

Transatlantic Trade and Investment Partnership: Achieving the Potential

Hearing of The United States
Senate Committee on Finance

William “Bill” P. Roenigk
Senior Vice President
National Chicken Council

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215 Dirksen Senate Office Building
Washington, DC

NATIONAL
CHICKEN
COUNCIL

1152 FIFTEENTH STREET NW, SUITE 430
WASHINGTON, DC 20005
PHONE: 202-296-2622
FAX: 202-293-4005
NATIONALCHICKENCOUNCIL.ORG

Good morning, Chairman Baucus, Ranking Member Hatch, and Members of the Committee. Thank you, Chairman Baucus, for the opportunity to participate in this critically important and most timely hearing on the Trans-Atlantic Trade and Investment Partnership (T-TIP).

I am William “Bill” P. Roenigk, Senior Vice President of the National Chicken Council. The Council represents the vertically-integrated companies that this year will produce and process over 95 percent of the more than 9 billion young meat chickens (broilers) in the United States. Member companies are proud to market on a very consistent basis the most wholesome, highest quality, affordable chicken in the world. Despite very tough competition from certain other countries, about 20 percent of the U.S chicken supply this year will be exported to 100-plus countries. Permit me to note that none of the 28 member nations of the European Union (EU) can be counted in the 100-plus countries.

Although I speak today about the EU prohibiting U.S. poultry from its market, I can assure the Committee that virtually every commodity and product exported by U.S. agriculture has their particular issues and challenges when they market, or try to market, to the EU. Difficulties range from tariffs, import quotas, sanitary/phytosanitary provisions, and other technical barriers to trade.

EU Has Prohibited U.S. Poultry Since 1997

Prior to 1997, the U.S. poultry industry was able to participate in the European market and had great, but, perhaps, naive hopes that the trade liberalization promised by the WTO Uruguay Round negotiations would further improve market access. Annual U.S. poultry exports in 1996 to the EU were \$55 million, making the EU’s 15 member countries at that time the ninth largest export market for U.S. poultry. If the current 28 countries were in the EU in 1996, the export market for these countries would have been \$210 million, making that combination of countries the third largest poultry export market for the United States, behind Russia and Hong Kong.

Today, if U.S. poultry could be exported to the EU, sales would be in excess of \$600 million on an annual basis, making it one of the top export markets. This revenue would generate significant economic activity in many parts of rural America; stimulate employment in more than 30 important poultry states, directly and indirectly; and provide for a more stable flow of income to hundreds of family farms who grow chickens.

From before World War I when canned U.S. poultry meat was exported to essentially all the countries in Europe, trade continued uninterrupted for the most part until 1997. In 1997, the EU erected a number of non-scientific and unjustifiable non-tariff barriers that have prohibited U.S. poultry from the European market for the past 17 years.

The United States and the European Union at the time were engaged in the so-called “Equivalency Negotiations” attempting to implement many of the provisions of the WTO Agreement on Sanitary and Phytosanitary Measures with respect to trade in meat and poultry products. The most difficult issue to resolve – indeed, the last issue to be resolved – in those negotiations was the issue to the terms and conditions for access for U.S. poultry. Despite United States insistence that the USDA system guarantees a safe, wholesome product and the

EU's failure to provide any evidence showing that the use of hyper-chlorinated water in poultry processing had any negative health effects or harm to the environment, the EU, nonetheless, very arbitrarily imposed its ban on U.S. poultry.

