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**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND
THE COUNCIL**

**Application of EU health and environmental standards to imported agricultural and
agri-food products**

1. INTRODUCTION

In July 2021 the Council of the European Union and the European Parliament invited the European Commission to present:

[A] report containing an assessment of the rationale and legal feasibility of applying EU health and environmental standards (including animal welfare standards as well as processes and production methods) to imported agricultural and agri-food products as well as identifying the concrete initiatives to ensure better consistency in their application, in conformity with WTO rules. This report should cover all relevant public policy areas including – but not limited to – the Common Agricultural Policy, the Health and Food Safety Policy, the environmental policy and the Common Commercial Policy¹.

This Report answers this call. It identifies actions that the EU is already taking at multilateral and bilateral levels, but also autonomously, to address global environmental concerns or citizen expectations with regard to imported agricultural or agri-food products, with a focus on the application of health and environmental (including animal welfare) standards to imported products and challenges linked to the application of such standards.

A public consultation², in which more than 160 stakeholders submitted their comments, the orientation debate in the Agriculture and Fisheries Council in February 2022 as well as the Resolution of the European Parliament on the Farm to Fork Strategy³ informed the Report.

1.1. Need for a global transformation to sustainable food systems

Since the mid-1990s, with the adoption of major environmental conventions⁴, knowledge on the global impact of modern food systems on the environment has greatly evolved, leading also to stronger societal and ethical concerns about the way food is produced and consumed. The transition to sustainable food systems that are less reliant on fossil fuels at the global level is also a necessity.

Food systems are globally responsible for one-quarter of annual greenhouse gas emissions⁵ and are the primary driver of biodiversity loss⁶. Almost 90% of global deforestation is caused by the expansion of land used for agriculture, an impact greater than previously thought⁷. In turn, climate change and environmental degradation are making global food systems less resilient and more exposed to major

¹ <https://data.consilium.europa.eu/doc/document/ST-10991-2021-ADD-1/en/pdf>

² <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13371-Imports-of-agricultural-and-food-products-applying-EU-health-and-environmental-standards-report-en>

³ [European Parliament resolution of 20 October 2021 on a farm to fork strategy for a fair, healthy and environmentally-friendly food system](#) (2020/2260(INI)).

⁴ Notably the United Nations Framework Convention on Climate Change, the Convention on Biological Diversity and the United Nations Convention on Combatting Desertification.

⁵ IPCC (2020), *Climate Change and Land: an IPCC special report on climate change, desertification, land degradation, sustainable land management, food security, and greenhouse gas fluxes in terrestrial ecosystems*.

⁶ IPBES (2019), *Summary for policymakers of the global assessment report on biodiversity and ecosystem services of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services*, point B1 on p. 12. See also e.g. Benton, T. G., Bieg, C., Harwatt, H., Pudasaini, R. and L. Wellesley (2021), *Food system impacts on biodiversity loss: three levers for food system transformation in support of nature*. Chatham House Research paper. London; Secretariat of the Convention on Biological Diversity (2020), *Global Biodiversity Outlook 5*, Montreal, p. 64.

⁷ FAO (2021), *COP26: Agricultural expansion drives almost 90 percent of global deforestation. FAO Remote Sensing Survey findings* (<https://www.fao.org/newsroom/detail/cop26-agricultural-expansion-drives-almost-90-percent-of-global-deforestation/en>).

challenges such as water scarcity, land degradation and extreme weather events, further undermining food security and increasing the risk of zoonotic diseases⁸.

Today, nearly one in every three people worldwide is hungry or does not have regular access to nutritious and sufficient food⁹. At the same time, almost 40% of the adult population globally is overweight¹⁰. In the EU, unhealthy diets are a major cause of disease and premature death¹¹.

The closely interconnected health of humans, animals and the environment is reflected in the One Health approach, defined as ‘an integrated, unifying approach that aims to sustainably balance and optimise the health of people, animals and ecosystems’¹². The One Health approach is recognised in global commitments and declarations, such as the United Nations (UN) Political Declaration on Antimicrobial Resistance¹³, UN Environment Assembly’s Resolution 3/4 on environment and health¹⁴, the UN World Health Assembly’s resolution on strengthening efforts on food safety¹⁵, and UN Environment Assembly’s Resolution 5/11 on biodiversity and health¹⁶.

The UN Food Systems Summit in September 2021 generated a broad global consensus that a transition to sustainable and resilient food systems is essential to address our planetary crisis and to deliver on all Sustainable Development Goals (SDGs) and created a momentum for urgently needed global change. Many countries have presented their national pathways to improve sustainability of agriculture and food¹⁷.

In the same spirit, the declaration adopted by G20¹⁸ leaders in Rome in October 2021 recognises that ‘promoting sustainable food systems, including by strengthening global, regional and local food value-chains and international food trade, will contribute not only to food security but also make a major contribution to tackling the interlinked global challenges of climate change and biodiversity loss’¹⁹.

⁸ UN Environment Programme and International Livestock Research Institute (2020), *Preventing the Next Pandemic: Zoonotic diseases and how to break the chain of transmission*, Nairobi.

⁹ FAO, IFAD, UNICEF, WFP and WHO (2021), *The State of Food Security and Nutrition in the World 2021. Transforming food systems for affordable healthy diets* (<https://www.fao.org/3/cb4474en/online/cb4474en.html>).

¹⁰ WHO (2021), *Fact sheets: Obesity and overweight* (<https://www.who.int/news-room/fact-sheets/detail/obesity-and-overweight>).

¹¹ https://knowledge4policy.ec.europa.eu/health-promotion-knowledge-gateway/eu-burden-non-communicable-diseases-key-risk-factors_en.

¹² WHO (2021), *Tripartite and UNEP support OHHLEP’s definition of ‘One Health’* (<https://www.who.int/news/item/01-12-2021-tripartite-and-unep-support-ohhlep-s-definition-of-one-health>).

¹³ <https://digitallibrary.un.org/record/845917?ln=en>

¹⁴ https://wedocs.unep.org/bitstream/handle/20.500.11822/30795/UNEA3_4EN.pdf?sequence=1&isAllowed=y

¹⁵ https://apps.who.int/gb/ebwha/pdf_files/WHA73/A73_R5-en.pdf

¹⁶ [https://www.unep.org/environmentassembly/unea-5.2/proceedings-report-ministerial-declaration-resolutions-and-decisions-unea-5.2](https://www.unep.org/environmentassembly/unea-5.2/proceedings-report-ministerial-declaration-resolutions-and-decisions-unea-5.2?%2Fproceedings-report-ministerial-declaration-resolutions-and-decisions-unea-5_2)

¹⁷ UN Food Systems Summit (2021), *Member State Dialogue Convenors and Pathways - Food Systems Summit Dialogues* (https://summitdialogues.org/overview/member-state-food-systems-summit-dialogues/convenors/?_se=ZWxlBmFhdmVyeUB5YWhvby5jby51aw%3D%3D&utm_campaign=Food).

¹⁸ G20 members account for approximately 80% of global trade in agricultural goods and 60% of the world’s agricultural land.

¹⁹ <https://www.consilium.europa.eu/media/52732/final-final-g20-rome-declaration.pdf>

1.2. EU strategy for sustainable food systems

The EU's path towards sustainable food systems has been put forward in the Farm to Fork (F2F) Strategy²⁰ published together with the Biodiversity Strategy²¹ in May 2020 as part of the European Green Deal²². The F2F Strategy sets out an agenda for a fair, healthy and environmentally friendly food system which requires efforts of all actors, including consumers, to adapt to new and stricter health, environmental and animal welfare standards. The transformation should result in increased sustainability, preserving and enhancing biodiversity and promoting biodiversity-friendly farming systems.

The new common agricultural policy has been designed to guide and support European farmers – including small farmers – to improve their environmental and climate performance through a more results-oriented model.

