



National Grain and Feed  
Association



North American Export  
Grain Association

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May 10, 2013

Mr. Douglas Bell  
Chairman, Trade Policy Staff Committee  
Office of the U.S. Trade Representative  
Executive Office of the President  
600 17th Street NW  
Washington, DC 20508

***Re: Request for Written Comments Regarding the Proposed  
Transatlantic Trade and Investment Partnership***

Dear Mr. Bell,

The North American Export Grain Association (NAEGA) and National Grain and Feed Association (NGFA) appreciate this opportunity to comment to the Trade Policy Staff Committee on Proposed Transatlantic Trade and Investment Partnership (T-TIP)

NAEGA, a not-for-profit trade association established in 1912, consists of private and publicly owned companies and farmer-owned cooperatives that are involved in and provide services to the bulk grain and oilseed exporting industry. NAEGA's mission is to promote and sustain the development of commercial export of grain and oilseeds and their primary products. Through a reliance on member action and support, NAEGA acts to accomplish its mission from its office in Washington D.C., and in markets throughout the world. NAEGA members are engaged in the vast majority of U.S. grain and oilseed exports, whose value exceeds \$50 billion annually.

NGFA is comprised of 1,050 member companies that operate more than 7,000 facilities and handle more than 70 percent of the U.S. grain and oilseed crop. NGFA membership encompasses all sectors of the industry, including country, terminal and export grain elevators; commercial feed and feed ingredient manufacturers; biofuels producers; cash grain and feed merchants; end-users of grain and grain products, including grain and oilseed processors, corn and flour millers, and livestock and poultry integrators; commodity futures brokers and commission merchants; and allied industries.

NAEGA and NGFA look forward to the successful negotiation of the T-TIP. We support the effort to identify policies and measures to increase U.S.-EU trade and investment to support mutually beneficial job creation, economic growth and international competitiveness. We believe that an ambitious, comprehensive and properly implemented U.S.-EU Free Trade Agreement (FTA) would generate economic growth and create thousands of new jobs on both sides of the Atlantic. This means negotiating the type of high-standard, 21st-century agreement that has been central to the Obama administration's trade policy efforts. Importantly, this is not the type of agreement the EU has negotiated with other trading partners. Its FTAs historically have excluded agricultural goods it produces. And they have not addressed a means to address regulatory measures that conflict with both U.S. interests and World Trade Organization (WTO) rules.

With those concerns in mind, we strongly recommend the Transatlantic Trade and Investment Partnership ultimately include:

1. A "Rapid Response Mechanism" (RRM) to facilitate trade when administrative entities implement Sanitary and Phytosanitary (SPS) measures and other regulations, standards, testing and certification procedures that may result in technical barriers to trade (TBT). An effective and functioning RRM would prevent shipments of critically important and perishable agricultural products from being unnecessarily delayed or banned from import.

While industry can petition its own government to utilize the WTO dispute settlement process when such disruptions occur, the process can be lengthy, places resource constraints on governments and is seldom practical. Mechanisms that link commercial and official actions, improve value chain-wide communication, and increase the application of sound science are needed to provide for the least-trade-distortive and improved national actions related to SPS and TBT measures.

A RRM fits into the concept of "WTO-plus" obligations that go beyond the WTO SPS Agreement on issues like risk assessment, risk management, transparency, border checks/laboratory testing and facilitating trade through regulatory coherence measures.

Acting in many ways like a "small claims court," a RRM mechanism would swiftly resolve (on a shipment-specific basis) any misapplication of SPS and TBT measures, while also limiting trade friction and improving capacity to manage SPS and TBT risks in the least-trade-distortive manner possible.

We suggest the specific elements of an RRM include:

- First, a process of immediate detailed notification to the importer or exporter of record (shipper or consignee) of risk detection, assessment and management measures. A notification that details methodology, findings, enabling authority and recourse or compliance measures related to the action taken should be provided by the official body within three days of request by either the importer or exporter of record. Further conveyance of the notification should be at the option of the requesting party. The

notification should be recognized as potentially providing for further review or actions acceptable to the relevant official body that may support or mitigate the action.

