THE FERTILIZER INSTITUTE

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December 10, 2018

Ambassador Robert Lighthizer
U.S. Trade Representative
600 17th Street, NW
Washington, DC 20006

RE: Request for Comments on Negotiating Objectives for a U.S.-European Union Trade Agreement (Docket Number: USTR-2018-0035)

Dear Ambassador Lighthizer:

I am pleased to share with you the views of The Fertilizer Institute (TFI) on proposed objectives for a new trade agreement between the U.S. and the European Union. The request for comments was published in the Federal Register on Thursday, November 15, 2018 (83 Fed. Reg. 57526). TFI strongly urges the inclusion of a negotiating objective that would eliminate the duties presently imposed by the European Union (EU) on fertilizer imports.

TFI represents fertilizer manufacturers, transporters, wholesalers, brokers and retailers, all of whom are impacted by federal trade policy. Our members provide nutrients that are responsible for nearly half of a crop's yield, helping to ensure a stable and reliable food supply. The fertilizer industry supports nearly 500,000 American jobs and has an economic impact of over $150 billion annually.

Although the U.S. remains a net importer of nitrogen fertilizer products, many TFI members either presently export fertilizer products into the European Union (EU) or would like to do so. However, the potential export opportunity is severely constrained by a prohibitively high duty rate of 6.5 percent imposed by the EU on U.S. fertilizer imports, including the leading nitrogen and phosphate products (e.g. urea, ammonium nitrate, urea ammonium nitrate solution, diammonium phosphate (DAP) and mono-ammonium phosphate (MAP). In contrast, the U.S. has permitted duty-free entry of all fertilizers from Europe since the Tariff Act of 1922.

The U.S. Fertilizer Industry is Well-Positioned to Export Product

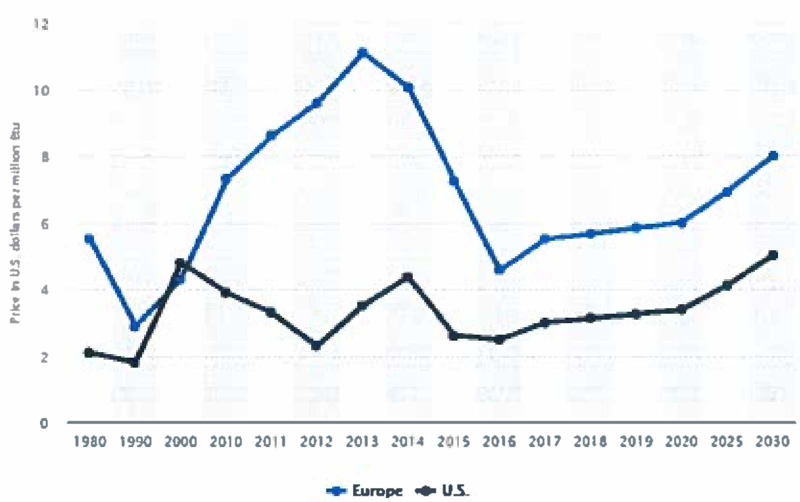
The Nitrogen Fertilizer Industry

U.S. producers, until recently, were not well positioned to export nitrogen fertilizers. Natural gas is the primary feedstock from which all nitrogen fertilizers are produced and accounts for approximately 50% of the cost of manufacturing the product. When natural gas prices rise, this figure can soar to nearly 70%.

For decades, U.S. natural gas prices were less favorable than natural gas prices in many other producing countries, making the export of domestically-produced fertilizer economically disadvantageous. During the early 2000s, the U.S. lost nearly half of U.S. nitrogen fertilizer capacity and employment due to, among other things, high natural gas costs.[1]

The U.S. shale gas revolution and resulting decrease in domestic natural gas prices has transformed the nitrogen fertilizer industry. U.S. ammonia production capacity increased by more than 43% between 2013 and 2018, going from 13.2 to 18.3 million tons annually. Moreover, the U.S. nitrogen sector has benefitted from low gas costs in comparison to the rest of the world, including the EU. The chart below shows the differential between U.S. and EU natural gas prices from 1980 to 2030 (projection).[2]

Natural Gas Prices in the United States and Europe from 1980 to 2030 (in U.S. dollars per million British thermal units)



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[1]https://fossil.energy.gov/ng_regulation/sites/default/files/programs/gasregulation/authorizations/export_study/06.The_Fertilizer_Institute01_04_13.pdf

[2] https://www.statista.com/statistics/252791/natural-gas-prices/https://fossil.energy.gov/ng_regulation/sites/default/files/programs/gasregulation/authorizations/export_study/06.The_Fertilizer_Institute01_04_13.pdf

As the low-cost producer of nitrogen fertilizer, the exportation of U.S.-produced nitrogen fertilizers has become commercially viable, so long as barriers are eliminated.

