ecological sustainability, and ultimately benefit humanity. In addition, the improvement of social and economic levels leads to higher standards of quality of life and high sensitivity to food safety. Therefore, the establishment of animal welfare barriers can gain wide recognition and support from the public, whether from a humanitarian perspective or from the perspective of personal interests. This is one of the reasons why it is reasonable. Corresponding to this, various countries have publicly formulated relevant animal welfare regulations in the name of animal welfare and set a hard standard for other exporting countries, providing a legal basis for the implementation of trade barriers abroad and putting on a legal coat.

#### Second, concealment and discrimination

Due to differences in economic development, history, culture, and social civilization among countries, there are significant differences in the level of awareness and standards of measures for animal protection. Generally speaking, Western countries have higher levels of productivity, stronger awareness of animal protection, and stricter standards for the implementation of animal welfare. In contrast, the majority of developing countries have a rather vague concept of this aspect and invest less in animal protection. This allows developed countries to freely set up high standards of animal welfare barriers under their own laws to weaken imports, while developing countries often play a passive role in international trade. These barriers are set by developed countries based on their relatively advanced technological and institutional levels, and thus are highly unequal and discriminatory in their implementation. At the same time, because of the high public acceptance of such moral barriers and their legal basis, they are highly concealed. If not strictly regulated, they can distort the equality in international trade and have a negative impact on the weaker party. This is also one of the reasons why the international community is controversial about animal welfare standards, and it is often difficult to reconcile them when trade frictions occur.

#### Third, the targeted and effective implementation

Animal welfare barriers are essentially a kind of moral barrier. Therefore, they do not require other equipment, professionals, etc. during the implementation process, are low-cost, have simple procedures, are easy to operate, and the effect is obvious. And the laws and regulations related to animal welfare are very specific and targeted, and are favored by developed countries, making it easy for them to achieve their purpose of restricting imports.



#### 1.2.4 Assessment of the legality of trade restrictions on animal welfare within the framework of international law

Animal welfare, as the moral basis of trade restrictions, has aroused widespread concern and intense controversy in international trade in recent years. On the one hand, the rise of the concept of animal welfare reflects people's emphasis on animals and a re-examination of the relationship between humans and nature; On the other hand, using it as a basis for trade restrictions brings about many problems that require a comprehensive, in-depth and critical assessment of its legitimacy.

The main WTO rules concerning animal welfare protection are as follows: Article 20 (General Exception) of the General Agreement on Tariffs and Trade 1994 and Article 14 (General Exception) of the General Agreement on Trade in Services stipulate: "No provision of this Agreement shall be construed as preventing any Member from taking or implementing the following measures: (a) measures necessary for the protection of public morality or the maintenance of public order; (b) Measures necessary for the protection of the life or health of human, animal or plant.....<sup>4</sup>"; The preamble of the Agreement on Technical Barriers to Trade stipulates: "No State shall be prevented from taking the necessary measures..... Protecting the life and health of humans, animals and plants and the environment.....<sup>5</sup>"; The Agreement on the Implementation of Phytosanitary Inspection Measures (SPS) stipulates: "Each Member has the right to take sanitary and phytosanitary measures necessary to protect the life or health of human, animal or plant.....<sup>6</sup>"; Article 8 (2) of the Agreement on Subsidies and Countervailing Measures stipulates: "..... The following subsidies are non-litigious subsidies: (C) assistance provided to facilitate the adaptation of existing facilities to new environmental requirements implemented by laws or regulations<sup>7</sup>."; The anti-Dumping Measures Agreement stipulates: "If a non-state-owned enterprise in an exporting country abuses animals or fails to provide animals with the necessary welfare, resulting in the export price of animals or animal products being significantly lower than comparable international prices, the importing country may impose certain anti-dumping duties on such products<sup>8</sup>." The inclusion of the phrase "for the protection

<sup>4</sup> [http://fta.mofcom.gov.cn/georgia/annex/gljy\\_16\\_cn.pdf](http://fta.mofcom.gov.cn/georgia/annex/gljy_16_cn.pdf). Last access: May 5, 2025.

