



October 31, 2012

Office of the United States Trade Representative
600 17th Street NW
Washington, DC 20508
RE: DOCKET # USTR-2012-0028

Comments of the National Cattlemen's Beef Association regarding the U.S.-E.U. Regulatory Compatibility

The National Cattlemen's Beef Association (NCBA) has represented America's cattlemen and women since 1898, preserving the heritage and strength of the industry through education and public policy. As the largest and oldest national association of cattle producers, NCBA represents a very diverse beef industry that strives to meet demand in emerging markets and increase demand for beef. NCBA appreciates the opportunity to provide comments for the Office of the United States Trade Representative (USTR) regarding regulatory compatibility between the U.S. and (European Union) E.U. as a follow up to comments submitted in February 2012 regarding the U.S.-E.U. High Level Working Group.

As stated in our previous comments, NCBA is encouraged that the United States is participating with the European Union in the High-Level Working Group on Jobs and Growth, with the focus of finding venues to promote job creation and growth through expanded trade and investment. We have a longstanding history of providing the European Union with high quality U.S. beef and we look forward to improving our relationship so that we can provide more U.S. beef to European consumers at a competitive price.

In fact, 2012 has been a good year for U.S. beef sales in Europe. According to USDA data compiled by the U.S. Meat Export Federation, European consumers have purchased approximately \$150 million of U.S. beef in the first eight months of 2012 making Europe one of our top ten export markets for beef. As an added bonus, the U.S. and European Union have now progressed to Phase II of the 2009 memorandum of understanding. This will allow the U.S. to compete for a quota of 45,000 metric tons of duty free beef (from non-hormone treated cattle) exports. This is a welcome increase from 20,000 metric ton quota in previous years, but it is still a barrier to full market access. Europe presents a wealth of opportunity for U.S. beef exports, but there are several non-science based trade barriers erected by the European Union that prevent the U.S. from reaching its potential to provide U.S. beef to European consumers in a sustainable manner.

One important issue that the European Union continues to delay action is the approval of lactic acid as a carcass wash. Although there is growing support in the European Union for use of lactic acid as an approved pathogen reduction treatment, certain European Union member states continue to link their support for approval of lactic acid to the publication of a comprehensive BSE rule by USDA. Fortunately, the United States has been making progress toward issuing a final comprehensive BSE rule and NCBA urgently awaits USDA to publish the final rule without further delay. Regardless, the European Union cannot continue to find excuses to delay approval of lactic acid as a carcass wash. Enough is enough. Failure to act soon could have a detrimental impact on our trade relationship with Europe.

Unfortunately, there are fundamental differences between the United States and the European Union regarding the use of science and technology in food production. Production practices in the United States are based on rigorous scientific review and are continuously improved to employ the latest advancements in scientific research and animal husbandry, with the overall goal of improving production efficiency while improving the overall environmental impact. Meanwhile, the European Union continues to employ the precautionary principle which discourages the development and use of scientific advancements. As a result, U.S. beef has been the victim of unwarranted trade restrictions throughout the years, many of them encouraged by the European Union's politicization of international standard-setting bodies such as the Codex Alimentarius. Fortunately, this summer the members of Codex were able to thwart the obstructionist tactics of the European Union to finally approve a maximum residue level for the veterinary drug, ractopamine. Ractopamine is a beta agonist used to promote leanness in meat. Never the less, the choice by the members of Codex Alimentarius to adhere to the principles of science-based decision making has not stopped the European Union from encouraging dissenting opinions among many of the trading partners of the United States.

For the benefit of both the United States and the European Union, we must set parochial interests aside and establish a twenty-first century agreement based on internationally-recognized scientific standards, free from tariffs, quotas, and subsidies, where the free market allows competition to flourish and encourage sustainable trade. That being said, if the U.S. truly wants to establish a stronger trade relationship with the European Union, then agriculture must be part of any trade agreement between the U.S. and European Union. Otherwise, our differences in agriculture will put at great risk the growing trade opportunities for all industries.

NCBA appreciates USTR's consideration of expanding economic opportunities for U.S. beef producers and we appreciate the opportunity to work with you in resolving issues that impede our access to European consumers. Should you have any questions or concerns please contact Kent Bacus, NCBA's associate director of legislative affairs at 202-347-0228 or kbacus@beef.org.

Sincerely,

A handwritten signature in cursive script, appearing to read "J.D. Alexander".

