



European Association of Dairy Trade
Europäischer Verband
des Handels mit Milcherzeugnissen
Association Européenne du Commerce
des Produits Laitiers et Dérivés



Presentation at EU-US regulatory forum

As the European Association of Dairy Trade, our mission is to promote the creation of an environment where trade in dairy products can take place as smoothly as possible, both within the EU and globally, notably by eliminating regulatory barriers.

We therefore strongly support the launch of the FTA negotiations between EU and US and hope for a successful and ambitious outcome as far as dairy is concerned. The US are already a key market for EU dairy products (4th with some 150 000 tons per year), in particular cheeses, caseinates and MPCs. As an association representing trade we are however not only looking for a potential increase of EU exports to the US. Indeed, we feel it would be beneficial to create more frequent, more substantial and more reciprocal trade opportunities for a larger number of dairy products. We recognize the US and the EU are both net exporters of dairy products and major suppliers to the world market. We are however convinced that by enabling more market arbitration between the two markets, whereby traders take advantage of temporary commodity price differences, more business opportunities will be created and increased price stability can be achieved on both sides of the Atlantic. Furthermore, providing access to both markets will stimulate innovation as it will improve the return on investment.

General regulatory issues – Food Safety Modernisation Act

When it comes to food, and products of animal origin in particular, the biggest non-tariff barriers are always regulations covering food safety and/or quality. We believe that both the US and the EU have very solid food safety systems in place. Therefore, the focus should not be on the differences but on the outcomes achieved by both systems. A debate about which regulatory framework is better and a detailed comparison of all requirements will not lead to any positive results.

In this context, we welcome the shift of focus from responding to contamination to preventing it in the **Food Safety Modernisation Act**. We would now like to see mutual recognition of the two food safety systems as equivalent or at least (if equivalence is not the word to be used) as comparable. In such a determination of equivalence or comparability, it is of outmost importance that the exercise focuses on the EU as one rather than individual Member States. EU regulations in the area of food safety are directly applicable all over the Union, leaving little to no margin of appreciation that could result in significant differences in implementation. The EU is also a single market and our own rules on the free movement of goods cannot accommodate differential treatment by our partner countries.

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Grade “A” Pasteurized Milk Ordinance

The Pasteurized Milk Ordinance is perceived by many as the main non-tariff barrier as it affects EU exports of most types of dairy products (excluding cheese, butter, frozen desserts and infant formula). This concerns fresh products such as yoghurts but also dry milk products like milk and whey powders when used as ingredients in grade A products. More importantly, the use of technical/functional dairy ingredients such as MPC or caseinates sourced from Europe is only possible as long as no “grade A alternative” exists. We are also concerned that the scope of the grade A PMO will be further extended to for instance sport nutrition and wellness products. Sourcing dairy ingredients from the EU for use in grade A products should also be in the interest of US dairy industry.

Because of the difference between the EU and US regulatory systems, production models and plant designs it is extremely difficult for EU establishments to get “grade A approval”. Rather than looking at detailed, prescriptive requirements, an outcome-based approach should be followed. While not identical, the EU system should be recognised as achieving the same level of public health as the grade A PMO. We understand that grade A is a recommended standard that is adopted and operated by the States but due to its importance and impact on trade, we ask the negotiators not to leave aside this crucial issue.

GIs

A pragmatic approach should be followed when it comes to geographical indications. There are obviously some major differences of opinion as the concept is barely recognised in the US while GIs are a key component of EU’s agricultural policy. Some concessions from both sides will therefore be necessary. Perhaps it will not be possible to protect all European GIs, in particular those considered generic in the US. From the US side, it seems unrealistic to request market access for American cheeses marketed under a protected name such as parmesan or feta because this would put US cheese producers in a better position than EU companies that are not allowed to use the names. Certain products (cheeses) could therefore be excluded from the agreement or be subject to specific regimes. This was also done for instance in the EU-Switzerland agreement.

Dairy import assessment

The dairy import assessment programme which is part of the National Dairy Promotion and Research Order established a levy of 7,5 cents per hundred pounds of milk on imported dairy products. We consider taxing imported products to fund domestic promotion from which the imports cannot benefit in the same way as domestic products as unfair and incompatible with international trade rules. For instance, a lot of the advertising budget is used to promote drinking milk which is not imported and many dairy products exported by the EU are used in processed foods that are not marketed as dairy products. There are also practical concerns as in some cases it can be burdensome for the importer to obtain documentation on the milk solids content, especially in highly processed products and some of the information to be disclosed may be commercially sensitive.

Import License management

Dairy imports from the EU into the United States are managed through historical and non-historical licensing systems. The licensing systems need reform to ensure that all import licenses are fully utilized. A cursory examination of actual imports will show that a significant portion of EU dairy products are being imported into the US at full import duty rate, while import licenses (at zero or preferential duty rates) for the same products remain under or un-utilized. Reform is therefore needed to address license access restrictions. Access to licenses needs to be broadened to ensure that un-utilized licenses are re-allocated speedily and without cost and/or switched to other product categories where, based on trade growth, there is a clear demand for them.