

AMERICAN ASSOCIATION OF EXPORTERS AND IMPORTERS

The Voice of the International Trade Community Since 1921

May 10, 2013

Via: www.regulations.gov

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

ATTN: Yvonne Jamison, Trade Policy Staff Committee

Re: Comments and Request to Testify Concerning Proposed Transatlantic Trade and Investment Agreement

Dear Ms. Jamison:

On behalf of the American Association of Exporters and Importers (AAEI), we respectfully submit these comments and request the opportunity to testify at the upcoming hearing scheduled for May 29 and 30, 2013 relating to the Transatlantic Trade and Investment Partnership (T-TIP), announced in the Federal Register on April 1, 2013 (78 Fed. Reg. 19566).

AAEI has been a national voice for the international trade community in the United States since 1921. AAEI represents the entire spectrum of the international trade community across all industry sectors. Our members include manufacturers, importers, exporters, wholesalers, retailers and service providers to the industry, which is comprised of brokers, freight forwarders, trade advisors, insurers, security providers, transportation interests and ports. Many of these enterprises are small businesses seeking to export to foreign markets. AAEI promotes fair and open trade policy. We advocate for companies engaged in international trade, supply chain security, export controls, non-tariff barriers, import safety and customs and border protection issues. AAEI is the premier trade organization representing those immediately engaged in and directly impacted by developments pertaining to international trade. We are recognized as the technical experts regarding the day-to-day facilitation of trade.

I. General Comments

At the outset, we note that the Final Report of the High Level Working Group on Jobs and Growth issued on February 11, 2013 highlighted the importance of regulatory and non-tariff barrier issues noting that:

significant portion of the benefit of a potential transatlantic agreement turns on the ability of the United States and EU to pursue new and innovative approaches to reduce the adverse impact of trade and investment of non-tariff barriers, with the aim of moving progressively toward a more integrated transatlantic marketplace.

As noted above, AAEI members are companies which are heavily engaged in international trade, and our corporate member representatives are the trade compliance professionals responsible for implementing all the trade laws and regulations of the United States and countries where the companies do business. Therefore, AAEI members have the technical knowledge and experience to assist U.S. policy makers and T-TIP negotiators.

AAEI requests to testify at the public hearing to underscore the importance to the negotiators to include certain provisions in the agreement to make the rules more clear and compliance easier for companies seeking to benefit from a U.S.-EU free trade agreement. AAEI's primary objective is to impress upon the negotiators that all U.S. exporters must be able to take advantage of export opportunities under the free trade agreement. AAEI would testify on the following points listed in our specific comments below.

II. Specific Comments

A. Non-Tariff Barriers

Market access remains the key to successful FTAs. We understand that because duty rates on products traded between the U.S. and the EU are fairly low, dealing with regulatory and non-tariff barriers is the primary hurdle for concluding this agreement. We recommend that instead of trying to find "regulatory accommodation," the negotiators embrace the "trusted trader" concept whereby companies who are in compliance with each countries' regulatory regime be considered "low risk" obviating the need for duplicative regulatory requirements and verification.

AAEI's goal is to reduce regulatory barriers to trade between the EU and U.S. by proposing a holistic risk-management system within the T-TIP that will provide all Member States with a high degree of confidence in each others' regulatory system without requiring any Member State to change its laws.

AAEI proposes a holistic risk management system with two components: 1) a horizontal risk management system designed to facilitate trade among companies designated as low risk "trusted traders" by Member States; and 2) a sectoral risk management system based on the unique security, compliance, and safety risks posed by each industry.

1. Holistic Risk Management

What does "holistic risk management" mean? Holistic risk management refers to the overall risk profile of company based on its industry (products), sourcing, supply chain, complexity of operations, management, and most importantly, its internal controls to manage risks for security, compliance, and safety.

2. Horizontal Risk Management System

What is a horizontal risk management system? A horizontal risk management system is a regulatory regime applicable to all industries to manage companies which import and export goods based on their internal controls to manage supply chain security and trade compliance risks rather than based on the company's individual import and export shipments as separate and discrete transactions. The primary example of a horizontal risk management system is the Authorized Economic Operator (AEO) program developed under the World Customs Organization's SAFE Framework. Companies who volunteer to participate in an AEO program conduct self-assessments and undertake measures to ensure that their supply chain partners adhere to specific supply chain security practices in several risk areas. AEOs often participate in programs designed to ensure a high rate of compliance with customs laws. AEOs are subject to validation and verification procedures before they are designated as "low risk" traders. However, once they are designated as a "low risk" trader, other Member State

customs services should accept such designation and not subject AEO companies to regular or additional customs procedures.

3. Sectoral Risk Management System

What is a sectoral risk management system? Industry sectors vary tremendously by the risks that they pose to the public health and safety. As a result, government and industry have devised a variety of ways to mitigate the risks posed to public health and safety from specific industries and products. These different methods range from strict liability regulation (e.g., in environmental regulation for chemicals) to extensive pre-market testing and regulatory approval (in the case of pharmaceuticals and medical devices) for products that pose the greatest risk to health and safety to less restrictive regimes such as government recognition of industry standards (such as Underwriters Laboratory for electrical equipment or ASTM standards for other products) which pose less risk to public health or safety.

