

**THE STATUS OF THE WORLD TRADE  
ORGANIZATION NEGOTIATIONS ON  
AGRICULTURE**

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**HEARINGS**

BEFORE THE

**COMMITTEE ON AGRICULTURE  
HOUSE OF REPRESENTATIVES**

ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

—————  
MAY 21, JUNE 18, AND JULY 22, 2003  
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# THE STATUS OF THE WORLD TRADE ORGANIZATION NEGOTIATIONS ON AGRICULTURE

WEDNESDAY, MAY 21, 2003

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON AGRICULTURE,  
*Washington, DC*

The committee met, pursuant to call, at 10:10 a.m., in room 1300, Longworth House Office Building, Hon. Bob Goodlatte (chairman of the committee) presiding.

Present: Representatives Boehner, Smith, Lucas of Oklahoma, Moran, Gutknecht, Ose, Hayes, Osborne, Pence, Rehberg, Graves, Putnam, Janklow, Burns, Bonner, Chocola, Nunes, Stenholm, Peterson, Dooley, Holden, McIntyre, Etheridge, Baca, Case, Alexander, Ballance, Marshall, Pomeroy, Lucas of Kentucky, Thompson of California, Larsen, and Davis.

Staff present: Bill O'Conner, staff director; Brent Gattis, Lynn Gallagher, Callista Gingrich, clerk; Jason Vaillancourt, Elizabeth Parker, John Goldberg, Elyse Bauer, Pam Scott, Kellie Rogers, and Andy Baker.

## **OPENING STATEMENT OF HON. BOB GOODLATTE, A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF VIRGINIA**

The CHAIRMAN. Good morning. This hearing of the House Committee on Agriculture to review the status of World Trade Organization negotiations on agriculture will come to order.

On behalf of the committee, I am very pleased to welcome our distinguished witnesses, Secretary Veneman and Ambassador Zoellick. We are honored to have you both appear before this committee to discuss issues related to agriculture trade and WTO negotiations. I particularly want to thank you both for your work in taking the WTO action on the European Union moratorium on agriculture biotechnology products.

It is fitting that the committee is holding this hearing in the week that President Bush proclaimed to be World Trade Week. As the President said in the proclamation, "Trade injects new energy and vitality into the global economy by fostering the exchange of ideas and innovations among people around the world."

American agriculture knows the benefits of free and fair trade. For American farmers and ranchers, trade is an essential part of their livelihood. One in 3 acres in the United States is planted for export, and U.S. agricultural exports account for 25 percent of U.S. farm income. U.S. farmers and ranchers produce much more than

is consumed in the United States. Therefore, exports are vital to the prosperity and success of U.S. farmers and ranchers.

USDA reported that agricultural exports for 2002 were more than \$53 billion, up from a low of \$49 billion in 1999, but still below the 1996 peak of \$60 billion. Our agricultural trade balance for 2002 is estimated to be \$12 billion, a positive figure, but one that is lower than for some periods in the past.

U.S. agricultural markets are open to imports and our tariffs are low. Agricultural tariffs worldwide average about 62 percent, while U.S. agricultural tariffs are 12 percent. It is the advantage of U.S. agriculture that we continue to open markets and remove barriers to our agricultural exports.

The WTO negotiations offer an opportunity for the United States, an opportunity to increase agricultural exports. U.S. goals for these negotiations are to decrease and harmonize tariffs, eliminate export subsidies, and reduce and harmonize trade distorting domestic support policies.

American farmers and ranchers recognize the necessity of exports for their success. However, confidence in trade agreements and agriculture's place in those agreements is weak. The reasons why include the beef hormone WTO decision affecting U.S. exports to the European Union and enforcement of the provisions agreed to in negotiations over China's accession to the WTO. Greater access to these markets has been elusive, despite promise made.

Problems are occurring in the midst of negotiations on Russia's accession to the WTO, especially for U.S. and Virginia poultry products.

Now we see the current problem of access to Mexico for our agricultural products. Several agricultural organizations advised the committee of problems with trade with Mexico and also recently wrote to President Bush. They believe that Mexico is effectively renegotiating NAFTA through questionable methods that restrict trade or threaten to restrict trade for such U.S. products as rice, pork, apples, poultry, corn, dry edible beans, high fructose corn syrup, and beef.