The sustainability of food systems is a global issue and the EU acting alone cannot successfully address the global threats related to the way the food is produced and consumed. The F2F Strategy sets out the EU ambition to become a global leader in food sustainability through its international cooperation on food research and innovation, by building partnerships, by promoting standards supporting sustainable practices at international level and through its trade policy.

1.3. EU as a global player

The EU is the world's biggest exporter and the third biggest importer of agri-food products²³. EU imports are dominated by products which are mostly not produced internally (e.g. coffee, tea, palm oil, tropical fruit), produced counter-seasonally, or whose production is limited (e.g. soybean and soymeal). EU exports cover the whole range of products from commodities such as milk powder, pig meat and cereals to high added-value products such as wines and spirits, olive oils or cheeses, resulting in a strong trade surplus²⁴.

As an important player on international food markets, the EU has a considerable impact on third (i.e. non-EU) countries through its trade policy and ability to influence the development of regulations and standards of global significance. The EU trade policy can be used – together with other tools – to promote the transition towards sustainable food systems globally in line with the UN SDGs.

Accordingly, the February 2021 Trade Policy Review²⁵ sets course for an open, sustainable and assertive trade policy that will be better able to shape global change and reflect EU strategic interests and values, in compliance with WTO rules. Combatting climate change and environmental degradation is among top priorities for the EU. Making this vision a reality will require action at all levels.

In addition, the EU and its Member States have committed to policy coherence for development (PCD). Through PCD, they seek to take account of development objectives in policies that are likely to have

²⁰ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. A Farm to Fork Strategy for a fair, healthy and environmentally-friendly food system. COM(2020)381 final.

²¹ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. EU Biodiversity Strategy for 2030. Bringing nature back to our lives. COM(2020)380 final.

²² Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. The European Green Deal. COM(2019)640 final.

²³ European Commission (2021), [Agri-food trade in 2020: Report](#).

²⁴ In 2020, EU-27 agri-food trade generated a trade surplus of €62 billion equivalent to 28.5% of total EU-27 trade surplus (see note 23).

²⁵ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. Trade Policy Review – An Open, Sustainable and Assertive Trade Policy. COM(2021)66 final.

an impact in developing countries. PCD aims to minimize contradictions and building synergies between various EU policies and to increase the effectiveness of development cooperation, to the benefit of partner countries. Since its introduction in EU law by the Maastricht Treaty (1992), the new European Consensus on Development²⁶ has reaffirmed the EU commitment to PCD and recognised it as a crucial element of the strategy to achieve the SDGs in partner countries.

At the same time, the EU is dependent on trade not only as an outlet and source of competitiveness for its food industry but also as a means to ensure the diversity of food supply. As identified in the Communication on food security²⁷, Russia's invasion of Ukraine has revealed deficiencies leading to risks for the global food security system; these deficiencies should be addressed in ways that enhance the transition towards sustainable, resilient and fair food systems in the EU and globally.

2. COMPLIANCE WITH EU STANDARDS

2.1. Health standards

The EU has a robust sanitary and phytosanitary system in place to ensure that all food placed on the EU market satisfies the requirement of a high level of human health protection and to prevent the spread of pests or diseases among plants and animals. All agri-food imports must comply with the EU sanitary and phytosanitary requirements or with conditions recognised by the EU to be at least equivalent thereto²⁸. The rules are based on scientific evidence and international standards are duly taken into consideration during the elaboration process.

Compliance of animals, plants or products entering the EU from third countries with the EU standards and requirements is verified through effective control systems implemented by the competent authorities in EU Member States. Import requirements and control system are risk-based, which means that the scope and the intensity of controls are adapted to the risk posed by particular animals, plants or products. The type of controls depends on the type of products and risks associated with them (e.g. food of animal or non-animal origin), taking into account scientific evidence, as well as various sources of information on non-compliance, such as food incidents, outbreaks of animal diseases or plant pests, results of border checks and information received from third countries.

In addition, as part of the compliance mechanism, the Commission carries out controls, including audits, according to a published annual work programme to verify that the competent authorities in EU Member States and non-EU countries exporting to the EU fulfil their legal obligations. Commission controls focus on control systems rather than individual premises.

²⁶ [The new European consensus on development 'our World, our Dignity, our Future': joint statement by the Council and the representatives of the governments of the Member States meeting within the Council, the European Parliament, and the European Commission](#), Publications Office, 2018.

²⁷ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Safeguarding food security and reinforcing the resilience of food systems. COM(2022)133 final.

²⁸ Regarding food safety, this requirement is contained in Art. 11 of Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (the 'General Food Law', OJ L 031, 1.2.2002, p. 1) which states that '*food and feed imported into the Community for placing on the market within the Community shall comply with the relevant requirements of food law or conditions recognised by the Community to be at least equivalent thereto or, where a specific agreement exists between the Community and the exporting country, with requirements contained therein*'. The General Food Law is an 'umbrella' covering all fundamental aspects of the food safety policy and applied to all measures concerning food or feed placed on the EU market, leaving outside its scope only primary production for private domestic use.

Public health concerns related to agri-food production, however, do not only relate to sanitary and phytosanitary requirements. Regulation 2019/6 on veterinary medicinal products (VMP Regulation)²⁹, which applies from January 2022, provides for a wide range of concrete measures to fight antimicrobial resistance (AMR). Antimicrobial resistant organisms can spread not only from food of animal origin but also directly from person to person or between people and animals. The measures promoting a more prudent and responsible use of antimicrobials in animals will support the achievement of the F2F Strategy objective to reduce by 50% overall EU sales of antimicrobials for farmed animals and in aquaculture by 2030. In this context, new requirements will be set on the basis of Article 118 of the VMP Regulation in relation to the use of antimicrobials in animals and products of animal origin intended for import into the EU. Namely, these cannot be treated with antimicrobials for the purpose of growth promotion or yield increase and antimicrobials designated in the EU as reserved for the treatment of certain infections in humans.

2.2. Environmental and animal welfare standards

All agri-food imports placed on the EU market must comply with the relevant EU standards relating to the end products, which are applicable irrespective of whether the product is produced domestically or is imported. Requirements on the way products are produced (referred to as ‘process and production methods’ – PPMs), however, are usually not imposed on imported products. There are currently no general (horizontal) provisions in EU law referring to environmental or – more generally – sustainability requirements applicable to domestic or imported agri-food products.

PPM regulations often apply in the area of environmental protection or animal welfare, where measures to limit the environmental impact or to address ethical concerns are not linked to the end product itself, but to the production of that product. Therefore, if such standards apply to imports, they de facto ‘regulate’ the production process abroad, to the extent the products concerned are intended to be sold on the market of the regulating country. In addition, PPMs might not even affect the physical characteristics of the final product. In such cases, the term ‘non-product related process and production methods’ (NPR-PPMs) is used.

While the EU does not systematically impose such standards on imported products, certain EU **animal welfare legislation** is already applicable to imports. The EU sets out conditions for the protection of animals at the time of killing, as well as regarding the protection of animals during transport. Regulation 1099/2009³⁰ requires third countries exporting meat to the EU to apply at least equivalent standards to those in the EU Regulation. For this purpose, third countries attest in the export certificate that at least equivalent animal welfare standards at slaughter to those of the EU have been met and this has never been challenged by trade partners. The Commission assesses the capability of the countries to endorse the above attestation during meat hygiene audits. Similarly, animals imported into the EU must be fit for transport in accordance with the relevant EU requirements, which the third countries must confirm in the official certificate in accordance with Regulation 1/2005³¹. A set of requirements must also be fulfilled by the transporters who have to be authorised and represented in the Member States where they apply for an authorisation. The EU also has a mandatory system of animal welfare labelling for table eggs³² indicating the production method (cages, free range, barn, etc.).

²⁹ Regulation (EU) 2019/6 of the European Parliament and of the Council of 11 December 2018 on veterinary medicinal products, OJ L 4, 7.1.2019, p. 43.

