

# Caged In by Trade

## How Global Trade Rules Make Livestock Suffer

If you've seen photos of animals crammed into factory farms and want to do something to stop it, you're not alone. More and more consumers across the US and Europe are considering the issue of animal welfare when buying food.

However, while many of us making the right choices at farmers markets and grocery stores, our actions are being undermined by trade ministers and corporate lobbyists at the World Trade Organization. Trade rules now restrict how countries can protect animal welfare and support farmers who raise their animals humanely.

A perfect example is the confinement of pigs in gestation crates. Gestation crates are tiny metal stalls, about 2-by-7 feet, in which pregnant sows spend most of their lives. These crates are too small for the pig to turn around, and pigs often develop urinary tract infections, skin sores, tumors, and "pus pockets" from rubbing against the metal bars as they try to escape the cage that's coated with their own blood, urine, and excrement.

One way to combat this practice would simply be to outlaw it. In 2002, voters in Florida approved a constitutional amendment banning gestation crates. Switzerland and the United Kingdom also have laws requiring humane treatment of pigs. And in the fall of 2006, Arizonans will vote on banning gestation crates.

However, trade agreements have opened ways for corporations to fight these laws. Bans on gestation crates have not yet been challenged as a trade barrier, but they could be. Here's how:



The WTO says pork is pork, no matter how pigs are treated - or mistreated.

### Trade Attack #1: The corporate "right to future profits"<sup>1</sup>

Treaties such as the North American Free Trade Agreement, the Central American Free Trade Agreement and many bilateral (nation-to-nation) agreements allow foreign corporations to challenge US laws. They can sue other countries' governments for passing laws that interfere with their so-called "right to future profits." For example, a Canadian meat company that used gestation crates at a factory farm in Florida prior to the ban could sue Florida for losing theoretical profits after the crates were banned.

### Trade Attack #2: That law is too "burdensome"<sup>2</sup>

Right now, at the WTO, trade representatives are negotiating to further erode laws governments can pass. In the WTO worldview, animal welfare, consumer safety, environmental protection, and human rights are nothing more than irritants that get in the way of the ideal of total liberation for corporations to conduct unrestricted business around the world. As the next step towards this ideal, trade representatives are writing rules that may require countries to prove their own laws are "not more burdensome than necessary" to foreign corporations who want to come in and do business.<sup>3</sup> For example, if an Uruguayan corporation wanted to set up a factory pig farm in Florida, Uruguay could challenge Florida's gestation crate ban at the WTO, claiming that raising pigs humanely is unnecessarily "burdensome."

### Trade Attack #3: Pigs are pigs no matter how you abuse them<sup>4</sup>

Even if a country succeeds in passing a law banning gestation crates, factory-farmed meat could still come in from other countries. The logical solution? Only import meat from farms that don't use gestation crates. Not so, says the WTO.

WTO rules prevent countries from passing laws that differentiate between products based on how they are produced. So even though Swiss farmers aren't allowed to use gestation crates, Switzerland is obligated to import meat from factory-farmed pigs.

This is not an abstract discussion. In 1981, the European Union was concerned about the risks to both animal and health from the use of growth hormone implants in cattle. The EU passed a law that restricted European farmers' use of growth hormones in cattle and blocked imports of beef produced with these substances. The US and Canada challenged this law at the WTO, and in 1998 a tribunal ruled against the growth-hormone ban. When the EU refused to change its laws, the WTO allowed the US and Canada to impose \$116.8 million and \$11.3 million in trade sanctions against Europe, respectively.

The bottom line is that countries cannot use animal welfare standards to determine which products it will or won't import, because the WTO says beef is beef no matter what artificial hormones cows are given, and pork is pork no matter how pigs are treated – or mistreated. Or, as Al Smith once said, "No matter how you slice it, it's still boloney."

### **Trade Attack #4: Supporting farmers is "trade distorting"<sup>5</sup>**

Because of trade attack #3, countries are required to import meat from farms that use gestation crates. This meat is likely to be cheaper, putting domestic farmers at a disadvantage. If you tried to tax imported products produced with lower welfare standards, you would run into the same problem as in #3, and are setting yourself up to be challenged at the WTO.

