



April 28, 2020

Office of United States Trade Representative
600 17th Street, N.W.
Washington, D.C. 20508

Dear Edward Gresser,

NPPC submits these comments in response to a Federal Register Notice (Document No. USTR-2020-0011), requesting comments related to the public hearing on a proposed U.S.-Republic of Kenya trade agreement.

NPPC is a national association representing 42 state producer organizations, and the federal and global interests of 67,000 U.S. pork operations. The U.S. pork industry is a major value-added enterprise in the agricultural economy, and a significant contributor to the overall U.S. economy.

The United States is the top global exporter of pork, shipping nearly 2.6 million metric tons (MT), valued at over \$6.9 billion to more than 100 nations in 2019. However, the U.S. has not exported pork to Kenya since 2016. However, with a population of over 50 million, an expanding middle class, and relatively strong tourism driven demand from the Hotel Restaurant and Institutional (HRI) sector, a free trade agreement with Kenya would offer potential for a significant increase in demand for U.S. pork products.

In order for the potential demand for U.S. pork to be realized, it is important that the United States use the FTA negotiations to ensure that Kenya's import duties on U.S. pork are fully eliminated, and that Kenya remove all non-tariff barriers to U.S. pork exports. NPPC will only be able to support an FTA with Kenya under which both all import duties and all non-tariff barriers to imports of U.S. pork are fully eliminated.

Tariffs

Kenya has a WTO bound tariff rate of 100 percent and an applied most favored nation (MFN) tariff of 25 percent on pork products. The 25 percent duty on U.S. pork products should be fully eliminated through the FTA negotiations. Pork products are contained in Chapters 0203, 0206 (pork offal), 0210, 1601 and 1602 (processed pork) of the Harmonized Tariff System (HTS).

Non-Tariff Barriers

According to USTR's National Trade Estimate Report, Kenya maintains complex, non-transparent, and costly requirements for importation of meat products, including pork. These requirements include a standardized sanitary certification, and a "Letter of No Objection to Import Permit" issued by the Ministry of Agriculture's Department of Veterinary Services (DVS). DVS requires that importers explain the reason for importation through a "Letter of Application

to Import”, and to specifically address the market need the imported product would meet, before issuing a no-objection letter. DVS issues the no-objection letter for meat products at its discretion, and on a case-by-case basis.

Although Kenya maintains that it only restricts imports based on food safety concerns, importers have reported that, in practice, DVS has denied import permits for other reasons, such as the local availability of the product in question. DVS has reportedly never provided formal written guidance to importers on its criteria for approving import permits.

According to a recent USDA Foreign Agricultural Service GAIN report (KE2019 – 006), all imports of certain agricultural products, including meat products, must be physically inspected and tested at the port of entry to ensure conformity with relevant Kenyan standards. There is no reason why Kenya should impose such onerous inspection and testing requirement on U.S. pork products that are accompanied by the USDA Food Safety Inspection Service Certificate of Wholesomeness (FSIS Form 9060), and meet other relevant import requirements.

As part of a U.S. –Kenya FTA negotiations, Kenya should eliminate its discretionary import permit approval procedures, and commit to an automatic licensing process for U.S. pork imports, based on presentation of the FSIS Certificate of Wholesomeness. It should also eliminate onerous testing and inspection requirements for U.S. pork. As it has with other U.S. FTAs, the United States should seek the full elimination of any non-science based SPS barriers to pork imports that Kenya may currently impose, obtain Kenya’s recognition of the full equivalence of U.S. production practices, as well as recognition of the equivalence of the U.S. food safety inspection and approval system for pork slaughter, processing and storage plants.

NPPC will give enthusiastic support to an FTA with Kenya that eliminates all tariffs on U.S. pork and allows for the import of pork using science-based and internationally recognized regulatory standards.

Sincerely,



Howard (A.V.) Roth
President
National Pork Producers Council