AMERICAN MEAT INSTITUTE

May 10, 2013

Mr. Douglas Bell
Chair, Trade Policy Staff Committee
Office of the United States Trade Representative
600 17th Street NW
Washington, DC 20508

RE: Request for Comments Concerning Proposed Transatlantic Trade and Investment Agreement; Docket No: USTR-2013-0019.

Dear Mr. Bell,

The American Meat Institute (AMI) submits this letter in response to an invitation for comments in the above-referenced matter concerning the proposed Transatlantic Trade and Investment Agreement (T-TIP) between the U.S. and the EU. We appreciate the opportunity to comment on this important issue.

AMI is the nation's oldest and largest trade association representing packers and processors of beef, pork, lamb, veal, turkey, and processed meat products and AMI member companies account for more than 90 percent of United States output of these products. AMI provides legislative, regulatory, public relations, technical, scientific, and educational services to the meat and poultry packing and processing industry.

Untapped Economic Potential

Trade between the U.S. and the EU in meat products has not reached its full potential. For example, in 2012, the U.S. exported $235 million in beef and $119 million in poultry products to the EU. However, this was just four percent and two percent of the value of total U.S. exports for these products, respectively. Similarly, the U.S. imported an estimated $46 million in EU pork products in 2012, 17 percent of total U.S. pork imports, but did not import EU beef or poultry products. Though both markets contain substantial meat production industries and are net exporters of most products, the sheer size of each market would suggest that the meat trade between the two would be more robust if it were not for artificially imposed trade barriers. Indeed, numerous nonscientific regulatory barriers exist between the two markets that must be addressed in order to increase transatlantic trade. The T-TIP negotiations offer a promising opportunity to capitalize on this unrealized economic potential by integrating divergent

regulatory systems that ultimately deliver an equivalent level of food safety to consumers in both markets.

Comprehensive, Single-Track Negotiations

AMI fully supports the stated aims of the T-TIP negotiations and the ultimate goal of a barrier-free transatlantic market. However, AMI is concerned about the possibility of a negotiating framework that is not comprehensive in nature and does not adhere to the "single undertaking" approach traditionally adopted in U.S. trade negotiations. AMI has joined other U.S. food and agricultural organizations to voice this concern in a number of venues.[1] T-TIP promises to be one of the most ambitious and far-reaching Free Trade Agreements (FTA) the U.S. has entered to date. The results of the proposed agreement will set new standards for the entire global trading system. Therefore, the negotiations must include all products and economic sectors and proceed in a comprehensive manner in order to truly be a model for 21st century trade agreements. The T-TIP negotiations cannot set the precedent that some economic sectors are more deserving of trade liberalization than others. All products, regardless of the challenges they may pose, must be on the table.

Additionally, all T-TIP negotiations must proceed in concert and at the same speed. It has been suggested by interested parties in both the U.S. and EU that negotiations should have two "tracks," in which easier agreements to liberalize trade are adopted early in the process while the more difficult issues and sectors are permitted to develop at their own speed. This will inevitably lead to perpetuation of existing trade barriers, with food and agriculture in both markets the likely casualties. These sectors cannot be relegated to second-class status despite the complexity or difficulty of issues involved. To allow negotiations to proceed at different "speeds" would be admitting defeat on some of the most difficult trade issues before the negotiations have even begun.

The negotiating structure that has been adopted in the Trans-Pacific Partnership (TPP) should be used as a template for the T-TIP negotiations. It is our understanding that the TPP negotiations, specifically as they relate to Japan, are proceeding in such a way that the most sensitive and difficult trade issues must be satisfactorily addressed by the parties before all other negotiations may conclude. This is the same negotiating framework that should be established with the EU, so as to ensure the most difficult non-tariff barriers are addressed before the negotiations are permitted to close.

Therefore, in order for AMI to fully support the T-TIP negotiations, food and agriculture must be negotiated in conjunction with all other economic sectors, in one comprehensive undertaking, and in a manner that ensures the most difficult issues are adequately addressed before the agreement may be finalized.

[1] For example, see *Open Letter on Transatlantic Trade*, circulated March 21, 2012, where AMI joined 40 U.S. food and agricultural associations in opposition of dual-track negotiations. A copy of the letter may be found here: http://www.wheatworld.org/wp-content/uploads/trade-us-eu-comprehensive-agreement-letter-20120321.pdf.

Differences in Approach to Risk Management

Structural disparities exist in the regulatory systems of the two economies as they relate to food safety and agricultural risk management. These differences pose serious challenges to any meaningful regulatory cohesion in the sector and must be addressed by the T-TIP negotiations in order to unlock the economic potential of this relationship. The two most obvious examples of regulatory disparity is the EU's reliance on the "precautionary principle" to evaluate innovative technologies and its acceptance of cultural preferences (or "other legitimate factors") as a basis for regulatory action.

The precautionary principle states that where the possibility of a harmful effect exists, but where scientific uncertainty regarding the risk persists, provisional, non-scientific risk management strategies may be adopted by the European Community.[2] In practice, when applied at the technical or regulatory level, the principle tends to serve as a cover to ignore sound science or generally accepted international standards for the sake of political exigency. This in turn may lead to artificial trade barriers that primarily serve to insulate domestic industries from foreign competition or give cover to politically unpopular regulatory outcomes, rather than protect the health or safety of EU consumers.