- Second, the RRM should include an expedited, third-party, review of the applicable administrative actions. Occurring only when requested by the commercial importer or exporter, the review should be expeditiously conducted by neutral experts. The resulting report would provide a non-binding, public recommendation on how to best manage the pending delay or prevented acceptance of the shipment.
2. Other “WTO-Plus” measures to address Sanitary and Phytosanitary (SPS) and Technical Barriers to Trade (TBT). These measures should: provide for enforceable dispute resolution, include effective disciplines that underscore the importance of harmonized, science-based regulations, be fully enforceable and ensure that T-TIP parties are held to commitments on risk assessment, risk management, transparency, border checks, laboratory testing and regulatory-coherence measures
  3. Reduction and elimination of measures related to crop biotechnology that currently restrict or prevent trade in grains, oilseeds and their derived food and feed products. Doing so would be to the mutual benefit to consumers, farmers and the economies of the United States and the EU.

Reducing the gap between the authorization of a new biotechnology-enhanced events in the United States and their authorization for import and use in food, feed or processing (FFP) in Europe should be among the highest of priorities for T-TIP. The current “asynchronous approval” situation is caused by many factors, including risk assessment guidelines that are not aligned and increasing politically-motivated delays in product approvals.

Changing the EU’s approach to regulating stacked crop biotechnology events should be included. The EU, in addition to a separate risk assessment for each individual component of a stacked biotech-enhanced event, currently requires a scientifically unjustified risk assessment and authorization for each stack. Moreover, since the review of the stacks cannot begin until after the risk assessment on the single component is completed, this current requirement unnecessarily delays the process and further widens the time gap between U.S. deregulation and E.U. authorization for import FFP use. In the future, maintaining the requirement for separate authorization of event stacks will become increasingly burdensome and will substantially increase delays as stacked products become more prevalent in the marketplace.

Provisions also should be included in T-TIP that allow FFP imports that may contain a low-level presence (LLP) of crop biotechnology events that have received a positive safety opinion from EFSA and have completed a full approval process, consistent with international standards, in one or more of the major exporting countries in the Americas.

Implementing limited, harmonized and practical sampling and identification of crop biotechnology events in FFP commodity shipments also should be part of the T-TIP. For example, when biotech content must be identified, grains drawn from existing processes that

sample for quality and safety should be used and final identification should occur in the country of origin prior to shipment.

Finally, modifying the current EU “technical solution” with respect to the presence of crop biotech-enhanced events that are yet to be approved for use as food or feed in EU crop biotechnology is a reasonable step toward making progress in reducing the impact of the EU’s unduly trade restrictive measures related to crop biotechnology. The technical solution places an impractical restriction on imports to the EU of U.S. grains, oilseeds and products thereof because it only applies to feed, and not food.

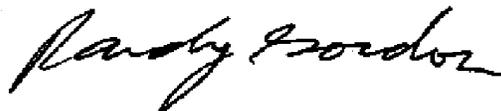
4. T-TIP should provide for fair treatment of U.S. farm products in compliance with EU mandatory sustainability requirements. For example, a bilateral agreement, as provided for in EU Renewable Energy Directive (RED), should expressly recognize RED sustainability requirements are achieved via production and marketing practices conducted in compliance with the long-standing framework of U.S. conservation programs. The agreement should ultimately determine that U.S. soybeans and other commodities that are imported to the EU for Biofuels and Biofuel feedstock do not require additional certification.

We encourage you to fully consider each of the recommendations contained herein, and look forward to supporting the work of the Trade Policy Staff Committee, the Office of the U.S. Trade Representative and your colleagues in the EU as you begin negotiating the T-TIP. Please feel free to contact us with any related questions or further requests.

Sincerely,



Gary C. Martin  
President and Chief Executive Officer  
North American Export Grain Association



Randall C. Gordon  
President  
National Grain and Feed Association