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October 31, 2012

L. Daniel Mullaney
Assistant U.S. Trade Representative for Europe and the Middle East
Office of the U.S. Trade Representative
600 17th Street, N.W.
Washington, D.C. 20508

Re: Promoting U.S.-EU Regulatory Compatibility

Dear Mr. Mullaney:

The American Soybean Association (ASA) appreciates the opportunity to respond to the Federal Register notice of September 28, 2012, requesting comments on how the United States and the European Union can promote greater transatlantic regulatory compatibility. ASA is the national trade association which represents our country's soybean farmers on national and international policy issues. Soybeans and soy products are the leading U.S. agricultural export, valued at over \$26 billion last year.

As you know, ASA responded on February 3, 2012, to your request for comments regarding the work of the U.S.-EU High Level Working Group on Jobs and Growth. In our letter, we noted the 44 percent decline in the value of U.S. soy exports to the EU between 1998 and 2011, and the even more precipitous 70 percent drop in the quantity of our soy exports during the same period. We attributed these sharp losses to the EU's discriminatory biotech labeling requirements and renewable energy standards, which we described in considerable detail. A copy of our February 3 letter is attached for your further review and consideration.

We understand other U.S. commercial interests may support negotiation of a U.S.-EU Free Trade Agreement that does not comprehensively address the agriculture sector on the basis that agriculture issues are too intractable and might prevent conclusion of an FTA. We would strongly oppose this position. Agriculture is too important as an export industry for the U.S. to not address it in any new FTA negotiations. Moreover, as we have pointed out, U.S. soybean exports to the EU have been severely impacted by its biotech labeling and RED regulations during the last 13 years, and these issues must be addressed in any FTA negotiations.

We would also point out that these EU regulations have the potential to set precedents in restricting trade that go well beyond agricultural products. To allow the EU to establish unsubstantiated

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process-based labeling requirements or to impose arbitrary environmental criteria on imports and on producers in countries from which they are imported will only invite EU regulatory initiatives in other sectors that could offset any positive benefits which an FTA might achieve in reducing domestic or export subsidies or tariffs. For these reasons, ASA strongly supports addressing agriculture issues, including the EU's biotech labeling and Renewable Energy Directive regulations, within the scope of any negotiations on a U.S.-EU FTA.

Central to our concerns with EU biotech labeling and renewable energy regulations is the fact that they represent discriminatory non-tariff barriers to U.S. access to EU markets for soybeans and soybean products, and have no basis in scientific fact. The EU labeling laws enacted in 1999 and 2004 established an arbitrary threshold of 0.1 percent and require food products containing biotech ingredients exceeding this level to be labeled. No science-based justification has ever been provided to support this requirement. Instead, the EU has invoked the so-called Precautionary Principle, under which unsubstantiated concerns about the safety of biotech products to health and the environment are deemed sufficient to require labeling them. The result of this requirement was the immediate discontinuation of sales of biotech-containing foods in EU Member States by both EU-based and international food companies, which did not want their products to bear pejorative labels.

Similarly, the EU's Renewable Energy Directive (RED) establishes arbitrary criteria for the production of soybeans and other commodities in order to meet sustainability requirements and be eligible as feedstocks for biofuels used in EU Member States. There is no provision in the RED that permits correlation of these specific criteria to the environmental and conservation laws and regulations currently in effect in the U.S. or other countries. Instead, the RED imposes compliance requirements on imported biofuel feedstocks, including audits at the farm level in producing countries. In combination with the EU's biotech labeling regulations, the RED will effectively eliminate imports of U.S. soybeans, since soybean oil will not be used either as an ingredient in food products or as a feedstock for biodiesel production. U.S. soybean exports declined by 70 percent in 2011-12 compared to 2010-11, and are expected to continue to fall in the next several years as more EU Member States implement the RED.

The Federal Register notice states that the U.S. and EU "share the goal of reducing excessive regulatory costs, unjustified regulatory differences, and unnecessary red tape while respecting each other's right to protect public health, safety, welfare, and the environment." As noted above, ASA believes the EU is pursuing biotech labeling and renewable energy policies – ostensibly for health, safety and environmental reasons – which are indefensible on a scientific basis and which have had the effect of sharply reducing U.S. soybean imports. Unless and until the EU is willing to adopt internationally-accepted standards for evaluating the safety of biotech products and the sustainability of agricultural products, these policies will continue to represent very real non-tariff barriers to trade.

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If you have any questions or require further information regarding our position on this critically important issue, please do not hesitate to contact us.

Sincerely yours,

A handwritten signature in black ink that reads "Steven Wellman". The signature is written in a cursive style with a long horizontal flourish at the end.

Steven Wellman
President

Attachment