In order to bridge the regulatory differences between the EU and U.S. regulatory regimes for each major industry, BCTT proposed to work with regulators in both the EU and the U.S. to determine which risk management system is appropriate for the risk posed by that industry. For example, in those industries where the EU and the U.S. have a highly structured regulatory regime, a Mutual Recognition Agreement between the EU and U.S. acknowledging the effectiveness of each others' regime to mitigate risks posed by the industry (or product) may be appropriate. In other industries, it may be sufficient for EU and U.S. authorities to accept the companies' compliance with the industry standards set by a non-governmental organization recognized by a competent authority in the country of manufacture. In some cases, it may be most effective to adopt an international standard applicable to all companies in a particular industry.

Therefore, the sectoral risk management system would be layered on top of the horizontal risk management system to provide regulators with the confidence that risks are appropriately assessed and managed so that the majority of legitimate trade among trusted traders can flow between the EU and U.S. with the least amount of regulatory burdens to enhance global competitiveness.

B. Appropriate Rules of Origin

AAEI recommends that the negotiators adopt similar rules of origin language in addition to tariff-specific rules as has been included in recent Free Trade Agreements.

We would like the T-TIP to reflect similar certification requirements language as has been included in recent U.S. free trade agreements, such as U.S.-Korean Free Trade Agreement (KORUS), while clarifying blanket-period date options.

C. Opportunities for Greater Transatlantic Regulatory Compatibility

D. Opportunities to Reduce Unnecessary Costs and Administrative Delays

AAEI members remain concerned about harmonization among U.S. free trade agreements. We understand that each agreement must meet the needs of the signatory countries, and that subsequent agreements build on the success (and failures) of previous agreements.

E. Opportunities to Enhance Customs Cooperation

Too often, FTAs promise to facilitate trade among signatory countries, but implementation is slow because it requires rulemaking by member state customs administrations. FTAs become expensive for companies to take advantage of the benefits because of the compliance requirements imposed by customs administrations. Therefore, AAEI advocates the negotiators to include trade facilitation benefits directly into the agreement so that companies can benefit from trading among the FTA countries without waiting for governments to act.

In 2005, the World Customs Organization (WCO) adopted the SAFE Framework of Standards to Secure and Facilitate Global Trade. Since the WCO comprises 177 member country customs administrations, the SAFE Framework has become the standard foundation upon which countries have developed supply chain security and customs compliance programs, which are known as "Authorized Economic Operator" programs. Customs administrations develop their risk standards for security and compliance, and companies apply to customs administrations to demonstrate that their business processes and operations meet such standards. Upon satisfactory review of the company's processes and operations, a customs administration will designate that company as an "Authorized Economic Operator" or a "trusted trader" which presents low risk to the security of the supply chain or the customs revenue of the country.

An important trade facilitation benefit that AAEI believes the United States should promote during these negotiations is a provision in the agreement which ensures that companies who invest corporate resources in supply chain security programs are immediately granted "mutual recognition" (i.e., are recognized and receive the benefits of "trusted trader" status) by other signatories.

Such a provision would be straightforward and simple to include in the agreement. Essentially, the provision to be included in the agreement would state the following:

Any signatory which has an Authorized Economic Operator program based on the World Customs Organization's SAFE Framework of Standards shall be accorded mutual recognition by the other signatories. A company which has been granted "trusted trader" status as low risk under any signatory country's AEO program shall be accorded "trusted trader" status in every other signatory country and receive the same benefits as if it had received such status from that government.

We believe that inclusion of this provision in the agreement would generate enormous support from the business community because it provides immediate tangible benefits without any further implementation or rulemaking by customs administrations. Moreover, such benefits do not cost any money to the signatory countries since awarding "trusted trader" status to companies simply rewards those companies for the investment of their own resources, not government resources.

The United States has been a leader in developing supply chain security through its Authorized Economic Operator programs, the Customs-Trade Partnership Against Terrorism (C-TPAT) and the Importer Self-Assessment (ISA). C-TPAT has over 10,000 members, but the United States has signed only a few Mutual Recognition Agreements (MRAs). While the U.S. and the EU have signed an MRA, implementation has been slow. We believe that the U.S.-EU FTA presents a great opportunity to increase the amount of trade covered by MRAs by negotiating a

self-executing MRA directly into the text of the agreement without customs administration implementation.

We appreciate the opportunity to make a presentation on this important free trade agreement.

Sincerely,



Marianne Rowden
President & CEO

cc: Yuko Hanada, Co-Chair, AAEI's Trade Policy Committee
Jennifer McCadney, Co-Chair, AAEI's Trade Policy Committee
Lisa Schulte, Co-Chair, AAEI's Trade Policy Committee