

Brussels & Washington DC, 27 August 2014

**An open letter to the European Commission US-EU trade negotiators**

**RE: The safety of Europe's food *is* under threat in US-EU trade talks**

Dear Commissioner De Gucht,  
Cc. EC Spokesman Mr. Valero-Ladrón,

We are writing to respond to claims by the European Commission (EC) that there is “no contradiction” in the US-EU trade talks with the “enforcement of high safety standards” in food. We disagree. Fair, sustainable and safe food could permanently be damaged by the transatlantic trade deal on the table.

On July 24, the Institute for Agriculture and Trade Policy (IATP) published a [leaked draft](#) and an [analysis](#) of the Transatlantic Trade and Investment Partnership (TTIP) chapter on Sanitary and Phytosanitary (SPS) measures. The draft text stipulates rules to make sure traded food is safe to consume.

**However, we are concerned that the provisions to expedite trade found within the draft text will undermine the implementation and enforcement of food safety safeguards, ultimately placing consumers at risk.**

EC spokesman Mr. Valero-Ladrón has since responded to our analysis (in [comments to Law360](#), also shared with IATP). We are grateful for the opportunity to dialogue with the EC on this issue.

From Mr. Valero-Ladrón's response, it appears that the European Commission has failed fully to appreciate European and US civil society concerns. To elaborate, here are the passages from his response alongside our concerns about the draft text:

**On food safety:**

The European Commission states:

*“There is no contradiction between a commitment to seek “least trade restrictive measures” and the enforcement of high safety standards. We want to foster safe trade.”*

Our concern:

EU-US trade negotiators (and corporate advisors alike) seek the “least trade restrictive” SPS measures, and are proposing to remove food safety management requirements, for example port of entry inspection, in order to facilitate more and faster trade. This leads us to question whether the relationship between trade interests and public health can be classified as anything other than a contradiction.

**On determining whether US and EU food safety systems are ‘equivalent’:**

Our original analysis:

*“According to the draft text, recognition of SPS systems as ‘equivalent’ by TTIP Parties will occur ‘without a need for individual re-inspection [of products] or other additional guarantees.’*

*“But if the foreign supplier verification program is poorly implemented, whether due to budget cuts or personnel failings, [...] well, food consumer beware. Import re-inspection and testing at port of entry, traditionally the last step in food safety management to verify that other programs are working, will disappear under this draft of the SPS chapter.”*

The European Commission response:

*“The proposed provisions reflect Article 4 of the World Trade Organisation (WTO) SPS Agreement.*

*“We seek to implement this Article of the SPS Agreement, but we are not going beyond it in any respect.”*

Our concern:

First if, as we mention in our analysis, a standard is approved as ‘equivalent’, but the implementation is poor – due to budget cuts or other dysfunction – consumer protection and public health may be compromised. For example, if US testing of GMO contamination in agricultural exports is recognised as ‘equivalent’ to EU rules, but is not rigorously enforced, EU consumers could be faced with hidden GMO contamination of their food. Particularly so if verification is not possible, because port inspections of ‘equivalent’ food products are cut. Poor implementation of rules in the US has led to unapproved varieties of US grown [GM rice spreading to several countries](#), and to [unauthorized GM wheat spreading](#) last year from Oregon to Asia, forcing countries to [enforce import bans](#) against US wheat.

Second, contrary to the response from Mr Valero-Ladrón, the draft text does ‘go beyond’ the WTO SPS agreement, because it will apply to a number of food safety issues that are yet to be agreed at the WTO. In TTIP, the two sides are likely to negotiate standards – for instance on trade in foods which contain pesticides, chemicals used in production of meats and other foods, approval processes of new varieties of genetically modified seeds – and then expect the rest of the world to adopt these standards even if they have not been part of the talks themselves. These issues will be negotiated in specific annexes about which neither the Commission, nor the US government has shared any information. Nor are they expected to be made public during any stage of the talks.

Third, to say that the chapter does not ‘go beyond’ the WTO gives us little reassurance. The [WTO decision on SPS equivalence](#) problematically puts the burden on importing countries to explain the rationale for the food safety measure alongside a ‘technical justification based on a relevant international standard’. The WTO SPS agreement has been disproportionately used by the US (on behalf of agribusiness) to challenge EU standards on a wide range of food safety measures. Seven out of 20 SPS challenges brought to the WTO’s dispute settlement mechanism have targeted important European food safety measures related to meat, dairy, genetically modified foods and fisheries.<sup>1</sup>

Lastly, we are concerned that an agreement that puts trade concerns first will continue to put agribusinesses in the driving seat. The SPS committee referenced in the TTIP chapter, as well as the dispute settlement mechanism of TTIP, will judge whether food safety measures are ‘least trade restrictive’ and ‘equivalent’. This is highly problematic, because the EU’s Precautionary Principle has clearly been under attack in the WTO and under TTIP by agribusiness. The US insists on certainty that something is unsafe (an approach favoured in WTO SPS language), as opposed to Europe’s use of the Precautionary Principle (which focuses on preventing risk in the first place even in the absence of full scientific certainty). US rules on food safety rely heavily on industry studies with severe conflicts of interest.

We believe that a different trade framework for food safety than what is enshrined in the WTO is necessary in the 21<sup>st</sup> century for both sides of the Atlantic – one that puts public health and environmental safety, consumers and independent and small producers above trade interests.

#### **On animal welfare:**

The European Commission states:

*“In accordance with our objectives the EU proposal is seeking strong commitments towards collaboration and standard-setting [on animal welfare].”*

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<sup>1</sup> Ongoing research by IATP.

Our concern:

We stand by our statement that a US state or EU member state will, crucially, not be able to “*prevent import of products from abused animals under the non-binding language of Article 11*”.

The use of positive language referring to “collaboration and standard-setting on animal welfare” is undermined by the vagueness of the text. The ambiguity of the language regarding animal health and welfare means enforcement is all but impossible. Without specific language that addresses logistical and political realities – such as the emerging ‘Right to Farm’ amendments that threaten to further deregulate animal welfare standards in the US – it will remain platitudes rather than sorely needed actionable law. EU standards on animal welfare are at a high risk of being significantly lowered with TTIP, and the chance of enacting new more ambitious standards greatly reduced.

**Overall, what the above shows is that we cannot have confidence that the draft measures designed to expedite agricultural and food trade between Europe and America will uphold to the highest standards the food safety safeguards that protect consumers and animals.**

Relying on leaked confidential document texts is clearly not an ideal way to facilitate public dialogue about trade policy. But until the negotiations process is more transparent, we feel left with a lack of other options. We hope the start of this conversation can lead to more thoughtful and **transparent dialogue – with an eye toward a trade policy that reflects the needs of the public it impacts rather than the wishes of the corporations seeking to profit from it.**

We would welcome a meeting to discuss this with you,

Yours sincerely,



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