



National Pork Producers Council

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

Docket Number USTR-2018-0035

The National Pork Producers Council (NPPC) submits the following comments in response to a Federal Register Notice issued by the United States Trade Representative, “Request for Comments on Negotiating Objectives for a U.S.-European Union Trade Agreement” (Docket Number USTR-2018-0035, Document Citation 83 FR 57526).

NPPC is a national association representing a federation of 42 state pork producer organizations. It 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 product, valued at \$6.5 billion, to over 100 nations in 2017.

Background

The European Union (EU) is one of the most protected markets in the world for most agricultural products, including pork. In the absence of its restrictive tariff rate quotas (TRQs) and unjustifiable sanitary-phytosanitary (SPS) barriers, the EU would undoubtedly be an important market for competitively priced and high-quality U.S. pork products. However, because of the barriers described in this submission, U.S. pork exports to the EU are extremely small, totaling less than 4,000 MT in 2017. By way of comparison, the United States exports more pork to countries such as Costa Rica, El Salvador, Chile and Singapore than it does to the EU, a market of over 500 million people.

The same story is also true for many other agricultural products. Up to 1999, the United States consistently maintained a surplus with the EU in agricultural trade. Since that time, EU agricultural exports to the United States have climbed rapidly, while our exports to the EU have been relatively stagnant. The United States now runs an \$11 billion agricultural trade deficit with the EU, and our agricultural imports from the EU are roughly double our exports. This growing agricultural trade deficit with the EU is almost entirely because of the EU’s many protectionist agricultural trade policy measures.

When it comes to food safety, the European Union has for decades adhered to what is commonly referred to as the “precautionary principle,” ignoring science, international standards and legitimate food safety arguments in favor of decision making driven by perception rather than fact. While perhaps politically expedient today, the EU’s blatant disregard for risk-based analysis is sowing the seeds for global instability tomorrow – a tomorrow in which governments will rise and fall based on the price of food.

The world's population is slated to double by the year 2045. If the EU succeeds in forcing the rest of the world to adhere to its Luddite-like beliefs on agricultural production practices, the inevitable result will be rising world food prices and increased economic and political instability in nations around the world. The EU's bureaucratic elites today are working overtime to force feed their views on other nations. Unfortunately, the EU's highly politicized and non-science-based food safety decisions are being mimicked by other nations, many of which see the EU as a model to follow, or a market they cannot afford to jeopardize by failing to adopt EU-imposed requirements. The shame of this sad story is that the self-righteous EU elites will go to sleep tonight with a belly full of food and wine. The same cannot be said for the rest of the world. The problem is going to increase exponentially in the future if the EU is not stopped soon.

In the meantime, U.S. agriculture, including the U.S. pork industry, which produces some of the safest and most competitively priced food products in the world, is locked out of the EU market because of high tariffs and bogus food safety concerns. We have grown increasingly frustrated over the years by Europeans who ignorantly or maliciously disparage the safety of U.S. food products. The EU's politicized approach to food safety decision making and its decades-long rejection of entirely safe U.S. agricultural production practices is an ongoing affront to U.S. agriculture. The negotiations with the EU represent our best opportunity to open the EU market and turn the tide on the EU's precautionary and protectionist approach to food safety decision making.

Make no mistake, this is a battle for the future. The price of food is a national security issue for every nation in the world. The EU is turning its back on technological innovation -- the backbone of increased productivity and the only way to meet tomorrow's burgeoning demand for food. The EU model will lead to food insecurity and strife; the U.S. model will lead to food security and a safer tomorrow.

For all of these reasons, it is critical that agriculture be fully included in the trade negotiations with the European Union. Agriculture has been included in all previous U.S. free trade agreements, and there are compelling reasons the European Union should not be an exception. It would be an enormous tactical victory for the EU if it were able to engage in trade negotiations with the United States while excluding agriculture, its most protected and sensitive sector. Indeed, the United States would be in de facto recognition of EU standards, handing a huge victory to EU elites at the great cost of decreased agricultural innovation and production globally.

The reluctance of the EU to include agriculture in the trade talks is shameful. EU Trade Commissioner Cecilia Malmstrom has recently reiterated the EU Commission position that "agriculture will not be part of the trade agreement. It will only include industrial goods." Other Commission officials have sent the same message.

