



## Review: Impact of bilateral trade on the promotion of animal welfare rules. The case of trade relations between the European Union and Mercosur



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### ABSTRACT

The paper analyzes the impact of trade relations between the European Union (EU) and Mercosur with its member states (Argentina, and Brazil, in particular), on the adoption of legislation on animal welfare inspired by the EU model. In the first part, the paper focuses on the historical roots of the European framework, which led “animal welfare” to become an EU value. Then, it briefly explores the EU legal instrument dedicated to breeding, transport and commercialization of animals, identified as core issues when dealing with international trade. Finally, it examines how Argentina and Brazil have adapted their national rules to the European model, thanks to a “mirroring” legislation strategy. In conclusion, the analysis shows how trade relations with the EU have an impact on the worldwide diffusion of European standards.

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### Implications

Historical developments of animal welfare rules within the bilateral trade framework raise awareness on the underlying mechanism fostering animal welfare around the globe. The present paper aims not to analyze in depth the European legislation, but rather to investigate the impact of European trade policies on animal welfare. The experience of Argentina and Brazil shows how two non-European Union legal systems pursuing their commercial interests with the EU can be influenced by the European standards. In such a framework, the EU strategy appears to be a winning solution that deserves to be adopted as a model in future bilateral negotiations.

### Introduction

In the recent decades, questions and concerns about the relationship between humankind and animals have increased (Albisinni, 2021). This discussion is not necessarily framed in the debates related to the relationship between human beings and their environment, which instead is an issue that has been presented more clearly since the 1960s, but more specifically in the

treatment given to the animals used for the human being (Sirsi, 2011). Technological advances and the search for productive efficiency make us question the intensity of practices and seek limits (Paoloni, 2021).

Leaving apart all the philosophical, legal, scientific, and moral debates, this paper aims at providing a picture of how animal welfare is regulated in the framework of agricultural activity and trade of agri-food goods, which appears to be one of the areas where animal welfare has been promoted the most, as well as one of the areas where animals have been traditionally abused the most.

Although in its broad concept, animal welfare is not mentioned in the normative texts of the World Trade Organization (WTO), but it was indirectly included in the Agreement on Sanitary and Phytosanitary Measures through the protection of animal health, where, in many cases, mistreatment to animals arouses (Article 2 par. 1). The protection of animal life and health is also provided for as an exception for the adoption of technical measures (Article 2 par. 2.2 of the Agreement on Technical Barriers to Trade). Furthermore, the topic is addressed by the World Organization for Animal Health (OIE), which contribute to the harmonization of the field thanks to the emanation of directives and guidelines, in accordance of Art. 3 para. 4 of the WTO Agreement on Sanitary and Phytosanitary Measures.

Since 1960, the former International Office for Epizootics has been developing standards and recommendations based on

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the work of the Commission on Sanitary Standards for Terrestrial Animals, which later became the Terrestrial Code, which is mentioned in the recitals of many internal resolutions in Argentina. The OIE also publishes a Reference Guide for the Use of the Terrestrial Code for import and export health services and all persons involved in international trade in animals and animal products (González Acosta, 2019, pp. 124 ff.).

Furthermore, the European Union recognizes itself as a promoter of animal welfare and adopts a commercial policy through which it tries to spread its values to its commercial partners, as will be shown in the relevant point. In this sense, this paper attempts to analyze the impact of trade relations between the EU, Mercosur, and its member states, especially Argentina and Brazil, in the adoption of legislation on animal welfare, beyond the fact that these countries have their own baggage of motivations and background in other areas of animal welfare not necessarily linked to aspects of food production and marketing. For example, the Constitution of the Federative Republic of Brazil of 1988, in art. 225, §1, item VII, prohibits practices that extinct animals and subject them to cruelty.

### Animal welfare in the framework of the policies, values and rights of the European Union

It has been pointed out that at the European Union (EU) level, the first regulations were not considering the protection of animals as an end in itself, but rather in consideration of its connection with other regulations. Only at the end of the 20th century, they began to think of a much larger framework, more systematic and, to a certain degree, autonomous (Albisinni, 2021). It is possible that these regulations also respond to specific demands in certain sectors. There is a coincidence that the first record occurred in England with the Brambell report that proposed the five freedoms and that the first international standards emerged within the scope of the Council of Europe and then took a leading role, in European headquarters, in community institutions. All these have given a still formless framework to the discipline (Sirsi, 2011) that could begin to be classified by the activity or use given by man on the one hand, an aspect from which in this work those provisions that refer to agricultural production or livestock (Paoloni, 2021). On the other hand, evolving the ideas toward a more systematic and autonomous framework, they can be divided into horizontal and vertical norms (by species) (Sirsi, 2011) and into norms of “constitutional” hierarchy or at the level of treaties and constitutions, those that drive the greatest conceptual and regulatory-type changes.

