



**USA Poultry & Egg
Export Council**

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November 26, 2012

Honorable Ron Kirk
United States Trade Representative
600 17th Street NW
Washington, DC 20508

Honorable Thomas Vilsack
Secretary of Agriculture
Office of the Secretary
Jamie L. Whitten Federal Building
1400 Independence Ave. SW
Room 200-A
Washington, DC 20250

Dear Ambassador Kirk and Secretary Vilsack:

We are aware that in the upcoming weeks and months, the U.S. government will engage the Customs Union of Russia, Belarus and Kazakhstan to discuss various aspects of our bilateral trade relations. Under Secretary Michael Scuse, who will lead the first U.S. team to Moscow to begin the talks, recently asked the USA Poultry & Egg Export Council (USAPEEC) and the National Chicken Council (NCC) to provide our views regarding the current trade situation with Russia and with the other members of the Customs Union before he departed for his meetings. We understand Ambassador Isi Siddiqui will also be engaged, so we therefore also share our input with him and his staff.

Everyone in this Administration will certainly remember the significant disruption in exports that our industry experienced in 2010, when Russia imposed new restrictions on the use of chlorine in slaughter processing. The industry does not need another similar incident that would create problems and losses in such an important market. Our principal concern regarding the formation of the Customs Union is that the current regulations governing exports to these markets will be revised in a way that could impair imports.

Over the past few years, U.S. poultry exports to Russia have declined incrementally, as Russia has become more self-sufficient in poultry production. Formally, Russia has reduced the amount of the U.S. poultry import quota. Nonetheless, Russia remains the second largest export market for U.S. poultry. We anticipate that exports this year will exceed \$250 million. It is vital to our industry and its economic recovery that we continue to have access to all of the Customs Union countries for our products.

Undersecretary Scuse asked that we please provide details regarding the most important issues we face. This letter is our attempt to respond to that request. Please understand, however, that we are not entirely certain about the status of some of these issues because there have been numerous bilateral meetings and exchanges of letters with Russia over the past 20 years, and the results have not always been clear to us and, in fact, have resulted in confusion as well between the two governments.

Following is a summary of USAPEEC's and NCC's key trade concerns:

1. Change of consignees – Russia is the only country that does not allow for a change from the original consignee to a different consignee, even when export certificates are reissued to the name of the new importer. Russia's policy in this regard totally ignores the realities of commercial trade. Many factors can impact the ability of the original importer to fulfill the terms of a sales agreement. For example, an importer can run into financial difficulties or experience a cash-flow shortage. In those circumstances, it is essential that the importer be able to transfer his interest in the transaction to another party. Our government recognizes these realities and has developed practices to take into account these types of economic problems. For example, the Food Safety Inspection Service (FSIS) regularly issues "in-lieu-of" certificates listing a new

consignee, and these certificates are accepted by most of our trading partners. We also understand that Russia may be attempting to make its policy not to permit changes of consignee applicable throughout the Customs Union. If this were to occur, our trade with Kazakhstan would be seriously and adversely affected. To make matters worse, we understand that the U.S. is the only country that is not allowed to reissue certificates with a different consignee. This is still confusion within our industry about this issue. We are uncertain whether this restriction was originally imposed by Russia's veterinary service, or whether FSIS imposed this rule for some reason. Recent discussions with USDA and USTR also conclude that the origins of this issue are unclear. But regardless of its origin, it's creating a number of complications for U.S. exports and this issue definitely needs to be addressed.

2. Approval of additional export facilities – Historically, each member of the Customs Union has had its own list of establishments approved for export to its territory; however, now that they are all members of the Customs Union, all three countries must agree to approve each facility. While some facilities have been approved and put on the collective Customs Union list, the process has become lengthy and non-transparent. We suspect that some plants have not been listed because one of the three countries has refused to agree. Because the process is not transparent, a plant can be left off the list without any justification and without recourse. Also, Russia, in particular, insists that an audit must first be conducted before approving the facility. The Customs Union has recently adopted a decision outlining the procedures for approving facilities. If this decision could be implemented, it would diminish these obstacles. In our view, the Customs Union and/or Russia should take action immediately to approve the additional establishments that FSIS has identified as meeting requirements. That approval should take place without any requirements for the plant being audited.

As the largest member of the Customs Union, Russia exerts considerable influence and seems determined to impose its own policies on plant approvals for Kazakhstan and Belarus. We believe that Russia and the Customs Union need to fully implement the decision based on procedures for approval recently adopted, and that Russia needs to fulfill its obligations under the WTO.

3. Pre-Notification – We were just advised that the Customs Union has taken a decision that revises the current pre-notification system for certain animal products, including poultry, imported by sea. It requires that the shipper notify Customs Union officials in advance that a shipment is en route. This new decision becomes effective on Dec. 2, 2012. We are advised by USTR that the U.S. government reached a bilateral agreement with Russia in December 2011 as part of the accession negotiations which included provisions that would allow our current system of pre-notification of shipments to remain valid for shipments to the Customs Union territory until the eTDE system is in place for Russia. We understand that USDA is waiting for the Russian officials to register their port. Our concern is that we have received no indication from FSIS when eTDE can be implemented for Russia or the Customs Union. We do not want the U.S. government to be determined to be the problem on this issue.

4. Excessive product weight – Russian customs will not accept overweight shipments. The commercial reality is that sometimes shipments will be slightly over-packed to avoid being underweight. Russia has been, at times, excessively harsh in these situations. It has rejected some of these shipments claiming that the additional weight is "contraband." This makes no sense, and has caused some exporters and their importer partners' great expense and difficulty. USDA has tried to explain the commercial realities to Russia, but Russia has ignored these explanations.

5. Egg product export certificates – Despite many years of effort, no progress has been made getting Russia to accept export certificates for U.S. egg products.

6. Hatching egg exports – The U.S. and Russia have agreed on a text for a certificate for

hatching eggs, but the official form allowing for the issuance of hatching egg export certificates has not yet been signed. This final detail needs to be completed.

7. Moisture content – Russia's and the Customs Union requirement for maximum moisture content in frozen poultry (5.1 percent for submersion chilling) has no scientific basis and is inconsistent with the practice of many participants in the industry. If the requirement is enforced, it could become a major trade impediment.

Finally, there appears to be some interest in Russia to increase poultry import quota allocations because of concern for growing food price inflation. Recently, a number of domestic entities have gone bankrupt, due to spiraling feed costs (similar to those we have experienced in the U.S.) The U.S. should be receptive to any opportunities to increase allocations, even if it would mean eliminating the current distinction between bone-in and boneless products. The U.S. industry would be interested in additional quota allocations even without country-specific allocations.

In closing, we greatly appreciate the efforts of the U.S. government to help maintain the Russian and Customs Union markets for U.S. poultry. While every market is important to maintaining a healthy U.S. poultry industry, Russia and Kazakhstan are especially important. We urge you to address and resolve these issues as soon as possible, for the sake of the industry, its workers and the U.S. economy.

Sincerely,

A handwritten signature in black ink, appearing to read "James H. Sumner". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

James H. Sumner
President
USA Poultry & Egg Export Council

cc: Michael T. Scuse, Under Secretary for Farm & Agricultural Services
Amb. Islam A. Siddiqui, Chief Agricultural Negotiator
Michael E. Brown, President, National Chicken Council
Darci L. Vetter, Deputy Under Secretary for Farm & Agricultural Services
Sharon Bomer Lauritsen, Asst. U.S. Trade Representative for Agricultural Affairs
Suzanne Heinen, Administrator, Foreign Agricultural Service