

## Our position

# Mirror clauses for food and agricultural products



AmCham EU speaks for American companies committed to Europe on trade, investment and competitiveness issues. It aims to ensure a growth-orientated business and investment climate in Europe. AmCham EU facilitates the resolution of transatlantic issues that impact business and plays a role in creating better understanding of EU and US positions on business matters. Aggregate US investment in Europe totalled more than €3.4 trillion in 2021, directly supports more than 4.9 million jobs in Europe, and generates billions of euros annually in income, trade and research and development.

## Executive summary

The American Chamber of Commerce to the EU (AmCham EU) continues to welcome the EU's focus on creating more sustainable food systems as outlined in the Farm to Fork strategy and the European Green Deal. Reciprocity in food trade agreements, also known as mirror clauses, has become increasingly prevalent in the debate on EU food safety and environmental standards in recent months. These clauses if adopted should be done so in a way that is compatible with the World Trade Organization (WTO) and does not create barriers for food trade. Any agreement should consider third-country perspectives, especially from those that have similar food productions methods and standards as those in the EU.

## Introduction

The EU is a leader when it comes to achieving high health and environmental standards for food and agricultural products. It aims to further raise these standards by applying mirror clauses to food and agricultural products imported from third countries. However, these standards need to comply with international law to reinforce cooperation and continued dialogue on building sustainable food systems at a global level.

By applying mirror clauses the EU intends to insert reciprocity of standards into trading agreements. This means that all EU trading partners would need to reciprocate the same or similar environmental and sustainability standards as the EU. This was most recently proposed by the French Presidency of the Council of the European Union and has sparked debate among national authorities and stakeholders about the measure's fairness and how it could impede a level playing field.

Citizens and organisations have raised legal and policy concerns about EU trading partners being able to meet such standards, especially as circumstances vary by country.

Regulatory barriers that affect trade should consider the varying production conditions in third countries, be science- and risk-based, be linked explicitly to sustainability objectives and be implemented in alignment with the equivalence obligation established by the WTO.

## Concerns with mirror clauses

Firstly, the term mirror clause is used to describe instances where imported products are produced under the same sanitary, phytosanitary, welfare and environmental standards as products produced domestically within the EU.<sup>1</sup>

The implementation and functioning of mirror clauses present a challenge for national authorities and third countries. It will be imperative to ensure that the products produced within the EU are of the highest quality and that the environmental value matches the economic value.

Despite countries' ability to propose new trade rules for health reasons under the Sanitary and Phytosanitary Agreement, there are concerns about how to impose higher trading standards without

---

<sup>1</sup> Rees, E. R. (2022). Mirror, Mirror on the Wall, Who Has the Fairest Clauses of Us All? Stress-testing the Application of Mirror Clauses to Pesticides. ECIPE-European Centre for International Political Economy. <https://ecipe.org/publications/applications-of-mirror-clauses-to-pesticides/>

breaking WTO rules. Many argue that this could provoke retaliatory measures. The WTO has indicated that while mirror clauses do not violate its rules, such measures should be carefully assessed and adhere to specific conditions.

Moreover, new measures could lead to protectionism and trade barriers. The EU is the largest global exporter of agri-food products with a value of €184 billion in exports reported in 2020.<sup>2</sup> Non-scientific application of EU standards to imports could lead to counter reactions and retaliations from third-country governments including possible restrictions applied on EU exports.

As alluded to in a European Commission statement released earlier this year, EU imports are dominated by basic agricultural food and feed products, representing about 75% of all imports, while EU exports include several products across the value chain.<sup>3</sup>

These figures demonstrate that the EU remains the largest exporter of agri-food products in the world and the third largest importer, behind only the US and China.<sup>4</sup>

The legitimacy of applying mirror clauses to farming practices in third countries without giving them a say in the decision needs to be addressed. Mirror clauses send political signals that may lead to pressure from farmers and operators not present in the EU markets, and as a result, their governments could take unilateral measures. This would lead to reduced trust in third-country governments at the national and international levels, jeopardising intergovernmental oversight on standards.