For the purposes of the thesis that tries to show how world trade contributes to expanding animal welfare standards, the minimum references to the European regulations that have been taken into account will be cited to contrast with the provisions of the two leading South American countries in the food exports in order to mark their concordances that also derive from the common influence of the OIE and a dialog of sources that, in our matter, is made possible by trade flows.

The Council of Europe played an essential role in the formation of binding regulations that can even be described as incisive (Celentano, 2021). From the Council of Europe, due to the matter on which we will focus, we are interested in:

- The *European Convention for the Protection of Animals during International Transport* (Paris, December 13, 1968), which applies to farm and companion animals as well as cold-blooded animals and other animals and birds that for any reason have been determined for international transportation.

- The *European Convention for the Protection of Animals kept for Farming Purposes* (Strasbourg, March 10, 1976), which seeks to avoid any useless suffering or harm due to housing, feeding or care conditions, and has served as inspiration for community standards in question, which constitute the dispositive texts.
- The *European Convention for the Protection of Animal for Slaughter* (Strasbourg, May 10, 1979), which imposes, on the states that have ratified it, the respect to certain regulations relating, in particular, to the delivery of animals to slaughterhouses and their lairaging until slaughter (housing premises and care offered to the animals), stunning and slaughter methods, with exceptions in certain cases of ritual slaughter.

It is worth noting that the three themes developed in these agreements will be the same ones that guide the organization of European and national regulations that have been called horizontal.

With regard to European regulations, it has been pointed out that the different facets of animal protection included in the legal provisions refer to (a) domestic animals; (b) livestock farms; (c) animals in transport; (d) slaughter; (e) animals used for experimentation and other scientific purposes, and (f) pet animals (Gil Adrados and Suárez Peces, 2017). It is evident that, with respect to the international trade, the contents largely follow those outlined by the Council of Europe conventions and are those found in the different legislations on welfare linked to the production and trade of food products of animal origin.

The current framework is strongly impacted by the higher hierarchy norms that followed those first moments. In the first place, the subject was incorporated through Annexes to the Treaties, until finally, the *Treaty on the Functioning of the European Union* (TFEU) incorporated the topic in article 13, that states: “In formulating and implementing the Union’s agriculture, fisheries, transport, internal market, research and technological development and space policies, the Union and the Member States shall, since animals are sentient beings, pay full regard to the welfare requirements of animals, while respecting the legislative or administrative provisions and customs of the Member States relating in particular to religious rites, cultural traditions and regional heritage”. It has been pointed out that its introduction not only in the additional protocols but also in the text of the Treaty certainly reinforces its effectiveness and elevates it to the connotation of a guiding principle, although it is still subordinated to respect for other values (Albisinni, 2021; Celentano, 2021). In the legal doctrine, some authors have critically underlined that the EU legislation subordinates animal welfare to productivist policies (Sowery, 2018). Furthermore, the text of Art. 13 has been criticized for the inclusion of concepts, which are not legally determined. In fact, while the rules of animal welfare are clear and normatively exposed, on the contrary, customs, rites, and cultural traditions appear as an open framework with external sources, not necessarily codified (Canfora, 2018).

Among the European legislative acts of a binding nature and general application (regulations and directives), at the level of the so-called horizontal standards, are:

- (1) Regulation (EC) 1/2005 of the Council of December 22, 2004, on the protection of animals during transport and related operations and amending Directives 64/432/EEC and 93/119 /EC and Regulation (EC) No 1255/97.
- (2) Directive 98/58/EC of the Council, of July 20, 1998, concerning the protection of animals kept for farming purposes, inspired by the so-called five freedoms.
- (3) Regulation (CE) 1099/2009 of the Council of September 24, 2009, regarding the protection of animals at the time of killing.

At the level of vertical standards, the following Directives are found:

