

**Protecting
All Animals**



**Humane, Sustainable, and Environmentally Friendly Development:
Opportunities for Equitable Access to International Trade under the
Doha Development Agenda**

**HUMANE SOCIETY INTERNATIONAL AND
GLOBAL ALLIANCE FOR HUMANE SUSTAINABLE DEVELOPMENT**

World Trade Organization Sixth Ministerial Conference

Hong Kong

December 13 - 18, 2005

**HUMANE SOCIETY
INTERNATIONAL**

Global Alliance for Humane Sustainable Development

2100 L Street, NW, Washington, DC 20037 USA
Tel: 1-301-258-3010 • Fax: 1-301-258-3082
hsi@hsihsus.org • www.hsihsus.org

INTRODUCTION

Humane Society International (HSI) is the international affiliate of The Humane Society of the United States (HSUS). Founded in 1954, The HSUS today leads a family of organizations, including our regional office in Central America known as Global Alliance for Humane Sustainable Development, with a constituency of 9.5 million and a significant global presence. We actively advance international trade policy and local sustainable development projects to help developed and developing countries address such issues as humane and sustainable agriculture, environmental conservation, and wildlife and habitat protection.

We are a member of the Trade and Environment Policy Advisory Committee (TEPAC) in the United States, advising the United States Trade Representative (USTR) and the Environmental Protection Agency (EPA) on international trade policy. We also promote humane, sustainable, and equitable development in discussions of international trade and economic policy at the World Trade Organization (WTO).

Locally, we implement a number of trade capacity building and technical assistance programs in developing WTO Member countries - including Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua - to support sustainable economic development including humane agricultural practices and habitat protection policies.

THE WTO AND SUSTAINABLE DEVELOPMENT

The central aims of the Doha Declaration, adopted by WTO Members at the Fourth Ministerial Conference in Doha, Qatar, in 2001, endeavor to achieve greater market liberalization while at the same time encouraging sustainable economic development in developing and least developed countries.¹ According to the Doha Declaration, WTO Member countries:

... strongly reaffirm [their] commitment to the objective of sustainable development, as stated in the Preamble to the Marrakesh Agreement [and] are convinced that the aims of upholding and safeguarding an open and non-discriminatory multilateral trading system, and acting for the protection of the environment and the promotion of sustainable development can and must be mutually supportive.²

Beyond the broad objectives noted above, the inclusion of specific environment, sustainable development, capacity building/technical assistance,³ and transparency provisions⁴ in the Doha Declaration sets the current negotiating agenda apart from its predecessors. But since the Fifth Ministerial in Cancún, Mexico, in 2003, the Doha Round has focused almost exclusively on the negotiations taking place in the WTO Committee on Agriculture regarding the reduction of trade-distorting domestic support subsidies by developed countries in exchange for greater access to developing country markets. Although a positive resolution in the agriculture negotiations is essential to the successful conclusion of the Doha Round, this is not the *only* area in which the Doha Declaration mandates negotiations.

Throughout this position paper, therefore, we identify a number of issues that all WTO Members should consider during the Doha Round negotiations in Hong Kong in order to meet *all* of the mandates laid out in the Doha Declaration. These issues include humane, sustainable agriculture; capacity building and technical assistance; sustainable tourism; environmental goods; increased transparency and improving and clarifying the dispute settlement understanding; and equitable access to the opportunities and benefits of international trade.

We believe that improving environmental protection, agricultural practices, and wildlife and habitat protection can be achieved without sacrificing the goals and priorities sought by developing countries in the Doha Round. Much of the promise of economic development, however, depends in large measure on the ability of developing countries to effectively engage their own resources in ways that promote development without causing environmental degradation.

