



May 10, 2013

Docket Number USTR-2013-0019-0001

Re: Transatlantic Trade and Investment Partnership

The Almond Board of California (ABC) is pleased to provide the requested information on tariff and non-tariff barriers in the EU.

Established in 1950, ABC administers a grower-enacted Federal Marketing Order under United States Department of Agriculture (USDA) supervision, and operates through a committee structure similar to a non-profit industry association. ABC represents approximately 6,400 almond growers and 100 almond handlers (processors), most of whom operate small to medium size family farms and businesses, producing almonds throughout California's Central Valley. ABC's mission is to create a rewarding environment for the production, processing and marketing of California Almonds; funding is used to support research, promotion and quality/technical services. California is responsible for approximately 80% of the world's almond production and 100% of the U.S. supply. Annually, 70% of California production is exported to 90 countries worldwide.

The 27 Member States of the EU represent approximately one third of California's almond exports. The combined value of almond exports to the EU is listed in the table below¹:

Calendar Year	Shelled Almonds (HS 080212) Tariff: 3.5% (In Quota: 2%)	Inshell Almonds (HS 080211) Tariff: 5.6% (In Quota: 2%)	Prepared or Preserved Almonds (HS 200819) Tariff: 9-11.2%	Total Value
2012	\$1,007,101,917	\$22,238,397	\$18,901,408	\$1,048,241,722
2011	\$933,133,669	\$19,344,552	\$8,661,660	\$961,139,881
2010	\$789,014,840	\$31,292,768	\$6,097,927	\$826,405,535
2009	\$645,731,074	\$47,428,469	\$7,711,263	\$700,870,806
2008	\$827,381,935	\$39,737,797	\$26,743,878	\$893,863,610
2007	\$873,039,103	\$25,762,991	\$41,483,240	\$940,285,334

Tariffs

The EU maintains a tariff rate quota (TRQ) for inshell and shelled almonds of 90,000 tons. The TRQ has not been expanded since 1987 when there were only 12 member states. The additional member states' populations account for over 19% of the EU's current population². The quota has been filled by May or June every year for the last 5 years. The U.S. Department

¹ USITC Dataweb

² http://europa.eu/about-eu/countries/index_en.htm

of Agriculture has estimated that the EU 27 represents about 8% of the global production of almonds³.

The table below depicts U.S. almond exports to the EU on a monthly basis⁴. The shading indicates the point at which the quota has been filled for that calendar year based on U.S. shipments alone. U.S. Almonds account for approximately 95% of the EU's annual almond imports.

U.S. Monthly Shelled (HS 080212) and Inshell (HS 080211) Almond Exports to the EU (Tons)						
	2007	2008	2009	2010	2011	2012
Jan	12,761	14,678	11,932	13,368	14,917	15,782
Feb	13,739	14,446	15,832	19,737	15,069	19,990
Mar	8,812	14,690	14,245	17,167	16,765	19,694
Apr	11,871	15,454	13,067	13,355	18,124	17,343
May	11,923	15,662	14,595	11,628	20,880	18,275
Jun	12,750	14,772	19,237	11,632	20,300	17,248
Jul	17,846	18,883	20,675	14,733	17,407	15,216
Aug	12,654	18,371	22,051	15,936	15,858	17,245
Sep	14,784	15,974	19,781	15,393	11,999	13,338
Oct	34,675	23,917	21,165	22,568	25,277	22,402
Nov	23,659	20,956	18,395	20,168	20,908	14,191
Dec	19,914	19,421	19,183	20,934	19,759	18,842
Total	195,387	207,226	210,158	196,619	217,262	209,567

Sanitary and Phytosanitary Measures

Of the 161 compounds registered for use on almonds in the U.S., 43 compounds have a more restrictive MRL in the EU and 30 compounds have no established MRL. Many established MRLs are set at the limit of detection – which given advancements in detection methods, in some cases means “no residue.” Those 73 compounds represent 45% of the chemical tools available to almond growers for protecting their trees and almonds stored after harvest.

With regard to the 30 missing MRLs, it is unclear at what point in the process that agricultural or chemical industries can provide technical data and usage information which is vital to the MRL-setting process. The publication of reasoned opinions from EFSA marks the first point at which an EU proposed MRL is made publicly available. ABC is not aware of any formal opportunity to comment at this point in the process. The EFSA reasoned opinion is then sent to the EC's Standing Committee for review and decision. After the MRL has been reviewed and adopted by the Standing Committee, the EU notifies the MRL to the WTO. This is the first known

³ USDA/FAS Tree Nuts: World Market and Trade Report, October 2012

⁴ USITC Dataweb

opportunity the EU's trading partners have for comment, after the MRL has been established in the EU and data will no longer be considered.

When a pesticide is removed from use in the EU market, the EC will typically revoke the existing MRLs associated with the pesticide due to a lack of use in the EU. Given the lack of domestic use, EFSA may not have data with which to support existing MRL(s) leading to the EC revoking the MRL(s). The result is that even if the almond industry has access to residue data and can provide it to the EC/EFSA, there is no formal mechanism for doing so.

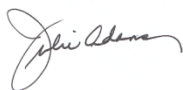
MRL revocations are notified to the WTO only after the opportunity to include data in the MRL evaluation has closed. As the European and U.S. regulatory systems have different requirements for pesticide registration and renewal, the EC issues MRL revocations for pesticides that are still registered for use in the U.S. Where there is no specified MRL, the EU applies a default MRL of 0.01 ppm – which is generally more restrictive than the established U.S. MRL.

Procedures for Refused Consignments

ABC has noted that the approach to addressing consignments refused entry is not consistent across all member states. Experiences even vary among ports in a single member state. The documentary and procedural requirements – specifically notification and in some cases, acknowledgement by third country competent authorities – for releasing consignments refused entry can be difficult to adhere to for many exporters. It is unclear if the EU's requirements for engagement with third country competent authorities is a practice widely applied to other commodities refused entry.

The Almond Board of California thanks USTR for the opportunity to provide information on tariff and non-tariff barriers relevant to almonds. We look forward to providing additional input on this in the coming months. Please do not hesitate to contact me with any questions regarding this submission.

Sincerely,



Julie Adams

Vice President