- Directive 1999/74/EC laying down minimum standards for the protection of laying hens, which establishes different measures related to living space, especially in feeders, nests and floors to ensure that hens can support their hind fingers and are not always holding on to wires. This Directive, in turn, recalls the applicability of the rules of the horizontal Directive 98/58/EC.
- Directive 2002/4/EC of the Commission of January 30, 2002, on the registration of establishments keeping laying hens, covered by Council Directive 1999/74/EC of the Council, regulates the information to be provided and, among this, the aforementioned to the forms of breeding and category of eggs in accordance with Regulation (EC) 2295/2003, which also regulates the collection of eggs, their identification with a numerical code and packaging, among other issues.
- Directive 2007/43/EC of the Council of June 28, 2007, laying down minimum rules for the protection of chickens kept for meat production and welfare indicators. According to the Directive, indicators should be clearly defined and measurable in a practical way and serve to support decisions made on the farm. For example, the maximum cumulative daily mortality rate allows to determine if an excessive number of deaths could be avoided during the rearing period. (See the Report from the Commission to Parliament on the application of this Directive of April 13, 2018 [COM (2018) 181 final]).
- Council Directive 2008/119/EC of December 18, 2008, laying down minimum standards for the protection of calves, which prohibits keeping calves older than 8 weeks isolated without justified health reasons, regulates the spaces and other conditions for the brood.
- Council Directive 2008/120/EC, which is the codified version of Directive 1991/630/EEC and which establishes the minimum standards for the protection of pigs, regulates the living spaces for each animal and the dimensions of the structures and openings and also prohibits having the bristles tied, among other issues.

### European Union trade policy and its “expansion of values linked to animal welfare

Regarding its trade policy, the Commission issued a working document on January 23, 2006, calling for a community action plan on the protection and welfare of animals 2006–2010 [COM (2006) 14 final]. As in other European policies, the Commission also established strategies to make its commitments to animal welfare more effective. While it was proposed internally to make the minimum applicable standards stricter, link the issue to the Common Agricultural Policy and established instruments to investigate and guarantee animal welfare and introduce standardized indicators, it devoted a chapter to promote animal welfare in the EU’s multilateral and bilateral relations and to increase its awareness in developing countries, creating new possibilities for trade.

This document made it clear that neither in the General Agreement on Tariffs and Trade (GATT) 1994 nor in any of the WTO agreements is animal welfare explicitly mentioned and that the Commission has promoted its point of view on the issue in that international forum without intending to introduce, in this way, new types of non-tariff barriers. It added that, on the contrary, what it intends is to promote strict animal welfare standards and provide clear information to consumers, without harming the competitiveness of the agricultural sector and the food industry in the EC [cf. COM (2006) 14 final, § 5.3].

Other similar multi-year strategies followed. Thus, with the European Union strategy for the protection and welfare of animals (2012–2015) [COM (2012) 6 final/2], the Commission described the necessity to include provisions on animal welfare in bilateral trade agreements or to establish other forms of cooperation, as well as to promote concrete collaboration with third countries.

More recently, the Commission presented a Report to the Parliament and the Council on the impact of international animal welfare activities on the competitiveness of European farmers in a globalized world [COM (2018) 42 final]. This document begins by reaffirming that the EU has always been at the forefront of developing a sound, science-based animal welfare legislative model and that it is committed to promoting it alongside fair competition globally. The Commission openly states that its aim is to raise awareness globally, and, especially among its trading partners, of high standards of animal welfare reflecting the European model and principles.

The report was carried out, as expressed in it, based on four key sources of information: (i) available bibliography, (ii) interviews with EU business associations, (iii) trade flows, (iv) two specific surveys for operators of the EU and third countries in selected non-EU countries and concluded that compliance with animal welfare legislation and standards leads to increased production costs for operators, regardless of their geographical location. It also revealed that EU operators consider animal welfare legislation as a serious disadvantage for their activities, in terms of costs and market shares, both inside and outside the EU. At the level of competitiveness, the report concludes, based on the literature reviewed, that the comparative advantages in relation to costs in third countries refer to a lower value of labor and raw materials. In effect, the document precisely informs that the cases of Thailand and Brazil regarding the fattening of chickens were considered. The report concluded that if third countries adopted animal welfare standards and measures similar to those in Europe, this would not greatly influence the cost equation.

The report, in its Annex II, already gave an account of two documents signed with the main trading partners of Mercosur: (1) a Memorandum of administrative agreement on animal welfare between the European Commission and Brazil and (2) an administrative Agreement on technical cooperation on animal welfare between the European Commission and Argentina.

Within the normative framework, there are also express considerations for relations with food “supplier” countries. Directive 98/58/EC on breeding was imposed on the Commission to submit to the Council a comparative report with the animal welfare standards of third countries and on the impairment that it may suffer from competition with them and also “achieve a greater international acceptance” of the principles related to animal welfare established in that standard. Article 12 of Regulation (EC) 1999/2009 on slaughter makes chapters II and III of the same application and requires a health certificate that accompanies meat imported from third countries, which must attest to compliance with such requirements. Finally, Regulation (EC) 1/2005 on transport applies to the entry of animals by any means from other customs territories.