³⁰ Council Regulation (EC) No 1099/2009 of 24 September 2009 on the protection of animals at the time of killing, OJ L 303, 18.11.2009, p. 1.

³¹ Council Regulation (EC) No 1/2005 of 22 December 2004 on the protection of animals during transport and related operations, OJ L 3, 5.1.2005, p. 1.

³² Commission Regulation (EC) No 589/2008 of 23 June 2008 laying down detailed rules for implementing Council Regulation (EC) No 1234/2007 as regards marketing standards for eggs, OJ L 163, 24.6.2008, p. 6.

Finally, for reasons of animal welfare and to address the concerns of EU citizens, the EU prohibits the placing on the market of seal products³³ (except for products coming from hunts conducted by indigenous communities), as well as of cat and dog fur and of products containing such fur³⁴.

3. INTERNATIONAL CONTEXT

3.1. International trade rules

Global trade rules aim to secure a predictable and non-discriminatory framework for trade while safeguarding each country's right to regulate in line with their societal preferences. Sustainable development and the need to protect the environment are among the World Trade Organization's principles³⁵. This section analyses the legality of applying health, environmental (including animal welfare) standards to imported products under the WTO framework.

The WTO does not question the right of countries to take action to protect the environment or public morals, including concerns about animal welfare, provided that certain conditions are met. In fact, over the last 20 years, the number of environment-related notifications submitted to the WTO has more than doubled, reaching almost 17% of all notifications in 2020³⁶.

Two well-known examples of non-product-related PPM measures introduced to protect the environment are the US measures imposing a ban on tuna imported from third countries that were not able to prove that their fishing methods protected dolphins and the measures imposing a ban on shrimps harvested in third countries without using technology to protect sea turtles. Both measures were challenged before the WTO and the rulings have contributed to a better understanding of how WTO jurisdiction addresses the interface between trade and environment³⁷.

The overarching obligations and rights concerning trade in goods are set out in the General Agreement on Tariffs and Trade 1994 (GATT). The first step in assessing the legality of a measure affecting goods is whether it is caught by one of the rules of the GATT. This is the case, in particular, where a measure is:

- discriminatory, meaning that it is either caught by:
 - Article I on most-favoured nation treatment, which requires that products from one WTO Member must be treated no less favourably than the like products from any other country; or

³³ Regulation (EC) No 1007/2009 of the European Parliament and of the Council of 16 September 2009 on trade in seal products, OJ L 286 31.10.2009, p. 36.

³⁴ Regulation (EC) No 1523/2007 of the European Parliament and of the Council of 11 December 2007 banning the placing on the market and the import to, or export from, the Community of cat and dog fur, and products containing such fur, OJ L 343, 27.12.2007, p. 1.

³⁵ The Preamble to the Marrakesh Agreement Establishing the WTO states that members recognise 'their relations in the field of trade and economic endeavour should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, and expanding the production of and trade in goods and services, while allowing for the optimal use of the world's resources in accordance with the objective of sustainable development, seeking both to protect and preserve the environment and to enhance the means for doing so in a manner consistent with their respective needs and concerns at different levels of economic development'.

³⁶ WTO Committee on Trade and Environment (2022), *Environmental database for 2020. Note by the Secretariat*, WTO Doc. WT/CTE/EDB/20, 28 January 2022.

³⁷ US – Prohibition of Shrimps and Certain Shrimp Products, WTO Doc. WT/DS56/AB/R (98-000) (12 October 1998) [Appellate Body Report] and WTO Doc. WT/DS58/R (15 May 1998) [Panel Report]; US – Restrictions on Imports of Tuna DS21/R - BISD 39S/155 (3 September 1991, unadopted) [*Tuna-Dolphin I*] and DS29/R (16 June 1994, unadopted) [*Tuna-Dolphin II*].

- Article III on national treatment, according to which imported products cannot be treated less favourably than domestic like products; or
- a quantitative restriction which limits the quantity of a product being imported or exported (Article XI).

A measure is **discriminatory** when it constitutes either (1) *de jure* discrimination, that is, when the measure expressly differentiates between products on grounds of origin; or (2) *de facto* discrimination, that is, when the measure is origin neutral on its face, but it has a detrimental impact on the conditions of competition between like products from different WTO members. *De facto* discrimination may exist, for instance, if domestic products can more easily meet a certain standard or requirement than like imported products.

If none of the above provisions are breached, further analysis is generally not necessary because the measure is considered compatible with the GATT. If the above provisions are breached, the measure may still be able to benefit from the general exceptions to the GATT rules pursuant to its Article XX³⁸. If it can, the measure can be maintained and considered as overall GATT-compatible.

To benefit from justification under Article XX GATT, a measure needs to:

- Genuinely pursue one or more of the **policy objectives** listed in Article XX ('provisional justification'). The most recurrent grounds in relation to PPM regulations concern the protection of human, animal, plant life or health (Article XX(b)), the protection of (living and non-living) exhaustible natural resources (Article XX(g)), public morals (Article XX(a)); and prison labour products (Article XX(e)). Objectives of an economic nature, such as increasing the competitiveness of domestic producers or levelling the playing field, are not valid grounds under Article XX GATT for applying non-product related PPM standards to imports;
- Satisfy the '**necessity**' test, which requires a balancing of various elements:
 - Consideration of the importance of the objectives pursued for the regulating member. In some cases, a ban can be the only adequate means to achieve the desired objective, compared to, e.g. a labelling requirement. In this respect, the WTO upheld the EU ban on the import of seal products as it was based on strong societal concerns³⁹. In the same vein, the EU bans the import and the marketing of cats and dogs fur on moral and ethical grounds⁴⁰. The measure has never been challenged by trade partners and is believed to be fully compatible with WTO law.

³⁸ Article XX(a), (b), (e) and (g) GATT reads:

'Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, nothing in this Agreement shall be construed to prevent the adoption or enforcement by any contracting party of measures:

(a) necessary to protect public morals;

(b) necessary to protect human, animal or plant life or health;

(...)

(e) relating to the products of prison labour;

(...)

(g) relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption...'

³⁹ EC – Measures Prohibiting the Importation and Marketing of Seal Products, WT/DS400/AB/R and WT/DS401/AB/R (22 May 2014).

⁴⁰ Regulation (EC) No 1523/2007 of the European Parliament and of the Council of 11 December 2007 banning the placing on the market and the import to, or export from, the Community of cat and dog fur, and products containing such fur, OJ L 343, 27.12.2007, p. 1.

- The contribution of the measure to the objectives, meaning the measure must be suitable to achieve or contribute to the achievement of the stated objectives;
- In terms of assessing ‘necessity’, there should not be an alternative measure available that would be less trade restrictive, but make an equal or better contribution to achieving the stated objectives, taking into account technical and economic feasibility. For example, voluntary measures are generally considered less trade restrictive than mandatory measures and labelling as less trade restrictive than a ban on imports;
- Meet the conditions of the ‘chapeau’ of Article XX, which requires that there should be no arbitrary or unjustifiable discrimination in the design, structure and application of a measure between countries where the same conditions prevail, or a disguised restriction on international trade.

In essence, to be justified under Article XX GATT, a measure must be necessary to achieving one or more of the covered policy objectives, must treat domestic and imported products even-handedly and not have protectionist elements. The burden and costs imposed on relevant stakeholders, including international partners, public administrations, importers, exporters and users should be taken into account. The design of such measures should also provide for sufficient flexibility to account for the specific conditions and potentially different production methods of the exporting countries, provided this is done in an even-handed manner, e.g. by recognizing third country methods of production as providing for a comparable level of effectiveness as EU standards.

The measure should take into account any relevant international rules or standards. If the measure departs from these standards, the reasons must be provided, such as the existence of additional information, or the decision to provide for a higher level of protection.