J.D. Alexander
President



NATIONAL CATTLEMEN'S BEEF ASSOCIATION

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February 3, 2012

Office of the United States Trade Representative
600 17th Street NW
Washington, DC 20508
RE: DOCKET # USTR-2012-0001

Comments of the National Cattlemen's Beef Association regarding the U.S.-E.U. High Level Working Group

The National Cattlemen's Beef Association (NCBA) has represented America's cattlemen and women since 1898, preserving the heritage and strength of the industry through education and public policy. As the largest and oldest national association of cattle producers, NCBA represents a very diverse beef industry that strives to meet demand in emerging markets and increase demand for beef. NCBA appreciates the opportunity to provide comments for the Office of the United States Trade Representative (USTR) regarding the U.S.-E.U. High Level Working Group.

NCBA Recommendation for U.S.-E.U. High Level Working Group

NCBA is encouraged that the United States is participating with the E.U. in the High-Level Working Group on Jobs and Growth, with the focus of finding venues to promote job creation and growth through expanded trade and investment. We have a longstanding history of providing the E.U. with high quality U.S. beef and we look forward to improving our relationship so that we can provide more U.S. beef to European consumers at a competitive price. Unfortunately, U.S. beef has been the victim of unwarranted trade restrictions throughout the years, and it would be greatly beneficial for the U.S. beef industry to enter into a twenty-first century agreement with the E.U. based on internationally-recognized scientific standards, free from tariffs, quotas, and subsidies, where the free market allows competition to flourish. The relationship between U.S. beef producers and the E.U. is a long and complicated relationship, but U.S. beef producers have been resilient in overcoming man-made obstacles in order to meet market demands. If the U.S. truly wants to establish a stronger trade relationship with the E.U., then you are strongly encouraged to look to the future and not the past, when setting the terms of the agreement.

Background Information

Prior to 2003, the E.U. was a net exporter of beef, and today they are a significant importer of beef. Unlike the U.S. beef industry, the E.U. subsidizes beef production to encourage production. Although E.U. beef is subsidized, the lack of production safety standards and outbreaks of bovine spongiform encephalopathy (BSE) in the late 1980s caused a tremendous decrease in consumer confidence in E.U. beef that hurt domestic production. According to the USDA, beef production in the EU depends much more on the supply of dairy cattle than does beef production in the United States. The decline in the number of cattle mainly reflected a drop in the size of the dairy herd, which fell by 2.3 million head from 2002 through 2007. This was because fewer cows were needed to fill the domestic milk production quotas as milk yields per cow improved throughout the period. Once consumer confidence began to rebound and demand increased, the E.U. became a net importer of beef.

Without question, European consumers are some of the most sophisticated consumers in the world. They care deeply about the origin of their food, the method and materials that are used to produce their food, and the social aspects of how their food impacts society. They go to great lengths to make sure their domestic standards incorporate a holistic approach that includes these and other factors. In fact, the European beef producers are heavily subsidized to meet all of these demands. Most reports suggest that on one hand, the European consumer pays more of his disposable income on food than the American consumer. That is not to say that American consumers do not consider the same factors in their selection of food. On the other hand, American consumers have a variety of choices, produced domestically, that meet that satisfy their priorities of flavor, price, and quality. The U.S. beef industry goes to great lengths to provide a safe and affordable product for consumers. At the same time, the U.S. beef industry has adapted to meet demands of consumers who put a higher priority on origin, production methods, and environmental factors; but unlike the E.U., in the United States these factors are not the result of government subsidies or regulations. Any future trade agreement should allow the market to determine the price for these added costs of production.

Growth-promotants are one of the technologies commonly used in beef production in the United States and in other meat-exporting countries. In the United States, growth-promotants have been approved for use since the 1950s and are now believed to be used on approximately two-thirds of all cattle and about 90% of the cattle in feedlots. Beef producers use growth-promotants because they allow animals to be more efficient when converting natural resources such as grain and water into lean protein. U.S. consumers prefer lean beef and beef products and this technology allows the industry to produce leaner carcasses with reduced fat and cholesterol. The U.S. Food and Drug Administration (FDA) is responsible for evaluating and approving growth-promotant technologies and the U.S. Department of Agriculture (USDA) works in cooperation with FDA in regulating these technologies for livestock. Both of these agencies maintain that growth-promotants in beef have no physiological significance for humans. All animal drug products are approved for safety and effectiveness under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) In addition to FDA and USDA, international objective scientific bodies including the OIE, Joint Expert Committee on Food Additives (JECFA), and Codex Alimentarius have approved the judicious use of growth-promotants. Other countries that have approved the use of growth-promotants in beef production are Canada, Australia, New Zealand, South Africa, Mexico, Chile, and Japan. The E.U. does not allow the use of growth-promotants in beef production and restricts most meat exports to the European Union to a limited quantity of beef imports that are certified as produced without the use of growth-promotants. (CRS Report R40449: The U.S.-E.U Beef Hormone Dispute, 12/2011).

