Transatlantic Trade and Investment Partnership Agreement (TTIP)
Priority Issues for the Seed Sector

Joint Statement of the
American Seed Trade Association and European Seed Association

Introduction

Unnecessary and unjustified hindrances to seed movement have an economic impact throughout a seed product's lifecycle—from early research and development, commercial seed production and seed trade through harvesting, processing, final production and consumption. Therefore, the American Seed Trade Association (ASTA) and the European Seed Association (ESA) strongly encourage and support providing for mechanisms in the TTIP that support regulatory cooperation and encourage bilateral exchanges before new requirements or regulations are put in place that can negatively impact the movement of seed.

ESA and ASTA are convinced there is extensive common ground between the US and EU and that such regulatory cooperation is a realistic negotiating objective that would be of mutual interest and could provide a positive model for regulatory cooperation or alignment in other areas. Building upon what has already been achieved bilaterally, strengthening this cooperation even further would be a benefit to our respective industries, farmers and consumers alike.

The EU and US seed sectors are world leaders with an estimated market value of approximately 17 billion EURO/20 billion USD in 2013. Innovation is fundamental to both industries. Our plant breeding and seed production businesses are among the most advanced in the world when it comes to research and development, deploying new sophisticated techniques in the development of new plant varieties, both for our respective domestic markets as well as for an ever growing number of countries and agro-climatic conditions worldwide. The seed sector is a truly international and globalised business.

Together, the seed industries of the US and EU represent approximately half of the world market for commercially traded seed. The movement of seed between the US and the EU is thus vital for continued growth of both industries and markets. The EU and US play a leading role in the development of international standards for seed production and seed trade, phytosanitary rules and, with that, ultimately contribute significantly to enhancing global agricultural productivity and food security.

Seed movement between the US and EU does not only involve trade in commercial seed. The structure of the seed industry and the process used by commercial plant breeders to bring new seed varieties to market means that seed movement across national borders is an integral and essential part of variety development and deployment of new technologies and genetics. Seed movement is critical for the development of

foundation and breeder seed lines used in research and development, for parental seed and stock seed production, for commercial seed production and for processing and packaging of commercial seed.

While the volume of trade in some of these areas may be quite limited, for example of parental seed, it is of high value because these are essentially the progenitor lines for the production of the vast array of commercial seed varieties sold in large volumes to farmers. A single seed company could be moving hundreds of different—and distinct—seed varieties at one time.

Strengthening the free movement of seed across borders and TTIP

ESA and ASTA strongly support and contribute to regulatory harmonisation on an international and regional level in all relevant areas and bodies. This support includes bilateral or multilateral agreements that strengthen regulatory cooperation and encourage bilateral exchanges to address possible alignments or mutual recognition of comparable standards and norms, as well as structured, regular exchanges before any new requirements or regulations are put in place. ASTA and ESA are of the opinion that the TTIP provides an important opportunity for such a structured dialogue both in general and specifically in the area of seed.

Regulatory cooperation in the area of seed should be proactive so that divergences between the EU and the US can continually be reduced or avoided. A suitable framework by which regulatory authorities can interact efficiently and transparently when situations arise that require regulatory action, particularly with respect to phytosanitary issues, would not only help to achieve and safeguard specific improvement with the TTIP agreement but also underpin further efforts in the future.

EU and US Seed Sector Priority Issues in Relation to TTIP

I. Phytosanitary Issues

The US and EU seed industries are expressly linked. Many US seed companies have subsidiaries in the EU and vice versa. Therefore, there is a need for seed phytosanitary policies and programmes that are equivalent and harmonised based on scientific principles in order to achieve a predictable regulatory environment for seed movement and seed trade that enhances the economies of both the EU and the US.

Of the nearly 17 billion EUR/20 billion USD value of the combined markets, approximately 30% is impacted by import/export (research and development, breeder seed, foundation seed, seed of parental lines, stock seed, counter season production and commercial sales). In addition, over 300 different species of seed consisting of many thousands of varieties are marketed between the EU and the U.S. and worldwide with each seed species having its own unique phytosanitary requirements.

Both the EU and the US support and contribute to the development and adoption or to the modification of international phytosanitary standards (ISPMs), including the development of a seed ISPM through the International Plant Protection Convention (IPPC). The development of the seed ISPM was initiated in 2013 by the IPPC, and is expected to take a minimum of 3 to 5 years or longer before it is adopted and implemented by IPPC member countries. An international seed standard that reflects US and EU needs will enhance both of our seed industries at a global level.

The EU and the US have over the years made modifications to their phytosanitary measures based on adopted international standards; however, several crucial phytosanitary measures including seed diagnostic methods, seed re-export provisions, seed phytosanitary treatments, and phytosanitary import requirements for many pests of mutual concern remain unaligned which often results in seed movement disruptions.

The primary framework that is currently in place to address and resolve phytosanitary issues at the technical level is the US/EU Bilateral Plant Health Working Group (BPLWG). The BPLWG meets at least two times per year and has successfully resolved a number of technical issues, including seed issues. Although effective at the technical level, many of the persisting technical problems could be resolved if regulatory policies and systems between the EU and US related to seeds could become more fundamentally aligned and harmonised (see Annex for specific examples).