<sup>5</sup> [http://fta.mofcom.gov.cn/ecuador/xieyi/egde\\_08\\_cn.pdf](http://fta.mofcom.gov.cn/ecuador/xieyi/egde_08_cn.pdf). Last access: May 5, 2025.

<sup>6</sup> <http://gec.customs.gov.cn/customs/ztzl86/302310/5366122/gjmylyflgf/gjmyzbpgsjdgitxxdx/5383216/index.html>. Last access: May 5, 2025.

<sup>7</sup> <https://baike.baidu.com/item/>. Last access: May 5, 2025.

<sup>8</sup> <https://baike.baidu.com/item/>. Last access: May 5, 2025.

of the life or health of human animals or plants" in these provisions represents the recognition of measures taken to protect animal welfare, seemingly putting a legitimacy coat on the trade barrier of animal welfare.

Animal welfare trade restrictions can be regarded as legitimate trade restrictions to a certain extent if they comply with the provisions of the above provisions, that is, for legitimate purposes such as maintaining public morality or protecting the life and health of animals and plants, and meet requirements such as non-discrimination, reasonableness and necessity. However, whether animal welfare falls within the scope of "public morality", "protection of human, animal or plant life or health", "protection of exhausted natural resources" in GATT Article 20, and whether it falls within the "health" category of the SPS agreement (currently SPS mainly focus on disease prevention and control rather than ethical standards, The WTO rules do not provide clear and detailed provisions on issues such as how to judge the reasonableness and necessity of trade restrictions, which leads to some ambiguity and controversy in determining the legality of trade restrictions on animal welfare in actual trade disputes. WTO dispute cases (such as the EU-Seal products case) show that animal welfare measures need to meet the "necessity test" and "non-discrimination", but many countries' measures on the grounds of animal welfare have been ruled as trade protectionism (such as the EU's loss in the Canadian Seal products case).

Therefore, we believe that animal welfare protection itself has moral value and has certain rationality as the moral basis of trade restrictions. However, it has legitimacy flaws at the theoretical, rule-based and practical levels and may constitute de facto trade discrimination. The current practice of using trade restrictions as a means, due to cultural differences, rule-based conflicts and trade protection tendencies, It is difficult to achieve the moral goals it claims. Animal welfare, as a reason for trade restrictions, needs to strike a balance between ethical goals and trade freedom, but there is a lack of clear thresholds in international law at present, and sustainable paths that balance animal welfare and trade fairness need to be explored through international consultation and institutional innovation in the future. In international trade, the importance of animal welfare should be fully recognized, and the relationship between animal welfare and trade restrictions should be properly handled through measures such as strengthening international cooperation and coordination, balancing trade interests and animal welfare protection, promoting cultural understanding and respect, and improving domestic laws and regulations, while respecting the differences among countries and international trade rules. To achieve the coordinated development of animal welfare



protection and international trade. Only in this way can we safeguard animal welfare while maintaining the normal order of international trade and promoting sustainable development of the global economy.

## **2. THE IMPACT OF ANIMAL WELFARE BARRIERS ON CHINA**

### **2.1 Positive effects**

It is certain that the implementation of animal welfare barriers has a good promoting effect on protecting the health of both animals and humans, which is a matter that all of humanity should work together on. And in the long run, caring for animals is essentially caring for ourselves, providing a good living environment for humans, which is the requirement of the ecological sustainable development concept. At the same time, the expansion and application of animal welfare barriers can to some extent arouse people's attention to animal protection, which has a direct impact on improving the environmental awareness of the people in a certain area and the moral and cultural standards of society. Furthermore, the trade barriers on animal welfare also have an enlightening effect on the construction of relevant legal systems in our country. In the current international trade environment, many countries have formulated complete animal welfare laws. Although our country has conducted some research on this aspect before, there are very few laws and regulations that are essentially linked to animal welfare, and among these scattered regulations, It is not specific and clear what measures should be taken to address trade barriers caused by animal welfare issues, especially with too many principle-based rules and too few practical operational provisions(Zhang Xianli,2013). Article 6 of the Wildlife Protection Law stipulates that "any organization or individual has the obligation to protect wildlife and their habitats." <sup>9</sup>Therefore, in the face of the increasing impact of animal welfare barriers on China's foreign trade, China should be in line with the international community and formulate a detailed basic law on animal welfare based on the current specific circumstances to reasonably protect the animals around us or in the international trade chain.