### The European Union Agreement with Mercosur

The Association Agreement between the European Union and Mercosur (the EU-Mercosur Association Agreement) is an agreement for trade, cooperation, and political dialog. Despite the affinities and common strategic visions between the two blocks, the issue of agricultural and food products always generates tensions in the negotiations and was the main stumbling block both in the negotiations and at the current moment in which the Agree-

ment should be approved by the different member states of Mercosur and member states of the European Union.

Among its various chapters, the issue of animal welfare is not found in the specific chapter on sanitary and phytosanitary measures but in a chapter, named “Dialogues”, which adopts a much more open format and leaves the issue open to continue raising and advancing on sensitive matters, among which and in the first place, animal welfare is considered. About the goals of the chapter, Article 1 explicitly stressed that “The Parties aim at strengthening their mutual confidence and agree to establish dialogs and exchange information to improve their common understanding on the following subjects: ...”. A specific Subcommittee on Dialogs is created on each matter set forth in article 1, in our special case, on animal welfare.

Article 3 provides: “Recognizing that animals are sentient beings, the Parties will conduct a dialogue that will cover, *inter alia*: 1. Specific topics on animal welfare that may affect mutual trade; 2. Exchange of information, expertise and experiences in the field of animal welfare to improve their respective approaches on regulatory standards related to breeding, holding, handling, transportation and slaughter of animals for their mutual benefits. 3. Strengthen the research collaboration. 4. Collaboration in international fora with the aim of promoting the further development of international standards on animal welfare by the World Organization for Animal Health (OIE) and best animal welfare practices and their implementation”.

## Argentina

Argentina does not have a provision on animal welfare in its Constitution, nor was the issue discussed in the last reform of 1994, which incorporated, among many novelties, article 41 with the environmental clause. At the legislative level, the picture is not very systematic either. Law 2786 had already been enacted in 1891, punishable by fines. The law was submitted to Congress at the request of the Argentine Society for the Protection of Animals, known as the Sarmiento law, former president of the Republic. Other older antecedents exist for particular situations, such as cockfights. The most general and traditional cover rule is Law 14,346, enacted on October 27, 1954, on criminal law, which with a broad scope served for a long time to discipline and restrict “mistreatment” and can be included within the horizontal rules. It is also about the law that promoted a greater reflection on philosophical jus aspects on the relationship between man and animals (Vismara, 2010). The criminal type is very generic and serves to cover almost all possibilities depending on the interpretation given to “ill-treatment” or “acts of cruelty”.

But, being an agro-exporting country, and with a history of trade links, especially with Europe, the developmental aspects related to production, trade and transportation have also been extensively developed. In this field, a policy of respect and promotion of animal welfare has been assumed due to pressure from consumers and animal advocates in the country and, at the same time, due to the understanding that “animal welfare has concrete commercial implications” since “neglect of it will lead to different types of losses in production and in the quantity and quality of meat” and leather (Wilde, 2011). Commercial concerns led to greater research and dissemination of good practices and to a complete regulatory development, although clearly developed from regulations of a lower hierarchy, especially by the governing body for health aspects, the *Servicio Nacional de Sanidad y Calidad Agroalimentaria* (SeNaSa). In this normative framework (available online at: <https://www.argentina.gob.ar/senasa/programas-sanitarios/bienestar-animal/normativa>, last access on 26/09/2022), references to European and OIE sources are abundant.

The most complete horizontal standard is Resolution 1697/2019 of December 9, 2019, which, as in the European case, comes after a partial process with references to animal welfare in the so-called horizontal standards. It was signed one day before the last change of government, a reference that is not trivial since that government sought to open markets after ten or more years of policies that, due to various production and price issues, preferred to protect the internal market and because it was also the government that, a few months earlier, hastened the conclusion of the Agreement between the European Union and Mercosur.

The Resolution seeks to refer to the different aspects of animal welfare, not just for specific species, activities or phases, but rather to the entire livestock sector, at all stages up to and including slaughter, as well as all mammals, birds, fish, reptiles and amphibians raised or maintained for the production of food and other products, by-products and derivatives or other livestock purposes such as work or education. The Resolution also applies to working animals in the livestock field and to equines destined to participate in sports activities. On the other hand, feral, wild or wild animals in captivity without productive purposes are not included; animals intended to participate in cultural or religious acts or activities, those used in experiments or in laboratories, invertebrates and pets, exclusions that, in the Resolution, may be due to the scope of application of the body that issued it.

Regarding the definition of animal welfare, this includes the physical and “mental” state of an animal in relation to the conditions in which it lives and dies (see art. 7.1.1. of the Terrestrial Animal Health Code – TAHC).

The obligations are set for the “holder”, who can be understood as the owner, or the “responsible” who must be identified taking into account the different regulations, the contractual relationship with the owner or the role of each person in the organization of the activities that attract the need to comply with some of the planned activities.

