

**Testimony of James Grueff, Decision Leaders  
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**Agriculture in the Transatlantic Trade and Investment Partnership**

The Transatlantic Trade and Investment Partnership (TTIP) presents tremendous opportunities for U.S. agriculture and substantial challenges for those who will shape and carry out the negotiations on the agricultural portion of the agreement. A serious attempt through TTIP to address all of the significant EU-related issues and access opportunities for U.S. agriculture would probably make this process the most challenging and complicated agricultural negotiation ever attempted.

A comparison with other recent agricultural trade negotiations points out the magnitude of the challenges and potential benefits that TTIP brings for agriculture. The dimensions and scope of the TTIP/Agriculture will far exceed what was done, for example, in the recently implemented Free Trade Agreements with Korea, Colombia and Panama. TTIP/Agriculture is almost certain to be more difficult and complex than even the ambitious Trans-Pacific Partnership (TPP) now being negotiated.

**The Evolution of Trade Conflict**

The United States and the European Union have a long, unique and very difficult history in the area of agricultural trade policy. Much of this can be traced to fundamental differences in their approaches to domestic policy. The EU, for example, over the years has used subsidy and support systems that require substantial access barriers for a wide range of agricultural products. The U.S., on the other hand, has provided a system of production subsidies that requires relatively few sectors to be protected with significant access barriers.

These diverging approaches to domestic policy have been reflected in very different approaches to negotiating FTAs. The U.S. has pursued a strategy of including virtually all agricultural products in its FTAs, with few notable exceptions. The EU, on the other hand, has been much more selective in the inclusion of agricultural products in its bilateral trade agreements. For example, it has customarily excluded beef, dairy products and certain fruits and vegetables from its FTAs.

But beyond these domestic policy and trade strategy differences, much of the difficulty in the U.S.-EU agricultural relationship derives from fundamental differences in their approaches to food and food production. To a certain extent these differences are cultural and intangible, but they have very real consequences. The manifestations of these differences include the trade effects of the EU's approach to regulating the use of genetic engineering (biotechnology) in agriculture. It could be argued, for example, that the EU policy in this area has resulted in lower U.S. soybean exports representing billions of dollars of lost trade.

These contrasting U.S. and EU perspectives have evolved into very important differences in the area of risk management for food and agriculture. For issues in this area the key international agreement is the WTO's Agreement on the Application of Sanitary and Phytosanitary Measures (usually known as the SPS Agreement). The U.S. asserts that it applies a science-based approach to risk management and health-related import restrictions that is completely consistent with the SPS Agreement. The EU believes that the SPS Agreement provides the latitude to take a more risk-averse approach to risk management. This is embodied in the EU's "precautionary principle," which essentially states that health-related preventative measures can be applied, including import restrictions, when it is scientifically uncertain but possible that a risk exists.

Although dealing with the agricultural tariff and quota issues will be challenging, it would be the inclusion of the most significant SPS issues that would separate TTIP from any other trade negotiation ever attempted on agriculture. First, as described above, the two sides have fundamentally different approaches to risk management. But beyond that is the fact that the U.S. has brought to the WTO and won three cases in the SPS area, none of which has been resolved at this point. The EU measures successfully challenged by the U.S. include the ban on beef growth promoters, the prohibition on certain antimicrobial washes for poultry meat, and the EU procedures for approving the importation of biotech farm products.

The U.S. has not been without blame in the area of SPS barriers. Without any apparent scientific justification for the long delay, the U.S. Department of Agriculture has been extremely slow to revise its rules for preventing the risk of importing Bovine Spongiform Encephalopathy (BSE). Once in place these rules will allow long-denied access for EU beef into the U.S. market.

### Structuring the Negotiations on Agriculture

Far more than for any FTA the U.S. has negotiated previously (including the TPP), decisions regarding the structure and scope of the TTIP negotiations on agriculture will be factors crucial to their success (or failure). The most difficult decisions will likely involve the extent of the inclusion of the major SPS issues in the negotiations, and there is an apparent dilemma. For example, U.S. agriculture has said that SPS and other non-tariff measures are the most important EU barriers to U.S. food and agricultural exports. But addressing these barriers in any substantial manner will require considerable time. On the other hand, the EU Trade Commissioner has said recently that his objective is to complete the TTIP negotiations by the end of 2014, which would be a very quick outcome.

The U.S. approach to negotiating agricultural tariffs and quantitative restrictions will probably not need to be complicated, although this aspect of the negotiations will unquestionably be difficult. The U.S. can remain consistent with its usual FTA approach of seeking inclusion of all products for tariff reduction and elimination, and the expansion and gradual elimination of all tariff-rate quotas. It can then attempt to minimize the EU's use of the "sensitive products" concept, i.e., the idea that certain products should be completely or partially exempted from tariff and quota elimination.

