



**Ocean Spray International, Inc.**

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May 09, 2013

David Weiner  
Deputy Assistant USTR for Europe  
Office of the US Trade Representative  
Executive Office of the President  
600 17th Street NW  
Washington, DC 20508

Submission: <http://www.regulations.gov> USTR-2013-0019

Dear Mr. Weiner:

This letter is being submitted pursuant to the request for comments on negotiating objectives regarding the proposed Transatlantic Trade and Investment Partnership (“TTIP”) agreement between the United States and the European Union in the April 1, 2013 *Federal Register*.

Ocean Spray Cranberries, Inc. (“Ocean Spray”) is an agricultural cooperative whose members are comprised of more than 700 cranberry and grapefruit growers. Formed in 1930, Ocean Spray’s primary focus is to develop markets for our grower-owner’s cranberry and grapefruit products. Last year, Ocean Spray used 5.233 million barrels of cranberries in our products, of which nearly 20%, or 1 million barrels, were exported from the US. We welcome every opportunity to expand our exports through partnerships and trade agreements, such as the proposed TTIP. Our primary objectives for the TTIP are outlined below.

**TARIFF ELIMINATION**

The EU is the single largest export market for US cranberry growers whose main exports include cranberry concentrate and fresh, frozen and dried cranberries. US cranberry products face EU tariff rates as high as 20.8%, despite the fact that cranberries are not commercially grown in sufficient supply in the EU and therefore must be imported to meet demand requirements. On behalf of our cranberry producers, Ocean Spray is requesting that cranberry and grapefruit products, as described on the attached list, receive *immediate duty free status* when imported into the EU.

The economic benefits to an immediate reduction in tariffs for cranberry products will be realized by both US cranberry growers as well European food manufacturer, retailers and consumers. US cranberry products are widely used by food and drink manufacturers across the 27 Member States of the EU to produce various value-added products such as cranberry juice drinks, cranberry sauces and a multitude of foods using dried cranberries. Many of these finished products are sold at retail under the Ocean Spray brand name thus further benefiting our US grower-owners in creating a globally recognized brand.



The US cranberry industry is currently experiencing an oversupply situation with a record harvest of 11.3 million barrels in 2012 (up from 8.69 million in 2010 and 9.97 million in 2011). These volumes are expected to grow to 11.6 million barrels by 2017. Expansion into new and developing global markets is a necessity for the US cranberry industry. Opportunities such as the TTIP will help to ensure the viability of the many multi-generational family farms in Massachusetts, New Jersey, Wisconsin, Washington and Oregon as well as the rural communities these farms support.

### **LONGTERM GLOBAL COMPETITIVENESS**

While the majority of cranberries are grown in the US, both Canada and Chile have substantial cranberry growing regions as well. Chilean cranberries already have an advantage to US cranberries when trading with the EU as a result of the longstanding Chile –EU Free Trade Agreement. Canadian cranberries will soon have an advantage to US cranberries once the Canada-EU Trade Agreement is in place. For these reasons, the TTIP is an important agreement for US cranberry growers to remain competitive and to protect hard earned market share for US cranberries.

The importance of duty free treatment of US cranberries to European food and drink manufacturers has been proven with the recent passage of duty suspensions in the EU on cranberry concentrate as well as fresh, frozen and dried cranberries. While these duty suspensions have benefitted European importers, and have helped to increase US exports to the EU, the duty suspensions are temporary measures and restricted to products imported with certain end uses. These temporary and restrictive measures do not provide industries on either side of the Atlantic with the ability to plan for long term investments due to fears the suspensions will be modified or ended prematurely. Permanent duty free access under the TTIP is a means to ensure long term investment opportunities between US cranberry growers and EU food manufacturers.

### **PESTICIDE MRLs**

EU pesticide maximum residue levels (MRLs) pose a significant challenge for cranberry exports to the community. Many EU cranberry MRLs are set at levels significantly more restrictive than US levels creating major technical barriers to trade for US cranberry growers and handlers.