Wealthy countries may have one last option. Right now at the WTO, countries are debating whether governments are allowed to subsidize farmers for additional costs they face by complying with higher animal welfare standards. The EU currently provides these subsidies to some farmers. Unfortunately, this debate could end with a perverse scenario. At the end of these WTO negotiations, countries may be forced to strip away support programs that help farmers survive financially in the face of cheap imports, while still being required to bear the cost of treating their animals humanely.

Other laws that could be challenged include:

- The ban on the use of artificial growth hormone (rBGH) for dairy cows in Canada, Japan, the EU, New Zealand and Australia.<sup>6</sup>
- US law, requiring foreign cargo planes that fly to or from the US, to follow the Animal Welfare Act's standards for humane transport of animals, which includes standards on ventilation, temperature, food and water requirements, etc.<sup>7</sup>
- The EU plan to phase out the use of battery cages for raising chickens by the year 2012.<sup>8</sup>
- The EU's ban on imported chicken meat from countries with lower animal welfare standards.<sup>9</sup>
- The proposed labeling rules in the EU that would require poultry labels to include the type of husbandry system used, stocking density, and the age of the chicken when it was slaughtered.<sup>10</sup>

- Regulations on line-speed in slaughterhouses to ensure humane slaughter. The EU regulations require that line-speeds to be slower than in US regulations.<sup>11</sup>
- If a country were to ban imported milk or meat products from cloned animals.<sup>12</sup>

### **Consumers and Farmers Caged In**

At every step of the way, global trade agreements are limiting the steps that we can take to promote the humane treatment of animals in food production. By placing corporate profits ahead of consumer concerns about animal welfare, global trade rules encourage a race-to-the-bottom that only benefits large-scale factory farms, and those farmers that treat their animals humanely must constantly struggle to survive.

#### **Endnotes**

- <sup>1</sup> These regulations are detailed in Chapter 11 of NAFTA, Chapter 13 of CAFTA, and a series of Bilateral Investment Treaties (BITs).
- <sup>2</sup> The Working Party on Domestic Regulations is debating this issue as part of the General Agreement on Trade in Services (GATS) at the WTO.
- <sup>3</sup> General Agreement on Trade in Services, Article VI:4.
- <sup>4</sup> Such challenges are based on rules in the General Agreement on Trade and Tariffs (GATT) of the WTO.
- <sup>5</sup> The discussion of subsidies refers to the current debate over what payments qualify as "Green Box" subsidies in the WTO Agreement on Agriculture (AoA).
- <sup>6</sup> This could be challenged as an unnecessarily burdensome domestic regulation on "animal husbandry services" under General Agreement on Trade in Services, Article VI:4.
- <sup>7</sup> This could be challenged as an unnecessarily burdensome domestic regulation on "transport services" under General Agreement on Trade in Services, Article VI:4.
- <sup>8</sup> This could be challenged using the investor-state dispute resolution provisions of a Free Trade Agreement or a Bilateral Investment Agreement. It could also potentially be challenged as a domestic regulation on "animal husbandry services" under GATS.
- <sup>9</sup> The challenge would be based on rules in the General Agreement on Trade and Tariffs (GATT) of the WTO, which forbid import restrictions based on Process and Production Methods (PPMs).
- <sup>10</sup> This rule could be challenged as a non-tariff barrier to trade (NTB) at the WTO. This could be challenged using the investor-state dispute resolution provisions of a Free Trade Agreement or a Bilateral Investment Agreement. It could also potentially be challenged as a domestic regulation on "packaging services" under GATS.
- <sup>11</sup> This could be challenged as an unnecessarily burdensome domestic regulation on "manufacture of food and beverages, on a fee or contract basis," under General Agreement on Trade in Services, Article VI:4.
- <sup>12</sup> This challenge would be based on rules in the General Agreement on Trade and Tariffs (GATT) of the WTO, which forbid import restrictions based on Process and Production Methods (PPMs).

#### **For more information:**

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