



July 21, 2016

Agriculture Issues in U.S.-EU Trade Negotiations

The Transatlantic Trade and Investment Partnership (T-TIP) is a proposed free trade agreement between the United States and the European Union (EU). Both sides seek to liberalize transatlantic trade and investment, set globally relevant rules and disciplines that could boost economic growth, support multilateral trade liberalization through the World Trade Organization (WTO), and address third-country trade policy challenges. Agricultural issues have been actively debated in the context of market access but mainly within regulatory and intellectual property rights discussions. Negotiations began in July 2013.

The United States is among the world's largest net exporters of agricultural products, averaging more than \$140 billion per year (2010-2015). The EU is an important export market for U.S. agricultural exports and ranks as the fifth largest market for U.S. food and farm exports. In recent years, however, growth in U.S. agricultural exports to the EU has not kept pace with growth in trade to other U.S. markets, and imports from Europe currently exceed U.S. exports to the EU. In 2015, U.S. exports of agricultural products to the EU totaled \$12 billion, while EU exports of agricultural products to the United States totaled \$20 billion (Figure 1). This has resulted in a substantial trade deficit for the United States and reversing the net trade surplus in U.S. agricultural exports during the early 1990s.

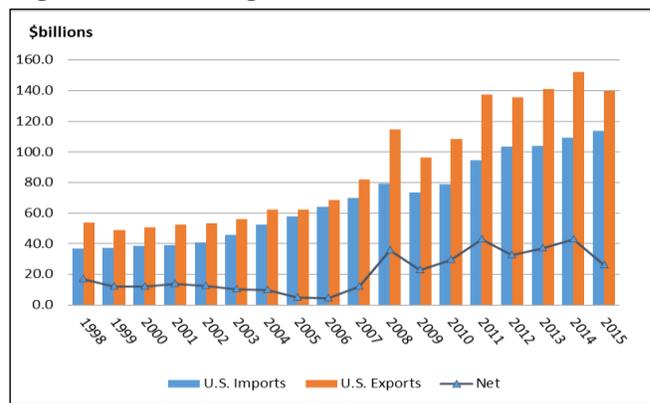
Major U.S. agricultural exports to the EU include tree nuts, soybeans, forest products, distilled spirits, vegetable oils, wine and beer, planting seeds, tobacco, and processed fruit and wheat. Major EU agricultural exports to the United States include wine and beer, essential oils, snack foods, processed fruits and vegetables, other vegetable oils, cheese, cocoa paste/butter, live animals, nursery products, and red meats. The U.S. Department of Agriculture (USDA) reports that the EU's average agricultural tariff is 30%, well above the average U.S. agricultural tariff of 12%, including all products imported under an applied tariff and under a tariff rate quota (TRQ).

High EU average tariffs on U.S. exports are exacerbated by the EU's nontariff barriers to U.S. agricultural products. Concerns include delays in reviews of biotech products (limiting U.S. exports of grain and oilseed products), prohibitions on the use of growth hormones in beef production and the use of certain antimicrobial and pathogen reduction treatments (limiting U.S. meat and poultry exports), and complex certification requirements (limiting U.S. processed foods, animal products, and dairy products). EU regulations are also a concern for U.S. exporters, including lack of a science-based focus in establishing sanitary and phytosanitary (SPS) measures, difficulty meeting food safety standards and obtaining product certification, the lack of cohesive labeling requirements, and stringent testing requirements that are often applied inconsistently across EU member nations.

Other concerns involve the use of geographical indications (GIs), or the use of certain protected names, that many U.S. food producers consider to be generic names.

Negotiations on agricultural products may be viewed in the context of longstanding, high-profile transatlantic trade disputes between the United States and the EU covering a range of trade issues including SPS concerns and other types of nontariff barriers. Further complicating these negotiations are underlying regulatory and administrative differences between the United States and the EU in how each addresses these issues within their respective borders.

Figure 1. U.S.-EU Agricultural Trade, 1998-2015



Source: CRS, USDA-reported trade data for the EU-28 countries, including the United Kingdom which recent voted to leave the EU.

SPS and Nontariff Trade Measures

SPS measures are laws, regulations, standards, and procedures that governments employ as “necessary to protect human, animal or plant life or health” from the risks associated with the spread of pests, diseases, or disease-carrying and causing organisms or from additives, toxins, or contaminants in food, beverages, or feedstuffs. Technical barriers to trade (TBTs) cover both food and nonfood traded products. TBTs in agriculture include SPS measures but also include other types of measures related to health and quality standards, testing, registration, and certification requirements, as well as packaging and labeling regulations.