The measure should be based either on science or on other information where relevant (e.g. from a relevant international body, and may include reports, decisions, surveys, etc.), which should provide a rational basis for the measure, evident from an appropriate assessment. If the measure is based on the concept of precaution (on the grounds that certain scientific information is not yet available), it should be based on all the available pertinent information, provide for the acquisition of the information necessary for a more complete assessment and accommodate the possibility of review.

Concerns that have a global dimension and are internationally recognised by at least part of the international community (e.g. climate change, biodiversity loss, AMR) are more likely to be accepted as legitimate reasons for action.

The above rules of the GATT are further developed in the Agreement on Technical Barriers to Trade (TBT Agreement), which contains rules relating to discrimination (Article 2.1) and necessity (Article 2.2). It specifies that technical regulations must not be more trade-restrictive than necessary to fulfil legitimate objectives such as national security requirements; the prevention of deceptive practices; protection of human health or safety, animal or plant life or health, or the environment. When developing their technical regulations, WTO members are expected to consider, i.a., available scientific and technical information.

The TBT Agreement does not apply to non-product-related PPM regulations (because the definition in Annex 1 refers to ‘product characteristics or *their* related processes and production methods’). However, it does apply to measures that deal with terminology, symbols, packaging, marking or labelling, as they apply to a product, process or production methods. If a measure falls within the scope of the TBT Agreement, it will be analysed under that framework. Article XX GATT does not apply in case of a breach of the TBT Agreement as the elements of Article XX GATT are already effectively integrated in Articles 2.1 and 2.2 of the TBT Agreement.

Article XX(b) GATT is similarly further developed in the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement), which also contains provisions relating to unjustified

discrimination (Articles 2.3 and 5.5) and necessity (Articles 2.2 and 5.6). However, as stated in its Annex A, the SPS Agreement only applies to certain specific risks arising *within the territory* of the regulating Member.

To conclude, provided that all the conditions mentioned above are met, national PPM regulations could be considered compatible with the WTO rules.

3.2. International health and environmental standards and commitments

The expansion of international trade in agri-food products over the past several decades has prompted the need to develop standards at international level to facilitate international exchange. Several international organisations play an important role in developing global food standards, in particular with regard to food safety and consumer protection. There is no dedicated forum, however, working on sustainability / environmental standards applicable to food. The overview below focuses on the existing international organisations active in the area of health and environmental standards and commitments related to food production. As mentioned above, concerns that have a global dimension and are internationally recognised by at least part of the international community are more likely to be accepted as legitimate reasons for action.

In the area of food safety and animal and plant health, the three most important international standard setting bodies, recognised by the WTO in the SPS Agreement, are the Codex Alimentarius Commission, the World Organization for Animal Health and the Secretariat of the International Plant Protection Convention.

The Codex Alimentarius Commission (CAC) has been established by the UN Food and Agriculture Organization (FAO) and World Health Organization (WHO) as a response to growing consumer concerns about potential health hazards related to foods and the proliferation of national food safety regulations impeding international trade. Over almost 60 years of its continuous activity, CAC has adopted more than 200 food standards, as well as guidelines, codes of practice on hygiene, labelling, food produced from genetically modified organisms, antimicrobial resistance, maximum levels for contaminants in food or for food additives, maximum limits for pesticide residues or for residues of veterinary drugs in foods. In 2021 its Task Force on AMR developed science-based guidance to enable coherent management of AMR along the food chain.

The World Organisation for Animal Health (OIE⁴¹) sets international standards on animal health, animal welfare and animal production including AMR. The OIE also addresses AMR through the Quadripartite alliance, a consolidated cooperation between WHO, FAO, UN Environment Programme (UNEP) and OIE drawing on their core mandate to address the wide range of needs of the global response against AMR. In its 7th strategic plan for the period 2021-2025⁴², the OIE emphasises that, while improving animal health and welfare is its core mandate, doing so will help preserve the future of humankind. Moreover, contributing to global goals through improved sustainability of animal production continues to be one of OIE's overriding objectives.

The International Plant Protection Convention (IPPC) is an intergovernmental treaty signed by over 180 countries, aiming to protect the world's plant resources from the spread and introduction of plant pests and promoting safe trade. The Convention introduced International Standards for Phytosanitary Measures as its main tool to achieve its goals, making it the sole global standard setting organization for plant health. In its strategic framework for 2020-2030, the IPPC sets out the following strategic objectives: (a) enhance global food security and increase sustainable agricultural productivity; (b)

⁴¹ The Organisation has kept its historical acronym which stands for *Office International des Epizooties*.

⁴² https://web.oie.int/download/SG/2020/A_88SG_14_StrategicPlan.pdf

protect forests and the environment from the impact of plant pests; and (c) facilitate safe trade development and economic growth.

The EU also cooperates closely with the Food and Agriculture Organization (FAO) on agriculture, fisheries, forestry, biodiversity, food security, food crises and food safety. In 2021, the EU and FAO agreed in their Strategic Dialogue to increase joint efforts on their common agendas to transform agri-food systems, in order to make them more inclusive, efficient, resilient and sustainable. The FAO has published various guidelines on sustainability of aquaculture⁴³, soil management and on sustainable food systems⁴⁴, defining a sustainable food system, providing the reasoning for a holistic approach paying attention to the interlinkages between social, environmental and economic aspects of agri-food systems, limitations of current approaches and the need for changing.

The EU efforts described above to take impactful measures to fight AMR also reflect the international recognition by the UN ad hoc Inter-Agency Coordination Group on AMR (which includes experts from FAO, WHO and OIE) that urgent action is needed to curb AMR, starting with the phasing out of the use of antimicrobials for growth promotion in animals and setting measures to preserve the efficiency of antimicrobials that are most important for human medicine.

Addressing illegal, unreported and unregulated (IUU) fishing is embedded in the international law of the sea on which the EU rules⁴⁵ are based.

The Committee on World Food Security (CFS), a UN forum to review and follow-up of food security policies, is also actively involved in the transition towards sustainable food systems.⁴⁶

The strategic framework for biodiversity 2010-2020⁴⁷ of the Convention on Biological Diversity (CBD) includes various targets that are relevant in the context of standards and trade in food, notably target 7 on sustainable agriculture, aquaculture and forestry and target 8 on pollution, including excess nutrients.

The International Pollinator Initiative, launched within the framework of the CBD and implemented by the FAO since 2000, is the main policy instrument to tackle the threats to pollinators at global level. Pollinators are an integral part of healthy ecosystems⁴⁸, in particular agro-ecosystems⁴⁹. Without them, crops and wild plant species dependent on animal pollination would decline and many would eventually disappear⁵⁰. Yet, pollinators are declining in occurrence and diversity in the EU and globally, with

⁴³ Article 9 of the FAO Code of Conduct for Responsible Fisheries establishes certain principles for responsible aquaculture, incl. regulating the use of chemical inputs in aquaculture which are hazardous to human health and the environment. The FAO has issued several guidance documents on sustainable practices. The EU is currently supporting progress towards comprehensive and ambitious Guidelines for Sustainable Aquaculture in the context of the FAO, in line with the Strategic Guidelines for EU aquaculture.

⁴⁴ FAO (2018), Sustainable food systems: concept and framework, Rome.

⁴⁵ https://ec.europa.eu/oceans-and-fisheries/fisheries/rules/illegal-fishing_en

⁴⁶ See, e.g. CFS (2014), Principles for Responsible Investment in Agriculture and Food Systems, Rome; CFS (2021), CFS Voluntary Guidelines on Food Systems and Nutrition, Rome; CFS High Level Panel of Experts (HLPE) (2019), Agroecological and other innovative approaches for sustainable agriculture and food systems that enhance food security and nutrition. A report by the High Level Panel of Experts on Food Security and Nutrition of the Committee on World Food Security, Rome; HLPE (2020), Food security and nutrition: building a global narrative towards 2030. A report by the High Level Panel of Experts on Food Security and Nutrition of the Committee on World Food Security, Rome.

⁴⁷ <https://www.cbd.int/sp/>

⁴⁸ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. EU Pollinators Initiative, COM(2018)395 final and accompanying Staff Working Document, SWD(2018)302 final/2.