These obligations refer to the guarantee of water and food, which is described in greater detail; frequency of controls and human presence; “humane” slaughter; medical treatments; environment, facilities and equipment that must be safe and harmless and can be cleaned and disinfected; cleaning; air circulation, dust level, temperature, humidity and other environmental conditions and contaminations including noise; proper lighting; satisfaction of physiological and behavioral needs; avoidance or minimization of pain; management based on positive “human-animal” relationships with stress avoidance; prohibited practices; transportation, including various fitness-to-travel provisions; charge density; work regulations including “working hours”; among the main.

In addition, the *Dirección Nacional de Fiscalización Agroalimentaria* has approved the manuals of good practices in bovine production and transportation to slaughter, which present the requirements for installations in the slaughter plant, the stunning systems and the adequate indicators to evaluate the management efficiency in the plant.

Regarding the transport of live animals, there is decree 5 514/61, which precisely regulates the “comfort” and safety in the transport of animals; decree 1 248/75 of the complementary standards of safety and treatment for live animals during transport and related activities and, more recently, SeNaSa Resolution 97/99 that imposes the registration of the means of transport of animals and establishes the conditions of the transportation or technical characteristics; the conditions for shipment and transport and washing and disinfection. The specific regulations that point to the effective welfare of the animals in the act of transport are established in SeNaSa Resolution 581/2014, whose article 12, in great detail, establishes the technical regulations.

In terms of slaughter, there is one of the few antecedents established by national law, 18,819, which prohibited the use of the



mace in the slaughter of bovine, equine, ovine, porcine, and goat species. In this case, it should be noted that the Argentine law goes beyond European legislation, which in Annex I of Regulation (EC) 1099/2009 still authorizes death with a blunt blow to the head. Argentine law was regulated by decree 1733/70 whose art. 1 establishes that the slaughter of animals of the bovine, equine, ovine, porcine and caprine species, that are slaughtered in the country's slaughterhouses or refrigerators must comply with the desensitization requirements and procedures established by the Executive Branch of Government. The use of the mace is forbidden. Although the law is known by banning the mace, which was the most common form in refrigerators at that time, it mentions the desensitization procedures that seek to render the animal unconscious before death. The regulatory decree establishes that desensitization will be obtained through the use of a pistol with a captive projectile or pneumatic hammer pistol, electric shock or carbon dioxide. Instruments that penetrate the braincase, destroy the brain mass or contaminate the tissues of the central nervous system are forbidden, and the devices used must be previously approved by SeNaSa. Article 2 provides that the desensitization must not be in sight of the rest of the cattle nor can the blood reach where it is and, likewise, it must be avoided that the bang or noise of the shot is heard by the animals that will be sacrificed next.

Subsequently, Resolution 25/2013 of the SeNaSa regulates the use of "electric prods", sometimes used in herding, with a voltage that does not exceed twelve volts, in the Concentrator Market of Liniers and in other concentrations of cattle, only when it is guaranteed have enough space for the animals to move; when the animals are not moving; when the physical integrity of the operator is at risk and/or when other methods have been used and have failed. The norm also determines sensitive parts of the animal's body on which the electric prod cannot be used.

Another symmetry of the rules with respect to the European community system refers to the consideration and prevalence of religious issues. Thus, SeNaSa Resolution 46/2014, by incorporating Chapter XXXII on Animal Welfare to the Regulations for the Inspection of Products, By-products and Derivatives of Animal Origin, approved by Decree No. 4238 of July 19, 1968, and later discussed, establishes that when religious reasons do not allow desensitization, there will be the equipment that allows the slaughter without causing suffering to the animals. (On European case-law, see [Barbarossa, 2019](#)).

The first recital of this rule states that the legislation must reflect the ethical concerns of a society regarding the treatment of animals and that the Argentine Republic has been developing animal welfare standards for more than a hundred years. Surely, it refers to the two criminal laws cited above. Even earlier, but in matters not of production but of competitions and games, the Legislatura de la Provincia de Buenos Aires, by law 2012 of July 5, 1888, had prohibited cockfighting, confronting a deep-rooted popular tradition that, it can be assured, even today could not banish. It cites as a reference that animal welfare has been incorporated into the legislation of countries and communities such as the United States of America and the European Union, coincidentally, two important markets for the export of superior quality Argentine meats. In turn, the standard recognizes that it internalizes chapters 7.1 and 7.5 of the Terrestrial Animal Health Code and chapters 7.1 and 7.3 of the Aquatic Animal Health Code of the World Organization for Animal Health (OIE).