While foreign entities can seek import tolerances to adjust EU MRLs for products not grown in the EU, this system does not function well in practice. This is because EU data requirements differ from US EPA requirements which results in additional studies being required for an acceptable application to the European Food Safety Authority (EFSA). The cranberry industry is currently undertaking additional research, at a cost of \$300,000, to meet the EU requirements for just two critical compounds that are already approved in the US. Such expenses are not sustainable for US commodities.

The EU has implemented a policy where they will adopt recently established Codex MRLs when the EU has not previously objected to the MRL through the Codex process. Although such a system is a welcome development and a way to obtain MRLs while avoiding the burdensome import tolerance system, there are numerous MRL adjustments needed in the EU, and most will not be covered through this Codex option.

Harmonization of MRLs between the US and EU would greatly assist the US cranberry industry. Absent harmonization, there must be a streamlined, affordable and practical process to resolve differences in MRLs.



## **RULES OF ORIGIN**

Finally, we would like to bring to the Administration's attention Ocean Spray's concerns regarding rules of origin. Ocean Spray suggests that the agreement provide for "substantial transformation" through tariff shift as the basis for determining origin for all cranberry products. We recommend using the NAFTA rules of origin, which are very familiar to US cranberry exporters, as a template for the TTIP.

We also support modernized rules of origin that provide for flexible and inclusive regional cumulation amongst both TTIP and other FTA partner countries such as Canada and Chile. This would give Ocean Spray and other companies who use some foreign sourced ingredients the flexibility required with a global sourcing strategy. Additionally, a TTIP agreement without overly strict direct shipment provisions will provide logistical and operational benefits to companies such as Ocean Spray who practice sustainability with regional manufacturing and distribution hubs.

Thank you in advance for taking the time to read our comments. We appreciate your support and efforts to remove the high tariffs on all cranberry and grapefruit products when imported into the European Union. Please do not hesitate to contact me directly if you require further information.

Sincerely,

A handwritten signature in blue ink, appearing to read "Stewart M. Gallagher".

Stewart M. Gallagher  
Senior Vice President & COO  
Global Partner Operations



## 2013 US and EU Tariff Codes / Duty Rates

Product Name	HTSUS	EU HTS	Tariff Description	EU Duty Rate
Fresh cranberries	0810.40.0030	0810.40.50	Other fruit, fresh; Cranberries, bilberries and other fruit of the genus <i>Vaccinium</i> ; Fruit of the species <i>Vaccinium macrocarpon</i> and <i>Vaccinium corymbosum</i>	3.2%
Frozen cranberries/cranberry puree	0811.90.3500	0811.90.95	Fruit and nuts, uncooked or cooked by steaming or boiling in water, frozen; other, other, other	14.4%
Sweetened Dried Cranberries	2008.93.0000 (formerly 2008.99.2010)	2008.93.91 (formerly 2008.99.49)	Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included; Cranberries ( <i>Vaccinium macrocarpon</i> , <i>Vaccinium oxycoccos</i> , <i>Vaccinium vitis-idaea</i> ); Containing added sugar, in immediate packings of a net content exceeding 1 kg.	17.6%
Sweetened Dried Cranberries	2008.93.0000 (formerly 2008.99.2010)	2008.93.93 (formerly 2008.99.67)	Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included; Cranberries ( <i>Vaccinium macrocarpon</i> , <i>Vaccinium oxycoccos</i> , <i>Vaccinium vitis-idaea</i> ); Containing added sugar, in immediate packings of a net content not exceeding 1 kg	20.8%
Grapefruit concentrate	2009.29.0020	2009.29.91 and 2009.29.99	Grapefruit (including pomelo) juice; Other; Of a Brix value exceeding 20 but not exceeding 67;	12 + 20.6 €/100 kg/net
Cranberry concentrate	2009.81.0000 (formerly 2009.80.6021)	2009.81, most importantly 2009.81.31 (formerly 2009.80.79)	Juice of any other single fruit or vegetable; Cranberry ( <i>Vaccinium macrocarpon</i> , <i>Vaccinium oxycoccos</i> , <i>Vaccinium vitis-idaea</i> ) juice; Of a Brix value not exceeding 67	16.80%
Cranberry Powder	2106.90.9998	2106.90.92 and 2106.90.98	Food preparations not elsewhere specified or included; other; other	9% plus EU 10/100kgs or 9% + EA (2) (3)