⁴⁹ FAO (2019), State of the World's Biodiversity for Food and Agriculture, Rome.

⁵⁰ 5-8% of current crop production, with an annual market value of USD 235-577 billion (2015 figures) is directly attributed to pollinators (see IPBES (2016), note 49, pp. 4 and 154).

numerous species threatened with extinction⁵¹. The International Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) assessment report on pollinators⁵² names land-use change, intensive agricultural management and pesticide use, environmental pollution, invasive alien species, pathogens and climate change as the main threats to pollinators.

Furthermore, the Stockholm Convention on Persistent Organic Pollutants (POPs) is a multilateral agreement to protect human health and the environment from chemicals that remain intact in the environment for long periods, become widely distributed geographically, accumulate in humans and wildlife and have harmful impacts on human health and the environment. Together with the United Nations Economic Commission for Europe (UNECE) Protocol on POPs⁵³, the Stockholm Convention establishes strict international regimes for the listed POPs (16 in the UNECE Protocol and 31 in the Stockholm Convention), among which many are pesticides. The production and use of these substances must be either eliminated or severely restricted. Despite the fact that many POPs were banned years ago, they still can be found in the environment as a result of their persistence.

Finally, voluntary agreements, initiatives or codes of industry and private entities as well as private sustainability schemes also play a role in promoting the application of environmental and animal welfare standards across global value chains, especially with regard to trade in the agri-food sector. While private sustainability schemes initially emerged in the area of food safety, they have increasingly extended to environmental or animal welfare issues (e.g. GLOBALG.A.P.). Another example of a private initiative is the Roundtable on Sustainable Palm Oil⁵⁴ that brings together oil palm producers, processors or traders, manufacturers, retailers, investors and environmental and social non-governmental organisations to develop and implement global sustainability schemes for palm oil.

4. AREAS OF EU ACTION

4.1. Multilateral forums

One of the EU's objectives set out in the F2F Strategy is to promote the global transition to sustainable food systems in standard-setting bodies and lead the work on international sustainability standards. In multilateral forums, the EU has been one of the strongest voices advocating for the urgency of the transition to sustainable food systems. It must take a leading role in ensuring tangible follow-up, and the most effective tool to make that happen is the EU's normative soft power as an important standards setter and one of the world's largest agri-food exporters and importers. Section 3.2 provided an overview of existing organisations and initiatives in the area of sustainable agri-food systems. This section identifies main areas of action at multilateral level that are of a particular importance for the EU to pursue its objectives related to the global transition to sustainable food systems.

UN Food Systems Summit follow-up

⁵¹ IPBES (2016), *The assessment report of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services on pollinators, pollination and food production*, Potts S. G., Imperatriz-Fonseca V. L. and H. T. Ngo (eds), Secretariat of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services, Bonn. IPBES is a scientific advisory body established under the CBD. See also CBD (2007), *Pollinators: Key issues* (<https://www.cbd.int/agro/pollinatorkeyissues.shtml>); S. Fryday, K. Tiede and J. Stein (2015), *Scientific services to support EFSA systematic reviews: Lot 5 Systematic literature review on the neonicotinoids (namely active substances clothianidin, thiamethoxam and imidacloprid) and the risks to bees*. EFSA supporting publication 2015:EN-756; FAO (2019), *Declining bee populations pose threat to global food security and nutrition* (<https://www.fao.org/news/story/en/item/1194910/icode/>).

⁵² IPBES (2016), see note 51.

⁵³ Aarhus Protocol on Persistent Organic Pollutants, adopted in 1998 as an addition to the Geneva Convention on Long-Range Transboundary Air Pollution.

⁵⁴ <https://rspo.org/>

The sustainability of food systems is a cross-cutting issue that links most of the current climate and environmental challenges. Unlike areas such as biodiversity or climate change, there is no international framework convention or agreement on sustainable food systems to encourage integrated policy development and an independent scientific body informing policymaking (like the Intergovernmental Panel on Climate Change or the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services). In this context, the 2021 **UN Food Systems Summit** played an important role in consolidating action and bringing together various multilateral discussions about food.

Against this backdrop, the Commission has established an expert group to explore the needs and options for an interconnected, coherent framework to strengthen the international science-policy interfaces in the area of food systems⁵⁵. In line with the identified needs, the EU supports improving the science-policy interface role of the Committee on World Food Security.

The EU is also committed to engaging with the proposed ‘Food Systems Coordination Hub’. The ‘Hub’, hosted by the FAO, will play a coordinating function to bring together and link food systems knowledge and expertise to support progress on the SDGs at national levels, with a global stock-taking meetings to review progress every two years.

Finally, the EU is engaged in several Coalitions/Initiatives for Action⁵⁶ resulting from the UN Food Systems Summit. In parallel, it is also preparing and will publish an ‘EU Pathway’, which will position the F2F Strategy into the general international debate and make EU actions more visible.

UN bodies and the CBD

At the same time, the CBD, the FAO and other UN agencies mentioned in Section 3.2 continue to play their role in advancing the international agenda on various aspects of sustainable food systems by developing targets, guidelines and recommendations relating to sustainable production methods in agriculture, aquaculture and food production. The EU will continue proactively supporting all initiatives leading to more sustainable food systems globally.

Of particular importance in this context is the 15th Conference of the Parties (COP15) to the CBD, which is to adopt the post-2020 global biodiversity framework. The draft⁵⁷ under negotiations includes targets on the same issues as in the EU Biodiversity and F2F Strategies, including measurable targets to reduce the use of nutrients and pesticides. The EU’s objective is to include measurable targets in the new global framework in line with the EU targets.

World Trade Organization

The EU is committed to reforming the **WTO** towards a more sustainable and effective multilateral trading system. It takes forward initiatives and actions that promote climate as well as environmental and other sustainability considerations throughout the various functions of the WTO. It supports in international discussions on trade and environment an interpretation of relevant WTO provisions that recognise the right of members to provide effective responses to global challenges, notably climate change, biodiversity loss and environmental pollution.

The EU also takes a leading role in mainstreaming sustainability issues in relevant WTO committees. The WTO Committee on Trade and Environment (CTE) serves as the main forum for discussion on

⁵⁵ European Commission (2021), [Everyone at the table: co-creating knowledge for food systems transformation](#), Webb, P. and R. Sonnino (eds), Publications Office.

⁵⁶ The EU is engaged in the following coalitions/initiatives for action: Food is Never Waste; Healthy Diets from Sustainable Food Systems for Children and All; School Meals Coalition; Aquatic and Blue Foods; Agroecology; Zero Hunger; Fighting Food Crises along the Humanitarian, Development and Peace Nexus; and Sustainable Productivity Growth.

⁵⁷ <https://www.cbd.int/article/draft-1-global-biodiversity-framework>

trade and environmental measures. Since the European Green Deal publication, the Commission has made presentations in every CTE meeting on legislative proposals relevant to trade.

The Trade and Environmental Sustainability Structured Discussions (TESSD), launched in November 2020, are intended to complement the existing work of the CTE and other relevant WTO committees and bodies. The objective of the TESSD is to discuss trade-related environmental measures and explore opportunities for voluntary actions. The discussions have covered many topics, including a thematic session on sustainable food and agriculture⁵⁸. Sustainability of supply chains is part of TESSD work. In December 2021 the Ministerial Statement on Trade and Environmental Sustainability⁵⁹ was adopted to define the future work. The fact that the co-sponsors represent more than 86% of global trade demonstrates the important role of the WTO in promoting sustainable development. The EU has been leading efforts in the TESSD.

With regard to food systems specifically, there is no dedicated forum in the WTO where a cohesive approach to trade-related aspects of the transition to sustainable food systems could be developed. As many discussions on trade in foods take place in the Committee on Sanitary and Phytosanitary Measures (SPS), the EU has been actively advocating for extending the discussions in the SPS Committee to other issues related to the transition to sustainable food systems in relation with international trade and – to this end – to setting up a work programme⁶⁰.

