



Consultation on EU-US High Level Working Group on Jobs and Growth

Part A: EU exports to the US

1. Conventional barriers to trade

1.1. Export statistics

The following quantities have been exported in 2011 corresponding to more than 860 million EUR:

Cheese (0406):	108 915 t
Butter (0405 10):	2 602 t
Casein/Caseinates (3501):	20 576 t
Lactose (1702):	3 876 t
Milk Powders (0402 10 & 0402 21):	761 t
Whey (040410 & 0404 90):	411 t

1.2. Non-exhaustive overview of TRQs, relevant tariffs and other import-related fees

A. Dairy Products with country specific TRQ's (2011)

Cheese

Preferred importers' regime (GATT quotas, administered by EU):	TRQ of 16 299 t
Historical licences (administered by the US):	TRQ of 42 733 t
Non-historical licences (administered by the US):	TRQ of 18 344 t

Butter

Historical licences (administered by the US):	TRQ of 75 t
Non-historical licences (administered by the US):	TRQ of 21 t

B. Dairy Products with non country specific TRQ's (Erga Omnes – 2011)

Butter

Historical licences (administered by the US):	TRQ of 4 868 t
Non-historical licences (administered by the US):	TRQ of 1 788 t

Butteroil

Historical licences (administered by the US):	TRQ of 6 081 t
Non-historical licences (administered by the US):	TRQ of 6 081 t

SMP

Historical licences (administered by the US):	TRQ of 4 441 t
Non-historical licences (administered by the US):	TRQ of 4 441 t

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WMP

Non-historical licences (administered by the US):

TRQ of 3 318 t

For further details, see the following website: <http://www.gpo.gov/fdsys/pkg/FR-2011-10-13/html/2011-26480.htm>

C. Dairy Products subject to economically workable tariffs

Casein/caseinates

3501 10 10: 0.37¢/kg

3501 10 50: Free

3501 90 20: 6% of FOB value

3501 90 60 00: 0.37¢/kg

Lactose

170211 & 1702 19: 6,4% of FOB value

Whey products

0404 10 05 : 8.5% of FOB value

0404 90 10 : 0.37¢/kg

D. Dairy Products with unworkable tariffs

For most dairy products the tariffs have been set at such high levels which make imports practically impossible. Below are tariffs for SMP and WMP.

0402 10 50: 0.865 USD/kg

0402 21: 1.092 USD/kg

E. IMPORT RELATED FEES

DAIRY IMPORT ASSESSMENT (DIA)

The DIA requires importers to pay a fee equivalent to 7.5 cent per hundredweight of cow's milk solids in imported products. Of that 7.5 cent assessment, 5 cents will automatically be sent to the National Dairy Board. the remaining 2.5 cent can be directed to a qualified promotion programme. However, the reality is that promotion programmes such as "real Seal" only apply to products processed in the United States and are unavailable to imported products. Imported products can therefore not benefit from the promotion for which they are being assessed.

1.3. Recommendations for an FTA between the EU and the US

Eucolait would like to make the following recommendations:

1.3.1. The current TRQs should be maintained.

1.3.2. The EU should seek for increased market access through significantly reduced tariffs provided that current general tariffs are not too high. In the latter case, TRQs might be the only workable option.

1.3.3. The DIA fees should be eliminated.

2. Non-tariff barriers to trade

2.1. Grade A

The Grade A regulation and the Pasteurized Milk Ordinance were originally set up to deal with the risk of food borne illnesses related to the consumption of fresh perishable dairy products. For a number of fresh dairy products additional norms and standards were defined for the production, hauling and transformation of milk. Originally products such as pasteurized milks and creams, fresh cheeses and other cultured products were targeted by this regulation. What is viewed as the biggest potential threat to the future interests of the European dairy trade and industry is the fact that a significant expansion of the scope of dairy products that need to comply with the Grade A regulation could be realized unilaterally in 2007. There is genuine concern for a possible future expansion of the scope to sports nutrition and wellness products. This would be detrimental to the exports of European high quality dairy ingredients to the US.