Once again, the relationship between the adoption of this type of regulation with the anthropocentric purpose linked to consumption and trade is evident, and it is argued that there is sufficient evidence that the quality of meat from animal species for consumption, treated under the recommendations of Animal Welfare, far exceed those that come from animals that have suffered stress prior to slaughter.

In the dispositive part, the Resolution meticulously deals with establishing animal welfare rules, especially at the time of slaughter. Conceptually, it introduces a definition to the syntagm by which it is explained that animal welfare is understood as the state, in which the needs in relation to the habitat are satisfied so as not to affect the physical and behavioral integrity of the animals. Therefore, adequate accommodation, responsible treatment and humane sacrifice must be guaranteed.

Another very general cover regulation that demonstrates the will to deepen the subject and follow the advances of science and international and comparative law is the recent Resolution 542/2021 of October 28, 2021, by which the same SeNaSa creates the "Comisión Nacional Asesora de Bienestar Animal", even if a similar pre-existing body had already been created in 2002 (Res. SeNaSa 253/02). The objective of national multi-sectoral and inter-governmental commissions is to have a participatory environment to share and exchange relevant information as well as to collect demands in order to strengthen governance (art. 2). They are constituted according to related species (cattle and buffaloes; pigs; birds; equines; bees; aquatic animals; small ruminants and domestic South American camelids; other livestock species; wildlife). In terms of hunting at the national and provincial levels, Argentina has many examples of prohibited practices based on a feeling of mercy toward the prey. But it is also in trafficking, legal and illegal, that animals suffer and perish the most. Pets, often inspired by anthropocentric feelings toward animals, promote international wildlife trafficking.

Among the sectoral or vertical disciplines, Resolution 413/03, also from SeNaSa, refers to the forced feeding of birds and has been sanctioned at the proposal of the Asociación para la Defensa de los Derechos de los Animales (A.D.D.A.) and protects ducks and geese, mainly. The rule is brief and forceful and prohibits any form of forced feeding for any destination. In order to test the hypothesis that production in Argentina looks at the European market and adopts "mirror" standards to its satisfaction, it is interesting to cite the recitals of the Resolution in which it is said that "the White Book of the Commission of the European Communities states that the health and welfare of food-producing animals is essential for public health and consumer protection". At the same time, although it is not a matter of a lower hierarchy standard and of a specialized body, it reaffirms that it is essential to implement all the procedures in order to prevent, in the Argentine Republic, the implementation of breeding or feeding methodologies at odds with animal welfare. In addition, the recitals remind that by art. 1 of Law No. 14346, forced feeding must be included as mistreatment or act of cruelty to animals, in this case, geese and ducks. The resolution also qualifies the practice as "abhorrent".

Resolution 893/18 of the same authority creates the Regulatory Framework for the Provision of Equidae for Slaughter. In its preamble, it recognizes textually that they must provide guarantees regarding compliance with the preslaughter precautionary period for certain veterinary drugs requested by the European Union. The art. 6 of the Resolution establishes that the SeNaSa personnel will ensure that all veterinary, sanitary and production actions and practices with equines are carried out in accordance with the legal provisions regarding the protection and welfare of the animals involved in the production processes. The annexes of the Resolution establish detailed control programs that include animal welfare in general and in particular in relation to the farms and in transport. It is also relevant that the Control Program in its art. 14.2.9. establishes in cases of trips lasting more than eight hours (time identical to that set in European standards), the obligation to draw up an appropriate travel plan that contemplates animal welfare.

Even more relevant, article 28 devoted entirely to the title of animal welfare that imposes the obligation to "provide humane

treatment” to equines, defining it as a set of measures to reduce stress, suffering, trauma and pain to animals during their transfer, exhibition, quarantine, commercialization, use, training and slaughter. “Emergency and/or zoo sanitary slaughter” is also understood as that carried out by “humane” methods without suffering and animal welfare guidelines are set for movement, housing, restraint, loading, transport or sanitary or veterinary practices for which training is required to any person involved in the aforementioned activities, all provisions very similar to those of Regulation (EC) 1099/2009.

Resolution 25/2013 of the SeNaSa, already mentioned, intervenes in the Operating Regulations of the Liniers Market, a hub market for the sale of livestock, and provides for the prohibition of the use of horses for herding small livestock, as well as the herding of (human) foot of cattle. Likewise, traditional management methods such as the use of lassoes, herders and the use of dogs are prohibited. SeNaSa Resolution 924/2020 establishes a new framework for the qualification and conditions that fairgrounds, hub markets and any other place of concentration of animals must possess.

The table of provisions related to animal welfare specifically in relation to equines is closed by Resolution 301/2021, which regulates the authorization of livestock establishments devoted to the extraction of material to produce equine blood products and which adopts the Manual of Good Practices for Animal Welfare in the Management of Horses to produce Blood Products.