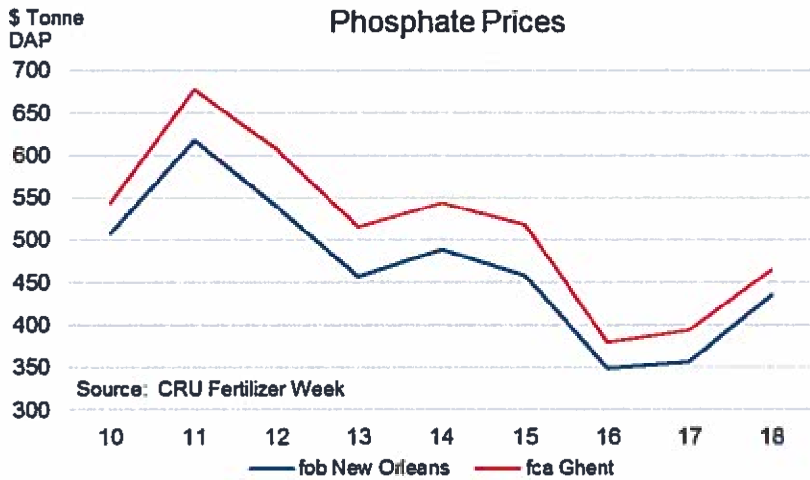
Specifics on potential export opportunities for two key nitrogen products – urea and urea ammonium nitrate (UAN) solution are provided below:

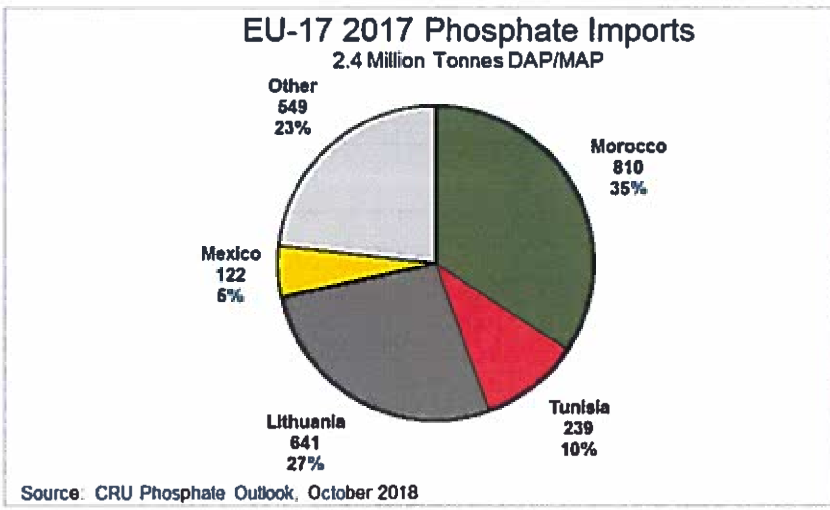
- Urea – In 2017, U.S. imports of urea from the EU-28 totaled over 225,000 metric tons and were valued at over $40 million. In contrast, U.S. exports of urea totaled less than 11,000 metric tons in the same year, accounting for only 0.4% of EU urea consumption. This trade imbalance is especially odd considering the comparative advantage in natural gas costs enjoyed by U.S. nitrogen producers.
- UAN – The U.S. has added significant new UAN capacity over the last several years. UAN producers are in a much better position to serve U.S. customers and begin exporting product. Indeed, the U.S. has recently stepped up exports of UAN solution to the EU but could increase these exports even more if the EU tariffs were eliminated.

The Phosphate Fertilizer Industry

In the case of phosphate, the EU is dependent on imports to meet nearly all on-farm demand, but this large demand is effectively closed to U.S. producers—the second largest producing country of these products in the world—because several key competitors are not subject to the 6.5% import duty. As a result, EU farmers pay much higher prices for the leading phosphate products because prices move up to just less than the level that would make economics work for imports from duty-disadvantaged countries. The chart below shows that the annual average import price of diammonium phosphate (DAP) at Ghent was about $50 per tonne greater than the New Orleans barge price for domestic or imported product.

