October 31, 2012

To: Office of the United States Trade Representative

From: National Pork Producers Council

Re: Promoting U.S. EC Regulatory Compatibility

Docket: USTR-2012-0028

The National Pork Producers Council (NPPC) hereby submits comments in response to the request for comments on barriers to trade with the European Union. NPPC is a national association representing a federation of 43 state producer organizations, and represents the federal and global interests of 67,000 U.S. pork operations. The U.S. pork industry is a major value-added enterprise in the agricultural economy, and a significant contributor to the overall U.S. economy.

We understand that comments provided in this submission will be considered in the context of possible free trade agreement (FTA) negotiations between the United States and the EU. NPPC fully supports the negotiation of a Free Trade Agreement with the EU. However, if the United States undertakes such negotiations with the EU it should make it clear from the outset that it is determined to negotiate and implement the kind of high standard, 21st century agreement that has been central to the Administration's trade policy efforts to date. Free trade agreements negotiated by the EU with other countries do not come close to the standard of the Trans-Pacific Partnership (TPP) negotiations or the standard of the U.S. bilateral FTAs with Colombia, Panama, and South Korea. Unlike the U.S. FTAs, the EU trade agreements are preferential trade agreements with widespread exceptions, particularly in the area of agriculture.

In addition to trade restrictive tariff-rate quotas (TRQs), the EU also maintains a variety of regulatory and sanitary phytosanitary (SPS) requirements that severely restrict U.S. pork exports. Both EU TRQ restrictions and unjustifiable SPS requirements are addressed in this submission. In order to be trade enhancing, any FTA with the EU must not only eliminate all tariffs on U.S. pork but also must eliminate non-science-based EU regulatory, SPS, and technical barriers to trade. The value of market access gains through the elimination of tariffs will be compromised, if not rendered meaningless, unless all these non-tariff barriers are also eliminated.

Finally, it should be noted that undertaking U.S.-EU FTA negotiations that exclude agriculture, or any other sector, would be inconsistent with the U.S. objective of seeking comprehensive free trade agreements, and would thus undermine current U.S. efforts in the TPP, as well as any future U.S. FTA negotiations.

The EU Pork Market

The European Union has one of the most highly protected pork markets in the world. It makes use of small tariff rate quotas with high in-quota duties, and prohibitively high out of quota duties, to limit the inflow of pork from non EU suppliers. In addition, it maintains an array of non-science-based sanitary phytosanitary (SPS) barriers that further restrict imports.

EU pork consumption is 20 million metric tons annually, making it the second largest market in the world for pork consumption, behind only China. The United States is the lowest cost producer of pork in the world, and in the absence of restrictive TRQs and unjustifiable SPS barriers, the EU could be a very large market for competitively priced and high quality U.S. pork. However, due to the barriers described in this submission, present U.S. pork exports to the EU are extremely small, totaling only 3,893 MT in 2011. By way of comparison, the United States exports more pork to countries such as Honduras, Chile and the Dominican Republic than it does to the EU, a market of 500 million mostly affluent consumers.

Tariffs

During the WTO Uruguay Round, the EU blatantly ignored WTO negotiating rules in limiting its pork TRQs to 70,000 MT, far less than one percent of EU consumption. With EU-27 pork consumption of about 20 million MT, 5 percent of EU consumption, the standard set in the Uruguay Round for minimum access, would translate into a TRQ of one million metric tons. Moreover, the in-quota duties for the EU's pork TRQs range from 250 Euros MT to 784 Euros MT, duty rates that make it difficult to ship under the TRQs. Out of quota duties for the TRQs are set at prohibitively high rates, making it almost impossible to ship pork into Europe outside the TRQ amount.

SPS Requirements

A. Ractopamine Ban

The European Union maintains a ban on pork produced with ractopamine hydrochloride (ractopamine), a feed ingredient that significantly improves efficiency in pork production. In order to ship pork to the EU, U.S. exporters must participate in a costly and administratively burdensome Pork for the EU (PFEU) program to verify that pork shipped to the EU has not been produced using ractopamine. In addition, U.S. pork must undergo expensive testing at a laboratory in Canada to verify there is no ractopamine residue in U.S. pork shipments to Europe. These requirements act as a major impediment to U.S. pork exports to the EU, confining U.S. exports to a small group of U.S. suppliers.

Ractopamine was approved for use in U.S. pork production after an extensive review by the U.S. Food and Drug Administration (FDA). It is approved for use in 26 countries around the world. As a further indication of the safety of this product, the *Codex*

Alimentarius in the summer of 2012 established a recommended maximum residue level for ractopamine, after years of discussion.

B. Trichinae Testing

Under the U.S.–EU Veterinary Equivalence Agreement, U.S. pork producers are required either to test pigs for trichinae through pooled testing, or to subject the pork to cold treatment in accordance with existing federal regulations (9 CFR 318.10). However, there is no science based reason for this costly and unnecessary requirement.

In response to the EU testing requirement, some U.S. plants have made it a practice to export only frozen pork to the EU, thus avoiding the testing requirement and the costs that go with it. This has substantially limited export opportunities for the plants willing to bear the cost of participating in carcass testing.

While trichinosis is a significant problem in many countries, it is not an issue in the United States. There is negligible risk of trichinae in U.S. pork due to high biosecurity protocols and modern pork production systems. According to Dr. Ray Gamble, the world's foremost authority on trichinosis, there is a 1 in 300 million chance of getting trichinae from U.S. commercially produced pork. In addition, the USDA's Animal Health and Inspection Service classifies the U.S. swine herd as negligible risk for trichinae. The U.S. Centers for Disease Control which collects and analyzes data on human infections, reports that U.S. commercial pork is very low risk. There is no scientific reason why the EU should impose trichinae testing or freezing requirements on the United States.

A 2005 EU regulation (Commission Regulation No. 2075/2005) appeared to provide for the possibility of exemptions from EU trichinae testing requirements for pork produced under certain conditions related to trichinae prevention. However, to date, U.S. pork suppliers have been unable to obtain exemptions from EU testing requirements, even though the U.S. has a demonstrated negligible risk.

C. Pathogen Reduction Treatment Prohibition

The EU currently prohibits the use of anti-microbial or pathogen reduction treatments (PRTs), including hyperchlorination and organic acids, on meat products including pork. Only the application of water or steam is permitted on meat carcasses. PRTs used on meat products produced in the United States pose no health risks and help ensure the safety of meat products by reducing bacterial contamination. The current EU prohibition on the use of anti-microbial washes adds significantly to the cost of exporting pork to the EU.

The U.S. is in the initial phases of a WTO dispute settlement case with the EU concerning its pathogen reduction treatments for poultry. USTR requested a WTO panel to hear this case in late 2009. NPPC fully supports the U.S. government action against the EU on the PRT prohibition related to poultry. The EU's prohibition on the use of PRTs

on meat products is a clear violation of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures. The EU should remove these unjustifiable restrictions on U.S. pork exports.

D. Plant Approvals

Although the EU has recently simplified the process for plant approval for export to the EU, there are still significant costly requirements in place that deter most U.S. packers from seeking plant approval. EU plant approval related impediments include a requirement that meat destined for the EU not be comingled with other meat, and a scientifically unjustifiable heart incision requirement.

As NPPC has pointed out for many years, the U.S. accepts a systems-based approach for inspection of countries that export to the United States. Should the United States and EU enter into FTA negotiations, the EU must accept the USDA plant inspection and approval system for pork plants, as other U.S. FTA partners have done.

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