International standard-setting bodies

Given the central role the **Codex Alimentarius Commission** (CAC) plays globally in setting food standards, contributing both to protecting consumers worldwide and to facilitating global trade in food products, Codex could play a major role in the global adoption of sustainability standards, by adding an environmental dimension to its deliberations.

One of the main principles underpinning Codex standard setting is the scientific substantiation and the use of risk analysis for food safety. Codex texts must be based on scientific analysis, carried out mainly by FAO/WHO expert bodies⁶¹ consisting of independent experts from all over the world. In accordance with Codex rules, other legitimate factors (than scientific risk assessment) relevant for health protection and fair trade practices can be taken into account during the Codex decision-making process, provided that these factors can be accepted on a worldwide basis (or on a regional basis in the case of regional standards)⁶².

The EU vision on the future of Codex and its position on the need to integrate sustainability considerations into the work of CAC was laid out in the Council Conclusions adopted in February 2022⁶³. The Conclusions recognise the crucial role of the CAC in facilitating the global transition to sustainable food systems and call for sustainability considerations to feature more prominently in global food standards set up by Codex, in line with commitments made by Codex members at international level.

⁵⁸ <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/INF/TESSD/R4.pdf&Open=True>

⁵⁹ <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/MIN21/6R2.pdf&Open=True>

⁶⁰ <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/G/SPS/GEN1969.pdf&Open=True>. The Ministerial Conference is the highest-level decision-making body of the WTO; it usually meets every two years.

⁶¹ The main FAO/WHO bodies providing risk assessment to Codex are: Joint FAO/WHO Expert Committee on Food Additives (JECFA), Joint FAO/WHO Meetings on Pesticide Residues (JMPR), Joint FAO/WHO Expert Meeting on Microbiological Risk Assessment (JEMRA) and Joint FAO/WHO Expert Meetings on Nutrition (JEMNU).

⁶² CAC (2019), [Procedural Manual 27th edition, Appendix: General Decisions, Statements of Principle Concerning the Role of Science in Codex Decision-Making Process and the Extent to Which Other Factors Are Taken Into Account](#), FAO/WHO, Rome.

⁶³ <https://data.consilium.europa.eu/doc/document/ST-6298-2022-INIT/en/pdf>

At the same time, apart from these horizontal efforts, the EU will continue its involvement in the development of various individual Codex standards important from the sustainability viewpoint.

Similarly to the position in CAC, the EU will continue to support work on other relevant international standard setting bodies. This includes **IPPC**'s work on international standards on plant protection responding to the current climate and environmental challenges, as well as the **OIE**'s efforts for improving the animal welfare at global level by adopting new international animal welfare standards and by strengthening the implementation of the existing standards, in particular by supporting the OIE Global Animal Welfare Strategy⁶⁴ and the implementation of the Third Action Plan of the OIE Platform on Animal Welfare for Europe (2021-2023)⁶⁵.

4.2. Bilateral cooperation and trade agreements

Bilateral cooperation

The EU pursues targeted **cooperation** with partners who are willing to improve sustainability and quality of their local production (including better management of compliance with EU standards and possible increase the price of their products on the global market). Through its cooperation policy with developing countries, the EU supports programmes of capacity building works at strengthening sanitary and phytosanitary systems of agricultural exports in those countries. In this respect, those programmes contribute to compliance with the EU standards and support the transition towards sustainable food systems. The EU Sustainable Cocoa Initiative is an example of a sectoral approach developed with Cote d'Ivoire and Ghana and aiming to support sustainable cocoa production in these countries encompassing social, economic and environmental aspects.

With partners who are willing, the EU is committed to exploring opportunities to expand the cooperation to cover the whole agricultural sector and to pursue the development of 'Green Alliances' to support the transition to sustainable food systems as envisaged in the F2F Strategy. To this end, the Commission is organising a series of seminars (exploratory talks) in 2022 with third countries to explore areas of joint interest.

Trade agreements

One of the main principles of the WTO is that countries cannot discriminate between their trading partners. Trade is conducted on a 'most-favoured-nation' (MFN) basis. The WTO provides, however, certain exceptions to this principle: for instance, countries can enter into free trade agreements (FTAs) or give developing countries preferential access to the market in the form of specific tariff reductions. The EU has entered into a large number of preferential bilateral trade agreements to liberalise trade with third countries. In fact, nearly half⁶⁶ of agri-food imports into the EU are subject to the rules set up in trade agreements including the Generalised Scheme of Preferences (GSP) – a special trade arrangement for low and lower middle-income countries.

Bilateral trade agreements are primarily a tool to increase two-way trade and investment flows, but they can also be used to encourage EU partners to make progress in the field of sustainable development and global policies. That is why the EU newer trade agreements contain a dedicated **chapter on trade and sustainable development (TSD)** with binding commitments to respect multilateral labour and environmental agreements (including climate) and to ensure that labour and environmental standards are not lowered in order to attract trade. When the partner country does not respect these conditions, the trade agreement provides for means to rectify this. In addition, the Commission has proposed that the

⁶⁴ <https://www.oie.int/app/uploads/2021/03/en-oie-aw-strategy.pdf>

⁶⁵ https://rr-europe.oie.int/wp-content/uploads/2021/10/3rd_action_plan_oie_platform_animal_welfare_europe_adopted.pdf

⁶⁶ In 2020 imports under trade agreements or the Generalised Scheme of P accounted for 47.5% of agri-food imports (source: Eurostat).

EU makes the compliance with the Paris Agreement an essential element in all future trade agreements. In consequence, failure to meet Paris commitments may lead to a unilateral suspension of agreements containing such provisions by the EU.

Since 2011 the FTAs (with Canada, Central America, Colombia/Peru/Ecuador, Georgia, Japan, Korea, Moldova, Ukraine, Singapore, United Kingdom and Vietnam) have included TSD chapters. The 2018 15-Point Action Plan on Trade and Sustainable Development⁶⁷ has guided the improvement of the implementation and enforcement of TSD chapters in EU FTAs. As announced in the Trade Policy Review Communication, the Commission is conducting a review of this Action Plan, covering all relevant aspects of TSD implementation and enforcement⁶⁸. In accordance with the Strategy, the EU also has to ensure full implementation and enforcement of the TSD provisions in all trade agreements.

Over the years, commitments on cooperation in the area of **animal welfare** and **AMR** have been added to FTAs. Regarding animal welfare, the agreements focus on farmed animals with a view to improving the mutual understanding of respective laws and regulations and their implementation, as well as on exchange of information, expertise and experiences in this field. On the issue of combatting antimicrobial resistance, the FTAs envisage co-operation, collaboration and information exchange to promote the prudent and responsible use of antibiotics in animal husbandry and veterinary practices. The EU also promotes the phase out of the use of antibiotics as growth promoters.

The objective of the F2F Strategy is to ensure ‘an ambitious sustainability chapter in all EU bilateral trade agreements’. The new **chapter on sustainable food systems (SFS)** is built on the good experience with the cooperation provisions established in previous FTAs. This chapter, however, represents an important change in the paradigm of the cooperation between the parties, moving away from a topical to a holistic approach encompassing the entire food chain and focusing on the transition to sustainable food systems. With this objective, the SFS chapter includes provisions to cooperate at all steps of the food chain from production to consumption in order to reduce food loss and waste; to fight against food fraud; and to cooperate on multilateral forums and in food science in the areas of animal welfare, fight against antimicrobial resistance, and the reduction of the use of fertilizers and chemical pesticides. The Commission will continue to propose a chapter on sustainable food systems in future EU trade agreements. The SFS chapter has already been agreed with Chile, and is in negotiation with Australia, Indonesia and New Zealand.