At the end of the negotiations, it was agreed that the United States would propose four alternative pathogen reduction treatments (PRTs) (that is, in lieu of hyper-chlorinated water) for use in poultry processing. Further, the European Union would present these proposals to its Scientific Advisory Committee for an opinion as to safety and efficacy. The EU promised to complete this review within a year's time. After many years this promise was eventually kept. Although the Committee determined the four PRTs posed no measurably food safety issue, the protectionist sentiment within the EU prevented the question of the alternative PRTs from coming before the European Food Safety Authority (EFSA) for more than ten years. The EU Scientific Advisory Committee's findings implied that the EU's precautionary principle had been met. When the question was finally submitted to EFSA, it took nearly two more years to study the question and render an opinion. Ultimately, EFSA did advise the EU that the use of each of the four proposed alternative rinses was, in fact, safe and efficacious. Further, it recommended that their uses be approved by the EU. When that advisory opinion was then presented to the Member States in support of an implementing proposal of the European Commission, the proposal was voted down 27-0. The EU Member States ignored the scientific facts and voted politically to continue to block imports.

Subsequently, the Office of the United States Trade Representative (USTR) announced that it was initiating consultations at the World Trade Organization with the European Union on this matter. When those consultations yielded no results, the U.S. government initiated dispute settlement process with the WTO. Both the United States and the European Union proposed panel members to hear the dispute, but were never able to agree on the composition of the panel. Under WTO rules, the United States was then entitled to request that the WTO Secretariat appoint panel members so that the dispute could be litigated. At that point, all progress on the case stopped without any explanation. The case has now lingered in the legal doldrums for five years without progress.

It should be noted, however, that despite the lack of progress via the WTO dispute settlement process, the Administration is working on the antimicrobial issue with the EU. Lactic acid for use on beef is now acceptable to the EU, according to an EU Commission Regulation published earlier this year. Following that favorable step, the Administration is now focusing on having the EU approve a PRT for poultry.

A recent application by USDA to DG SANCO, the EU's Directorate-General for Health and Consumer Affairs, was reportedly supportive of putting on the agenda the approval for the use of peroxyacetic acid as an anti-microbial treatment in the post-slaughter rinse water in U.S. poultry plants. DG SANCO, in turn, has forwarded the application to EFSA. Peroxyacetic acid is one of the four treatments previously approved by EFSA, but rejected by unanimously by a vote of the EU Commissioners. The others are chlorine dioxide, acidified sodium chlorite and trisodium phosphate.

Not using a pathogen reduction treatment is not an option for U.S. poultry plants operating under federal inspection. PRTs are used to reduce bacteria, enhance food-safety, and meet USDA's requirements for pathogen reduction which is an integral component of each processing plant's Hazard Analysis Critical Control Points (HACCP) program.

USDA's Food Safety and Inspection Service, Health and Human Service's Food and Drug Administration, and other government agencies deem the use of hyper-chlorinated water to be both safe and efficacious. About 45 billion pounds of U.S. poultry this year will be processed using hyper-chlorinated water or similar antimicrobials. U.S. poultry processed with the use of hyper-chlorinated water is consumed every day by millions of American citizens and by millions-more consumers in 100-plus countries where the United States exports its product. For more than four decades such treatments have been used in the United States.

U.S. Poultry Industry Strong Supporter of International Trade

The U.S. poultry industry has been and continues to be one of the strongest voices in U.S. agriculture for trade liberalization and international market opening. It has unquestioningly supported the efforts of the United States to achieve greater multilateral trade liberalization through the General Agreement on Trade and the World Trade Organization during the Tokyo and Uruguay Rounds, and supported further efforts to initiate the Doha Round talks. It supported U.S. efforts in the free trade agreement for the U.S./Canada, NAFTA, CAFTA, Morocco, Bahrain, Chile, Colombia, and Panama. Our industry is on record as supporting the Trans-Pacific Partnership negotiations, especially with the inclusion of Canada, Mexico, and Japan in those negotiations. In short, the U.S. poultry industry has been a constant and adamant supporter of trade liberalization efforts by the United States over the past four decades.