The use of growth-promotants as part of modern production practices will play a critical role in our ability to efficiently feed the world with a growing population, a possible decrease in herd size, and the increasing scarcity of land and water. For example, in 50 years the world population will require 100% more food and 70% of this food must come from efficiency-improving technology. From 1977 to 2007, growth-promoting technology as part of modern production practices accounted for a 14% decrease in the use of water and a 34% decrease in the amount of land it takes to produce one pound of beef. Compared to 1977 beef production, 2007 beef production generated 20% less manure and 18% smaller carbon footprint. (Green, R. et al. January 2005. "Farming and the Fate of Wild Nature." *Science* 307.5709: 550-555; and Tilman, D. et al. August 2002. "Agricultural sustainability and intensive production practices." *Nature* 418.6898: 671-677) (World Agriculture: toward 2015/2030." 2002. United Nations Food and Agriculture Organization, Rome. Accessed 12/8/08). According to USDA, increased carcass weights have offset over 75% of the cow herd decline since 1975. According to information from the 2010 Reciprocal Meats Conference, the use of approved growth-promotion technology as part of modern production practices increases the amount of beef produced in the United States by 2.15 billion pounds annually. As you can see, the use of growth-

promotants as part of modern production practices allows the beef industry to produce more meat per cow, while maintaining the safe and wholesome quality of the product, while decreasing the environmental impact of production.

History of E.U. Ban on Growth Promotants

According to the USITC, "In 1989, the EU-12 banned the use of growth-promotants in its production of beef and in its beef imports ("the hormone ban"). The United States challenged the EU ban under the WTO dispute settlement procedures and in 1998, the Dispute Settlement Body (DSB) adopted findings of the WTO Appellate Body and a dispute settlement panel that the EU ban was inconsistent with EU obligations under the WTO Agreement on Sanitary and Phytosanitary Measures (SPS agreement). In 1999, the DSB authorized the United States to suspend concessions in the amount of \$116.8 million annually to offset losses resulting from the ban. The effect of the ban on U.S. beef exports has grown as the EU expanded. The number of European countries covered by the hormone ban has more than doubled, as the EU has grown in size from 12 members in 1989 to 27 members in 2007." (U.S. International Trade Commission, "Global Beef Trade: Effects of Animal Health, Sanitary, Food Safety, and Other Measures on U.S. Beef Exports," September 2008)

Since 1985, the EU has issued a series of directives that either ban or severely restrict imports (and domestic production) of beef with growth-promotants. In 1980, synthetic diethylstilbestrol (DES) used to treat cattle was found to be causing health problems in children fed baby food containing veal. In 1981, Directive 81/602/EEC prohibited the use of hormones for growth promotion, but this was later amended to ban only DES, leaving other growth-promotants subject to national regulations. The European Parliament adopted a directive effective January 1989 restricting the use of natural growth-promotants to therapeutic purposes, banned the use of all synthetic growth-promotants, and prohibited imports of animal and meat from animals to which growth-promotants had been administered. Currently, growth-promoting substances in imported beef are banned under Directive 96/22/EC, as amended by Directive 2003/74/EC. Since 1997, the EU has banned sales of poultry and meat that have undergone antimicrobial treatment. (Id.)

As a result of the E.U. ban on beef with growth-promotants, the United States began implementing retaliatory tariffs on EU imports in the mid-1990s. The World Trade Organization (WTO) ruled that the EU restrictions were in violation of the WTO SPS agreement, which allowed the United States to continue levying retaliatory tariffs. Despite the ruling, the E.U. has voted repeatedly to maintain the ban on beef that is treated with growth-promotants. Furthermore, the E.U. has not conducted risk assessments to support their position.

History of Non-Hormone Treated Cattle (NHTC) Program

According to USDA, the NHTC Program has been in effect since 1999, when the European Union (EU) and the U.S. agreed to control measures to facilitate the trade of [beef from non-hormone treated animals], including veal. There are three principal components of this Program:

- 1) Cattle are to be grown in approved farms/feedlots and delivered to the slaughter establishment with shipping documentation that includes the statement "Cattle Meet EV Program Requirements for the EU" and clearly identifies the animals and the quantity.
- 2) Non-Hormone treated cattle and beef are segregated at the slaughter establishment and handled in a fashion that ensures that they are not commingled with other animals or meat.
- 3) Tissue samples from non-hormone treated cattle are collected at slaughter and analyzed in order for FSIS to provide export certification for this product.