We are of the opinion that regulatory harmonisation measures agreed to in the TTIP also become part of the relevant international standard in the IPPC. This would provide important leadership at a global level and could be jointly supported further by common training and outreach activities towards other key markets. Both parties should reaffirm the IPPC principle of trust in the international phytosanitary export certification system.

II. New Plant Breeding Techniques

ESA and ASTA are convinced that the continuous advances in science and technological development will provide the necessary new tools and techniques to plant breeders to further drive innovation and develop new varieties more quickly, more efficiently and for more diverse environments and uses than ever before. The focus of this innovation is based on an increased understanding of plant genomes and refinements in breeding techniques. These evolving techniques are enabling a more efficient and precise breeding process utilising the plant's own genome. They are being developed and utilised across all sectors of the seed industry. These techniques do not involve bringing in traits from non-plant sources. Rather, they make use of plant breeders' ability to utilise molecular and genetic advances within the plant species.

Should the EU or the US unilaterally determine that it will begin to regulate some or all of these New Plant Breeding Techniques (NPBTs), there will be potentially large adverse consequences for both trade in seeds and/or commodities, agricultural productivity and overall innovation and research and development in the seed industry, with significant impact on the leading position of the sectors in the EU and the US.

The future use of New Plant Breeding Techniques, developed and used by the public and private plant breeding sectors, and the introduction of the resulting new plant varieties in commercial farming will strongly depend on an enabling regulatory environment and a supportive public policy.

The EU and the US should both positively contribute to global use and implementation of these techniques that must play a major role towards food security through better precision and efficiency of plant breeding. Differences in definitions and regulatory frameworks would create major barriers for trade and deployment of these techniques.

Generally, for New Plant Breeding Techniques, ESA and ASTA see no specific need for regulation.

III. Sampling and Testing for the Presence of GMOs in Conventional Seed

It is a long standing experience that the absence of, or non-harmonised, sampling and testing rules jeopardise the functioning of markets and trade and cause legal uncertainty for operators. It is also acknowledged, that requests of "100% purity" or "absolute zero tolerances" are terms that are not compatible with neither the realities of plant breeding, seed production, agriculture in open-field environments nor with the practicalities of increasing international trade in seed and commodities.

Still, with regard to the presence of GMOs in conventional seed, such unrealistic demands are put forward and are currently enacted while at the same time certainty as to what the "absolute zero" standard for seed containing GM events is, and how public authorities are supposed to carry out respective tests and inspections, is continuously denied.

ESA and ASTA underline that, for reasons of clarity and legal certainty, it is imperative that control tests by official bodies regarding the detection of GMOs in seed are carried out according to a defined and legally binding protocol. The current patchwork of practices and lack of defined rules causes legal uncertainty and is incompatible with the general harmonisation of seed trade related rules, for example, in the OECD Seed Schemes. ESA and ASTA underline that such a standard sampling and testing protocol is indispensable.

ESA and ASTA are of the opinion that the EU and the US should come either to a common, standard sampling and testing protocol for the presence of GMOs in seed or to a mutual recognition of respective individual sampling and testing protocols that satisfy a defined quality standard (i.e. statistical confidence level). An agreed sampling and testing protocol that defines how it shall be determined if conventional seed meets specific requirements is imperative to (re-)establish international trade between the EU and the US.

Annex: Specific Phytosanitary Examples

Spinach

A sudden new requirement by the US for spinach seeds to be free of Phomopsis/Diaporthe created major disruptions in 2013, mainly due to lack of clarity on the background and the necessity of the requirement, lack of agreement on practical feasibility of the requirement and lack of a transition period.

Additional Declarations

The EU requires quite a specific format for Additional Declarations. This creates major issues in case of re-exports via the US to Europe.

The US does not have this requirement when importing from 3rd countries; a descriptive AD is sufficient. The US refuses to 'translate' the descriptive AD into an EU-required format on the re-export certificate. The US would only do this, if the EU would specify this requirement in an import permit. However, the EU does not work with import permits and NPPOs of EU countries refuse entry of seed without the AD in the proper format. Several shipments are currently blocked and awaiting a solution.

Both cases above could have been handled in the US-EU Bilateral Plant Health WG, but the sector sees a need for an easier and more direct route of forwarding (urgent) industry issues into that WG, specifically in the period between meetings.

Here, a common EU and the US approach could serve as an example for how seed phytosanitary matters should be addressed, resolved and implemented. TTIP provides an important opportunity in this respect, allowing both parties to work together to strongly support science-based, harmonised phytosanitary measures, by this also supporting the further development of the international seed standard by the IPPC, and by then apply this and other IPPC standards to address phytosanitary aspects of seed trade in relevant legislation.

Seed Re-export

As already outlined above, export and re-export of seed is a common and widely used practice in the seed industry. While it is difficult to estimate the exact value of seed trade involving (re-)export, it is a significant component of trade. Seed re-export is often associated with pre-commercial seed in which companies may grow seed in one country, export it to another for testing, processing, and packaging and then send it to another country. In addition, both the EU and the United States act as intermediaries in re-export to other non-EU and non-US destination countries. This practice is particularly prevalent in the vegetable and ornamental seed sectors.

Hindrances to seed re-export impact the industry in terms of lost market opportunities or additional costs and time lost to test or treat seed for specific pests of concern (where those options exist) to meet import requirements instead of obtaining pest freedom declarations.