In the case of the T-TIP, however, the U.S. poultry industry is, very frankly, much less enthusiastic. We have serious concerns – even serious doubts – that any new trade agreement with the European Union will result in real and meaningful access for U.S. poultry exports to the European market. Our experience with the European Union's actions to block U.S. poultry imports – even in contradiction of the advice of its own scientists – tells us that Europe is unwilling to allow imports that would compete with European product, and that Europe will not live by the commitments that it makes in this respect. We are also concerned, based on lack of progress in the WTO case initiated several years ago, that the U.S. government will not insist on implementation of the terms of market access negotiated. We have been assured on a number of occasions by our trade negotiators that our industry's issues will not be traded-off for some other issue on the EU side. We trust our negotiators will secure the most favorable outcome possible, but at the risk of being redundant, we will want to be doubly-assured that the end product is worthy of our support.

Attached to my comments are two letters. One letter is dated May 4, 2013 addressed to then U.S. Trade Representative Ron Kirk. In this letter 64 agricultural organizations and agribusiness firms congratulated the Administration for its decision to launch the T-TIP negotiations. The letter also urged an ambitious and comprehensive commitment to achieving a successful final trade agreement. The other letter dated May 20, 2013 and was addressed to Michael Froman who at the time was headed-toward becoming the new U.S. Trade Representative. In that letter signed

by 47 agricultural organizations, Mr. Froman was urged to prepare to counter the EU's demonstrated "inability to lift unjustifiable measures because of domestic political pressures" in the EU. The letter also noted "precaution" in the EU has become a pretext for import protection. Importantly, the letter states that "if selected sectors or measures are excluded from the T-TIP, or placed into a 'future negotiation' category, the T-TIP will fall short of achieving the Administration's goal for it to be a high-class 21st century agreement, and it will likely fail to win the overall support of the food and agricultural sector that will be needed to ensure final passage of this agreement."

Trade Promotion Authority Should Be Approved Soon

If and when there is a final agreement for T-TIP or the Trans Pacific Partnership, Congress, of course, will be asked to consider the agreement. Such consideration to be most meaningful should be done under the Trade Promotion Authority. The National Chicken Council and essentially all other major agricultural organizations have urged Congress to act on renewing the Trade Promotion Authority. This Administration and future Administrations need this authority. Having Congress act before the next agreement is finalized will strengthen the hand of U.S. trade negotiators and demonstrate more strongly to the international trade community that the United States is most serious in continuing to be the world leader to building trade, increasing economic activity, and providing for more workers to benefit from the hard-fought agreements.

Conclusion

The U.S. poultry industry has always been a strong advocate of liberalized trade and a strong supporter of U.S. trade initiatives. However, after more than 17 years of being unfairly shut out of the European market by unjustifiable non-tariff trade barriers, especially SPS and technical barriers to trade and after seeing that our rights to access to the European market would not be aggressively pursued and vindicated, the U.S poultry industry has serious concerns regarding T-TIP. We hope that we will, at some point, be able to strongly support this initiative. However, until there is a clear indication of how this agreement will result in real and meaningful market access with the elimination of all non-tariff trade barriers to our products, it will be difficult to see how the T-TIP is in the interests of our industry, our member companies, our workers, or the tens of thousands of family farmers who grow chicken. Having stated that serious concern, we are also aware of what a famous ice hockey player said about scoring and putting the puck in the net. He said "You miss 100% of the shots you don't take."

The National Chicken Council looks forward to working with the Committee and others in Congress to secure the most favorable outcome for the T-TIP.

I look forward to your comments and questions.

Attachments

March 4, 2013

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

Dear Ambassador Kirk:

The undersigned food and agricultural groups applaud the decision to launch negotiations with the European Union (EU) on a transatlantic free trade agreement (FTA) and commend you for your insistence that the agreement be comprehensive and ambitious. Individual organizations will be providing comments in the coming weeks, but there are a number of general considerations on which we all agree.

First, we believe that this agreement must fit the excellent model established with the Trans-Pacific Partnership (TPP) for 21st century agreements. The next trade agreement to be undertaken by this Administration should not fall short of this high standard for free trade agreements. This means no less than a negotiation that covers all significant barriers in a single comprehensive agreement.