SPS/TBT measures regarding food safety and related public health protection are addressed in various multilateral trade agreements and are regularly notified to and debated within the WTO. International trade rules recognize the rights and obligations of governments to adopt and enforce such requirements. These rules are spelled out primarily in two WTO agreements: (1) the Agreement on Sanitary and Phytosanitary Measures, and (2) the Agreement on Technical Barriers to Trade. In general, under the agreements, WTO members agree to apply such measures, based on scientific evidence and information, only to the extent necessary to protect human, animal, or plant life and

health and to not arbitrarily or unjustifiably discriminate between WTO members where identical standards prevail. Member countries are also encouraged to observe established and recognized international standards. Improper use of SPS/TBT measures can create substantial, if not complete, barriers to trade when they are disguised protectionist barriers, are not supported by scientific evidence, or are otherwise unwarranted.

Regarding SPS/TBT measures between the United States and the EU, major differences exist in how each applies these measures and how each regulates food safety and related public health protection, which have likely contributed to some longstanding trade disputes regarding SPS and TBT rules between the two trading blocs. This includes formal WTO disputes involving meat and poultry production and processing methods, such as the U.S. use of beef hormones, ractopamine, pathogen reduction treatment technologies, and certain other animal and plant processing regulations. Other SPS concerns have involved agricultural biotechnology use and pesticide regulations.

Some in Congress hope that the T-TIP negotiations will resolve longstanding trade disputes regarding SPS rules between the two trading blocs and address SPS issues and other nontariff barriers. Given the magnitude of regulatory differences and existing nontariff barriers between the United States and the EU, some are concerned about whether the T-TIP would be able to address such concerns or whether the agreement might exclude agricultural products altogether. Regarding SPS and TBT matters, among the goals of the negotiations are provisions that “go beyond” the existing SPS and TBT agreements.

Use of Agricultural Biotechnology

Agricultural biotechnology refers primarily to the use of recombinant DNA techniques to genetically modify or bioengineer plants and animals so that they have certain desired characteristics. In the United States, plantings of genetically engineered (GE) varieties account for about 170 million planted acres annually. GE varieties now dominate all U.S. soybean, cotton, and corn acreage, and plantings continue to expand rapidly in other countries.

GE crops play a much more limited role in the EU: They are currently cultivated in Spain, Portugal, the Czech Republic, Slovakia, and Romania. GE crops account for about 1% of EU crop acreage. The EU’s regulatory framework regarding biotechnology is generally regarded as one of the most stringent systems worldwide. Officials have been cautious in allowing GE products to enter the EU market, and all GE-derived food and feed must be labeled. Moreover, in 2015, the European Parliament adopted new legislation to allow each member country to ban or approve GE crops within its territory, and many EU member states have applied to fully opt-out of GE cultivation.

Many U.S. producer groups assert that U.S. agricultural exports to the EU have been limited by EU labeling and traceability regulations and lack of timelines and transparency for admitting GE crops. Many in Congress have highlighted these concerns, pointing to key missed deadlines for import approvals of biotechnology products and failure by EU regulators to act as prescribed by EU law.

Geographical Indications

Geographical indications (GIs) are place names used to identify products that come from these places and to protect the quality and reputation of a distinctive product originating in a certain region. The term is most often applied to wines, spirits, and agricultural products. Some food producers benefit from the use of GIs by giving certain foods recognition for their distinctiveness, differentiating them from other foods in the marketplace. In this manner, GIs can be commercially valuable. GIs may be eligible for relief from acts of infringement or unfair competition. GIs may also protect consumers from deceptive or misleading labels. Examples of GIs include Parmesan cheese and Parma ham from the Parma region of Italy, Tuscan olive oil, Roquefort cheese, Champagne from the region of the same name in France, Irish whiskey, Darjeeling tea, Ceylon tea, Florida oranges, Idaho potatoes, Vidalia onions, Washington State apples, and Napa Valley wines.

The use of GIs has become a contentious international trade issue, particularly for U.S. wine, cheese, and sausage makers. In general, some consider GIs to be protected intellectual property, while others consider them to be generic or semi-generic terms. GIs are protected by the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). Under TRIPS, both the United States and the EU have committed to providing a minimum standard of protection for GIs to avoid misleading the public and to prevent unfair competition.

Laws and regulations governing GIs differ markedly between the United States and the EU, which further complicates this issue. In the EU, a series of regulations governing GIs was initiated in the early 1990s covering agricultural and food products, wine, and spirits. Currently, more than 4,500 product names are registered and protected in the EU for foods, wine, and spirits originating in both EU member states and other countries. In the United States, GIs are geared toward brands and trademarks and protected under the U.S. Trademark Act.

U.S. negotiators continue to be concerned that the EU’s system for protecting GIs adversely impacts the protection of trademark and market access for U.S. products that they consider to be generic names. Bilateral trade concerns also arise when a product name recognized as a protected GI in Europe is considered a generic name in the United States. GI protections afforded to registered products in third-country markets are another concern for U.S. agricultural exporters. This is especially true following a series of recently concluded trade agreements between the EU and countries such as Canada, South Korea, South Africa, and other countries, since many of these countries are also major trading partners with the United States.

For more detailed information on agricultural issues that have been raised in the negotiations, see CRS Report R44564, *Agriculture and the Transatlantic Trade and Investment Partnership (T-TIP) Negotiations*.

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