<sup>9</sup> [http://www.npc.gov.cn/npc/c2/c30834/202212/t20221230\\_321016.html](http://www.npc.gov.cn/npc/c2/c30834/202212/t20221230_321016.html). Last access: May 5, 2025.

## 2.2 Negative effects

### 2.2.1 Restrictions on the export of related Chinese products (Chinese medicine, livestock, aquatic products, etc.)

In the current international trade environment, the developed capitalist countries in the West, led by the United States, have relatively sound animal welfare legislation, and have accordingly detailed animal welfare standards for animal breeding, transportation, slaughtering, etc., linked to international trade, requiring that animal products for sale in their own countries must comply with their animal welfare regulations. If they fail to meet these conditions, they are not allowed to enter their domestic markets. In practice, developed countries often set strict production and transportation standards that are far worse than those in our country to curb the import of our animal products. In 2002, the Swedish TV show "Cold Facts" depicted animal abuse and live dog skin peeling in Northeast China, which sparked a strong reaction in Swedish society<sup>10</sup>. Members of the Swedish parliament demanded that China immediately stop such inhumane practices and legislate on animal protection. Some animal protection activists said they would ask the government to boycott the import of related Chinese products.

Animal welfare barriers, a type of non-traditional tariff barrier that has emerged in recent years, are increasingly affecting China's export trade, especially in areas such as traditional Chinese medicine products, livestock products, and aquatic products. Take the production and export of traditional Chinese medicine, which is affected by animal welfare, as an example. Although the naturalness and low side effects of traditional Chinese medicine have been widely recognized by the international community, there are also many criticisms and accusations, mostly dissatisfaction with the use of animal medicine in China. There is indeed a widespread phenomenon of cruel means imposed on animals in the name of pursuing precious medicinal effects during the manufacturing process of traditional Chinese medicine. The exposed "live bear bile extraction" method has drawn strong condemnation from the international community, damaged China's image in foreign trade, and medicines containing such animal entities have also been resisted by foreign consumers for import, which is a major reason for the shrinking export market. It is evident that animal welfare barriers have

<sup>10</sup> [https://www.chinatradenews.com.cn/epaper/content/2014-06/26/content\\_18253.htm](https://www.chinatradenews.com.cn/epaper/content/2014-06/26/content_18253.htm). Last access: May 5, 2025.

had a significant impact on China's export trade in many related industries, and China should actively promote the improvement of animal welfare levels to break through the constraints of such trade barriers.

### 2.2.2 It increases the production cost of animal products in our country and weakens market competitiveness

As a major agricultural country, the trade of agricultural products plays a crucial role in the national economy, and the demand for the total production of agricultural products is relatively large, which also makes it not feasible to adopt refined production and transportation at this stage. For example, in the breeding of livestock and poultry in our country, not only are various growth promoters artificially added and large doses of antibiotics used to increase productivity, but also the breeding cycle is shortened and high-density breeding is carried out in order to maximize the use of the breeding range. In terms of animal slaughtering, it mainly involves more scattered and lower-level individual slaughtering, which is far from the humane slaughtering method prescribed by developed countries such as the European Union, which aims to minimize unnecessary suffering for the animals and uses electric shock to stun them before slaughtering. As a result, it is only possible to approach the animal welfare standards of developed countries by increasing investment in related equipment, facilities, and human resources, which leads to increased costs for domestic producers and higher product prices. In China's export trade, it usually takes the advantage of low cost as its own competitiveness. When developed countries use animal welfare barriers to force China to increase the cost input of animal-derived products to offset China's cost price advantage, the inherent profit point is broken.