It is also possible within FTAs to **condition tariff preferences** to meeting certain standards, this being subject obviously to other partner’s acceptance of such conditions. This approach has however been applied only once to date – in the FTA with Mercosur, where tariff liberalisation for shell eggs was granted subject to compliance with the relevant EU animal welfare standards for laying hens.

The EU has also concluded more ambitious, **Deep and Comprehensive Free Trade Agreements** with Georgia, Moldova and Ukraine. These agreements include some commitments to approximate the legislation of these countries with EU law, including animal welfare legislation. As a result, when implemented, products imported from these countries will comply with EU rules.

In addition, the EU has progressively concluded agreements referred to as **Stabilisation and Association Agreements** with each of the Western Balkan partners: Albania (2009), North Macedonia (2004), Montenegro (2010), Serbia (2013), Bosnia and Herzegovina (2015) and Kosovo⁶⁹ (2016). In

⁶⁷ European Commission (2018), [*Feedback and way forward on improving the implementation and enforcement of Trade and Sustainable Development chapters in EU Free Trade Agreements*](#).

⁶⁸ One of the elements of the review is a comparative study examining how countries around the world are implementing and enforcing TSD chapters and – more globally – climate, social and labour laws: Velut, J. B. et al. (2022), [*Comparative Analysis of Trade and Sustainable Development Provisions in Free Trade Agreements*](#).

⁶⁹ This designation is without prejudice to positions on status, and in line with UNSCR 1244 and the ICJ Opinion on the Kosovo Declaration of Independence.

effect, these agreements constitute the legal instrument for alignment to the body of EU law and progressive integration into the EU market.

Furthermore, the **EU-UK Trade and Cooperation Agreement** includes specific binding provisions ensuring a level playing field with commitments for non-regression on the levels of protection in various areas, including on the management of impacts on the environment from agricultural or food production, notably through the use of antibiotics and decontaminants.

Giving developing countries special access to the market is another permitted exception from the MFN rule. Apart from the standard General Scheme of Preferences (GSP) partially or fully removing customs duties on more than two thirds of the tariff lines for low and lower-middle income countries, the EU also offers the **Generalised Scheme of Preferences Plus (GSP+)**, which reduces the same tariffs to zero for those low and lower-middle income countries that implement 27 international conventions related to human rights, protection of the environment and good governance. In September 2021 the Commission adopted the legislative proposal for the new GSP for the period 2024-2034. The proposal extends the lists of international conventions that need to be complied with by adding, i.a., the Paris Agreement on climate change.

Finally, differentiation between imported products based on sustainability criteria can also apply in the absence of any trade preference – that is, when trade is conducted on the most-favoured-nation (MFN) basis. For non-preferential trade, the EU applies tariffs in accordance with its WTO schedule. In the context of the GATT Uruguay Round (and other negotiations), the EU has committed to a number of **WTO Tariff Rate Quotas (TRQs)**, allowing given volumes to be imported under a lower tariff. **Conditions** are sometimes attached to the use of these TRQs. An example is the WTO high quality bovine meat TRQs (known as the ‘Hilton quota’)⁷⁰, accessible to various countries, for some of which it is required that the animals be exclusively grass-fed.

Mutual recognition agreements

The EU can also enter into **specific agreements with third countries**. One of the existing examples is organic farming. Under the new organic regulation⁷¹, a product may be imported to be sold in the EU as an organic product if it either complies with production and control rules of the non-EU country that are recognised under a bilateral, stand-alone agreement or administrative arrangement as equivalent to those in the EU; or has a certificate issued by the relevant control authorities or control bodies in non-EU countries confirming that the product complies with EU standards.

4.3. Autonomous EU measures

As the Trade Policy Review – an open, sustainable and assertive trade policy recalls, in some cases, the EU may take autonomous measures relating to environmental⁷² or ethical aspects of the process or production methods of imported products. Such measures also reflect demands of European consumers who are increasingly becoming aware of environmental, health, social and ethical aspects of food production and want to be empowered to choose sustainably produced food⁷³. Similar trends can also be observed in other parts of the world, where national regulatory systems resort to PPMs regulations applying to imported products.

⁷⁰ Commission Implementing Regulation (EU) No 593/2013 of 21 June 2013 opening and providing for the administration of tariff quotas for high-quality fresh, chilled and frozen beef and for frozen buffalo meat, OJ L 170, 22.6.2013, p. 32.

⁷¹ Regulation (EU) 2018/848 of 30 May 2018 on organic production and labelling of organic products, OJ L 150, 14.6.2018, p. 1.

⁷² The European Green Deal states that ‘[i]mported food that does not comply with relevant EU environmental standards is not allowed on EU markets’.

⁷³ Special Eurobarometer 505. [Making our food fit for the future – Citizens’ expectations](#). October 2020.

Given the size of the EU market and the volumes of imports into the EU of certain commodities, some EU requirements for producers abroad to shift towards more sustainable production methods may lead to a considerable impact globally⁷⁴.

While complying with the EU standards governing agri-food imports may be challenging for some food business operators in third countries, they are rewarded by access to an open market of over 400 million consumers, a set of trade facilitating measures and higher prices paid by EU consumers compared to other markets. In addition, the EU being a world's benchmark for food safety standards, compliance also gives access to other, often high value markets. For these reasons, despite the fact that the EU rules may be considered strict, exports to the EU continue to show an increasing trend.

In addition to the animal welfare measures already in force (see Section 2.2), a number of legal acts or legislative proposals aiming to constraint production methods relating to animal welfare or the protection of the environment are currently being prepared at EU level.

First, the Commission has proposed a regulation on **deforestation-free products**⁷⁵, based on a system of mandatory due diligence rules. The proposal aims to prevent deforestation and forest degradation associated with products and commodities placed on the EU market, such as soy, cattle, palm oil, cocoa, coffee and wood. The objective is to minimise consumption of products coming from supply chains associated with deforestation or forest degradation – and to increase EU demand for and trade in legal and ‘deforestation-free’ commodities and products. The proposal addresses both legal and illegal deforestation and forest degradation caused by the production of these commodities. Operators and authorities will be able to check whether products or commodities are deforestation-free by using geolocation coordinates and remote monitoring via satellite images. Partnerships and efficient international cooperation with producer and consumer countries, and in bilateral and multilateral fora, are fundamental to promote the transition to sustainable agricultural production and sustainable forest management as well as towards identifying and agreeing robust global standards and definitions.

The Commission also adopted, in February 2022, a proposal for a directive on **corporate sustainability due diligence**⁷⁶. The objective of this directive is to foster sustainable and responsible corporate behaviour and to impose a general duty on bigger companies (SMEs are excluded from the scope of the application of the proposal) to address adverse human rights and environmental impacts in their operations and corporate governance. This duty also refers to their value chains outside the EU. The rules on corporate sustainability due diligence would be enforced through administrative measures, including sanctions and compliance orders, as well as through civil liability granting compensation for damages resulting from the failure to comply with the obligations contained in the proposal.

Moreover, the F2F Strategy announces that ‘environmental aspects will be taken into account when assessing applications for **import tolerances for pesticides** that are no longer allowed in the EU, while respecting WTO standards and obligations’⁷⁷.

⁷⁴ For example, when looking at deforestation embodied (as an externality) in total final consumption (in a produced, traded, or consumed product, good, commodity or service), some models calculate that the EU consumption represents around 10% of the global share (EC (2019). Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions: Stepping up EU Action to Protect and Restore the World's Forests. COM(2019)352 final).

⁷⁵ Proposal for a Regulation of the European Parliament and of the Council on the making available on the Union market as well as export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010 (COM(2021)706 final), <https://ec.europa.eu/environment/forests/deforestation-proposal.htm>.

⁷⁶ https://ec.europa.eu/info/publications/proposal-directive-corporate-sustainable-due-diligence-and-annex_en

⁷⁷ See note 20, p. 18.