With this in mind, we are compelled to express some apprehension over language in the final report of the High Level Working Group (HLWG) suggesting that an agreement ...

“... should be designed to evolve over time – i.e., substantially eliminate existing barriers to trade and investment, while establishing mechanisms that enable a further deepening of economic integration, particularly with respect to the promotion of more compatible approaches to current and future regulation and standard-setting and other means of reducing non-tariff barriers to trade.”

Clearly, an agreement that is allowed to evolve to meet new demands is welcome, but the idea should not be used as a means of avoiding critical decisions in certain areas. Accordingly, we seek your assurances that this is not the intent of this language, or of the U.S. and EU negotiators.

We are encouraged by the fact that a significant portion of the HLWG Report is devoted to dealing with regulatory issues (and other non-tariff barriers), especially the recommendation to negotiate an ambitious “SPS-plus” chapter based on science and international standards. However, we are very concerned by recent statements by EU officials raising doubts about whether the EU has any real interest in dealing with sanitary and phytosanitary (SPS) issues as part of the negotiations. SPS issues must be specifically addressed as part of the negotiations, not simply left to some future consultative mechanism, and SPS provisions must be enforceable. Examples of these issues include unjustifiable restrictions on production methods that negatively affect exports of U.S. meat, poultry, and fresh fruits; costly and ever changing political and regulatory barriers to agricultural biotechnology that restrict U.S. corn, soy, and processed corn and soy product exports; and imposition of arbitrary sustainability requirements on the production of feedstocks in the U.S. and other countries for biofuels used in the EU. Such unscientific measures have become the most challenging barrier to U.S. food and agricultural exports to the EU.

While EU officials have expressed opposition to addressing these difficult measures in the negotiations, they are nonetheless eager to seek the inclusion of new barriers to trade benefiting EU products. For example, the EU has made no secret that it will seek restrictions on the use of names that are commonly used for many products. Geographical indications (GIs) are a legitimate form of intellectual property and deserving of protection; the United States already provides the same robust protection avenue for GIs that

is available to other trademark holders. However, the EU wishes to reserve names for products that have been in common use around the world for many years. The United States is not alone in the world in its opposition to these efforts, and the proposed U.S.-EU FTA should not become the platform for the EU to gain legitimacy for its objectives on this and other such protectionist measures.

The undersigned organizations welcome President Obama's decision to pursue an ambitious, high-standard Transatlantic Trade and Investment Partnership. We strongly believe that a comprehensive and ambitious U.S.-EU FTA will generate economic growth, reduce market volatility, and create thousands of new jobs on both sides of the Atlantic. But such a momentous free trade agreement must be built on the foundation established by the U.S. in the TPP and other U.S. free trade agreements, which build, as you have said, "the best trade policy for the future."

Sincerely,

American Beekeeping Federation
American Farm Bureau Federation
American Feed Industry Association
American Meat Institute
American Peanut Product Manufacturers, Inc.
American Seed Trade Association
American Sheep Industry Association
American Soybean Association
BIO
Blue Diamond Growers
California Cherry Export Association
California Dried Plum Board
California Farm Bureau Federation
California Fig Advisory Council
California Pear Growers
California Strawberry Commission
California Table Grape Commission
California Walnut Commission
Commodity Markets Council
Corn Refiners Association
Grocery Manufacturers Association
International Dairy Foods Association
National Association of State Departments of Agriculture (NASDA)
National Association of Wheat Growers
National Barley Growers Association
National Black Farmers Association
National Cattlemen's Beef Association
National Chicken Council
National Confectioners Association
National Corn Growers Association
National Council of Farmer Cooperatives
National Grain and Feed Association
National Milk Producers Federation
National Oilseed Processors Association
National Pork Producers Council
National Potato Council
National Renderers Association