As a result, the competitiveness of the products declines, ultimately affecting the national economy.

### 2.2.3 It leads to an increase in trade frictions and a deterioration of the trade environment

First of all, we must be clear that there is a gap between our economic level, traditional customs and culture and the Western countries, and there is also a significant difference in our understanding of animal welfare. Therefore, when the Western countries demand that we change our

traditional mode of production with a set of standards that we consider too harsh and strict, and measure our social moral standards with their values, It is very likely to trigger the dissatisfaction of our export enterprises and individuals, leading to a series of trade disputes, because although animal welfare is somewhat reasonable, it is relatively distant from our society as a whole. And too many trade disputes will affect the normal trade order, affect other industries, increase trade costs, and in the long run, lead to a decline in export capacity, and the adverse effects on a country are self-evident.

### 3. CHINESE LEGAL RESPONSE TO ANIMAL WELFARE BARRIERS

#### 3.1 From an international perspective

##### 3.1.1 Make full use of existing WTO rules

The WTO, known as the "Economic United Nations", is an organization with widespread influence in the current international community. The WTO takes into account more the actual situations of countries with different levels of economic development. One of its purposes clearly states that it actively strives to ensure that developing countries, especially the least developed countries, obtain shares and benefits commensurate with their economic development levels in the growth of international trade. Establish an integrated multilateral trading system to help and promote the rapid economic growth of developing countries. As stipulated in paragraph 1 of Article 12 of the Agreement on Technical Barriers to Trade, "Each Member shall, through the following provisions and the relevant provisions of the other provisions of this Agreement, provide differential treatment and more favorable treatment to Member developing countries participating in this Agreement<sup>11</sup>. At the same time, one of the TBTS stipulates that "no Member shall be prevented from taking measures necessary to protect the life and health of human beings and animals and plants and to protect the environment at the level it deems appropriate<sup>12</sup>." The Agreement on the Implementation of Sanitary and Phytosanitary Measures (SPS) stipulates that "Each Member shall grant a longer period of adaptation to products of interest to developing countries in order to maintain their export opportunities and, upon the request of the Member of the developing country and in accordance with

<sup>11</sup> [http://fta.mofcom.gov.cn/ecuador/xieyi/egde\\_08\\_cn.pdf](http://fta.mofcom.gov.cn/ecuador/xieyi/egde_08_cn.pdf). Last access: May 5, 2025.

<sup>12</sup> [http://ipr.mofcom.gov.cn/hwwwq\\_2/WTO/Standards\\_and\\_safety.html](http://ipr.mofcom.gov.cn/hwwwq_2/WTO/Standards_and_safety.html). Last access: May 5, 2025.

its financial, trade and development needs, to release all or part of its obligations within a limited period<sup>13</sup>." Therefore, the full application of WTO rules and policies that offer preferential treatment to developing countries will have a substantive effect on dealing with trade barriers to animal welfare. For example, the most-favored-nation treatment principle under the WTO mechanism stipulates privileges and immunities that a Contracting party may grant to any third party now and in the future, as well as to the other Contracting party, that is, no less than the privileges that any third party may obtain. In this way, when the export of our country's animals and animal-derived products to other countries is restricted or subject to excessive tariffs, the rule can be invoked as a defense to claim equal treatment regardless of which country they originate from. Furthermore, the GreenBox Policies can be used to provide animal welfare subsidies to enterprises or individuals. The Greenbox policies are the agreements reached during the Uruguay Round, which allow governments to provide special agricultural subsidies within a certain range. This is an important measure of support and protection for agriculture implemented by the WTO. Article 8 (2) of the Agreement on Subsidies and Countervailing Measures designates subsidies related to animal protection as unappealing subsidies. Take Mexico's egg industry as an example. States such as California in the US have legislated to ban the sale of eggs in chicken cages, and Mexico's traditional farming model is at risk of being phased out. The Mexican government has sued California for discriminatory policies through the USMCA, while subsidizing the renovation of chicken cages in Sonora State (increasing the space for each chicken from 432cm<sup>2</sup> to 929cm<sup>2</sup>), and launching a brand of "sunfree-range eggs" exclusively for high-end supermarkets in California. This has kept Mexico's egg exports to the US at 1.2 billion per year in 2023, 30% of which are high-welfare certified products. Therefore, the Chinese government can draw on Mexico's experience to subsidize animal welfare, and the investment in subsidies will play a significant role in improving the level of animal welfare in our country and the competitiveness of animal products exported.

