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## **Regulatory co-operation activities with the US: comments from the dairy trade**

Eucolait welcomes this opportunity to comment on certain regulatory barriers faced by EU dairy exporters in conducting business in the United States. The recent announcement of the mandate granted by the Council to the Commission to commence trade negotiations with the US presents an opportune occasion to address some of these issues and to propose possible solutions.

### **Background**

The US is a major importer of EU dairy products. Total EU dairy exports to the US were valued at over €1.2 billion in 2018. The greatest part of this was cheese, with product to the value of €876 million exported there in 2018. The US is the no.1 importer of EU cheese.

The importance of the US market of EU exporters of dairy products can therefore not be overstated. There are a number of regulatory, non-tariff barriers in place in the US, the removal of which would pave the way for easier and smoother movement of products in the lucrative US market.

### **Grade A equivalency exercise**

The Grade A Pasteurised Milk Ordinance (PMO) sets out very prescriptive rules for the production and processing of milk and fresh dairy products and ingredients used therein in the US. We positively received the news in 2014 that three EU Member States (Ireland, France and the Netherlands) were being audited with a view to Grade A equivalency being offered to milk and dairy products produced in these Member States. An initial decision on the outcome of these audits was expected during H1 2015, however it was delayed and subsequently the move towards equivalency has been 'put on ice'. Other Member States expressed interest in being included in a second wave of equivalency audits, however these cannot begin until the initial process with Ireland, France and the Netherlands has been completed. Eucolait still considers this matter to be very important despite years of no movement and urges the European Commission to call on the US FDA to complete the equivalency process and to declare the Member States' production process as being on a par with the requirements set out in the Grade A PMO.



### **Systems recognition under the US Food Safety Modernisation Act (FSMA)**

One particular element of FSMA, the Foreign Supplier Verification Programme (FSVP), places the onus on the importer in the US to demonstrate that the foreign supplier from which the imported food is sourced produces to a standard which is in line with US food safety standards. We have received comments from members that the food safety systems of Canada and New Zealand have been recognised as providing comparable food safety outcomes, products imported from these countries to the US are not subject to any additional safety checks. Currently as there is no mutual recognition for the EU food safety system (despite the EU initiating engagement on this with the FDA in 2016), EU imports do not benefit from this exemption and the US importer has to demonstrate with documented verification that the products comply with FSVP requirements. This places a burdensome cost on US importers of EU dairy products. As the EU advances in its engagement with the US, Eucolait calls on the Commission to seek mutual recognition for our food safety system from the FDA so that imports can take place on an equal footing with products from competitor supplying countries.

### **Wisconsin Grading classification for butter**

The US state of Wisconsin has its own unique grading system for butter. This grading system applies to all butter sold in Wisconsin and the requirement applies to producers operating within as well as outside of Wisconsin. The butter rules in Wisconsin are completely separate to the different milk classes (I-IV) outlined in the Federal Milk Marketing Order.

Under the Wisconsin rules, butter can be categorised as Grade AA, A, B or 'under grade' (failing to meet the requirements for Grade B). Only Wisconsin trained graders can grade this butter. This restriction on grading acts as an impediment to trade. Eucolait would therefore propose that this requirement be reconsidered in the spirit of promoting trade.

### **Restrictions on the import of raw milk cheeses**

At present, approximately half of the US states do not allow for the sale of raw milk and raw milk products and therefore it follows that the interstate commerce of raw milk products is also prohibited. Federal regulation does however allow for the sale (and import) of raw milk cheese, provided that it has been ripened for a minimum period of 60 days. No such restriction is applied by the EU to US raw milk products. The US is listed as a 'column A' country in Regulation 605/2010 and therefore can ship raw milk products without restriction to the EU.



### **Organic equivalency for dairy**

The EU-US agreement on organic equivalency has been in force since 1 June 2012. It is still not possible to export dairy and meat under this agreement. Eucolait would like to see this change so that EU organic dairy products can be permitted to bear an organic seal on the US market. In addition, under the agreement organic livestock must be raised without any antibiotics for their products to qualify under the US-EU equivalency agreement. In the EU organic rules, there are certain thresholds for antibiotic use in livestock that provides for a greater degree of flexibility. It would be a positive development if this flexibility could be included in an application of the agreement to dairy.

By addressing these longstanding issues with the US side, Eucolait believes that this would be a very positive way of restarting negotiations towards a trade agreement. We remain at your disposal should you require any additional information.