National Turkey Federation
North American Blueberry Council
North American Equipment Dealers Association
North American Export Grain Association
North American Meat Association
Northwest Horticultural Council
Pet Food Institute
Produce Marketing Association
Smithfield Foods
Sunsweet Growers Inc.
Sweetener Users Association
Tyson Foods, Inc.
U.S. Apple Association
U.S. Canola Association
U.S. Dairy Export Council
U.S. Grains Council
U.S. Livestock Genetics Export, Inc.
U.S. Meat Export Federation
U.S. Wheat Associates
United Egg Association
United Egg Producers
US Dry Bean Council
USA Dry Pea & Lentil Council
USA Poultry & Egg Export Council
USA Rice Federation
Valley Fig Growers
Western Growers Association

cc: The Honorable Tom Vilsack, Secretary of Agriculture

May 20, 2013

The Honorable Michael Froman
Deputy National Security Advisor for International Economic Affairs
The White House
Washington, DC 20510

Dear Mr. Froman:

The undersigned organizations and companies, representing the vast majority of U.S. food and agricultural producers, processors and exporters, registered strong support for the initiation of free trade negotiations with the European Union, now formally known as the Transatlantic Trade and Investment Partnership (TTIP), in a letter to then-Ambassador Kirk on March 4, 2013 (see attached). Our initial support for the TTIP was largely based on the Administration's insistence that the agreement be "comprehensive and ambitious." However, a resolution regarding the TTIP passed by the European Parliament on April 24 strongly expresses the intent of the EU to maintain the precautionary principle, which would undermine sound science and ultimately the agreement itself. The following section is both informative and unsettling, and it suggests that our optimism for the TTIP negotiations may have been premature or misplaced:

17. [The EU Parliament] emphasizes the sensitivity of certain fields of negotiations, such as the agricultural sector where the perception of Genetically Modified Organisms (GMOs), cloning and consumer health is divergent in between the US and the EU; sees an opportunity in enhanced cooperation in agriculture trade and stresses the importance of an ambitious and balanced outcome in this field; stresses that the agreement must not undermine the fundamental values of either side, for example the precautionary principle in the EU; calls on the US to lift the import ban on EU beef products as a trust-building measure ...

The juxtaposition of issues in this section is most concerning. On one hand, the Parliament demands that the European Commission defend arbitrary and unjustifiable SPS barriers and the precautionary principle on which they were based, yet, on the other hand, it calls on the United States to lift its ban on EU beef, which resulted from the BSE crisis, "as a trust-building measure." At the core, the EU's non-scientific notion of "precaution" has led to the adoption of many trade-restrictive measures that have resulted in several high-profile WTO disputes in which the EU's defense of the precautionary principle has been ruled to be inconsistent with WTO rules. Such precautionary measures are often based on mere hazard identification – or worse, on public perception and political considerations – rather than proper, science-based risk assessments, as required by the WTO. And, even in cases where risk assessments are ultimately carried out, the EU has demonstrated an inability to lift unjustifiable measures because of domestic political pressures. "Precaution" in the EU has become a pretext for import protectionism under the pretense of consumer safety. As a result, U.S. exports have repeatedly paid the price.

Examples of such problems include unjustifiable restrictions on production methods that negatively affect exports of U.S. meat, poultry and dairy products, as well as fresh fruits; discriminatory and trade-restricting labeling requirements; political and regulatory barriers to agricultural biotechnology that restrict U.S. corn, soy and processed corn and soy product exports; and imposition of arbitrary sustainability requirements on the production of feedstocks in the United States and other countries for biofuels used in the EU.

Such non-science-based measures have become the most challenging barrier to U.S. food and agricultural exports to the EU. They must, therefore, be specifically addressed as part of the negotiations, not simply left to some future consultative mechanism as some EU parliamentarians have suggested. Furthermore, SPS provisions negotiated under this free trade agreement (FTA) must be enforceable.

