



**HUMANE SOCIETY  
INTERNATIONAL**



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CANADA

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*Via Electronic Mail*

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To Whom It May Concern:

On behalf of The Humane Society of the United States (The HSUS), Humane Society International (HSI), and Humane Society International Canada (HSI Canada) (hereinafter referred to as HSI collectively), we hereby submit these comments on the European Commission's questionnaire regarding a comprehensive economic agreement with Canada.

HSI is the international arm of The HSUS. Together, HSUS and HSI represent one of the largest animal protection organizations in the world with a constituency of over 11 million people and a significant global presence. HSI oversees and coordinates the work of The HSUS abroad, addressing animal issues that cross many borders and impact millions of animals worldwide. HSI works with national and jurisdictional governments, humane organizations, and individual animal protectionists in countries around the world to find practical, culturally sensitive, and long-term solutions to common animal issues, and to share an ethic of respect and compassion for all life. HSI Canada in particular actively engages in programs involving companion animals, wildlife and habitat protection, marine mammal preservation and farm animal welfare.

In the field of international trade, HSI actively participates in discussions of international trade policy at international institutions, such as the World Trade Organization (WTO), addressing such issues as equitable development, humane and sustainable agriculture, environmental conservation, and wildlife and habitat protection. We also implement a number of trade capacity building and technical assistance programs in developing WTO Member countries to support sustainable economic development, including humane agricultural practices and habitat and wildlife protection policies.

Through these experiences, HSI has learned that trade agreements can be a powerful tool for promoting environmental and animal protection, while also contributing to economic development. To assist the EU in the negotiations process, we have highlighted below priority concerns for our organization. Our comments are focused primarily on addressing issues raised in the questionnaire in the sections on Sustainable Development and Sanitary and Phytosanitary Measures. We also offer our views regarding the importance of the EU's regulation concerning the trade in seals and seal products, and how such regulation should not be diluted in response to pressure from the trade agreement negotiations.

## **Sustainable Development: Environment**

The interconnection between trade and the environment is undeniable. From climate change, to wildlife and habitat protection, investment, and air and water quality, environmental issues touch on nearly all aspects of trade in goods and services. To ensure the highest level of environmental and animal protection in a trade agreement with Canada, we recommend the following:

***Enforceable Environmental Provisions:*** It is critical that any agreement reached between the EU and Canada include enforceable environmental provisions. We recommend that such provisions be part of the agreement and on par with other commercial provisions, rather than housed in a side agreement with a separate dispute settlement mechanism. We also urge that any fines collected in connection with an environmental dispute be used towards addressing the problems giving rise to the dispute.

***Inclusion of Multilateral Environmental Agreements:*** It is important that any trade agreement include a commitment by all parties to ratify and implement certain key multilateral environmental agreements (MEAs). Of particular importance to our organization is the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) (this MEA is not included in the recent EU trade negotiations with Peru). Increased trade through an EU-Canada trade agreement will impact wildlife as new trade routes and markets emerge for legal and illegally traded wildlife. This will put additional pressure on species populations that are already suffering due to climate change. Finally, illegal wildlife trade is linked to global organized crime in narcotics and arms trafficking and the spread of disease. These harmful consequences can be mitigated if they are identified early and specific commitments are incorporated into the trade agreement committing the Parties to take action.

In our view, a trade agreement presents a valuable opportunity to not only require Parties to bring their national laws into compliance with CITES, but to further require effective enforcement of those laws subject to dispute settlement.<sup>1</sup>

***Strong Definition of Environmental Law:*** HSI recommends that animal protection feature prominently in any definition of environmental law. Canadian practice is to define environmental law as any statute or regulation, the primary purpose of which is the protection of the environment or prevention of a danger to human life or health. Animal life or health is mentioned, but only as part of a subsection of the definition.<sup>2</sup> We recommend that animal life and health be added to human life and health in the introductory clause of the definition. Moreover, we recommend that there not be an exception for laws and regulations managing commercial harvests or exploitation of natural resources, as is also common practice in Canadian

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<sup>1</sup> Other MEAs that should be considered include but are not limited to: the *International Convention for the Regulation of Whaling*, done at Washington, December 2, 1946; the *Montreal Protocol on Substances that Deplete the Ozone Layer*, done at Montreal, September 16, 1987, as adjusted and amended.

<sup>2</sup> See e.g., Canada-Costa Rica Free Trade Agreement, available at: <http://www.sice.oas.org/trade/canrcr/English/enve.asp>.

trade agreements.<sup>3</sup> This exception serves little purpose other than to unnecessarily narrow the definition of environmental law.

***Environmental Cooperation:*** Key to the success of environmental protection is a requirement for environmental cooperation. This is critical to ensuring a united commitment to conservation of natural resources and environmental and animal protection. We recommend the following non-exhaustive list of issues be considered priority cooperation objectives: (1) effective enforcement of national laws implementing CITES, (2) biodiversity conservation, (3) habitat protection, and (4) stemming the illegal trade in wildlife. We further recommend that civil society be given an opportunity to provide recommendations/comments on cooperation activities at the outset, and thereafter on a continuing basis. This is important since many times it is local organizations that are the most familiar with what is needed, and are actually involved in implementation of the cooperation programs.

Finally, we recommend that research be done to determine adequate levels of funding necessary to implement the environmental cooperation programs. Sufficient funding is obviously a critical component to ensuring these programs are successful.

***Public Participation:*** HSI strongly believes that an integral part of any trade agreement is the inclusion of provisions that permit the public and NGOs to participate in bringing environmental issues to the attention of the competent authorities in each of the Parties. In this regard, we recommend that any resulting trade agreement incorporate the requirement for creation of an independent secretariat designed to receive submissions from private citizens and NGOs alleging that a Party is failing to effectively enforce an environmental law. This independent mechanism empowers civil society, NGOs, and the private sector to have a voice in their country's environmental policies, programs, and enforcement regimes without fear of governmental intervention in the process. Our organization has used this mechanism under other trade agreements with beneficial results for the environment and animals.

