



October 31, 2012

SUBMITTED VIA REGULATIONS.GOV

Mr. Daniel Mullaney
Assistant U.S. Trade Representative for Europe and the Middle East
Office of the U.S. Trade Representative
600 17th Street, NW
Washington, DC 20506

Re: U.S.-EU Regulatory Compatibility [Docket No. USTR-2012-0028]

Dear Mr. Mullaney:

The American Frozen Food Institute (AFFI) appreciates the opportunity to provide comments on potential initiatives by the U.S. and the European Commission to reduce excessive regulatory costs and unnecessary red tape; support Trans-Atlantic regulatory transparency; and promote greater regulatory compatibility.

AFFI is the national trade association that promotes the interests of all segments of the frozen food industry. Our members manufacture, distribute, and sell frozen food products throughout the United States and around the world. We are leaders in producing frozen food products in accordance with strict standards of safety and quality. AFFI unifies a diverse and essential industry by advocating the public policy interests of the industry before legislative and regulatory entities; serving as the voice of the industry before consumers, policymakers and the media and as a resource to its members; fostering industry development and growth through networking, educational, research and statistical programs; and promoting increased consumption of frozen foods.

The U.S. packaged and frozen food industry supports nearly 2 million U.S. manufacturing and agricultural jobs, and accounts for nearly 15 percent of U.S. manufacturing output. The U.S. is a global leader in exporting packaged food and beverage products, with annual export sales of over \$50 billion to over 200 markets around the world. However, the European Union (E.U.) is currently a relatively small export market for the U.S. frozen food industry. Over the past three years (2009-2011), the annual export value of U.S.-produced frozen fruits and vegetables, for example, was a meager \$13.4 million.¹ With current tariff rates for

¹ Data Source: Department of Commerce, U.S. Census Bureau, Foreign Trade Statistics

these products at around 14 percent, there is an opportunity for increased exports if these tariffs could be eliminated.

AFFI welcomes efforts to reduce U.S. regulatory barriers and promote greater regulatory compatibility and transparency with the E.U., so long as such efforts are part of a comprehensive free trade agreement (FTA) that covers “substantially all” U.S.-E.U. trade, as required by the General Agreement on Tariffs and Trade (GATT) Article XXIV, and includes the comprehensive liberalization of agricultural trade and removal of non-science-based sanitary and phyto-sanitary (SPS) barriers. Such an agreement would accord with the U.S. position in the Trans-Pacific Partnership negotiations, and extend the U.S. vision of an ambitious, high-standard, 21st century trade agreement to Trans-Atlantic trade. In contrast, a limited sectoral agreement, which excludes agricultural and food products, SPS barriers, and fails to deal with the most highly protected sector of the European economy, would only disadvantage America’s farmers and food producers.

In the last decade and a half, the frozen food industry has seen first-hand how the North American Free Trade Agreement (NAFTA) opened new export opportunities for U.S. frozen food exports in Canada and Mexico and boosted U.S. exports and jobs. In addition, NAFTA has allowed U.S. frozen fruit and vegetable producers to take advantage of different growing seasons to secure new supplies of high-quality Mexican and Canadian inputs that can support U.S. frozen food production and jobs.

Accordingly, AFFI urges U.S. negotiators to pursue an equally dynamic and ambitious Trans-Atlantic FTA that:

- ✓ Eliminates E.U. tariffs on U.S. frozen food products with no exclusions or exceptions.
- ✓ Provides enhanced sanitary and phyto-sanitary disciplines that ensure that food safety rules and regulations in EU member states are science-based, consistent with international standards, and formulated through transparent rule-making processes that include public notice and comment procedures and opportunities for meaningful U.S. stakeholder input. Such “SPS-plus” commitments must be fully enforceable under the FTA’s dispute settlement mechanism.
- ✓ Establishes uniform rules of origin for Trans-Atlantic trade that are compatible with global sourcing of key inputs, do not operate as non-tariff barriers to U.S. frozen food products, and are objective, transparent, and predictable.

Finally, a Trans-Atlantic FTA should address specific, longstanding U.S. concerns regarding E.U. barriers to U.S. agricultural and food products, including:

- ✓ GMO Foods – Since 1998, the E.U. has approved less than a handful of biotechnology products for cultivation, despite a 2006 ruling by the WTO’s

Dispute Settlement Body finding that the E.U.'s *de facto* moratorium on biotechnology approvals and marketing prohibitions by individual E.U. Member States violate the World Trade Organization's SPS Agreement.

- ✓ Food Additives – The E.U. restricts the use of certain food additives and requires warning labels on others that are approved by the U.S. Food and Drug Administration and widely-used by the global food industry. These restrictions and labeling requirements have no scientific basis.
- ✓ Maximum Residue Levels (MRLs) for Pesticides – MRLs represent the maximum concentration of residues permitted in food after the application of approved pesticides. A number of countries have established its MRLs without due regard to science, or failed to set an MRL (thus prohibiting use) at all where there is an MRL already established by the U.S. FDA or the *Codex Alimentarius Commission*, the WTO-recognized international standard-setting body for food safety.

Conclusion

AFFI welcomes efforts by USTR and the European Commission to promote greater regulatory compatibility and transparency, so long as such efforts are part of a comprehensive FTA that covers agriculture and food products and eliminates non-scientific SPS measures. We look forward to working closely with USTR to bring any such comprehensive FTA initiative launched by the Administration to a timely and successful conclusion.

Should you have a need for any additional information from AFFI, please do not hesitate to contact me at (703) 821-0770.

Respectfully submitted,



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American Frozen Food Institute