EU-17 countries imported 2.4 million tonnes of the two leading phosphate products (DAP/MAP) in 2017. U.S. producers exported zero tonnes to this region in 2017. Four duty-advantaged countries including Morocco, Tunisia, Lithuania and Mexico accounted for more than three-fourths of shipments in 2017. Notably, the Mexican producer has a freight disadvantage compared to U.S. producers. U.S. product, especially premium branded products that contain secondary and micronutrients, no doubt could compete if the playing field was level.





Support for the Elimination of the EU Tariffs on Fertilizers

During the Transatlantic Trade and Investment Partnership (TTIP) negotiations, Congress signaled its strong support for elimination of the EU fertilizer tariffs. In 2015, twenty-six Republican and Democratic members of Congress wrote to United States Trade Representative (USTR) Michael Froman requesting "complete and immediate elimination of EU fertilizer tariffs . . ." A bipartisan group of 13 Senators wrote a similar letter - requesting immediate elimination of the tariffs - to Ambassador Froman in 2016. The letters are provided in Appendix A of our comment submission.

EU farmer groups have also been outspoken advocates for removal of the fertilizer tariffs. The Secretary-General of Copa-Cogeca, the leading EU farming organization, wrote to the EU Commission in March 2018 urging abolition of the tariffs. The letter states, "European mineral fertilizer manufacturers are protected from international competition by anti-dumping duties and customs tariffs at EU borders. As a result, fertiliser prices in the EU are much higher than those in other regions of the world."

Removal of the Fertilizer Tariffs is a Matter of Fairness and Reciprocity

The EU has already removed tariffs on fertilizer imports from other nations – including Algeria, Morocco, Egypt and Canada, through separate trade agreements. We believe this is an issue of simple fairness and reciprocity and encourage the U.S. to end the one-sided duty-free market that has now been in place for almost 100 years.

We appreciate the opportunity to share our perspectives on the substance of a potential new free trade agreement with the EU and would be happy to address any questions you may have regarding the impact on the U.S. fertilizer industry.

I may be reached at (202) 962-0490 or cjahn@tfi.org. Thank you for your consideration.

Sincerely,

Chris Jahn
President

THE FERTILIZER INSTITUTE

Request for Comments on Negotiating Objectives for a U.S.-European Union Trade Agreement (Docket Number: USTR-2018-0035)

Comments of The Fertilizer Institute
December 10, 2018

Appendix A

United States Senate
WASHINGTON, DC 20510

June 20, 2016

The Honorable Michael Froman
United States Trade Representative
600 17th Street, NW
Washington, DC 20006

Dear Ambassador Froman:

We note with strong interest the March 10th and April 24th statements by European Union Trade Commissioner Cecilia Malmstrom, German Chancellor Angela Merkel, and President Obama encouraging the completion of the Transatlantic Trade and Investment Partnership Agreement (TTIP) negotiations by the end of 2016. As the TTIP negotiations intensify in the coming months, we ask that you continue to hold, as a key U.S. priority, the immediate and full elimination of the EU's import tariffs on fertilizers.

When the TTIP negotiations began, the EU offered a seven year phase-out of its 6.5 percent duty rate for U.S. fertilizer imports, even though the EU has eliminated these same duties for all of its other trade preference and free trade agreement partners, including Canada. Yet at the latest round of negotiations for TTIP in New York, the EU maintained its position that it will reduce its tariffs on fertilizer, but only in the context of facilitating its TTIP energy goals. While we welcome the EU's willingness to reconsider this phase-out, we ask that you continue to insist on *immediate* EU fertilizer tariff elimination. The United States has allowed duty-free entry of European fertilizers since 1922, without regard to high prices of inputs like natural gas which is required to make nitrogen fertilizer.

Furthermore, given its very limited reserves of phosphate rock, the mineral required to produce phosphate fertilizers, the EU is already highly dependent on the import of phosphate fertilizer. It currently imports phosphate principally from tariff preference countries, such as Morocco, Tunisia, and Jordan, all of whom enjoy duty-free access to the EU market.

Finally, it is worth noting that farmer groups in Europe, such as the UK National Farmers Union, have also requested that the EU lower its "restrictive" fertilizer tariff immediately in order to become "less hindered by the prices and be able to compete more effectively with farmers across the world." Indeed, there is common interest on both sides of the Atlantic to reduce these tariffs and achieve this win-win as part of the TTIP negotiations.