### 3.1.2 Be good at using the WTO dispute settlement mechanism

The WTO dispute settlement mechanism, which is the most powerful weapon of the WTO in dealing with international trade frictions and a pillar of the multilateral trading mechanism, plays

<sup>13</sup> <http://chinawto.mofcom.gov.cn/article/ap/p/201411/20141100792828.shtml>. Last access: May 5, 2025.

an important role in resolving trade disputes in the development of economic globalization. It is characterized by efficiency, enforceability and consistency. As the largest developing country among WTO member states, when encountering trade barriers in animal welfare, China should adopt the most effective legal weapon, make the most of the dispute settlement mechanism under the WTO system, actively engage in consultations and strive to defend the interests of China's export enterprises. Since developing countries are at a disadvantage in terms of economic strength and international political status, and there is a significant disparity in their ability to retaliate against trade, a bilateral settlement mechanism based on strength is not conducive to safeguarding legitimate interests. Therefore, the WTO dispute settlement mechanism is a relatively smart choice. But on the other hand, this also requires our country to be fully familiar with and master the WTO's dispute settlement procedures and other corresponding rules on animal welfare in order to make reasonable and maximum use of the mechanism. The "shrimp-turtle" case in the United States is a victory for developing countries in using the dispute settlement mechanism. In the ruling made by the WTO dispute settlement body in the case, it was noted that depletable natural resources are not limited to those that are prone to depletion or extinction. In the expert group report, it was pointed out that natural resources mentioned in the goals of sustainable development set by WTO rules are not a static concept, and the specific meaning of this concept is changing. Therefore, as long as a species is at risk of extinction, it can be identified as an depletable resource, and according to this interpretation of the expert group, certain animals, especially wild animals, fall within the category of depletable natural resources. The final determination of the case was that the measures taken by the United States were in line with the provisions of Section g of Article 20 of the General Agreement on Tariffs and Trade, but the United States lost the case because the measures it took were discriminatory against some countries and did not conform to the principles of the WTO.

### 3.1.3 Actively participate in WTO negotiations and consultations on trade barriers to animal welfare

At present, most countries around the world, especially developed countries, have relatively complete legislation on animal welfare. Developed countries set high animal welfare standards as an excuse for trade protection, resist the import of animal products from developing countries, affect the development of export-oriented economies in developing countries, and intensify the non-discrimination and inequality in the international trade pattern. In the long run, Developing countries



will be reduced to fish and meat, at the mercy of others. At the same time, we should also be aware that the overall improvement of animal welfare is a long process. At present, it is impossible for us to deal with the animal welfare barriers in our country by rapidly and short-term raising of animal welfare standards. Therefore, as the world's largest developing country, our country should strengthen international cooperation and unite countries in the same situation. We will resolutely safeguard the vital interests of developing countries, jointly resist unreasonable animal welfare standards in WTO negotiations, strictly limit measures with obvious trade protection tendencies in relation to animal welfare, and call on all countries to consider the economic and cultural differences between developed and developing countries. Face up to the reasonable gap in animal welfare between developing and developed countries, stress that diverse animal welfare standards should be established based on the specific circumstances of each country, and the requirements for developing countries should be appropriately relaxed, allowing developing countries a certain period to improve and adjust themselves, rather than insisting on overly high animal welfare standards from the perspective of developed countries. From a global perspective, the world is an organic whole, and for economic and trade activities among countries to move towards a benign development, there must be mutual compromise and coordination, especially in the economic field, where there are no absolute standards or absolute consistencies. Therefore, at the request of developed countries, promoting the popularization of animal welfare standards is unfair at least for the present stage. Although developed countries dominate the discourse power of the world market, the abuse of animal welfare to set up trade barriers and hinder the development of related industries in developing countries goes against the purpose of the World Trade Organization. Therefore, the vast number of developing countries should actively pay attention to their own development interests. Promoting the establishment of an open, non-discriminatory, fair, secure, predictable and sustainable development goal-oriented multilateral trading system by the WTO, with a moderate inclination towards developing countries, is a requirement for creating a good international environment.