HUMANE SUSTAINABLE AGRICULTURE – ANIMAL WELFARE AND THE GREEN BOX

The agricultural sectors of many WTO Member countries are facing enormous pressure to be more responsive to the demands and preferences of consumers. This is especially true in developed countries, where citizens are demanding more humane and environmentally responsible agricultural practices and products. Based on the conclusions of a growing number of scientists and policy makers, consumers have increasingly been demanding changes in agricultural practices to accommodate concerns for animal welfare, public health, environmental protection, and wildlife and habitat protection.

In turn, this demand has begun to open new markets for humanely treated animal products in Europe, the United States, and other countries where consumers have supported humane products with their purchasing power.⁵ Indeed, consumers have demonstrated a vested

interest in how animals are treated through the purchase of humanely produced chicken, beef, pork, dairy products, and cage-free eggs.⁶

In an effort to meet this new demand, farmers and ranchers in many developed countries and some developing countries have incurred greater costs by implementing higher animal welfare standards. This led the European Communities (EC) to put forth a proposal in the WTO Committee on Agriculture seeking an express recognition that animal welfare payments - including those made to offset these increased costs - be included in the “Green Box” of permissible agricultural subsidies.⁷ The EC proposal, however, was met with a great deal of skepticism by developing countries who viewed the proposal as an attempt at increased protectionism.

The United States, on the other hand, has publicly stated that animal welfare payments are already covered by the present criteria of the Green Box in the current text of Annex 2, paragraphs 1 and 12 of the Agreement on Agriculture (AoA).⁸ The United States has also taken the position that such payments should not be limited by any expenditure caps.⁹ We agree with this position, which reflects the reality that the way animals are treated directly impacts the sustainability and profitability of agricultural operations. Indeed, many studies demonstrate that mistreating or failing to provide adequate veterinary care for animals reduces economic output.

Furthermore, recent outbreaks of foot and mouth disease, avian influenza, and bovine spongiform encephalopathy (BSE) provide dramatic evidence of the need for higher animal welfare standards. Simple measures such as prohibiting the transport of sick animals, reducing the stock density of poultry, and eliminating the use of feed containing animal byproducts, all of which qualify under current Green Box criteria, will help to greatly reduce the occurrence of these diseases and improve the overall welfare of the animals.

To ensure that higher animal welfare standards will benefit farmers, ranchers, consumers, and the larger society in both developed and developing countries, however, such payments must not be used for protectionist purposes. Only programs that are non-trade distorting and meet the Green Box criteria of the AoA should be allowed. Indeed, developing country producers who observe higher animal welfare standards are just as eligible for these payments from their governments as their counterparts in developed countries. Animal welfare is not only in the best interests of developing WTO Members, it is also an issue which must be addressed in any attempt to improve sustainable farming throughout the world.

In addition to the recognition that animal welfare payments meet Green Box criteria, we also support the inclusion of a “peace clause” in the Doha Round agriculture negotiations that

would provide litigation protection for non-trade distorting Green Box programs. Article 13 of the AoA, which contained the original peace clause for Green Box programs, expired in 2003.

The inclusion of a peace clause protecting animal welfare payments from possible WTO challenges in the Doha Round would serve to ensure that such programs can safely and effectively be administered by all WTO Members without fear of reprisal. The United States has already stated its support for such litigation protection.¹⁰ Therefore, we support amending Article 13 to remove the language “During the implementation period” from the first paragraph. In this way, the litigation protection for programs conforming to Green Box criteria going forward will not be any more expansive than the former Green Box peace clause.

CAPACITY BUILDING AND TECHNICAL ASSISTANCE PROGRAMS AND THE WTO

Capacity building and technical assistance are both important aspects of the established international trading regime. Developing countries, however, must be provided with the tools necessary to prepare for and take full advantage of the opportunities that come from increased market access resulting from WTO negotiations. The WTO has taken note of this fact confirming that “technical cooperation and capacity building are core elements of the development dimension of the multilateral trading system” in the Doha Declaration.¹¹ In addition, and specific to the environment, the Doha Declaration also recognized “the importance of technical assistance and capacity building in the field of trade and environment to developing countries, in particular the least-developed among them.”¹²

We support WTO Members’ recognition of the importance of capacity building and technical assistance programs for developing countries, especially those that benefit the environment. In order to make this commitment successful, the WTO must do more to promote programs aimed at sustainable development including projects that endeavor to protect the environment, natural resources, animals, and wildlife (including marine mammals) and habitats.