2.2. Standards of identity

Different standards of identity for milk and milk products have been introduced in the Code of Federal Regulations. Standards of identity define a given food product, its name, and the ingredients that must be used, or may be used, in the manufacture of the food. A food which is represented or purports to be a food for which a standard of identity has been promulgated must comply with the specifications of the standard in every respect. Given that these standards are not in line with international standards, they can become a barrier to trade.

2.3. Food Safety Modernisation Act

The Food Safety Modernisation Act (FSMA) was signed into law on 4 January 2011. Specific stipulations concerning the implementation of the act are still being elaborated by the FDA. That is why it is difficult to assess what impact it will really have on the daily operations of companies.

2.4 Recommendations for an FTA between the EU and the US

An FTA between the EU and the US could be an excellent opportunity:

2.4.1 to seek for grade A recognition of EU dairy products

2.4.2 to align US standards of identity with international standards where necessary.

Part B: EU imports from the US

1. Conventional barriers to trade

1.1. Import statistics

The following quantities have been imported in 2011:

Butter (0405 10): 6 745 t

Lactose (1702 11 & 1702 19): 2 175 t

Milk Albumins (3502 20): 2 848 t

Concentrated Milk Protein Concentrates with a protein content of >85% (3504): 16 257 t

1.2. Non-exhaustive overview of TRQs and relevant tariffs

PRODUCTS WITH NON- COUNTRY-SPECIFIC TRQS (ERGA OMNES)

SMP: Annual TRQ of 68 537 t with an import duty of 47.50 EUR/100kg net
Butter and other fats: Annual TRQ of 11 360 t with an import duty of 94,80 EUR/100kg net
Cheese: Annual TRQs for cheeses differing according to the type of cheese

PRODUCTS SUBJECT TO TARIFFS

For the majority of its dairy products EU tariffs do not enable regular imports.

Butter

0405 10 : 189,6 €/100 kg/net

Lactose

1702 11: 14 €/100 kg/net

1702 19: 14 €/100 kg/net

Milk albumins

3502 20 10 : Free

3502.20 91: 123,5 €/100 kg/net

3502 20 99 : 16,7 €/100 kg/net

Concentrated milk protein concentrates (protein content of >85%)

3504 00 10 & 3504 00 90 : 3.4%

Milk powders

0402 10 11: 125,4 €/100 kg/net

0402 21 11: 135,7 €/100 kg/net

1.3. Recommendations for an FTA between the EU and the US

Eucolait is not opposed to granting additional market access for US dairy products by means of significant tariff reductions or TRQs and would welcome it in return for greater access for EU dairy products on the US market.

2. Non-tariff barriers to trade

2.1. Animal welfare

Eucolait is aware of the growing importance of animal welfare standards in the EU. However, these standards, where not internationally validated, should not be an obstacle for the successful conclusion of the negotiations.

2.2. Recombinant bovine somatotropin (rbST) in milk

Bovine somatotropin is a peptide hormone produced by the cow's pituitary gland. Since 1994 it has been possible to synthesize the hormone using recombinant DNA technology to create recombinant bovine somatotropin (rBST), recombinant bovine growth hormone (rBGH), or artificial growth hormone. The use is banned in the European Union. Its commercial use is legal in The United States.

2.3. Somatic cell count

The EU's somatic cell count (SCC) certification requirements require each farm to meet a 400,000/ml. threshold. The official US limit for SCC is 750,000 cells/ml.

2.4. Recommendations for an FTA between the EU and the US

Eucolait works hard with the Commission to identify and remove non-tariff barriers to trade imposed by third countries.

The EU has to be conscious that by imposing import requirements related to criteria which are not internationally supported it weakens its ability to remove barriers imposed on its own products.

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