October 31, 2012

Office of the United States Trade Representative
600 17th Street NW
Washington, DC 20508

RE: Promoting U.S. - EU Regulatory Compatibility
Docket No: USTR-2012-0028

The American Meat Institute (AMI) submits this letter in response to an invitation for comments in the above-referenced matter concerning the promotion of U.S. - EU Regulatory Compatibility under the auspices of the joint High Level Working Group on Jobs and Growth (HLWG), the High Level Regulatory Cooperation Forum (HLRCF) and the Transatlantic Economic Council (TEC). AMI appreciates the opportunity to comment on this important issue.

AMI is the nation's oldest and largest trade association representing packers and processors of beef, pork, lamb, veal, turkey, and processed meat products and AMI member companies account for more than 95 percent of United States output of these products. The Institute provides legislative, regulatory, public relations, technical, scientific, and educational services to the meat and poultry packing and processing industry.

The Necessity of "Single Undertaking" Negotiations

AMI fully supports the goal of a barrier-free transatlantic market. However, we are concerned about the possibility of a negotiating framework that does not adhere to the "single undertaking" approach to trade negotiations. In March 2012, AMI joined 39 other U.S. food and agricultural organizations to issue an Open Letter on Transatlantic Trade opposing the suggestion by current TEC business advisor James Quigley to conduct negotiations in a manner that will not result in comprehensive trade liberalization for all industries.[1] His recommendation was to allow negotiations to move forward in each individual sector or industry at its own pace, without regard to the successes or failures of negotiators in other sectors. Inevitably, this approach will lead to the perpetuation of existing trade barriers for many products, with U.S. food and agriculture the likely casualties. In order for AMI to support a potential Free Trade Agreement (FTA) between the U.S. and the EU, food and agriculture must be negotiated in conjunction with all other economic sectors in one comprehensive undertaking.

[1] James Quigley, Deloitte LLP., Co-Chair of the Transatlantic Business Dialogue and Member of the Transatlantic Task Force on Trade (an official business adviser to the TEC) in testimony before the Committee on Ways and Means, U.S. House of Representatives, February 29, 2012.

Differences in Approach to Risk Management

Structural disparities exist in the regulatory systems of the two economies as they relate to food safety and agricultural risk management. These differences pose serious challenges to any meaningful regulatory cohesion in the sector. A primary difference between the two is the EU's reliance on the "precautionary principle" for evaluating innovative agricultural and food safety technologies.

The precautionary principle states that where the possibility of a harmful effect exists, but where scientific uncertainty regarding the risk persists, provisional, non-scientific risk management strategies may be adopted by the European Community.[2] In practice, when applied at the technical or regulatory level, the principle tends to serve as a cover to ignore sound science or generally accepted international standards for technological innovation. This in turn may lead to artificial trade barriers that primarily serve to insulate domestic industries from foreign competition rather than protect the health or safety of EU consumers.

A successful FTA between the U.S. and the EU must ensure the precautionary principle is not applied to new or emerging technologies in food and agriculture. It must bring the EU's regulatory decision-making process in line with international norms, including those found in the Codex Alimentarius, World Organization for Animal Health (OIE) and other international standard-setting bodies that use science as the primary basis for all regulatory decisions.

Ban on Pathogen Reduction Treatments (PRTs)

A good example of the disconnect between the regulatory systems of the U.S. and the EU has been the EU's struggle to approve the use of generally accepted and internationally recognized pathogen reduction treatments (PRTs) in red meat and poultry packing and processing plants. The EU currently bans the use of all PRTs for beef, pork and poultry products. Water and steam are the only substances allowed for antimicrobial treatment purposes. However, sound science supports the use of PRTs to reduce bacterial contamination and promote consumer safety. Many PRTs have been in use internationally for quite some time. The EU's reluctance to adopt PRTs is an unjustified barrier to transatlantic trade.

A primary example of this issue at play as been the length of time needed to approve the use of lactic acid as a PRT for beef. Lactic acid is an organic, naturally-occurring, and widely accepted PRT with a long history of international use. However, the approval process in the EU has been unnecessarily slow due to procedural hang-ups and the inability of EU member states to propose standards that would be commercially viable for U.S. beef packers. Recent revisions to the proposed text of the regulation are now considered acceptable to the U.S. industry, but reaching a consensus for adoption among Chief Veterinary Officers of the EU member states has been elusive. A lactic acid PRT is expected to be adopted sometime in 2013, but the entire process has demonstrated the EU regulatory system's inflexibility in dealing with new, safe technology when applying the precautionary principle, even in the face of sound scientific support.

[2] Regulation (EC) 178/2002, art. 7.

Cumbersome Plant Registration and Inspection Procedures

Though the process has recently simplified, costly requirements still remain in place that deter most U.S. meat and poultry packers from seeking plant approval to export meat to the EU. These impediments include a requirement that meat destined for the EU not be comingled with other meat products, and scientifically unjustifiable heart incision requirements. Should the U.S. and EU enter into FTA negotiations, the EU must accept a systems-based approach for plant inspection and approval of U.S. meat and poultry plants, as other U.S. FTA partners have done.

Ban on Beta-Agonists

The EU also maintains an unjustified ban on meat produced with beta-agonist technology, such as Ractopamine Hydrochloride (Ractopamine), a feed ingredient that significantly improves efficiency in meat production. Ractopamine was approved for use in U.S. production after an extensive review by the U.S. Food and Drug Administration (FDA). It is approved for use in 26 countries around the world. Furthermore, the Codex Alimentarius established a recommended maximum residue level for Ractopamine in July 2012 after years of research and discussion regarding the technology. It is widely used in U.S. beef and pork production. The EU's prohibition against meat imports containing residues of the drug is not scientifically justified and inconsistent with international standards. Any potential FTA negotiations must address this issue if the EU market is to be fully accessible to U.S. beef and pork exporters.

Thank you again for the opportunity to comment on U.S.-EU regulatory compatibility.

Respectfully submitted,

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