I am concerned about the problems with agricultural trade with Mexico and its effort to restrict U.S. exports. I am also concerned about the waning confidence that U.S. agriculture has in trade agreements and the negotiations for such agreements.

Our two distinguished witnesses will address these issues and provide the committee with information regarding the status of WTO negotiations.

It is essential that the voices of America's farmers and ranchers are heard in the WTO negotiations and that U.S. agriculture is a full partner in all negotiations.

At this time it is my pleasure to recognize the ranking minority member of the committee, the gentleman from Texas, Mr. Stenholm.

**OPENING STATEMENT OF HON. CHARLES W. STENHOLM, A  
REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS**

Mr. STENHOLM. Thank you, Mr. Chairman. I would first like to congratulate you on the passage of the Healthy Forest Restoration

Act yesterday on the floor, and I hope that we can achieve equal success as we continue to work together on trade issues.

I welcome Ambassador Zoellick and Secretary Veneman and commend you both on the request for consultations with the European Union on its moratorium on agricultural biotech products. Secretary Veneman, I also applaud your quick response to the news of what still appears to be an isolated case of BSE in Canada. I look forward to working with you on this very important issue.

I had prepared a statement mentioning some of the shortcomings of the Harbinson paper, but upon reading your testimony, I realize you are well aware of the deficiencies. As we wait for Europe to decide how, but hopefully not whether, to reform the common agricultural policy, for I believe that for the Doha Round to succeed we will have to see significant reforms in Europe, we have an opportunity to consider how to bridge some of the gaps that have divided us on agricultural policy.

I note with particular interest Ambassador Zoellick's suggestion of combining tariff cuts with safeguards for developing countries that would enable them to temporarily restrict imports that displace their farmers. The potential problems with this approach are that it may exacerbate existing inequities and not result in reaping full increases in market access for U.S. products, and that such a safeguard may become more permanent than we intend. One problem with the special and differential treatment in general as proposed by Harbinson is that it fails to distinguish between developing countries, either on the basis of the level of development or any other factors such as whether the country is a net exporter or importer of agricultural products.

It seems contrary to logic that we need to provide special treatment to a country that is already competitive in world agricultural markets, and I hope that we can develop an approach to special and differential treatment that acknowledges the differences between various developing countries.

But perhaps the biggest challenge, as Ambassador Zoellick points out in his testimony, is that with regard to multilateral trade rules, agriculture is 50 years behind the industrial sector.

I look forward to working with you, Mr. Chairman, Secretary Veneman and Ambassador Zoellick, to start catching up.

The CHAIRMAN. I thank the gentleman, and the Chair would advise the other members of the committee that both Secretary Veneman and Ambassador Zoellick need to be away from here shortly after noon and have obligations very shortly thereafter. So we are going to cut this off about noon and, as a result of that, we will ask other members to submit any opening statements they may have for the record. That will allow the witnesses to give their testimony and it will allow all of you to have as much opportunity as possible to ask questions of these two important witnesses.

[The prepared statements follow:]

PREPARED STATEMENT OF HON. NICK SMITH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Thank you Chairman Goodlatte and Ranking Member Stenholm for holding this hearing to review the status of the agriculture negotiations at the World Trade Organization. I would also like to compliment you for moving the Healthy Forest bill through the House yesterday. Thank you Secretary Veneman and U.S. Trade Rep-

representative Zoellick for your testimony. As we have heard today, agricultural trade is vital to the sustainability and profitability of our domestic agriculture industry. Since agricultural exports account for 25 percent of total U.S. farm income, it is critical that our trade representatives aggressively pursue policies and agreements that benefit U.S. farmers and ranchers through trade liberalization. As we have heard today, U.S. agricultural markets are open to imports and our tariffs are low at roughly five times lower than the average agricultural tariff worldwide. In order to maintain the viability of our agriculture industry, it is imperative that U.S. farmers and ranchers continue to increase productivity and be allowed to compete on a level playing field in terms of tariffs.

