



National Pork Producers Council

Comments on Negotiating Objectives for a U.S.-UK Trade Agreement

Docket Number USTR-2018-0036

The National Pork Producers Council (NPPC) submits the following comments in response to a *Federal Register Notice* issued by the Office of the United States Trade Representative, “Request for Comments on Negotiating Objectives for a U.S.-United Kingdom Trade Agreement” (Docket Number USTR-2018-0036, Document Citation 83 FR 57790).

NPPC is a national association representing a federation of 42 state producer organizations. As such, NPPC represents the federal and global interests of 60,000 U.S. pork operations. The U.S. pork industry is a major value-added component of the agricultural economy and a significant contributor to the overall U.S. economy. U.S. pork producers shipped 2.5 million tons of pork, valued at \$6.5 billion, to over 100 nations in 2017.

Background

NPPC shares the Administration’s view that U.S. free trade agreement (FTA) negotiations with the United Kingdom represent a historic opportunity to achieve free, fair and reciprocal trade between the United States and one of its closest allies. As a member of the European Union, the United Kingdom for decades represented a moderating force in the EU’s debate on the Common Agricultural Policy, and we are hopeful that this same pro-market approach to trade will prevail in the U.S.-UK FTA negotiations.

Given the United Kingdom’s population of 66 million and cultural and culinary tastes similar to those of the United States, an FTA with the country, in our view, offers the potential for a major increase in UK demand for U.S. agricultural products, including pork.

However, for that potential to be realized, it is critically important that the United States use the FTA negotiations to ensure that U.S. pork products enter the United Kingdom duty free and not subject to the many European Union sanitary phytosanitary (SPS) measures that currently restrict U.S. exports to the United Kingdom, a member of the EU.

The U.S. pork industry, which produces pork that is second-to-none globally in terms of safety, quality and affordability, is almost completely locked out of the EU market, including the UK, because of high tariffs and bogus food safety concerns. Even if the UK were to remove tariffs on U.S. pork as part of the FTA discussions, it would still be extremely difficult to export product to the United Kingdom if, after its withdrawal from the European Union, it maintained EU SPS barriers to trade.

As the United Kingdom moves to the final stages of the process of withdrawing from the European Union, it has many stark choices in front of it. Among the most important is whether it will maintain the EU's non-science-based and protectionist SPS barriers to agricultural trade, or whether it will instead jettison the EU's "precautionary" approach to regulatory decision making and open itself to modern agricultural production methods of the kind practiced by the United States and many other countries in the world.

The UK's choice with respect to agricultural regulatory practices will be critical in dictating the success or failure of future U.S.-UK FTA negotiations. NPPC is among many U.S. agricultural producer and trade groups that would be unable to support a free trade agreement with the United Kingdom that fails to remove regulatory barriers to agricultural imports. After its departure from the EU, the UK should either adopt U.S. SPS standards for pork, or those of the U.N.'s *Codex Alimentarius*. A scenario under which the UK maintained EU SPS barriers to pork and other agricultural products under a U.S.-UK FTA would meet with near-universal opposition by the U.S. agricultural sector, making Congressional approval of the agreement highly unlikely.

Following is a more detailed description of the UK's (and the EU's) tariff and non-tariff barriers to U.S. pork exports.

UK Tariff Rate Quotas for Pork

As a part of the *Brexit* process, the EU 27 and the United Kingdom have proposed to divide the EU 28 tariff rate quotas (TRQs), including those on pork, based on historical trade. Regardless of whether the United Kingdom ends up with TRQs or duty-only treatment for pork after its departure from the EU, UK tariffs on pork should be completely and immediately eliminated as part of U.S.-UK FTA negotiations.

SPS Barriers to Trade

As a member of the European Union, the United Kingdom maintains a long list of SPS barriers to pork imports from the United States. Even with the elimination of import duties, U.S. exports of pork to the UK would be severely limited by the SPS barriers described below. As part of a U.S.-UK FTA, it is extremely important that the Administration seek the full elimination of all of the SPS barriers to pork imports that the UK currently imposes as an EU member state and obtain UK recognition of the full equivalence of U.S. production practices, as well as its recognition of the equivalence of the U.S. food safety inspection system and acceptance of pork from all USDA-approved facilities.

