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Re: Request for public comments on U.S.-EU Regulatory Compatibility

Docket No. USTR-2012-0028

The U.S. Meat Export Federation (USMEF) appreciates the opportunity to comment on how the United States and the European Union can promote greater transatlantic regulatory compatibility, specifically in areas which relate to the production and marketing of beef, pork, and lamb. Over the past thirty years or so, incompatibilities between the U.S. and EU regulatory regimes for meat have caused a number of difficult and high-profile transatlantic trade disputes. Since many of these issues remain unresolved, we strongly support efforts by the U.S. government and the European Commission to find ways to bridge gaps in their regulatory requirements that are limiting trade and inhibiting economic expansion and job growth.

At the same time, we are disheartened by the kinds of statements recently attributed to a European Commission official to the effect that any new trade agreement negotiated between the U.S. and the EU would not be comprehensive in scope, and more specifically, that it would not address problematic issues arising from sanitary measures applied to the agriculture and food industries. The kind of comprehensive free trade agreement that is being actively discussed on both sides of the Atlantic represents the best, and as a practical matter, the only realistic opportunity to eliminate the current incompatibilities between U.S. and EU regulations related to meat and any future regulations that stand to further inhibit transatlantic meat trade. The long history of failed attempts by the United States and the European Union to resolve their differences in this area proves that only in the context of a comprehensive trade agreement, where the cost of failure is unacceptably high for both parties, will the two governments bring the necessary commitment and determination to the task of eliminating current and future incompatibilities in their regulatory frameworks for meat.

The goal of achieving regulatory compatibility in this area poses special challenges to both governments. At the root, the regulations that are in place on both sides of the Atlantic reflect fundamental cultural differences based on deeply and strongly held opinions and beliefs. Americans and Europeans view food differently, they have different thoughts and feelings about farming and the rural landscape, and they have very different views on the role of science in the setting of food policy. At the same time, both governments have responsibility for ensuring a safe food supply, setting sound public health policy, and meeting their obligations and commitments as members of the WTO. Given the basic differences in thinking that surround the question of how best to meet these objectives, it may not be possible to achieve complete regulatory alignment in this area, but this does not relieve the EU of its responsibility to meet its WTO obligations and apply its sanitary regulations to imports in a way that is not more trade restrictive than a policy based on available international standards and sound science.

The most notable example of a case of regulatory incompatibility in the realm of meat causing lasting damage to the transatlantic trading relationship, is the fundamental difference that exists between the U.S. and EU regulations applied to the use of hormones in cattle production. Despite a series of adverse rulings by the WTO and the imposition of retaliatory duties by the United States, the European Union has maintained its hormone ban and continued to look for ways to vindicate the correctness of its policy. We have been told for years by a long line of interlocutors in the Commission that European consumers would not accept replacing the hormone ban with science-based regulations. Whatever the merits of this argument, the fact that European consumers have been permitted, even encouraged, to base their views on mischaracterizations of the scientific evidence supporting the safe use of this technology cannot be permitted to serve as a legitimate argument for perpetuating bad public health policy.

In 2009 the United States and the European Union signed a memorandum of understanding (MOU) on transatlantic beef trade. This agreement represented a step forward in the decades-long disagreement between the two governments in that it introduced commercially meaningful compensation for U.S. beef producers in the form of a duty-free tariff rate quota for grain-fed beef. Importantly, however, the 2009 MOU did not address, much less resolve, the core point of disagreement over the question of whether the use of hormones in cattle production poses a risk to human health. Despite claims to the contrary by the European Commission, the science on the safety of hormones is well established and conclusive. As noted above, a U.S.-EU trade agreement represents the best possible opportunity to resolve this issue on the basis of science.

If we look beyond the hormone issue to the plethora of other cases where the EU's rejection of science in its regulatory policy has resulted in lost trade and associated adverse impacts on employment and economic growth, it is clear that the only way to resolve these issues and achieve regulatory compatibility is by focusing the bilateral dialogue on science. Although this is one of the objectives of the WTO SPS agreement, it has fallen short of expectations in this area. Rather than relying on the threat of dispute settlement to compel the EU to base its sanitary measures on science, what is needed is some kind of new structure or mechanism that fosters improved bilateral communication and coordination as the U.S. and the EU move through their respective risk assessment and rule-making processes. Behind this, of course, there also has to be a meaningful commitment at the top of both governments to making science the basis for effective public health policy.

Earlier this year we submitted a comment to USTR expressing our strong support for the creation of the High Level Working Group on Jobs and Growth. It continues to be our hope that the High Level Working Group will make achieving science-based bilateral trade policy one of its top priorities and that this will be incorporated into a comprehensive U.S.-EU trade agreement that sets a new direction for the bilateral trading relationship in meat and other agriculture and food products.

Sincerely,

A handwritten signature in black ink, appearing to read 'Philip M. Seng', with a stylized flourish at the end.

Philip M. Seng
President and CEO