As of February 2011, only fourteen U.S. beef operations have been approved to participate in the NHTC Program. The strict non-science based production guidelines that producers must follow in order to sell beef to European consumers, coupled with the increased demand for beef and artificially-limited supply, has created a growing and profitable niche market for select U.S. beef producers. The handful of U.S. beef producers who participate in the United States Department of Agriculture's Non-Hormone Treated Cattle Program (NHTC) have seen a steady increase in U.S. beef sales in the E.U. From January 2011 through November 2011, U.S. beef producers sold nearly 30,000 metric tons of U.S. beef (28% increase from 2010) to European consumers at a total of \$220 million dollars (58% increase from 2010). Clearly, European consumers are demanding more U.S. beef, and given the proper access, U.S. beef producers can meet that demand.

Memorandum of Understanding (MOU)

On May 13, 2009, following a series of negotiations, the United States and the EU signed a memorandum of understanding (MOU) implementing a three phase agreement that gives greater access for U.S. beef exports and in return, a gradual repeal of the retaliatory tariffs on European agricultural goods.

Under Phase 1, the U.S. receives expanded market access to the EU under an annual tariff-rate quota (TRQ) of 20,000 metric tons at zero duty for NHTC beef, with Phase 1 concluding in August 2012. Under Phase 2, the TRQ will be increased to 45,000 metric tons with Phase 2 lasting one year. Phase 3 maintains the TRQ at 45,000 metric tons and the remaining tariffs on EU goods are lifted.

This week, the International Trade Committee at the European Parliament agreed to move forward with Phase 2. While this is a good step forward in improving our trade relationship, this is still a far cry from the potential both parties could achieve under a free trade agreement based on free market principles and internationally recognized science based standards.

Conclusion

Even though U.S. beef sales to the E.U. have experienced tremendous growth in recent years due to increased demand for high quality U.S. beef and the E.U.'s limited beef supply, a growing niche market does not justify the continued application of non-science based standards on U.S. beef. The United States and the E.U. must agree to base all sanitary and phytosanitary standards on internationally recognized science-based standards recommended by the World Organization for Animal Health (OIE) and the Codex Alimentarius (Codex). Anything less would continue to subject U.S. beef to politically-motivated whims of the E.U., and set a dangerous precedent for negotiations with other countries who place arbitrary non-science based standards on U.S. beef.

Caution is not necessarily a bad thing if used correctly, but caution should not be an accepted excuse for ignoring internationally-recognized science based standards. The E.U. frequently employs a standard referred to as the precautionary principle. The precautionary principle establishes that where the possibility of a harmful effect exists, but where scientific uncertainty regarding the risk persists, provisional risk management strategies may be adopted that ensure the high level of health protection chosen by the European Community [Regulation (EC) 178/2002, art. 7].

Our concern is not with the precautionary principle itself, but with the repeated use of the precautionary principle to undermine advances in science and improved industry practices. Specifically, the E.U. uses the

precautionary principle to continuously undermine progress of Codex. Codex is an established international scientific body that makes scientific recommendations on the judicious use of many substances, including growth-promotants. In order to delay the formal international recognition that production practices of the United States are safe, the E.U. has focused its efforts on turning Codex into a body subject to non-science based political influences, instead of objective scientific evidence. One contingency of any E.U.-U.S. agreement must be that the E.U. cease and desist all politically-motivated activities that undermine progress of international scientific bodies including Codex.

At the same time, we need the US government to also abide by international science based standards. Lately, some countries have been hesitant to address outstanding non-tariff trade issues with U.S. beef imports because the United States has failed to address how it treats beef imports from other countries; all the more reason for USDA to issue a comprehensive rule for BSE. For example, it has come to our attention that USDA has submitted an application to the EU for approval of lactic acid as a carcass wash in beef slaughter facilities. The EU is currently considering whether to approve the wash. Although there is growing support in the EU for use of lactic acid as an approved pathogen reduction treatment, certain EU member states continue to link their support for approval of lactic acid to the publication of a comprehensive BSE rule by USDA.

Last, but certainly not least, E.U. subsidies for domestic beef production must be eliminated, along with import tariffs and import quotas. It is in the best interest of producers and consumers in the United States and the European Union to allow the free market to flourish without government intrusion and arbitrary standards.

NCBA appreciates USTR's consideration of expanding economic opportunities for U.S. beef producers through TPP and we appreciate the opportunity to work with you in resolving issues that impede our access to foreign consumers. Should you have any questions or concerns please contact Kent Bacus, NCBA's associate director of legislative affairs at 202-347-0228 or kbacus@beef.org.

Sincerely,

A handwritten signature in black ink that reads "Bill Donald". The signature is written in a cursive, flowing style.

Bill Donald
President