Unfortunately, not all of our trading partners believe in fair trading practices. Besides large export subsidies and trade-distorting domestic support policies, some countries are using non-tariff trade barriers. In particular regulations on genetically modified food and feed products are a serious form of protectionism. I applaud the administration's decision to file a WTO case against the EU's moratorium on approvals of new biotech products. The EU's stated concerns over the safety of biotech products have not been supported by science and have simply been used as a discriminatory trade policy against U.S. products. The EU's 4-year ban on genetically modified food crops have cost U.S. producers an estimated \$300 million annually in corn exports alone. Agricultural biotechnology holds great promise for agricultural profitability and sustainability, as well as human nutrition and health. With the increasing scientific ingenuity and the rapid development of new genetically modified food and feed products, trade issues involving biotechnology-derived products will only increase in the future. Thus, it is important for the United States to set a good precedence and continue to pursue immediate, aggressive actions to eliminate scientifically unjustified trade policies on biotech products that have been shown to be safe for both people and the environment.

PREPARED STATEMENT OF HON. ADAM H. PUTNAM, A REPRESENTATIVE IN CONGRESS  
FROM THE STATE OF FLORIDA

Mr. Chairman, I would like to thank you for calling this hearing to review global trade negotiations in the World Trade Organization. I specifically wish to thank U.S. Trade Ambassador Robert Zoellick and Secretary of Agriculture Ann Veneman for their participation in this hearing and their efforts to expand U.S. agricultural trade opportunities around the world.

The administration's close communication with Members of Congress and agricultural stakeholders is to be commended as is vital to the ultimate success of trade negotiations. I appreciate this open relationship and look forward to continuing to work constructively together to improve our agricultural trading relationships as the administration endeavors to build trade agreements both multilaterally through the WTO, and through regional trade negotiations.

Representing the largest citrus growing area in the Nation—a \$9 billion industry throughout the State of Florida, it is particularly critical to work together toward positive trade objectives that will foster competitiveness, benefit the consumer, and strengthen the role of U.S. agriculture around the world.

The Florida processed orange industry is the most efficient in the world in production yield per acre. The industry and global market are unique and import sensitive—not for any lack of competitiveness, but because of the dynamics and propagation conditions.

Global orange juice production is concentrated chiefly between only two countries: Brazil and the United States. Brazil's five large processors control roughly 80 percent of Brazil's orange juice production and control nearly all of Brazil's orange exports. Brazilian processors benefit from advantages brought by past subsidization and dumping, frequent national currency devaluation that reduces the relative cost of production inputs, and oligopolic pricing structures.

The U.S. industry that grows oranges for processing is also unique in that it is one of the most free market-oriented sectors of U.S. agriculture not receiving any government subsidies. Its only offsetting tools are the tariff and enforcement of existing trade laws.

Any reduction in the citrus tariff in this unique international market will not lead to the administration's stated objectives of free trade including greater competition and consumer choice, lower prices, or expanded overall global economic growth. Tariff reductions would rather result in decreased global competition among nations with little no benefit to consumers, while seriously jeopardizing the future of the U.S. processed citrus industry.

For these reasons it is imperative that the administration take into account the unique nature of the citrus industry as we proceed through negotiations in the WTO

as well as regional trade agreements. I look forward to continuing to work with Ambassador Zoellick and Secretary Veneman to achieve trade objectives that will strengthen and enhance the position of citrus and U.S. agriculture in the global marketplace.

PREPARED STATEMENT OF HON. THOMAS M. REYNOLDS, A REPRESENTATIVE IN  
CONGRESS FROM THE STATE OF NEW YORK

Mr. Chairman, I would first like to commend you on your leadership of the House Agriculture Committee in the 108th Congress. We are all well served by your knowledge and dedication to these important issues. I would also like to extend my thanks for allowing me to make a short statement for the record on an issue that is very important to my congressional district.

I have the privilege of representing the 26th district of New York, which boasts the largest milk-producing county in the State. My area dairy farmers are facing another disastrous year with milk prices that are currently at a 25-year low. Western New York stands to lose nearly 30 percent of its dairy farmers in the coming years. As my State's No. 1 agricultural industry, the loss of these dairy farms will be detrimental to an already depressed State economy.

