

Chapter 14

Animal Welfare Regulation and International Trade Law: Developments at the World Trade Organization

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Introduction

This chapter considers what limitations are imposed by international trade law on the ability of states to adopt measures to promote animal welfare. Its focus is on two trade agreements which fall under the umbrella of the World Trade Organization (WTO),¹ the General Agreement on Tariffs and Trade (GATT),² and the Agreement on Technical Barriers to Trade (TBT Agreement).³ In relation to the GATT, the chapter provides an overview of the core national treatment rule, which prohibits discrimination between imports and domestically produced goods, and considers the extent to which WTO member states may make regulatory distinctions between goods on the basis of the treatment of animals during the production process. In relation to the TBT Agreement, the chapter considers whether animal welfare is a 'legitimate objective' that states may pursue when adopting technical regulations.

The initial focus of states when negotiating multilateral trade agreements was on measures imposed at the border, particularly tariffs, but also quantitative restrictions on imports and exports. States also recognised the potential for internal domestic regulation to have negative trade impacts. As tariffs have progressively been reduced and eliminated over the decades since the foundational GATT entered into force in 1947, and especially since the establishment of the WTO in 1995, the issue of non-tariff barriers to trade has risen to greater prominence. Under the WTO regime, the policing of

- 1 Marrakesh Agreement Establishing the World Trade Organization (opened for signature 15 April 1994; in force 1 January 1995) 1867 UNTS 410. The WTO was created to oversee the implementation and ongoing expansion of the GATT and several other multilateral trade instruments.
- 2 General Agreement on Tariffs and Trade 1947 (signed 30 October 1947) 55 UNTS 194, as amended by GATT 1994 (opened for signature 15 April 1994; in force 1 January 1995) 1867 UNTS 187.
- 3 Agreement on Technical Barriers to Trade (opened for signature 15 April 1994; in force 1 January 1995) 1868 UNTS 120.

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