In particular, we support programs in developing countries that enhance development in the agricultural sector, while at the same time help to maintain the natural environment and encourage the humane treatment of farm animals. Developing countries, however, must ensure that their domestic agricultural policies, while promoting economic growth, focus on sustainable practices and development. It is simply not in the short- or long-term interests of developing countries to engage in unsound and unsustainable policies and practices as part of their overall development strategy.

PROMOTING SUSTAINABLE TOURISM

The Doha Declaration states that negotiations on trade in services “shall be conducted with a view to promoting the economic growth of all trading partners and the development of developing and least-developed countries.”¹³ As a “service industry,” tourism can be an important source of revenue and can contribute positively to economic development if it is encouraged and managed in a way that is sustainable. Indeed, for a number of developing countries the lure of a robust tourism industry and the wealth it can generate is a powerful incentive to improve their internal policies, and in turn, their external image. The rush to promote tourism activities, however, often fails to take into account the detrimental effect such policies may have on the very activity the countries are attempting to encourage.

We strongly believe that the promise of economic development is inextricably linked to the protection of natural resources, wildlife (including marine mammals) and habitats. In the area of tourism promotion, it is clear that environmental protection, habitat survival, and the protection of ecosystems and biodiversity must be dealt with at both the local and multilateral level in order to secure a successful and sustainable tourism sector.

In our experience, the more attention paid to the treatment of animals (including wildlife and marine mammals), the more immediate the success of tourism promotion programs. Therefore, in conjunction with the Doha Declaration’s mandate to promote economic growth in service industries, it is important for developing countries to carefully consider how to foster tourism opportunities while at the same time take into account the protection of the natural beauty, wildlife, and habitats that provide for those opportunities in the first place.

ENVIRONMENTAL GOODS

Paragraph 31(iii) of the Doha Ministerial Declaration calls for negotiations on “the reduction or, as appropriate, elimination of tariff and non-tariff barriers to environmental goods and services.”¹⁴ The Doha Declaration, however, failed to provide any further guidance on the definition of “environmental goods.” Negotiations with respect to environmental goods, therefore, have centered on defining a list of goods that would qualify for tariff reductions.

Without fully agreeing on a particular definition or positive list of “environmental goods” so far in the Doha Round negotiations, WTO Members have generally agreed on five broad categories of products that can be considered to be environmental goods. These include:

wastewater management, solid and hazardous waste management, air pollution control, renewable energy products, and environmentally preferable products (EPPs).¹⁵

Of these, we believe that the inclusion of specific EPPs presents the best opportunity to directly impact and increase the ability of developing countries to increase their wildlife and habitat protection standards. The United Nations Conference on Trade and Development (UNCTAD) defines EPPs as “products that, from a life-cycle perspective, cause significantly less ‘environmental harm’ than alternative products that serve the same purpose.”¹⁶ UNCTAD further notes that “less environmental harm” is generally established by certain criteria including both the product’s impact on human and animal health, as well as its ability to assist in the preservation of the environment.¹⁷

In the course of negotiations regarding EPPs, Members have generally agreed that while EPPs may be included on a list of “environmental goods” subject to reduced tariffs, EPPs should not be identified by their process or production methods (PPMs), especially through the use of eco-labels. Indeed, the U.S. agreed with this approach stating that “[w]hile eco-labels [are] a useful tool in differentiating products in the marketplace . . . they [are] not the appropriate tool for determining tariff treatment.”¹⁸ Thus, Members have generally agreed to exclude PPMs from the classification procedure for “environmental goods” and, instead, define EPPs either by a clear environmental end-use or their disposal characteristics.

