Trans Atlantic Consumer Dialogue

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Resolution on the approach to food and nutrition related issues in the Transatlantic Trade and Investment Partnership

Introduction

The United States and the European Union have recently begun negotiating a trade and investment agreement. In their announcements both parties noted that trade tariffs in the US and EU are already low, and that the proposed Transatlantic Trade and Investment Partnership (TTIP) will focus in particular on "*regulatory issues and non-tariff trade barriers*".

We believe that advancement of consumer health and well-being must be the primary measurement of the acceptance of a pact. We will vigorously oppose a trade agreement that dismantles existing EU and U.S. consumer protection. This paper sets out the areas where Transatlantic Consumer Dialogue (TACD) considers there are opportunities for the EU and U.S. Governments to use the TTIP to co-operate to improve consumer protection—as well as those areas that we understand may be on the agenda and which raise consumer concerns.

Opportunities and threats for food policy

As a general principle, we believe that an agreement aiming for trade regulatory convergence or harmonization will only be acceptable if it requires the highest standards of consumer protection and related compliance, while affording both trading partners the autonomy to adopt additional non-discriminatory protections as food safety knowledge and technology improves. This means that a free trade deal must not limit the U.S. and the EU and its member countries from maintaining or adopting and enforcing standards that provide higher levels of consumer protection than those required by the agreement, including in the face of scientific uncertainty; and such protections must not be subject to challenge under the terms of the agreement. The U.S. and the EU should exclude from the pact any sector or regulatory area where they cannot agree on this framework. Mutual recognition of standards, whereby one party must accept products deemed in compliance under the other party's regulations, is not an acceptable approach since it will require at least one of the parties to accept food that is not up to the requirements for domestic products.

The TACD's Food Policy Committee has identified examples of food related regulations and policies that serve the protection of consumers, but that may come under threat if these issues are not addressed appropriately during the negotiations for the TTIP.

For example, the U.S. utilizes strict performance standards for potentially deadly pathogens in the food supply, such as *Listeria monocytogenes* and pathogenic strains of *E. coli*. Similarly, European consumers enjoy labeling of genetically modified foods and ingredients, but no similar labeling scheme exists in the U.S.

Moreover, the TACD Food Policy Committee has identified opportunities for both the U.S. and the EU to improve consumer protection by implementing 'best in class' policies and regulations that benefit consumers as well as creating a level playing field for trade and industry.

Cross-cutting issues:

(i) Preserving the precautionary principle

The precautionary principle goes to the heart of many recent EU-U.S. trade disputes on food issues. Regularly, food issues have arisen where there is a potential risk to health, but there remains scientific uncertainty. In these circumstances, it is appropriate to apply government policies that "err on the side of caution" and protect consumer health—as the Bovine Spongiform Encephalopathy (BSE) crisis most clearly illustrated.

The U.S. government politicians have criticized the precautionary principle, but many U.S. laws related to occupational and environmental safety embody policies that reflect a precautionary approach and the U.S. is party to treaties that explicitly call for the precautionary principle. In Europe, the EU General Food Law Regulation[1] makes explicit reference to the principle: *"In specific circumstances where, following an assessment of available information, the possibility of harmful effects on health is identified but scientific uncertainty persists, provisional risk management measures necessary to ensure the high level of health protection chosen in the Community may be adopted, pending further scientific information for a more comprehensive risk assessment."* It specifies that these measures must be proportionate, no more restrictive of trade than required to achieve the high level of health protection chosen in the EU and reviewed within a reasonable period of time. It is essential that the negotiations do not in any way undermine the precautionary principle and ideally lead to a greater understanding of how the principle should be applied in practice to ensure effective consumer protection.

(ii) Respecting consumer choice

EU legislation generally recognises that although food regulation should be based on scientific assessment, food has a broader social, ethical and economic dimension that also needs to be taken into account. This often arises in the case of food technologies, such as animal cloning, where regardless of the scientific risk assessment, ethical issues will be raised for some consumers, including concerns about animal welfare, and people will want to be able to make informed choices. People may also want to make decisions based on other 'non-scientific' factors such as the origin of a product for example.

The EU General Food Law Regulation therefore specifies that risk management has to take into account the results of a risk assessment, and in particular, the opinions of the European Food Safety Authority (EFSA), but also "*other factors legitimate to the matter under consideration*" and the precautionary principle. These "other legitimate factors" are not explicitly acknowledged within U.S. legislation in the same way, although they are recognised within Codex standards. It is therefore essential that the negotiations recognise that these "other factors" are legitimate.