### **Sanitary and Phytosanitary Issues**

HSI recognizes that animal welfare is of great importance to the EU, and we were pleased to see that the SPS chapter of the EU-Chile Agreement (for example) includes provisions governing animal welfare with respect to stunning and slaughter. We believe that an agreement between the EU and Canada can go even further to promote animal welfare and protection. Specifically, we support inclusion in the SPS chapter of higher animal welfare practices with respect to handling, as well as transport, which includes loading, off-loading, and lairage. These provisions will complement the provisions on stunning and slaughter already included in the EU-Chile Agreement. Clearly, the EU recognizes the importance of higher animal welfare during transport and handling, as reflected in its regulations and regional research and outreach efforts with members of the production chain both within its Member Countries and abroad.

SPS issues are of particular significance to our organization considering that a trade agreement is likely to increase trade (or, at a minimum, increase trade opportunities) in agricultural products, such as eggs, chicken and beef. To this end, it is critical that increased trade does not encourage

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<sup>3</sup> *Id.*

the growth of intensive farming systems, particularly since some of these systems are being phased out or banned in the EU. To ensure this does not result, studies must be done prior to the conclusion of a trade agreement to consider how to prevent the spread of intensive farming systems while simultaneously improving animal welfare practices.

Finally, HSI recommends that animal welfare is incorporated into the trade agreement as a key cooperation program that is explicitly addressed in the SPS Chapter. Exchange of information and cooperation programs focused on animal health and welfare can yield great benefits for the Parties and for the animals, by leading to improved food safety and quality, reduction in the spread of disease, and elimination of cruel practices, such as the use of gestation crates and the production of foie gras.

### **EU Regulation of Seal Trade**

HSI would also like to take this opportunity to address an issue of pressing importance to our organization: the pending legislation in the EU to ban the trade in seal products. While we recognize that this is not likely to be part of an explicit part of a trade agreement between the EU and Canada, it nevertheless bears heavily on their trading relationship, particularly since Canadian Prime Minister Stephen Harper and Canadian International Trade Minister Stockwell Day have stated on numerous occasions that Canada plans to challenge the EU legislation at the World Trade Organization (WTO).

By way of background, the seal hunt is part of the fishing industry in Canada. Seals (and all marine animals) are classified under the Fisheries Act as “fish,”<sup>4</sup> the seal hunt is termed a “fishery” by the federal government,<sup>5</sup> it is the federal Department of Fisheries and Oceans that manages the seal hunt,<sup>6</sup> and it is commercial fishermen who hunt the seals and the largest fisheries union represents most sealers.<sup>7</sup>

The potential trade agreement between Canada and the EU stands to benefit Canada’s fishing industry by \$36 million CAD (\$23 million Euros) annually, largely as a result of lowering of EU tariffs.<sup>8</sup> Canada’s largest fishing industry association – the Fisheries Council of Canada (which represents over 100 seafood companies, including seal product processors) – strongly supports the free trade deal for this reason, and claims the deal would be of particular benefit to Canada’s Atlantic fisheries (the region involved in the seal hunt).<sup>9</sup>

Notably, the Canadian government estimated the EU seal product trade ban would cost Canada’s commercial sealing industry \$6.6 million CAD annually<sup>10</sup> while, as noted above, the lowering of

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<sup>4</sup> [http://laws.justice.gc.ca/en/showdoc/cs/F-14/bo-ga:s\\_2/20090630/en#anchorbo-ga:s\\_2](http://laws.justice.gc.ca/en/showdoc/cs/F-14/bo-ga:s_2/20090630/en#anchorbo-ga:s_2)

<sup>5</sup> [http://www.dfo-mpo.gc.ca/reports-rapports/seal\\_2007/gr-seals\\_2007-eng.htm](http://www.dfo-mpo.gc.ca/reports-rapports/seal_2007/gr-seals_2007-eng.htm)

<sup>6</sup> <http://www.dfo-mpo.gc.ca/fm-gp/seal-phoque/index-eng.htm>

<sup>7</sup> <http://www.ffaw.nf.ca/IssueDetails.asp?id=5>

<sup>8</sup> [http://trade.ec.europa.eu/doclib/docs/2008/october/tradoc\\_141032.pdf](http://trade.ec.europa.eu/doclib/docs/2008/october/tradoc_141032.pdf) at pp. v and 23.

<sup>9</sup> <http://www.nafo.int/about/media/oth-news/2008/trade.html>

<sup>10</sup> <http://www.gazette.gc.ca/rp-pr/p1/2008/2008-12-27/html/reg1-eng.html>

shrimp tariffs and other EU concessions on fisheries contained in the free trade deal would benefit Canada's fishing industry to the tune of \$36 million CAD annually. We sincerely hope that the EU will include in its negotiations strategy the protection of its seal product trade ban.

Canada has repeatedly proposed a set of (unenforceable) international standards as an alternative to the EU ban on seal product trade. It is notable that the Canadian government employed a similar strategy in the mid 1990s to derail an EU prohibition on imports of fur from countries that continued to use the leghold trap. The EU agreed to international standards rather than legislation in that case. The net result is that 17 years later, the leghold trap remains the most widely used trap in Canada and fur from wild animals caught in leghold traps continue to be traded in the EU. This example underscores the need for the EU to stand strong in its negotiations with Canada on issues related to animal welfare.

Thank you for the opportunity to provide our views. We can provide additional information as needed.

Sincerely,

/s/

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