

## Cloning – non-paper on WTO compatibility, trade and agricultural production impacts

### Speaking points

#### On WTO compatibility

- We have an obligation to ensure that our legislation is in compliance with our obligations under the WTO.
- We think that a **ban on cloning for food production could be justified in terms of WTO law** - at least temporarily. Here the measure would be non-discriminatory and on top of that there are serious concerns in terms of animal welfare as well as ethical concerns that should allow us to have recourse to the GATT exceptions until cloning technology improves.
- On the other hand, we think that a ban on food obtained from the **offspring** of clones would be **very very hard to defend**.
- From a food safety perspective, we have to comply with the SPS agreement that requires that our measures are based on science. Now, the science reviewed by EFSA does not seem to identify concerns that we could use to justify a ban.
- Also from animal welfare perspective, there do not seem to be specific problems with regard to offspring of clones, as they are bred with conventional methods.
- While some of us might still have **ethical concerns, these would not be enough to justify a breach of the SPS Agreement** that is focused only on food safety and scientific justification.
- The legal characterisation of a system of **pre-market approval** would be the same as a ban: to the extent to which food from the offspring of clones is safe to eat, any delay or restriction to their importation and marketing would be very difficult to reconcile with the SPS obligation of **basing SPS measures on science**.
- A ban or pre-market approval of products from offspring would result in a **de facto ban of imports of animal food products from third countries**, since these countries do not have a traceability system extending to food products.
- The ban would also have disruptive effects on EU production: since we imported semen from the US, there are already offspring of cloned animals in the EU, and food produced from them. The problem is that we don't know which animal is the offspring of clones. For the future, however, the Commission is proposing to introduce a system of **traceability for genetic material** that will allow farms and industry to set up a databank of offspring in the EU.
- It should however be noted that **traceability** measures would not work at reasonable price for **products** from offspring produced in the EU, and would amount to a de facto ban on imports, since third countries do not have a traceability system that extends to food.

#### On trade in general

- Besides the risk of WTO litigation, there is the risk of a **more immediate backlash in our trading relations** that would wreck our trade with US and the rest of the world – a ban obtained from the offspring of clones means in practice that we will **stop imports of food products from third countries**.
- Imposing an import ban on the offspring of cloned animals will lead to serious problems with the US and Latin America and will also have a **great impact on EU agricultural production** if our food exports will be banned as a retaliatory measure.
- To begin with US, immediate measures that they could adopt immediately as a reaction to a ban on offspring of cloned animals could include the denunciation of the MoU on Hormones and going back to **Carousel sanctions**, hitting our exports for a value of approximately 250 million euros per year. Like in 2008, sanctions would be targeted on

Member States and sectors where damage will be greatest. The US would also likely **restart litigation on all pending SPS disputes**, such as poultry AMT or GMOs, as well as challenging the measures on cloning.

- Such a backlash in US relations would quickly jeopardise the progress made over the last few years on DDA and TEC.

### Background

The **Commission report** to the EP and the Council on all aspects of **cloning for food production purposes** takes into account all available scientific aspects on the matter, in particular the EFSA opinion and statements. It is clearly established that food derived from clones and their offspring **does not differ from conventional food** as regards **food safety**. However, there might be **animal welfare concerns**, linked to the use of the technique, for the time being in the case of clones.

The Commission can accept the idea of a temporary ban for cloned products but not for products from offspring. That would result in a **de facto ban of imports of animal food products from third countries**. The EU would be considered protectionist at WTO because the animal welfare argument could hold against cloned animals but not against their offspring.

### Possible impact on trade of food products

The scenarios below are estimates of the total trade. However, it is not sure if all the trade or only a certain percentage will be affected:

- The value of imports blocked following a ban of offspring, and
- The value of EU exports affected if third countries would retaliate.

#### Scenario1 (cattle)

As it is impossible to know if a product is derived from a cloned animal or from an off-spring of a cloned animal, all animal products would need to be banned from imports. Cloning is most advanced in the cattle sector, so, the following products from the cattle could be banned:

##### - Bovine meat

average import value<sup>1</sup> 1.6 billion €, average export value 800 million €

##### - Milk products (like cheese, butter, milk powder and milk protein)

average import value<sup>2</sup> 300 million €, average export value 5.8 billion<sup>3</sup> € (equivalent to 10% of total milk production)

##### - hides and skins

average import value 120 million €; average export value 270 million €

##### - semen and embryos

average import value<sup>4</sup> 35 million €; average export value estimated 1 million €

**Total import value 2 billion €, total export value 6.9 billion €**

#### Scenario 2 (cattle + pig)

<sup>1</sup> 3 years average 2008-2010

<sup>2</sup> 2009 butter, chccsc, WMP, SMP, Whey

<sup>3</sup> 2007-2009 average

<sup>4</sup> 2009

Cloning of pigs has only started recently and the commercial value has not yet reached a point where many products of offspring have reached the market. However, trading partners might use our strong export position in this sector (EU has the largest share of pig meat exports on the world market), for retaliation measures.

- **Pig meat including processed products** average import value<sup>5</sup> 90 million €; average export value 4 billion € (about 10% of EU pig production)

Consequence of reduced milk and pig production: reduction of soy imports of about 10% (equivalent to 400 million €) plus reduction of cereal demand of about 10%.

**Total import value 2.5 billion €, total export value 10.9 billion €**

#### Impact on agricultural production

Both scenarios would have a **huge impact** on the **farming and trade sectors** and scenario 2 will more than double the impact. A reduction in milk demand of 10% does not sound large, but the last milk crisis was triggered as a result of a 2-3% demand reduction. So, a consequence of the ban would be a much larger milk crisis with no hope to find additional markets outside of the EU. If scenario 2 happens, every tenth pig farmer would be out of business and the prices would go down. At the moment we have been using private storage aid, because the EU pig meat market is rather weak.

#### Cost estimate for producing cloned animals:

The following analysis has to take into account that calculating the costs and benefits of cloning requires a thorough economic assessment. For such a study more time and resources are necessary. So, the interpretation of the following data has to be handled carefully.

The cost of cloning one individual animal<sup>6</sup> is difficult to estimate. Some sources indicate that it could be around 100,000€ for the time being, but with improvement of the technology prices might come down in the future.

The current price for a non-cloned elite bull in the EU used for breeding can be from 4,000€ to 20,000€ depending on his parents performance and on the popularity of the race. There are at least 10,000 bulls needed to produce more than 18 million calves born in the EU every year. So, the market value of the breeding bulls is between 40 and 200 million €. Considering that only the best ones would be cloned, the value would increase.

The current price for a breeding hog in the EU is between 1,000€ and 3,000€, and in order to produce 200 million pigs per year, 200,000 hogs are needed, representing a value of between 200 to 600 million €. Pig cloning would reduce the variability of the breeding results with the effect of increasing the value of the cloned hog.

<sup>5</sup> 3 years average 2008-2010

<sup>6</sup> Based on the available data, the overall success rate of the cloning procedure (measured as the percentage of live clones born from the number of embryos transferred) is less than 10% in bovine animals and between 5 and 17% in pigs (source: COM report)