Rapid alert systems and risk communication:

The purpose of the new partnership agreement is to increase trade, and it could likely boost transatlantic trade of food products. It is known that growth of international trade, migration, and travel has already led to the increased spread of pathogens and contaminated food. There are therefore opportunities for greater co-operation between the EU and U.S. to share information

[1] EC Regulation 178/2002 laying down the general principles and requirements of food law.

about potential risks – whether food safety or food fraud. To control disease and protect public health, it is critical that strong preventive controls systems are adopted and applied on both sides of the Atlantic. When problems are identified, it is essential that governments have in place a system to quickly and efficiently alert authorities and consumers nationally and internationally must be put in place and supported through transatlantic coordination and communication. At the moment, the U.S. and EU have different systems in place. The Rapid Alert System for Food and Feed (RASFF) is utilized in the E.U.

The U.S. has not adopted an intergovernmental rapid alert system, though food recalls are posted online through the Food Safety and Inspection Service's (FSIS) and Food and Drug Administration's (FDA) websites. There are concerns in the public health community that these recall notices are going unnoticed by consumers and that more communication and information sharing should be done between the food safety agencies.

TACDs recommendations to the TTIP negotiation partners:
Previously, TACD has called for a global system for food alerts to be developed by the U.S. and EU governments. TACD believes that opening borders and taking away trade barriers may lead to greater spread and impact of contaminated foods. Therefore the development of one system that covers both regions is essential. Risk communication plans extending all the way to the consumer should be part of this transatlantic rapid alert system.

The development of the TTIP offers an excellent opportunity to invest in this alert system, with the objective to improve consumer protection and to minimize negative effects on trade once an outbreak has occurred.

See TACD's Resolution on Food Safety Rapid Alert Notification Systems for more information.

Improving traceability

Recent incidents - from the contamination of fenugreek seeds originating from Egypt which led to large numbers of deaths in Germany from *E. coli* food poisoning, to the more recent widespread illegal contamination of food products with horsemeat - highlight how complex global food supply chains can be. Effective traceability systems are essential in order to ensure that the source of any contamination can be quickly identified and that potentially affected products can be withdrawn. Different approaches to traceability and traceback exist within the EU and U.S. and there is the opportunity to share experience and best practice to ensure that there are more robust systems in place. The horsemeat incident in Europe, for example, highlighted the limitations of the EU's approach of one up, one down traceability. This approach meant that the food industry failed to identify problems that were happening further downstream, exacerbated by the way that meat products were traded via many intermediaries. The U.S. experienced similar difficulties in trying to identify the source of contaminated tomatoes.

TACD's recommendations to the TTIP negotiation partners:
Traceability of food ingredients and their derivatives is essential in order to ensure safety, quality and informed consumer choice. There is an opportunity for the EU and U.S. to work together to better understand the complex global food supply chains and networks and develop robust, compatible, interoperable approaches to ensuring traceability and food authenticity, including animal identification systems.

Antimicrobial resistance and food

The World Health Organization has said that the "*routine use of antimicrobials in vast numbers of healthy animals is likely to result in the emergence and spread of antimicrobial resistant bacteria, and cause resistant infections in animals and humans."* The more antimicrobials are used, the more rapidly resistance develops. Tests conducted by consumer organizations both in the U.S. and the EU show widespread occurrence of antimicrobial resistant bacteria, particularly in animal-based food stuffs. When resistance develops, infections cannot be treated effectively with the antimicrobial. Antimicrobial resistance can transform easy-to-treat infections into severe illnesses that require prolonged or aggressive treatment, and lengthy hospitalisations. These infections can lead to death.

Restrictions on the use of antibiotics on food animals differ greatly between U.S. and EU member states, as well as between the EU and the U.S. as such.

Harmonization of permissible uses of antibiotics that maximize the health of consumers would be a positive outcome of these negotiations. A trade agreement that harmonizes the use of antibiotics in animal agriculture in order to protect these antibiotics for human medicine would also provide a level playing field for producers.

TACDs recommendations to the TTIP negotiation partners:
TACD urges the EU and U.S. to agree to a ban on the non-therapeutic use of antimicrobials in animal and food production (including use as growth promoters), and a ban on the prophylactic and metaphylactic (disease prevention) use of antimicrobials - except where disease has been identified in an animal or within a group of animals and such use is narrowly prescribed. All antimicrobial usage in animals should be subject to veterinary prescription, monitored regularly, and veterinarians should have no financial interest in the drugs that they prescribe. TACD urges the restriction or elimination of the use of antimicrobials identified as critically important in human medicine in food-producing animals, especially the use of fluoroquinolones, and third- and fourth-generation cephalosporins. Finally, the TTIP should encourage the concept of health management that minimizes the use of antimicrobials, including the use of inoculation or vaccination where appropriate.

See TACD's Resolution on Antimicrobials in Animal and Food Production for more information.