There is simply no legitimate rationale for the EU to continue its prohibitively high duties on U.S. fertilizers. We therefore strongly urge the U.S. negotiators to insist on immediate and full elimination of EU fertilizer tariffs upon TTIP ratification.

Sincerely,

Chuck Grassley Joe Donnelly

Pat Roberts

David Vitter

Ben Sasse

Marco Rubio

Roy Blunt

Roger Wicker

Mark Kirk

Bill Cassidy, M.D.

Dan Coats

Deb Fischer

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Congress of the United States
Washington, DC 20515

November 23, 2015

The Honorable Michael Froman
United States Trade Representative
600 17th Street, NW
Washington, DC 20006

Dear Ambassador Froman:

We are writing to ask that the United States request complete and immediate elimination of EU fertilizer tariffs in the Transatlantic Trade and Investment Partnership Agreement ("TTIP") negotiations. Since 1922, the United States has provided duty free entry of fertilizers from Europe, yet the EU to this day maintains a prohibitively high duty rate of 6.5 percent on imports of most U.S. produced fertilizers, including all nitrogen-based fertilizers and key phosphate fertilizers. Moreover, as part of these negotiations, the EU fertilizer industry is advocating for a seven year phase-out of these EU duties for U.S. imports, even though the EU has eliminated these same duties for all of its other trade preference and free trade agreement partners, including Canada. We therefore ask that USTR insist on fairness and level the playing field in transatlantic fertilizer trade by rejecting this phase-out request.

While our domestic producers were not able to export nitrogen fertilizers profitably in the past, this has changed. Natural gas is the feedstock from which all nitrogen fertilizers are produced, and the cost of natural gas has decreased in recent years due to the shale gas boom in the United States. This has dramatically changed the position of U.S. nitrogen fertilizer producers and led to a wave of nitrogen fertilizer plant expansions across the United States. For example, the largest U.S. nitrogen fertilizer producer is investing $4.2 billion to expand its Iowa and Louisiana plants based on the significantly lower U.S. natural gas prices. As a result, the exportation of fertilizers to the EU has become commercially viable for U.S. producers, so long as market barriers are eliminated.

The favorable natural gas prices in the United States are a result of years of research and investment. While EU fertilizer producers complain that they pay comparatively high prices for natural gas, the fact is that for many years the United States has allowed duty-free entry of European fertilizers even when U.S. natural gas prices remained high. Moreover, several EU Member States have prohibited domestic shale gas production using hydraulic fracturing. As such, any effort by the EU to protect its downstream fertilizer producers with a tariff phase-out should be rejected.

Additionally, the EU is highly dependent on the import of phosphate fertilizer, because the EU has very limited reserves of phosphate rock, the mineral required to produce phosphate fertilizers. Historically, the EU has imported phosphate principally from tariff preference countries, such as Morocco, Tunisia, and Jordan, which have enjoyed duty-free access to the EU market. This has unjustifiably left U.S. phosphate producers at a competitive disadvantage in the EU phosphate market.

If the EU – our largest trading partner – does not remove its prohibitively high duties on U.S. fertilizers as it has done for all of its other FTA partners, the substantial European market will have been effectively closed to U.S. fertilizer exports for a full century. We therefore request that U.S. negotiators eliminate this trade imbalance by insisting on immediate and full elimination of EU fertilizer tariffs upon TTIP ratification.

Thank you for your attention to this important matter.

Sincerely,

Erik Paulsen
Member of Congress

Kathy Castor
Member of Congress

Robert J. Dold
Members of Congress

Garret Graves
Member of Congress

Lynn Jenkins
Member of Congress

Adam Kinzinger
Member of Congress

Larry Bucshon, M.D.
Member of Congress

Kevin Cramer
Member of Congress

Jeff Fortenberry
Member of Congress

Sam Graves
Member of Congress

Steve King
Member of Congress

John Kline
Member of Congress

Frank D. Lucas
Member of Congress

Markwayne Mullin
Member of Congress

Dan Newhouse
Member of Congress

Kristi Noem
Member of Congress

Steve Pearce
Member of Congress

Collin C. Peterson
Member of Congress

Cedric Richmond
Member of Congress

Todd Rokita
Member of Congress

Thomas J. Rooney
Member of Congress

Dennis Ross
Member of Congress

John Shimkus
Member of Congress

Adrian Smith
Member of Congress

Marlin Stutzman
Member of Congress

Bennie G. Thompson
Member of Congress