Similarly, the EU's acceptance of cultural preferences or "other legitimate factors" in the context of the Codex Alimentarius, as a basis for promulgating human health and food safety standards is another key inconsistency between the two systems. The primary purpose of regulatory standards is to protect public health by ensuring the free flow of safe goods based on sound scientific reasoning. However, when incorporating domestic cultural preferences and other factors not directly related to food safety in the EU regulatory decision-making process, the objectivity of the regulatory process itself is comprised. In practice, the approach invites the adoption of protectionist or politically-motivated trade policies for reasons other than food safety concern, to the detriment of transatlantic trade.

A successful FTA between the U.S. and the EU must address the application of the precautionary principle and consideration of cultural preferences in the regulatory process to future regulations of new or emerging technologies in food and agriculture. It must bring the EU's rulemaking process in line with international norms, including those found in the Codex Alimentarius, World Organization for Animal Health (OIE) and other international standard-setting bodies that use science as the primary basis for regulation. These two structural differences between the markets have produced many of the transatlantic trade barriers experienced in food and agriculture today, and must be remedied.

As a primary example of the problematic application of these principles, the EU continues to maintain its unjustified ban on meat produced with beta-agonist technologies, such as Ractopamine Hydrochloride (Ractopamine). Ractopamine is a feed ingredient that improves efficiency in meat production. It was approved for use in the U.S. after an extensive review by the U.S. Food and Drug Administration. It is also approved for use in 26 other countries around

[2] Regulation (EC) 178/2002, Art. 7.

the world, and the Codex Alimentarius established a recommended maximum residue level for its use in July 2012 after years of research and discussion. The EU's prohibition against meat imports containing residues of the drug is not scientifically justified and inconsistent with international standards. Although the EU and any other country may establish regulations which prohibit domestic use of this type of product, trade should not be restricted because, in this case, the feed additive has repeatedly been deemed safe for use by internationally recognized public health authorities and the Codex Alimentarius.

Ban on Pathogen Reduction Treatments

Another example of the disconnect between the regulatory systems of the U.S. and the EU has been the EU's struggle to approve the use of generally accepted and internationally recognized pathogen reduction treatments (PRT) in red meat and poultry packing and processing plants. The EU currently bans the use of most PRT for beef, pork and poultry products. Until February 2013, water and steam were the only substances allowed for antimicrobial treatment purposes. However, sound science supports the use of PRT to reduce bacterial contamination and promote consumer safety. Many PRT have been in use internationally for quite some time. The EU's reluctance to adopt PRT is an unjustified barrier to transatlantic trade and something that must be addressed if the two regulatory systems hope to converge in a meaningful way.

The primary example of this issue was the length of time needed to approve the use of lactic acid as a PRT for beef. Lactic acid is an organic, naturally-occurring, and widely accepted PRT with a long history of international use. However, the approval process in the EU was unnecessarily slow due to procedural complexities and the reluctance of EU regulators to adhere to science-based decision-making in the face of popular or political pressure. Though the issue was largely resolved for lactic acid in beef, it continues for other PRT and demonstrates the EU regulatory system's inflexibility in dealing with new, safe technology when applying the precautionary principle, even in the face of sound scientific support.

High Quality Beef Quota Administration

In May 2009, the U.S. and EU signed a Memorandum of Understanding (MOU) to resolve, on a provisional basis, the World Trade Organization (WTO) beef hormone dispute. In August 2008, the MOU took effect, providing duty-free access to the EU market for U.S. High Quality Beef (HQB) at an agreed quota level. The quota was increased to 48,200 metric tons in August 2012. However, given that the agreement was entered into outside the parameters of an official FTA negotiation, the quota is accessible by any other Member of the WTO who meets the product criteria under Most-Favored Nation principles. What was originally intended to be dispute settlement compensation for the U.S. as a result of the WTO Dispute Settlement Body's findings can now enjoyed by a number of other suppliers. Therefore, within the context of the T-TIP negotiations, the administration of the HQB quota must be modified to ensure that U.S. producers, processors and exporters have sustained access to the European market under the quota.

Cumbersome Plant Registration and Inspection Procedures

Though the process has been somewhat simplified, costly requirements still remain in place that deter most U.S. meat and poultry packers from seeking establishment approval to export meat to the EU. These impediments include requirements that meat destined for the EU not be comingled with other meat products and scientifically unjustified heart incision requirements in pork. In the course of the T-TIP negotiations, the EU must recognize the U.S. systems-based approach for plant inspection and approval of meat and poultry plants if more businesses, particularly small and medium-sized enterprises, are to participate in transatlantic trade.

BSE Comprehensive Rule

Finally, there are steps the U.S. must take to enhance trade between the U.S. and the EU in agricultural products. For many years, the U.S. has chastised its trading partners for implementing animal health and food safety regulations that were not OIE-consistent, even though some of its own domestic regulations did not meet this standard either. If one of the primary goals of the T-TIP negotiations is to enshrine science-based decision-making in the regulatory process, then the U.S. must also be prepared to closely adhere to this principal. Recently, the U.S. Department of Agriculture proposed a rule that would bring its animal health regulations into compliance with OIE requirements. This rule must be finalized and published in order to facilitate trade of high quality products from the EU to U.S. consumers.

Clearly, many of these issues will not be easy to resolve within the context of a free trade agreement. However, the proposed negotiations present a rare opportunity for the U.S. and the EU to reshape the international trading system to enhance regulatory efficiency, transparency, and science-based standards to the benefit of both economies. This opportunity must not be wasted. Therefore, AMI supports these efforts and encourages both negotiating parties to strive for an ambitious agreement that realizes the full potential of an integrated transatlantic market.

Thank you again for the opportunity to comment on the proposed Transatlantic Trade and Investment Agreement.

Respectfully submitted,

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cc: J. Patrick Boyle