Import tolerances are maximum residue levels (MRLs) for pesticides that are based on uses authorised outside the EU⁷⁸. This may include setting MRLs for substances no longer approved in the EU (for reasons other than public health reasons), which may be needed because producers in third countries face production conditions and pest pressures different from those in the EU. Uses may be different for the same substance on the same crop. Import tolerances can also relate to crops that are not grown in the EU (e.g. certain exotic fruits or vegetables and coffee, cocoa or tea), and therefore no MRL based on EU uses is established.

Until now, the focus when setting MRLs for pesticides, including for import tolerances, has been only on good agricultural practices and the protection of EU consumers. This requirement will continue to apply. In addition, however, in line with the commitments in the F2F Strategy, environmental aspects will also be considered in the process of setting MRLs, including import tolerances.

Furthermore, as announced in the F2F Strategy, the Commission is preparing a **revision of the EU animal welfare legislation**, with legislative proposals planned for the end of 2023. As mentioned in the Commission's reply to the 'End of Cage Age' European citizens' initiative⁷⁹, the Commission intends to include in these legislative proposals provisions to phase out and finally prohibit the use of cages, stalls and pens for farming pigs, laying hens, calves, rabbits, pullets, broiler breeders, layer breeders, ducks, geese and quail.

With regard to imported products, the Commission will consider, as one of options, the introduction of rules requiring that imported products were obtained under conditions that are equivalent to the EU's animal welfare rules, or some of them, and/or a labelling requirement also for imported products (either focusing on the housing conditions or covering more animal welfare criteria), in compliance with WTO rules.

The Commission will also consider options for improved **animal welfare labelling** to help transmit value through the food chain and in reply to the growing consumer interest in the farming conditions of animals. At present, apart from the mandatory table egg standard mentioned above, other animal welfare claims are voluntary and to a large extent not harmonised at EU level⁸⁰, which often makes it difficult for consumers to understand various claims present on the food labels. A subgroup under the EU Animal Welfare Platform delivered conclusions on animal welfare labelling in June 2021⁸¹. The Commission published an external study gathering data on existing animal welfare labels and consumers attitudes and expectations in April 2022⁸² and it is carrying out an impact assessment on a possible EU legislation on animal welfare labelling.

In addition to the above-mentioned individual actions, in order to fully ensure policy coherence and mainstream sustainability in all food-related policies, the F2F Strategy has envisaged, by end of 2023, the adoption by the Commission of its flagship proposal: a horizontal **sustainable food system framework law**, as an umbrella for common definitions and general principles and requirements governing the sustainability of foods produced or placed on the EU market and related food operations. The purpose of such EU level intervention would be to establish the new foundations for future food

⁷⁸ Art. 3(2)(g) of Regulation 396/2005 of the European Parliament and of the Council of 23 February 2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin, OJ L 70, 16.3.2005, p. 1.

⁷⁹ https://europa.eu/citizens-initiative/initiatives/details/2018/000004_en

⁸⁰ The only voluntary standards harmonised at EU level are the marketing standards for poultry containing reference to types of farming (Commission Regulation No 543/2008 of 16 June 2008 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 as regards the marketing standards for poultrymeat, OJ L 157 17.6.2008, p. 46) and the EU organic farming rules requiring a high standard of animal welfare.

⁸¹ https://ec.europa.eu/food/system/files/2021-06/aw_platform_plat-conc_awl-subgroup-conclusion.pdf

⁸² *Forthcoming*

policies by introducing sustainability objectives and principles on the basis of an integrated food system approach.

The **sustainability labelling framework** will be part of the sustainable food system framework legislation. The sustainability labelling framework will govern the provision of information to consumers on the sustainability performance of food products regarding their nutrition, climate, environment and social aspects. This may be an important element of the F2F Strategy consisting in changing production patterns through empowering consumers to make informed and sustainable food choices.

Finally, the voluntary ‘**Code of Conduct on Responsible Food Business and Marketing Practices**’⁸³ forms an integral part of the EU path towards sustainable food systems. It contains a set of seven aspirational objectives, each with its targets and indicative actions. For businesses that are active both within the EU as well as beyond, the commitments apply in principle to the sales/activities within the EU, including impacts related to their supply chains in third countries (associated to these sales/activities). Companies may also put forward commitments applying to their total global sales/activities (and related supply chains), which most multinational companies do. The Code entered into force in July 2021 and has currently over 100 signatories.

5. CONCLUDING REMARKS

Today there is a broad consensus on the need for a transition to sustainable and resilient food systems. The EU, with its ambitious Green Deal and as a global player on the agri-food markets, plays an important role in steering that global transition. The COVID-19 crisis and Russia’s invasion of Ukraine have exposed vulnerabilities of agricultural and food systems that need to be addressed by accelerating the shift towards a sustainable and resilient EU food system.

Ambitious health, environmental and other sustainability standards and objectives are not self-serving EU interests. They all contribute to achieving legitimate objectives on global concerns, also in line with the One Health approach.

Global concerns require global actions. Being a trailblazer implies certain challenges and risks. The Report analysed three main, complementary areas of EU action for enhancing and promoting health and environmental standards.

The EU will continue its efforts at **multilateral level** to gain support and reach – ideally – global consensus on the need for action and internationally agreed standards. While the EU and its Member States show already a high level of engagement and leadership in many of those forums, an important long-term objective will be intensification, better coordination and synergies to raise health, environmental and other sustainability standards.

Trade agreements and bilateral cooperation provide opportunities to do the same with partner countries. With its ambitious trade agenda, the EU has already made progress in this area. For more than a decade, trade agreements have included a TSD chapter and provisions on cooperation on animal welfare and AMR. The agreements currently under negotiations envisage a Sustainable Food Systems chapter and the EU will propose it in any future agreements.

The EU will continue to ensure coherence of its sustainability agenda with its enlargement, neighbourhood and development policies. This also implies taking into consideration trade impacts on third countries. Flanking measures, including funding, technical cooperation and capacity building, may

⁸³ https://ec.europa.eu/food/horizontal-topics/farm-fork-strategy/sustainable-food-processing/code-conduct_en

be important to assist trading partners when engaging in more sustainable practices, especially for most vulnerable countries and neighbouring partners that undertake ambitious commitments in those fields.

As the foregoing assessment shows, the EU is also able to take measures **autonomously** when necessary to address global environmental concerns or animal welfare issues. The application of PPM regulations to imported products in these fields must be done in full respect of WTO rules and other international commitments. Some measures taken by the EU autonomously to regulate global environmental or ethical aspects of imported products, even if in full compliance with WTO rules, might still be controversial for WTO members and can always be challenged under the WTO dispute settlement system. Measures determined to be illegitimate or protectionist and inconsistent with the balance of the EU's international obligations and rights may expose the EU to a risk of retaliation.

For all these reasons, regulatory proposals need to undergo a case-by-case assessment of their WTO compatibility. While there is indeed policy space to pursue the application of health and environmental (including animal welfare) requirements on process and production methods to imported products in a WTO compatible manner, each case needs to be carefully analysed on its own merits.

In addition to the question of WTO compatibility, the case-by-case analysis of possible measures needs also to take into account the technical and economic feasibility of control mechanisms. Since it is the methods of production or processing in the third country that are being regulated, the feasibility and proportionality of adequate means to control and enforce their application must be assessed in relation to costs and benefits of doing so. This dimension deserves more emphasis.

In conclusion, there is some scope to extend to imported products EU production standards provided this is done in full respect of the relevant WTO rules. This report, in addition to assessing the legal and technical feasibility of doing this, and explaining the constraints that apply, also indicates a wide range of areas where the EU has already, legitimately, extended to imported products its domestic production standards, be it via multilateral, bilateral or autonomous instruments. The Report shows that before applying production standards to imports, it is always essential to make a case-by-case assessment.

The Commission believes to have carried out the technical mandate given to it by the Council and Parliament, and which was recalled in the opening paragraph of this Report. The Commission invites the Council and the European Parliament to carefully consider the findings and guidance set out in this Report and take them into account in their future deliberations.