It is especially relevant to regulate production in intensive fattening systems where animals do not have access to direct and voluntary grazing, especially issues related to food, shelter and water. In this sense, SeNaSa, Resolution 329/2017 regulates these establishments considering health, animal welfare and environmental issues. Likewise, SeNaSa Resolution 575/2018 does the same with respect to chicken-fattening establishments.

This Resolution also adopts the standards, criteria and measurable variables of animal welfare for broilers adopted by the OIE, which it recognizes as the reference body in the matter and deals with both the standards referring to the fattening establishments and the “skills” that workers in direct contact with birds must have. The Resolution imposes the obligation to have a veterinarian responsible for the establishments and the Animal Welfare Manual where the measures adopted by the company to comply with the standards of its Annex must be clearly stated and which are collected, in turn, from the Chapter 7.10 of the OIE Terrestrial Animal Health Code.

Another decision that seeks to guarantee good practices and good management of fattening is the imposition of specific skills on workers in the sector.

The slaughter of chickens for health reasons in the establishment must also be carried out in a “humane” manner and as soon as possible, and SeNaSa must establish the consented practices. The resolution also regulates the “capture” prior to transport or slaughter, providing provisions to avoid stress, for example, trying to keep the time between one and the other to a minimum, and establishing the form of capture that should not be taking the animal by its neck or wings. The resolution is rich in other details that for space cannot be repeated in this writing but that include the modalities of capture through machines and transport in cages.

Another specific area where good practices for the benefit of animal welfare found development even before the regulations already mentioned, although for a specific regulation that had origins in Argentina with the same logic of legislation – mirroring that of the European Union, is the area of certification of products as biological, ecological and organic that are regulated by Law 25 127 but that establishes a voluntary system (Pastorino, 2009, p. 196). Thus, SeNaSa Resolution 1286/93 already mentioned that animals must be raised in a healthy environment; with enough space so that “herd size leaves room for individual development”;

with sufficient free movement; with sufficient areas to rest and natural beds; ample access to running water and food; fresh air and natural daylight (establishing a maximum of 16 hours of artificial light); with protection from inclement weather such as wind and excessive temperatures; with welfare rules for slaughter; without castration, tail, teeth, wings or beak cuts and with natural mating.

The norm was abrogated by SeNaSa Resolution 374/2016, which establishes the minimum spaces guaranteed in the different offspring in art. 8 and Annex IV.

## Brazil

In Brazil, the first Brazilian legislation dealing with animal welfare was Decree Law number 24,645 of July 1934, which establishes measures to protect animals, bringing standards to curb mistreatment and implement animal welfare.

Among the legal rules in force in Brazil (available at: <https://www.gov.br/agricultura/pt-br/assuntos/producao-animal/boas-praticas-de-producao-animal/legislacao> – last access on June 10, 2022), we can mention the horizontal norms:

- (a) Agrarian Policy Law (Federal Law No. 8 171, of January 17, 1991) – Establishes the obligation of environmental preservation and rational use of fauna and flora and other regulations on agricultural health.
- (b) Decree No. 9 013/2017: Approves the new Regulation of Industrial and Sanitary Inspection of Products of Animal Origin. This decree takes care of the rules that must be observed by meat, egg, fish and derivatives establishments, establishing rules related to the approval of facilities for animal welfare.

In terms of vertical standards, we can cite:

- (c) Normative Instruction No. 13/2010: Approves Technical Regulations for the export of live ruminants for slaughter. This standard also addresses the issue of transport of live ruminant animals, with a view to animal welfare.
- (d) Normative Instruction No. 56, of November 6, 2008 – Establishes the general procedures of the Recommendations of Good Welfare Practices for Animals of Production and Economic Interest, which cover production and transport systems.

IN 56/08 defines production animals as those whose creation is intended to generate products for commercial purposes. Animals of economic interest, in turn, are those raised for sporting purposes.

Article 3 of Normative Instruction No. 56 establishes the guiding principles that must guide the minimum rules applicable to all animals used in the production of wealth, namely: (i) careful and responsible management in the various stages of life of the animal, from birth, upbringing and transportation; (ii) the provision of a satisfactory, adequate and safe diet, appropriate to the different stages of the animal's life; (iii) installation of structures appropriately designed for the production systems of the different species, in order to guarantee animal protection, rest, and welfare; (iv) proper handling and transportation to reduce stress and avoid unnecessary bruising and suffering; and (v) maintenance of the rearing environment in hygienic conditions.

Along the same lines as this Normative Instruction, on June 21, 2017, the Conselho Nacional de Trânsito (Contran) published Resolution No. 675, which regulated the transport of animals of production or economic interest, sport, recreation, and exhibition.