With respect to which specific EPPs should qualify, the United States has suggested several EPPs based on their clear environmental end-uses in its proposed list of “environmental goods.” These include circle hooks, which reduce the accidental death of sea turtles, and fish nets that incorporate Turtle Excluder Devices (TEDs).¹⁹ The United States has also stated in the course of negotiations that “it could show some flexibility in [enlarging the scope of covered EPPs] where products were of interest to many developing countries, but would not be considering PPM-related EPPs.”²⁰ In addition to supporting the inclusion of circle hooks and TEDs, therefore, we also support the inclusion of several different CITES manuals and CD-ROMs approved by the CITES Secretariat as EPPs that will receive reduced tariff treatment. These materials not only assist developing countries in identifying native species protected by CITES, but can also be used as educational tools to instruct local authorities regarding enforcement of the convention’s mandates.

Another major question that has arisen in the negotiations regarding “environmental goods,” is whether the positive list of environmental goods should be allowed to evolve over time. In response to this question, some Members have supported setting qualification standards for a “living list” that could be amended through continuous negotiations.²¹ We

support the creation of a “living list” of environmental goods that can take into account the rapid pace of technological innovations in the area of environmental goods. It is important that products whose end-use is intended to protect wildlife and their habitat not be excluded from the positive list simply because they were developed following agreement on an initial list of qualifying goods.

INCREASING TRANSPARENCY GENERALLY, AND IMPROVING AND CLARIFYING THE DISPUTE SETTLEMENT UNDERSTANDING AT THE WTO

The Doha Declaration addresses the issue of transparency and confirms that WTO Members have the “collective responsibility to ensure internal transparency and the effective participation of all Members. . . . [W]e are committed to making the WTO’s operations more transparent, including through the effective and prompt dissemination of information, and to improve dialogue with the public.”²² The WTO will never capture the imagination of the general public or ensure support among the citizens of its Members without becoming more open, transparent, and responsive to the concerns and problems encountered in WTO Member countries.

Increased transparency and effective public participation need to be addressed by the WTO and - more importantly - by each of its Members. The development of international trade policy begins with the domestic policy of each WTO Member. If WTO Members do not have adequate transparency and public participation provisions in their domestic laws, regulations, and procedures, there is little foundation for these measures to be implemented on a multilateral basis. As part of the effort to improve transparency and effective public participation at the WTO, the WTO should encourage its Members to undertake such activities in their domestic regimes.

The WTO would also benefit from increased transparency and clarification of the Understanding on the Settlement of Disputes (DSU). When it was first adopted following the Uruguay Round, the DSU was hailed as a major accomplishment. Since that time, a number of shortcomings in the system have emerged. In June 2001, WTO Members included negotiations on “improvements and clarifications of the Dispute Settlement Understanding.”²³ The following list identifies a number of areas where the DSU can be substantially improved:

- Deadlines for panel and Appellate Body decisions must reflect the issues and complexities of each case and should be extended or shortened depending on the number of issues, complexity, and number of parties and third parties.

- For disputes involving environment and sustainable development issues, the roster of potential panelists should include persons with environment, animal welfare, and sustainable development credentials - not just those with expertise in the trade of goods and services.

- Amicus curiae briefs and expert information should be accepted by panels and the Appellate Body when it is clear that the submitting entity (e.g., NGO, private party, or academic institution) has a clear interest in the subject matter of the dispute and is able to provide important information that should be considered by the decision makers.

With respect to transparency in the settlements of disputes at the WTO, we applaud the recent decision to open a panel proceeding to the public for the first time in the history of the WTO.²⁴ The decision to open a panel proceeding to the public is an important first step toward greater openness at the WTO in the context of dispute settlement, which will hopefully continue throughout the entire organization. In the future, we hope to see more panel and Appellate Body proceedings be open to the public, as well as the consideration by panels and the Appellate Body of amicus curiae briefs submitted by interested parties such as NGOs, private parties, or academic institutions.