As indicated above, decisions regarding the negotiation of SPS issues will be much more difficult. There are various options available, but each has its own challenges. The administration is being urged by U.S. agriculture to include all significant SPS issues as part of a single comprehensive TTIP agreement. This “all in” option could be very positive for gaining the strong support of U.S. agriculture. However, it would also run the very real risk that some of the so far intractable SPS issues might become the greatest obstacles to completing the TTIP within a time frame acceptable to U.S. and EU leaders.

Another option for the administration could be to include certain SPS issues that have a reasonable chance of resolution within the envisioned time line for the overall negotiations, while leaving out some others. Candidates for inclusion might include finalizing all of the terms for the U.S.-EU beef agreement, which would then serve as the long-term compensation for the WTO beef hormones case. Another achievable outcome would seem to be agreement on the use of antimicrobial rinses for meat (known as pathogen reduction treatments), since the science on the safety of these treatments appears to be clear on both sides of the ocean.

Furthermore, although achieving agreement on all of the issues of agricultural biotechnology is not realistic, a very focused attempt to achieve regulatory convergence on the approval procedures for new biotech products might have a chance to succeed. Cloning is another issue that might work in a partial SPS package to be completed as part of the overall TTIP agreement. The science for some of the major food safety issues involved with cloning seems to be clear, and the current status of the cloning debate in Europe provides some reason to believe that the U.S. and EU may be able to converge substantially on this issue.

This “partial SPS package” approach could leave for later resolution issues not viewed as manageable within the TTIP negotiating time line. For example, the final and complete resolution of the beef hormones issue probably would not be attempted, since that would require either the EU or the U.S. to change decades-long policies having considerable political sensitivity. And more difficult issues in the biotech area, such as the EU policies on labeling and traceability, might be held back for later discussion.

In addition to the “all in” or “partial package” approaches to dealing with the SPS issues of TTIP, the administration could take the approach of “none in.” Putting all of the SPS issues on a “slower track” and leaving them out of the TTIP single undertaking could arguably be the best strategy for facilitating an expeditious conclusion of the overall TTIP negotiations. However, this would inevitably alienate the U.S. agricultural and food sectors and could set a very unfavorable political tone at the outset of the TTIP process. But beyond that calculation, the opportunity to use the TTIP negotiations to bring unprecedented high-level attention to some of the most difficult issues in the U.S.-EU agricultural relationship should not be easily passed up.

Likewise the importance of effectively structuring the personnel resources on the U.S. side of the TTIP negotiations should not be undervalued. For the SPS issues in particular, it would seem well-advised to have a U.S. team with permanent and active

members from all of the key regulatory agencies, and explicit commitments to the TTIP work from the heads of these agencies.

This U.S. interagency team could eventually be one of the first steps in the formation of permanent U.S.-EU structures and processes for dealing with SPS issues, hopefully along with their EU counterparts. These structures could then be used to pursue post-negotiation objectives such as convergence on the scientific approaches to risk assessment and the harmonization of domestic procedures for SPS decision making. Efforts could be made to cooperate (rather than operate as adversaries) at the key international organizations for SPS standards setting.

The gradual development of bilateral cooperation as described above could be the best approach to achieving two of the TTIP objectives frequently mentioned by U.S. agriculture, i.e., “SPS-plus” provisions and “SPS enforceability.” (The “SPS plus” concept generally means building on and going beyond the rights and obligations undertaken by all WTO members through the WTO’s SPS Agreement.) U.S. agriculture should be realistic regarding how quickly these objectives can be achieved. In the TTIP the U.S. will have a negotiating partner whose SPS policies are probably even more politically sensitive than is the case in the U.S. More immediately relevant is the very recent experience with these issues in the TPP, where reportedly the U.S. interagency process was not able to find a consensus on pursuing the primary SPS objectives proposed by U.S. agriculture.

Beyond the tariff/quota and SPS issues, U.S. agriculture will want to be very wary about what some might call “21<sup>st</sup> century issues.” The most important of these as the TTIP negotiations begin is the EU’s Renewal Energy Directive, according to which the EU’s own farm-level sustainability requirements are imposed on any country wishing to export the feedstocks for biofuel production in Europe. In addition to being a significant access barrier for U.S. exports, this measure is a troubling precedent for trade policy and as such has an importance that transcends the TTIP negotiations. It is anticipated that the EU will bring other issues that raise similar concerns from a trade policy perspective, such as animal welfare requirements.

An issue that does not quite fit into any of the categories above but which must be addressed in the TTIP is that of geographical indications (GIs). These are food or beverage designations that derive originally from production in a specific geographical location (such as “Parma” ham). The essential question is whether these designations should be legally protected for the original producers or should be available for generic use. This issue will be one of the EU’s primary offensive interests in agriculture, but GIs are also viewed by the U.S. dairy industry and others in the U.S. as a significant barrier to accessing the EU market.

The TTIP negotiations on agriculture offer the potential for tremendous benefits for the U.S. farm and food sectors. They will probably also bring unprecedented challenges for U.S. trade officials and stakeholders. In view of the interest in launching the negotiations within the next several months, already now there should be an urgency among U.S. leaders regarding decisions on the scope and structure of the agriculture negotiations, especially for the SPS area.