Ractopamine

As a member of the European Union, the United Kingdom maintains a ban on pork produced with ractopamine hydrochloride (ractopamine), a protein synthesis compound that significantly improves efficiency in pork production. To ship pork to the UK, U.S. exporters must participate in a costly and administratively burdensome "Pork for the EU" (PFEU) program to verify that pork shipped to the UK has not been produced using ractopamine. In addition, U.S. pork must undergo expensive testing at a laboratory in Canada to verify there is no ractopamine residue in U.S. pork shipments to Europe. These

requirements act as a major impediment to U.S. pork exports to the UK, confining U.S. exports to a small group of suppliers.

Ractopamine was approved for use in U.S. pork production after an extensive review by the U.S. Food and Drug Administration (FDA). It is approved for use in 27 countries, and pork from hogs fed ractopamine is accepted by an additional 75 countries around the world. The *Codex Alimentarius* endorsed the safety of the product in July 2012 by agreeing on a recommended maximum residue level (MRL) for ractopamine in pork and beef production.

The EU's ban on ractopamine is not based on sound science or legitimate food safety concerns. It violates numerous provisions of the WTO Agreement on the Application of Sanitary and Phytosanitary (SPS) Measures, including the requirement that these measures be based on science (Article 2.2) and on legitimate risk assessments (Article 5.1).

Trichinae Testing

Under the terms of the 1999 Equivalency Agreement, U.S. pork producers are required to either test fresh/chilled pork for trichinae through pooled testing, or to subject pork exported to the EU to freezing in accordance with existing federal regulations (9 CFR318.0). The pooled testing for fresh/chilled pork must take place through the USDA Agricultural Marketing Service (AMS) Trichinae Analysis and Laboratory Certification Program. Submitting pork to trichinae testing under the AMS Certification Program is costly and burdensome.

Over the last 30 years, the United States has implemented a strong biosecurity program for pork production that has been effective in reducing to negligible levels the risk of *Trichinella* in the U.S. swine herd. This biosecurity program is supplemented by the Pork Quality Assurance Plus program offered by the National Pork Board, which facilitates veterinarian/producer development and maintenance of biosecurity measures.

Trichinella has not been detected in the U.S. commercial swine herd in well over a decade. Based on tests conducted by the USDA under the AMS Trichinae Export Program, the prevalence of *Trichinella* in the U.S. is 0.194 per 1 million animals.

The EU's trichinae-related restrictions on U.S. pork violate numerous provisions of the WTO Agreement on the Application of Sanitary and Phytosanitary (SPS) Measures, including the requirement that SPS measure be based on science (Article 2.2) and that SPS measures be based on legitimate risk assessments (Article 5.1). U.S. negotiators should ensure that the UK eliminates trichinae testing requirements for pork as part of a U.S.-UK FTA.

Pathogen Reduction Treatment Prohibition

As a member of the European Union, the UK currently prohibits the use of anti-microbial or pathogen reduction treatments (PRTs) for pork, including hyperchlorination and organic acids. The EU PRT ban is contained in EU Regulation 853/2004, Article 3.2, which requires that food producers not use any substance other than potable water in removing contamination from meat products, including carcasses. Regulation 853/2004 is part of the E.U.'s so-called hygiene directives implemented in January 2006, relating to food safety in EU food production.

PRTs are approved for use in the United States as a means of reducing or eliminating bacterial contamination and improving product safety for meat products, including pork. The use of PRTs in pork production was subject to rigorous risk assessment by the U.S. Food and Drug Administration (FDA), which found the use of these treatments in accordance with recommended manufacturing practices to be a safe and effective way of eliminating bacterial contamination on pork products (21 CFR 184.1061, 21 CFT 173.370). The *Codex Alimentarius* has also recognized the safety of PRTs in meat production when used in accordance with good manufacturing practices (CAC, Codex Standard, 192-1995).