Although the EU enjoys some of the highest food safety and animal welfare standards in the world, it is likely that specific operations in some non-EU markets may be more efficient in terms of production sustainability and input versus output.

Any policy incorporating the global application of EU standards would need to be based on consensus-led, scientific criteria in order to account for local specificities and capacities. Mirror clauses are beneficial as they encourage mirroring a methodology's scientific rationale, but it is important not to lose sight of the rationale that forms the globally applicable scientific backbone to the standard.

## Recommendations

### Mirror clauses should be science-based and compliant with WTO rules

- EU standards are recognised by global partners but are unique to Europe, which sometimes differs significantly from other parts of the world. A science-based assessment of import standards would ensure trade agreement predictability, guarantee compliance with WTO rules and recognise the local specificities of EU trading partners and their efforts to achieve the same sustainability objectives by different means. To this end, the European Commission

---

<sup>2</sup> SIAL-Inspire Food Business. EU AGRI-FOOD EXPORTS INCREASE TO €184 BILLION DESPITE THE PANDEMIC. (2021, September 24), viewed on 19 May 2022. <https://newsroom.sialparis.com/regional-spotlight/europe/agri-food-exports/?msclkid=dcf361feb4b211ecb7921ffcc97ca1b0>

<sup>3</sup> European Commission, EU reinforces its leading position in global agri-food trade (2021, September 8), viewed on 19 May 2022. [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_21\\_4584](https://ec.europa.eu/commission/presscorner/detail/en/ip_21_4584)

<sup>4</sup> SIAL-Inspire Food Business. EU AGRI-FOOD EXPORTS INCREASE TO €184 BILLION DESPITE THE PANDEMIC. (2021, September 24), viewed on 19 May 2022. <https://newsroom.sialparis.com/regional-spotlight/europe/agri-food-exports/?msclkid=dcf361feb4b211ecb7921ffcc97ca1b0>

should consider collaborating with WTO bodies before including certain mirror clauses in all trade agreements to ensure lawful and science-based decision-making.

### **Mirror clauses should not be detrimental to third countries**

- Converting production processes to meet EU standards that are not aligned with equivalent national standards could significantly affect the economic and social situation of EU partners in third countries. It could be detrimental to farmers and producers and reduce their productivity in third-country regions. Additionally, the validity of applying these measures to agricultural practices in third countries must be questioned. Lastly, using mirror clauses is a political decision that could unintentionally reduce trade capacity and increase protectionist measures, to the detriment of EU agriculture. To avoid an unbalanced and undemocratic situation for its trading partners, the Commission should conduct an impact assessment of the effects of mirror clauses in all upcoming trade agreements.

### **Mirror clauses should integrate the views of global stakeholders**

- Whenever a trade agreement is negotiated, the Commission should develop a common vision on mirror clauses in collaboration with EU and global partners and organisations. Including other stakeholders in the decision-making process would increase consensus and facilitate the adoption of mirror clauses that fit into global trading systems. This would also allow for better compliance by third countries and partners and ensure the legitimacy of such clauses, avoiding WTO disputes and retaliation from other parties. Finally, this would help develop the EU's global food safety and environmental ambitions by incorporating the positions of third countries and demonstrating trust in its partners.

### **Equivalence agreements should be verifiable and globally applicable**

- The introduction of mirror clauses would require the Commission to audit the production processes of agricultural and food products and set specific standards in third countries. This action is legally questionable considering the potential intervention in third countries' production systems. Instead of mirror clauses, the Commission should adopt equivalence agreements with third countries that have similar productions methods to the EU.

## **Conclusion**

With the ongoing threat to global food security as a result of Russia's war on Ukraine, removing barriers to food trade has become even more important for creating more sustainable and resilient food systems. To ensure the removal of barriers to food trade, any mirror clause should be science-based and compatible with international trade rules. Such clauses should also be designed in a way that doesn't negatively impact third-country agriculture practices. Finally, mirror clauses should be integrated with the views of global stakeholders and consider equivalence agreements with like-minded third countries.