### 3.2 From a domestic perspective

#### 3.2.1 Increase publicity and technical support for animal protection

Professor Sun Jiang, an expert in animal protection law, pointed out that animal welfare is a common sense that has been overlooked in China. Being unkind to animals can also harm human beings themselves. There is a common view that "human welfare" in current Chinese society has not been fully taken care of, and so many vulnerable groups cannot be helped, how can animals be cared for? This is clearly a selfish and narrow-minded view. The animals around us, having been domesticated for thousands of years, have become dependent on human beings. They have no right to choose their own existence. They need human care, and we, while making use of animals, must shoulder the moral responsibility of protecting them. This is our human mission. At present, the public's awareness of animal welfare in our country is at a low level, and there is less investment in animal protection-related technologies. Not only have animal welfare measures not been truly implemented in our country, but there are also many cases of abuse and hunting of wild animals in life. Changing this situation will be a long process. Only when the overall awareness of animal welfare in a country is enhanced and the basic animal security system is implemented will there be a basis for carrying out strategic reforms of animal welfare.

Take Brazil as an example. The European Union requires Brazil's beef production to meet strict animal welfare standards (such as time-limited transportation and pre-slaughter sedation measures), or impose additional tariffs. To address this challenge, on the one hand, Brazil's Ministry of Agriculture has launched the "Animal Welfare Certification Program" to fund farms to upgrade their transport vehicles (with GPS monitoring) and slaughter facilities (using electroshock stun technology); On the other hand, large meat companies such as JBS have set up "animal welfare training centers" to popularize EU standards and animal welfare knowledge among small and medium-sized farmers. This led to Brazil's beef exports to the EU reaching 1.9 billion euros in 2022, up 37 percent from 2018, making it the EU's third-largest source of beef imports.

### 3.2.2 Improve animal welfare legislation and enforcement and build a legal system for animal welfare

China's legislation on animal welfare is relatively lagging behind and even blank in some specific areas, which is highly contrary to the actual situation of China being a major exporter of agricultural and livestock products. The impact of animal welfare barriers on China's animals and animal-derived products in recent years cannot be ignored. If not regulated and adjusted by strong legal means, this gap will only grow larger. In the end, there will be an uncontrollable situation.

Therefore, at this stage, our country should accelerate the process of animal welfare legislation and enforcement to reduce the adverse impact of trade barriers on animal welfare(Ning Libiao,Xiao Yuyang,2023). But in practice, China's current level of animal welfare is far behind that of developed countries. Blindly copying the high standards of the West is not only not feasible in reality, but also conflicts with China's overall trade plan. Therefore, we should gradually move towards high standards of animal welfare in stages and formulate a general legal framework that conforms to China's basic national conditions. We should constantly summarize the problems that have occurred in practice and improve the laws and regulations related to animal welfare, rather than mechanically transplanting and rigidly aligning with the international community. This will not only fail to solve practical problems effectively, but also result in a waste of judicial resources. In my opinion, the following entry points can be considered:

