National Pork Producers Council®

The Global Voice for the U.S. Pork Industry

September 16, 2022

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

Dear Bennett Harman,

NPPC submits these comments in response to a Federal Register Notice (Document No. USTR-2022-0008), requesting comments related to the recently launched United States-Kenya Strategic and Investment Partnership (STIP).

NPPC is a national association representing a federation of 43 state producer organizations and represents the federal and global interests of 66,000 U.S. pork operations. The U.S. pork industry is a major value-added enterprise in the U.S. agricultural economy and a significant contributor to the overall U.S. economy. The U.S. produces high-quality, safe, affordable pork and annually exports to over 100 countries. In 2021, the U.S. pork industry exported 2.9 million metric tons of pork and pork products valued at over $8.1 billion.

We applaud the administration's decision to pursue an enhanced engagement and subsequent negotiation with Kenya. The United States is the top global exporter of pork, but 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, this enhanced engagement with Kenya would offer potential for a significant increase in demand for U.S. pork products. Thus, for U.S. pork to be realized, it is important that the United States use the STIP to address Kenya's import duties on U.S. pork are fully eliminated, and that Kenya remove all non-tariff barriers to U.S. pork exports.

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. 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 (KE2022 – 0007), 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 9060-5) and meet other relevant import requirements.

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 this engagement moves forward, 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.

The Federal Register Notice on STIP cites agriculture as one of several areas where USTR is particularly interested in comments. In this regard, the Notice specifically states, "*The United States and Kenya will consider measures to facilitate agricultural trade and enhance transparency and understanding of the application of science-and risk based sanitary and phytosanitary (SPS) measures.*" Consistent with this objective, we urge USTR to make use of the U.S. – Kenya Strategic Investment Partnership engagement to address and eliminate Kenya's unjustified restrictions on U.S. pork.

Sincerely,

Maria C. Zieba
Vice President of International Affairs
National Pork Producers Council