PRTs commonly used in the U.S. pork industry pose no health risks and actually help ensure the safety of meat products. The current EU prohibition on the use of anti-microbial washes adds significantly to the cost of exporting pork to the UK, and the UK PRT ban should be eliminated through the U.S.-UK FTA negotiations.

Plant Approvals

Although the EU has over the years somewhat simplified the process for plant approval for export to the EU, it still imposes costly and needless requirements that deter many U.S. packers from seeking plant approval. As NPPC has pointed out for many years, the U.S. accepts a systems-based approach for inspection of countries that export to the United States. As noted earlier in this submission, it is extremely important that the United Kingdom accept as equivalent the USDA plant inspection and approval system for pork plants, as our other FTA partners have done. Specific EU plant approval requirements of primary concern are described below:

Non-Commingling Requirement

The EU requires that all animals to be slaughtered for meat export to the EU be kept separate from other animals. It requires that slaughter, cutting and packing areas be cleaned and sanitized before slaughter and during processing of meat destined for the EU. It requires that meat intended for use in the domestic market or other third country exports be kept in a separate room from meat intended for the EU and that slaughter and processing of meat intended for the EU take place during a designated time period different from that for other meat. There is no science-based reason that the EU has been able to cite for maintaining the stringent non-commingling requirements it imposes on U.S. plants. The UK should eliminate this requirement as a part of an FTA with the United States.

Pig Heart Incision Requirement

The EU requires the incision of all pig hearts for animals more than one year old. The EU pig heart incision requirement is to prevent cysticercosis (tapeworm). Cysticercosis can only be acquired through eating uncooked pork from pigs that have become infected by eating the feces from a human tapeworm carrier. There is an extremely low incidence of cysticercosis in the U.S. herd, and USDA's FSIS looks for this parasite under its regular post-mortem inspection procedures.

The pig heart incision is reportedly not required of pork from vertically integrated operation systems in the EU. Moreover, some EU member states fail to rigorously enforce the heart incision requirement, and the EU itself is looking at eliminating the incision requirement domestically, based on a study from the European Food Safety Authority (EFSA) that concluded that incision increased the risk of cross-contamination. The EU has never been able to identify legitimate science-based reasons why pig heart incisions are required of pork imported from the U.S., in light of the HACCP-based process that the U.S. observes to ensure product safety and visual inspection of hearts by U.S. inspectors. The UK should eliminate the pig heart incision requirement as part of an FTA with the United States.

EU Legislation on Antibiotics Use in Livestock

The EU Council, EU Commission and EU Parliament are in the final stages of developing legislation that could prohibit imports of live animals or animal products, including pork, from any country that permits the use of antibiotic treatments in livestock production. The legislation, which the EU refers to as "reciprocity," would require that antibiotic use restrictions in exporting countries conform completely to domestic EU requirements. The United States, along with all other countries shipping meat products to the EU, uses antibiotics in the production of animal products, including pork. Implementation of the proposed reciprocity legislation would mean a complete halt in pork shipments to the EU by many countries, including the United States.

The EU is very close to implementing the reciprocity legislation without ever having conducted a risk assessment on the use of antibiotics in livestock agriculture. Moreover, the EU legislation would not allow exporting countries the opportunity to demonstrate that the use restrictions they have in place offer protection that is equivalent to the measures the EU is implementing. The legislation would thus be in violation of WTO rules, as contained in the WTO Agreement on Sanitary and Phytosanitary Measures.

U.S. negotiators should ensure that the proposed EU legislation is not imposed by the United Kingdom after its withdrawal from the EU and not applied to imports of U.S. pork products.

In summary, NPPC seeks the full removal of United Kingdom tariffs on pork as part of a U.S.-UK FTA, the elimination of all SPS barriers to pork that the UK currently imposes as a member of the European Union and full recognition by the UK of the equivalence of UK and U.S. production practices for pork and acceptance of pork from all USDA-approved facilities.

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