EQUITABLE ACCESS TO THE OPPORTUNITIES AND BENEFITS OF INTERNATIONAL TRADE

WTO Members must work to ensure that all of society is provided with equitable access to the benefits of international trade. It is clear that there are a number of potential negative impacts from international trade, including dislocations of the labor force, loss of industries due to increased competition or unfair trade practices, attacks on environmental or conservation initiatives or laws on the basis of interference with international trade rules, and so on.

It is incumbent on WTO Members to ensure that all aspects of society share in the benefits of international trade rather than be exposed only to the negative effects that increased international trade and the opening of markets may cause. For far too long the poor in many developing countries have seen little or no benefit from international trade, resulting in stagnant or increasing poverty levels despite the increases in country income or wealth.

CONCLUSION

HSI/Global Alliance and our strategic partners endeavor to be a constructive force in the development of international trade policy. The WTO is in a position to reshape itself and take a broader agenda into account at this Ministerial Conference and complete the mandates of the Doha Declaration. We, therefore, respectfully request that WTO Members carefully consider the ideas and positions contained in this document and embark on a more open, humane, equitable, and environmentally supportive agenda from this point forward.

¹ WTO Ministerial Declaration, Fourth Session Doha, WT/MIN(01)/DEC/W/1 (14 Nov. 2001) [*hereinafter* Doha Declaration].

² Doha Declaration at 2, para. 6.

³ Doha Declaration at 8, paras. 38-41.

⁴ Doha Declaration at 2, para. 10.

⁵ Poll conducted by David Hill of Hill Research Consultants and cosponsored by The HSUS, 2003.

⁶ *Organic Agriculture: Sustainability, Markets and Policies*, Organization for Economic Cooperation and Development (OECD) Agriculture and Food, 2003.

⁷ GN/AG/NG/W/90 (Dec. 14, 2000).

⁸ Statement of then USTR, Ambassador Robert Zoellick, at the WTO Ministerial in Cancún, Mexico in 2003 publicly announcing U.S. support for animal welfare payments that meet Green Box criteria.

⁹ See U.S. Proposal for WTO Agriculture Negotiations (Oct. 10, 2005), *available at* http://www.ustr.gov/Trade_Sectors/Agriculture/US_Proposal_for_WTO_Agriculture_Negotiations.html

¹⁰ *Id.*

¹¹ Doha Declaration at 8, para. 38.

¹² Doha Declaration at 7, para. 33.

¹³ Doha Declaration at 3, para. 15.

¹⁴ Doha Declaration at 6, para. 31(iii).

¹⁵ Report by the Chairperson of the Special Session of the Committee on Trade and Environment to the Trade Negotiation Committee, TN/TE/13 (Oct. 12, 2005).

¹⁶ Environmental Goods and Services in Trade and Sustainable Development, Note by the UNCTAD Secretariat, TD/B/COM.1/EM/21/2 (May 5, 2003) at 6.

¹⁷ *Id.*

¹⁸ Summary Report on the Eleventh Meeting of the Committee on Trade and Environment in Special Session – Note by the Secretariat, TN/TE/R/11 at 15 (May 30, 2005).

¹⁹ Submission of the United States – Initial List of Environmental Goods, TN/TE/W/52, TN/MA/W/18/Add.7 (July 4, 2005).

²⁰ Summary Report on the Twelfth Meeting of the Committee on Trade and Environment in Special Session – Note by the Secretariat, TN/TE/R/12 at 38 (Sept. 30, 2005).

²¹ See, e.g., Submission of New Zealand, TN/TE/W/46 (Feb. 10, 2005); Submission of Korea, TN/TE/W/48 (Feb. 18, 2005).

²² Doha Declaration at 6, para. 31.

²³ Doha Declaration at 2, para. 10.

²⁴ Registration begins for public hearings of “Continued suspension of obligations in the EC—hormones dispute” panels 12-15 September 2005 in Geneva, *available at* www.wto.org/english/tratop_e/dispu_e/public_hearing_e.htm