Article 3 of Resolution No. 675 establishes a list that contains fourteen minimum requirements that must be observed by vehicles that transport live animals.

- (e) Normative Instruction No. 03 of 2000 – Approves the Technical Regulation on Stunning Methods for the Humane Slaughter of Butcher Animals.
- (f) In the field of animal protein production, Decree 9.013 of 03.29.2017 (Decree 9013) regulates the industrial and sanitary inspection of products of animal origin, under the jurisdiction of the Federal Government and executed by the Ministério da Agricultura, Pecuária e Abastecimento (MAPA), through the Departamento de Inspeção de Produtos de Origem Animal (DIPOA) and the Federal Inspection Service (SIF).

The inspection provided for in Decree 9013 applies to animals intended for slaughter, including ante- and postmortem inspection of animals, reception, handling, processing, industrialization, fractionation, conservation, packing, packaging, labeling, storage, dispatch and transit of any raw material and products of animal origin, being able to carry out the inspection in establishments that produce, receive, supply or extract products of animal origin.

Pursuant to Article 12 of Decree 9 013, the following procedures may be adopted during the inspection of establishments: (i) ante- and postmortem inspection of different animal species; (ii) verification of the hygienic-sanitary conditions of the facilities; (iii) sampling for analysis that is necessary to verify the conformity of production processes or products of animal origin; (iv) assessment of the welfare of animals destined for slaughter; (v) verification of the means of transportation of live animals and derived products and their raw materials intended for human consumption; (vi) traceability control of animals, raw materials, supplies, ingredients, and products throughout the production chain; and (vii) other inspection procedures whenever they are recommended for the practice and development of the animal products industry.

Establishments that sell, interstate or internationally, products of animal origin must be registered with the DIPOA and classified, in the manner established by Decree 9 013, among establishments of: (i) meat and meat products, (ii) fish and fishing; (iii) eggs and derivatives; (iv) milk and dairy products; (v) beekeeping products and derivatives; (vi) storage; or (vii) non-edible products. Each establishment must comply with a list of requirements, including technological requirements, related to its facilities, listed in the above-mentioned Decree.

The establishments are obliged to adopt measures to prevent the mistreatment of animals, from the shipment at origin to the moment of slaughter. Regarding the ante-mortem inspection of establishments, article 85 determines that the reception of animals for slaughter in any establishment must be done with prior knowledge of the SIF, and must be unloaded and housed in adequate and exclusive facilities. In addition, article 103 determines that the sacrifice of animals that have not remained at rest, fasting and water diet is prohibited, respecting the particularities of each species, and the sacrifice of animals is only allowed with the use of humane methods, as detailed in the decree itself.

- (g) Normative Instruction No. 12 of 2017 – Accreditation of entities for Training in Humane Slaughter.
- (h) Normative Instruction No. 46 of 2018 – Export of live ruminants.
- (i) Normative Instruction No. 113 of 2020 – Establishes good management practices and animal welfare in commercial pig farms.

- (j) Ordinance 365/2021 – brought new rules for humane slaughter, changing and updating IN 03/2000. With the publication of this document, progress was made in alignment with the OIE recommendations and the scientific literature on animal welfare. The text has requirements that slaughterhouses must meet in terms of vehicles, facilities and equipment.

It also creates the role of “responsible for animal welfare” of the industrial unit, and this must have, in addition to responsibility, autonomy to take the necessary actions to enforce this Ordinance.

This Ordinance contains in its annex the stunning methods allowed by the MAPA for the slaughter of butcher animals and also wild animals bred in captivity slaughtered in units under official veterinary inspection.

Equine breeding Legislation:

- (a) Law No. 7 291/1984 – Provides for the National “Equideocultura”.
- (b) Decree No. 96 993/1988 – Regulates Law No. 7,291/1984 on National Equideoculture.

According to ZANELLA (Zanella, 2021), Brazil is implementing the five freedoms for animal welfare. Nonetheless, there is still much to be done in Brazil to guarantee the effectiveness of attention to animal welfare in livestock. However, it is necessary to understand that, behind this complex issue, there is a need for strong investments, and for this, it is important to emphasize that livestock must be advanced, sustainable, and competitive for Brazilian development and maintenance of sustainability.

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Not applicable.

#### Data and model availability statement

Not applicable.

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The writing is the result of a reflection and investigation by both authors. For the purpose of attributing responsibility for the different parts, it is clarified that Almeida has elaborated the paragraph “*The European Union Agreement with Mercosur*” and the paragraph “*Brazil*”. All the other paragraphs have been prepared by Pastorino.

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None.

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### Transparency Declaration

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