Performance Standards

Performance standards establish the degree to which a step or combination of steps in the production of food must operate to achieve the required level of control over a hazard. Performance standards, which can include foods safety objectives, zero tolerances, and performance objectives, are a useful tool for regulatory agencies to help reduce the level of pathogens or other hazards in food products. Performance standards can also play a role in assuring consumer confidence in government efforts to reduce foodborne illness. Standards should be enforceable and regularly revised and updated. The U.S. uses strict performance standards for potentially deadly pathogens in the food supply including *Listeria monocytogenes* and pathogenic strains of *E. coli*. The EU has established microbiological criteria for pathogens in food as well.

TACD recommendations to the TTIP negotiation partners:
TTIP negotiations should not be used as a way to weaken or modify performance standards set by the U.S. and EU governments. Regulatory agencies in both the U.S. and EU should be permitted to continue to set performance standards as necessary to manage and reduce pathogenic contamination in the food supply.

Food Products from Cloned Animals

Cloning is a relatively new technology and its impacts are still not well understood. According to a number of scientific studies the vast majority of cloning attempts fail. Even "successful" clones can have severe health problems, such as metabolic or cardiopulmonary abnormalities, that can result in death or the need for euthanasia. There are concerns that food safety and animal health could be impacted if cloned animals or animal products derived from them are used for food.

TACDs recommendations to the TTIP negotiation partners:
TACD considers it is premature to permit the use of cloning and the offspring of clones for food production while there are unresolved issues around food safety, animal health and welfare. Further, there must be clear advice on how effective consumer choice can be maintained.

The TTIP negotiations should, even in the case that in the future scientists may reach consensus on the safety of foods derived from clones and their offspring, take other legitimate factors and consumers concerns seriously, for example ethical considerations such as animal welfare and religion. We also support the right of EU Member States and trading partners to prevent food products derived from cloned animals or their offspring to enter their market.

See TACD's Revised Resolution on Food Products from Cloned Animals for more information.

Country of Origin Labeling

Country of origin labeling can provide consumers with additional information to make informed choices about the food they wish to purchase and consume. Many consumers may wish to purchase food from producers in their own country or may wish to purchase food products from another country known for producing a particular food. Reasons for this vary from environmental and ethical principles to food quality and food standard choices. Country of origin information also helps food traceability. Without labeling that identifies where that food has been produced, consumers are unable to make informed choices at the point of purchase.

EU legislation has recently been updated to extend country of origin labeling to most meats. The European Commission is conducting impact assessments to see if origin information should be extended further, including to meat products and to single ingredient foods. Further clarity is also needed as label statements often refer to the processing or packaging of a multi-ingredient food product and not the origin of the main ingredients of the product itself. In the U.S. the law requires country of origin to be indicated on all meat, poultry, fish, produce, and processed food.

TACDs recommendations to the TTIP negotiation partners:
TACD supports a mandatory country of origin labeling program to assure that consumers are provided with clear and meaningful information about the origin of the food they purchase and consume.

The TTIP offers an opportunity to harmonize the current regulations and expand the current provisions to other commodities and food stuffs. This will both be to the benefit of consumers, as well as creating a level playing field for industry.

It is not acceptable if the TTIP negotiations lead to a downgrading of peoples' right to know the country of origin of the products they consume.

Tackling obesity and diet-related disease

The EU and U.S. both face the enormous challenge of obesity and are making little progress in reversing rates in adults or children. TACD has long called for a more pro-active approach from the EU and U.S. to help consumers to make healthier choices. This includes initiatives to improve consumer information, such as the provision of calorie information when eating out (required by law in the U.S.) and the provision of simplified front of pack nutrition labelling, such as traffic light colour coding (more advanced in some member states in the EU). TACD has also called for more action to increase consumers' access to healthier products and to ensure that they are promoted in a way that is responsible.

The WHO has set out a range of actions to be implemented within its Non-Communicable Diseases action plan which includes initiatives to reformulate food products, lowering salt levels, saturated fat and sugar levels and removing trans fats.

The WHO has also developed a set of recommendations on marketing of foods and non-alcoholic beverages to children. Some voluntary initiatives have been instigated in both the U.S. and EU, but marketing of foods high in fat, sugar and salt to children still remains a problem.

TACD recommendations to the TTIP negotiation partners:
TACD considers that a more ambitious and co-ordinated approach is needed to tackle the tide of obesity and poor diet. The TTIP negotiations provide an opportunity to share evidence on the impact of public policy approaches and action taken by food companies. There is also the potential for regulatory co-operation on issues such as food advertising and promotion, including addressing cross-border issues, such as those raised by digital media.