The first is to change the legislative purpose of the animal welfare law. For a long time, there has been a misunderstanding about the purpose of protecting animals, thinking that caring for animals is merely safeguarding a human resource. This view is from the perspective of making better use of animals. Of course, it is not denied that this is also one of the original intentions of animal welfare legislation, but it is not the essence of animal welfare. Animal welfare requires starting from the animals themselves, respecting their lives and dignity. To protect animals from harm. Article 1 of South Korea's Animal Protection Act sets out its legislative purpose: "The purpose of this act is to fully protect and manage animals by preventing animal abuse, and to cultivate in the South Korean people the spirit of caring for the life and safety of animals and respecting animal life<sup>14</sup>." Therefore, in this regard, we can draw on advanced foreign legislative ideas. Only by considering the substantive content of animal welfare itself and incorporating this spirit into the legislative system can we better implement the original intention of animal protection.

The second is to carefully set reasonable standards for animal welfare. Regarding the issue of animal welfare standards in our country, while drawing on the legislative experience of developed countries, we should set different welfare standards according to different types of animal species based on our own actual situation. Because the establishment of animal welfare standards is related to the development of other foreign trade industries on the one hand, and also has an impact on consumers on the other hand. Excessive animal welfare will increase the cost of animal products and

<sup>14</sup> <https://baike.baidu.com/item/>.Last access: May 5,2025.

weaken consumers' purchasing power. Therefore, a reasonable animal welfare standard is to find a balance point between national conditions and interests and implement it, so as to achieve the original intention of legislation and effectively deal with trade barriers.

Third, pay attention to the connection and coordination with other relevant laws. Since animal welfare issues also involve other industries such as food safety and epidemic prevention, while accelerating legislation on animal welfare, attention should be paid to the implementation of legislation in coordination with related fields instead of isolating the internal consistency of the law and considering the issue one-sidedly. Otherwise, it will not only be impossible to formulate a reasonable and complete law, but also lead to conflicts in the application of the law in the future. As a result, legislation is not good law, let alone addressing problems in a targeted manner.

Take Chile as an example. Chile is one of the world's largest exporters of natural honey, and its main export markets are Europe and the United States. In response to the strict standards for veterinary drug residues in honey and concerns about bee welfare in developed countries such as the European Union, Chilean bee product companies have taken a series of measures. In the production process, the use of veterinary drugs is strictly controlled to ensure the health and well-being of bees; At the same time, strengthen the quality inspection and traceability system, and strictly supervise every link of honey production. Today, Chilean honey has smoothly entered the markets of Europe and the United States, and its export volume is constantly increasing.

### 3.2.3 Implement the animal welfare labelling system

Animal welfare labeling is a tool to inform consumers of the animal welfare level of a country's products. This regulation gives consumers the option to freely choose products based on their own preferences and economic conditions, that is, the market regulates the sale of animals and animal products, which is a new type of marketing mechanism. In light of the current low standards of animal welfare in our country, this system can be tried in the short term to make a curve adjustment.

### 3.2.4 Establish an early warning mechanism for animal welfare barriers

The key to establishing an early warning mechanism for animal welfare barriers lies in the detection and reporting system of relevant information. First, a research and monitoring institution

should be established, and professionals should be trained to conduct theoretical research and information collection on animal welfare barriers, keep abreast of the development of international animal welfare barriers and information on animal welfare policies, standards, and the latest legislation of countries with major trading relations with China, and then integrate and evaluate the monitored information and report it to enterprises(Sun Yingjie,2009). Urge enterprises to take preventive measures in a timely manner. At the same time, relevant theoretical and technical guidance should be provided to enterprises to enable them to avoid the impact of animal welfare barriers more effectively and reduce unnecessary losses.

#### 4. CONCLUSION

The way a country treats animals can to some extent reflect its level of civilization. The positive attitude and complete implementation measures of Western countries in protecting animals are worthy of our reference and learning. Our country should follow the trend of The Times and continuously advance the legislative process of animal welfare. But in this process, we should also face up to the historical gap between us and developed countries and combine our specific national conditions. We should formulate effective legal measures to deal with animal welfare barriers and resolutely resist trade protectionism under the slogan of animal welfare.

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