The EU has also worked to accomplish in its other FTAs what it has been unable to achieve multilaterally. The EU has sought the inclusion of language on geographical indications (GIs) that would grant it exclusive rights to certain product names widely used outside of Europe for many years. This objective was also reinforced by the EU Parliament. It defies credibility to think that a trade agreement could actually make it more difficult for the United States to market its products both domestically and internationally. Such an approach would not be in keeping with the broader trade liberalization goals of TTIP.

TTIP negotiations in agriculture carried out on the terms mandated by the EU Parliament would be an enormous mistake. In its preferential trade agreements with other countries, the EU has been successful in maintaining its existing non-science-based SPS measures while in some cases also introducing other non-tariff measures restricting trade.

We believe that the best way to achieve an outcome on these matters that the food and agricultural sector can strongly support is to use the Trans-Pacific Partnership (TPP) negotiating structure as the template for the TTIP. The TPP is intended to be a comprehensive agreement, covering all sectors without exceptions; all topics are to be concluded as a “single undertaking,” which means that nothing is agreed to until everything is agreed to; and there is to be an SPS chapter with strong and enforceable WTO-plus disciplines.

The negotiating approach the Obama administration has reportedly worked out with Japan in the TPP negotiations is directly relevant to negotiations with the EU in the TTIP. It is our understanding that the United States and Japan will pursue the talks with a three-pronged approach: parallel negotiations on tariff issues, non-tariff measures and the automobile sector, with negotiations not to be considered concluded until all significant non-tariff measures are satisfactorily addressed. This same type of approach should be undertaken with the EU.

As stated in our March 4 letter:

“We strongly believe that a comprehensive and ambitious U.S.-EU FTA will generate economic growth, reduce market volatility, and create thousands of new jobs on both sides of the Atlantic. But such a momentous free trade agreement must be built on the foundation established by the U.S. in the TPP and other U.S. free trade agreements, which build, as you have said, “the best trade policy for the future.”

The U.S. food and agriculture sector is not alone in this belief; it is one shared by EU decision makers like British Prime Minister David Cameron, who recently stated when discussing the TTIP: “... It makes no sense to exclude vital parts of the economy. Everything must be on the table. And we must tackle the really tough regulatory issues so a product approved on one side of the Atlantic can immediately enter the market on the other.”

If, instead, selected sectors or measures are excluded from the TTIP, or placed into a “future negotiation” category, the TTIP will fall short of achieving the Administration’s goal for it to be a high-class 21st century agreement, and it will likely fail to win the overall support of the food and agricultural sector that will be needed to ensure final passage of this agreement.

Attachment

Sincerely,

American Farm Bureau Federation
American Feed Industry Association
American Frozen Food Institute
American Meat Institute
American Sheep Industry Association
American Soybean Association
Animal Health Institute
Biotechnology Industry Organization
California Farm Bureau Federation
California Poultry Federation
Corn Refiners Association
Georgia Poultry Federation
Grocery Manufacturers Association
International Dairy Foods Association
Michigan Agri-Business Association
Michigan Bean Shippers
National Association of State Departments of Agriculture (NASDA)
National Association of Wheat Growers
National Barley Growers Association
National Cattlemen's Beef Association
National Chicken Council
National Confectioners Association
National Corn Growers Association
National Council of Farmer Cooperatives
National Grain and Feed Association
National Milk Producers Federation
National Oilseed Processors Association
National Pork Producers Council
National Renderers Association
National Sorghum Producers
National Turkey Federation
North American Equipment Dealers Association
North American Export Grain Association
North American Meat Association
North Carolina Poultry Federation
Northwest Horticultural Council
Pet Food Institute
U.S. Apple Association
U.S. Canola Association

U.S. Dairy Export Council
U.S. Grains Council
U.S. Livestock Genetics Export, Inc.
U.S. Wheat Associates
USA Dry Pea & Lentil Council
USA Poultry & Egg Export Council
USA Rice Federation
Western Growers Association