We are deeply appreciative of the Administration's clear and consistently stated position that the U.S.-EU negotiations must include comprehensive trade liberalization for agriculture. In the

case of pork, this means full elimination of the EU's tariffs on pork and complete elimination of the EU's many SPS barriers to pork imports.

NPPC has historically been a leading supporter of virtually all U.S. trade-expanding initiatives. However, failure to include agriculture in the upcoming negotiations with the EU would preclude NPPC from voicing support to the U.S. Congress for the EU negotiations. Moreover, we expect that many U.S. agricultural trade groups would actively oppose trade negotiations with the EU if they do not fully include agriculture. The EU Commission needs to understand that an agreement excluding agriculture would, therefore, encounter strong opposition from a large segment of the U.S. Congress.

The upcoming trade negotiations afford a major opportunity to substantially reduce or eliminate the EU's elitist and protectionist agricultural policies, including its high tariffs and unwarranted SPS measures. If the EU Commission is unwilling to address these issues as part of the upcoming trade negotiations, it is time for the United States to completely rethink its overall relationship with Europe.

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

EU Tariff Rate Quotas for Pork

During the Uruguay Round, countries making use of tariff rate quotas (TRQs) were expected to establish TRQs representing 3 percent of domestic consumption, growing to 5 percent over an implementation period. The EU completely ignored this requirement for pork, instead establishing pork TRQs totaling about 70,000 metric tons (MT), far less than 1 percent of EU domestic consumption at the time. The EU Commission proposes to reduce these TRQs even further as a result of the United Kingdom's anticipated departure from the EU.

In addition to the small size of the EU's pork TRQs, the TRQs are fragmented into seven separate TRQs for different pork TRQ cuts, making administration of the TRQs difficult. In-quota duties for the EU's pork TRQs range from 250 Euros per MT to 784 Euros per MT, duty rates that make it very difficult to ship under the TRQs. Out-of-quota duties for the TRQs are set at prohibitively high rates, making it almost impossible to ship product into Europe outside the TRQ amount.

To reiterate, NPPC requests that the Administration seek full elimination of all EU tariffs on pork as part of the upcoming trade liberalization negotiations with the EU.

SPS Barriers to Trade

The EU 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 would be severely limited by the SPS barriers described below. As part of the U.S. trade negotiations with the EU, it is extremely important that the Administration seek elimination of the EU's SPS barriers affecting U.S. pork

and obtain EU recognition of the full equivalence of U.S. food safety inspection and approval system for packing, processing and storage plants.

Ractopamine

The European Union 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 EU, U.S. exporters must participate in a costly and administratively burdensome “Pork for the EU” (PFEU) program to verify that pork shipped to the EU has not been produced using ractopamine. In addition, U.S. pork destined for the EU must undergo expensive testing at a laboratory in Canada to verify there is no ractopamine residue. These requirements act as major impediments to U.S. pork exports to the EU, 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 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 such 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 the risk of *Trichinella* in the U.S. swine herd to negligible levels. 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. Dr. Ray Gamble, an expert in

the field, has estimated the chances of getting trichinosis through the consumption of commercially produced U.S. pork at 1 in 300 million.

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).

Pathogen Reduction Treatment Prohibition

The EU 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 EU and should be eliminated.

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 United States accepts a systems-based approach for inspection of countries that export to the United States. There is no reason the EU cannot accept as equivalent the USDA plant inspection and approval system for pork plants, just as the majority of our trading partners have already done. Specific EU plant approval requirements of primary concern are described below:

Non-Commingling Requirement: The EU requires that all animals to be harvested for meat export to the EU be kept separate from other animals. It requires that harvest, 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 harvest 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.

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 pig heart incisions are required of pork imported from the United States, particularly since we have a HACCP-based process to ensure product safety and visual inspection of hearts by inspectors. Given these facts, the EU's pig heart incision requirement is not needed for U.S. pork.

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.

We urge U.S. negotiators to make use of the leverage afforded through the U.S-EU trade negotiations to prevent the EU from implementing this misguided legislation.

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