Genetically modified (GM) foods

Genetically modified (GM) foods have been a long-standing trade issue between the EU and U.S. as different regulatory approaches have been adopted. Consumers need to have confidence that GM foods are independently assessed for safety before they go on the market. In the EU, this assessment is done through the European Food Safety Authority's GMO Panel. Member States then decide whether or not to approve a product, taking into account other factors[2]. The U.S. does not have a pre-market approval process and largely relies on companies to conduct their own risk assessment. The EU also requires labelling of GM foods and ingredients, based on traceability, in response to consumers' demands to know what they are eating. The U.S. would only require a product to be labelled if the engineered trait results in a functional change in the food or raises a potential health concern (eg. a potential allergen). However in the U.S., States and localities may restrict the growing of GM foods, whereas in the EU this right is in dispute.

TACD strongly supports independent pre-market assessment and approval of GM foods, which recognises that a scientific risk assessment - as well as wider social and ethical concerns - needs to be taken into account. We also strongly support the labelling of GM foods to enable consumers to make informed choices about the use of GM technology. Consumers have shown a strong preference for the ability to avoid GM fed meat and dairy. In the EU this has been facilitated by GM free labels and non GM-fed meat and dairy ranges. These ranges and labels, based on full traceability, should be protected in the TTIP negotiations.

TACD recommendations to the TTIP negotiation partners:
It is essential that the TTIP negotiations do not undermine the EU regulatory framework for GM

[2] EC Regulation 1829/2003 on GM food and feed.

foods which has been developed in response to consumer demands for assurances that there are effective systems in place to assess the health and environmental risks of GM foods, as well as reflecting wider social and ethical concerns that new technologies may raise. The negotiations should be an opportunity to enhance the approval process on both sides of the Atlantic and ensure that there are effective traceability systems in place for GM plants and potentially for animals to enable consumers to make informed choices. The TTIP provides a particular opportunity for the U.S. to upgrade its incomplete framework for safety assessments to one that incorporates mandatory pre-market FDA approval. The TTIP should also not undermine the rights of local jurisdictions to make decisions based on environmental, economic and social considerations, about whether to permit growing of GM crops.

Chemical carcass treatments

Chemical carcass treatments are widely used in the U.S. in order to reduce the contamination of meat with food poisoning bacteria at multiple points during the slaughtering process. This can include milder acids such as lactic acid, but also chlorine-based treatments. The EU has largely banned these treatments in preference of a greater focus on controls to minimise contamination at each stage of the production process – the so-called farm to fork approach. This has therefore meant that U.S. meat products that have been treated in this way cannot enter the EU market. The ability for Member States to allow the use of lactic acid on red meat carcasses was, however, recently permitted[3]. As well as the potential to undermine safety controls (by allowing "cleaning up" at the end of the process), TACD is concerned that these treatments also raise issues of consumer choice. Research by Which? in the UK, for example[4],has found that only 37 per cent of people would be happy to buy chicken treated in this way even if it meant they were less likely to suffer from food poisoning. Eighty two per cent thought that if treatments were used, they should be labelled. Only 14 per cent said they would be likely to buy chicken treated with chlorine-based washes and only 21 per cent in the case of washes or sprays which use mild acid. Steam treatment was more acceptable (58 per cent).

TACD recommendations to the TTIP negotiation partners:
It is essential that the TTIP negotiations are used to promote best practice from 'farm to fork' rather than over-reliance on the use of chemical carcass treatments. The EU's ability to reject this approach in favour of tighter controls at each stage of the supply chain must be upheld.

Growth promoters/hormones

The use of growth promoters in food production has been a highly contentious issue between the EU and U.S. - even leading to a WTO dispute - due to diametrically opposed regulatory approaches. Production aids, including hormones (both steroid [e.g. testosterone, estradiol, progesterone, etc.] and protein [rbGH/rbST]) and β-agonists (ractopamine, zilpaterol), are given to animals in the U.S. to increase growth, output and/or feed efficiency. Some antibiotics (ionophores) are also put into water and feed, and lower (sub-therapeutic) levels to improve growth promotion/feed efficiency. In the EU, it is both against the law, and against the Code of Ethics for veterinarians, to give animals drugs for non-therapeutic purposes. Studies have shown adverse effects of these growth promoters on the health of animals, and questions remain about potential human health impacts.

[3] EC Regulation 101/2013 on the use of lactic acid to reduce microbiological surface contamination on bovine carcases.
[4] 1406 members of the GB public, aged 16+ years, were surveyed online between 10 Feb- 14 Feb 2011. The sample was weighted to represent the GB adult population.

TACD strongly believes that countries should be able to prohibit the use of veterinary drugs for non-therapeutic proposes, such as growth promotion and feed efficiency, and also prohibit the import and sale of foods from animals that have been given such drugs.

TACD recommendations to the TTIP negotiation partners:
It is essential that the TTIP negotiations do not undermine the EU regulatory framework, which does not permit the use of veterinary drugs for growth promotion/feed efficiency purposes which has been developed in response to consumer concerns over animal welfare and human health implications of the use of such drugs.