One key factor displacing domestically produced dairy is the abundant import of Milk Protein Concentrate (MPC). In a March 2001 report, the General Accounting Office released a study on the production, importation, and regulation of milk protein concentrate. The study concluded that MPC imports increased rapidly during the 1990's (from 805 to 44,878 metric tons) and even doubled from 1998-99. In 2000, MPC imports reached a staggering 52,677 metric tons.

When the United States first established its trade policies concerning imported dairy products, the ultra-filtration technology used to produce MPC did not exist. Prior to the 1994 General Agreement on Tariffs and Trade negotiations, the United States did impose import quotas on cheese, butter and non-fat dry milk. This was done because the massive import of these products would clearly interfere with the domestic dairy price support program.

Now is the time that we must do everything we can to protect domestic agriculture. The new technologies used to develop MPC make it absolutely necessary to renegotiate trade within the worldwide dairy industry. It is imperative that MPC be formally reviewed during the World Trade Organization's Fifth Ministerial Conference in September of this year. I urge the committee to make this a priority and to do everything within your jurisdiction to see that the United States Trade Representative includes the MPC issue in the next World Trade Organization meeting.

Mr. Chairman, I thank you and the committee members for your time and attention to this matter and look forward to a favorable resolution.

The CHAIRMAN. Let me now welcome them both and Madam Secretary, we are pleased to start with you.

**STATEMENT OF ANN M. VENEMAN, SECRETARY OF  
AGRICULTURE**

Secretary VENEMAN. Thank you very much, Mr. Chairman and Congressman Stenholm and members of the committee. It is a pleasure to be here. I would like to echo something that Mr. Stenholm said and thank this committee for their work on the Healthy Forest Initiative. As you know, it is very important to us and what we did with our U.S. Forest Service and USDA. So we appreciate the work of this committee in that regard.

It is a pleasure to be here today with my friend and colleague Bob Zoellick to discuss trade with you. We work very closely together on matters of trade. Our staffs work closely together, and I truly think that American agriculture benefits from our close working relationship on these issues.

Before I begin my prepared testimony today, I want to update the committee on the events that we were informed of yesterday; that is, the fact that a single animal infected, or affected by BSE was found in Canada. We took action in USDA and placed Canada under our BSE restriction guidelines and temporarily prohibited

the importation of ruminant and ruminant products into the United States. We are sending a team to Canada immediately to participate in the investigation, and we will put all resources necessary into this investigation. Our internal working group is meeting with Canadian officials this morning via conference call, and we also met with State departments of agriculture and State veterinarians to brief them on the situation, and we will be updating the industry and the media as any new information is available.

It is important to note that the risk to humans and the risk of transmission of this disease to U.S. animals is very low. Preventing BSE and all foreign animal diseases is an absolute top priority of our Department. We feel that our system is very strong. To be sure, we contracted with Harvard University to study our system and they reported that the risk of BSE happening here is very low. That study was released in November 2001 and it shows that the years of early actions that were taken by the Federal Government to safeguard consumers have helped keep BSE from entering the United States. However, we cannot let down our guard or lose our vigilance.

We have worked for over 15 years to put in place multiple firewalls, including a strong surveillance system that more than tripled the number of cattle tested for Bovine Spongiform Encephalopathy, or BSE. In addition, we prohibited the import of live ruminants from countries that are considered to be at risk or have BSE. In 1997, the Food and Drug Administration prohibited the use of most mammalian protein in the manufacture of animal feed intended for cows and other ruminants to stop the way the disease is spread. In response to the Harvard report that we released in 2001, USDA announced a series of actions they would take in cooperation with the U.S. Department of Health and Human Services to strengthen our BSE prevention programs in an effort to maintain our vigilance against this disease.

We have been, I have personally been, in constant contact with my counterpart over the last 24 hours as we learned of this issue. As I indicated, we will continue to be very proactive in this investigation of this issue. We believe that the food supply in this country is safe, that there is not a risk, and that consumers should feel very assured that we do not have this disease in this country. This is an isolated incident. It shows that the system worked. It was determined that this animal that was not put into the food chain had a potential, it was tested, and all the herd that was contained will be completely removed from the food chain, tested, and completely reviewed.

So we believe, Mr. Chairman and members of the committee, that we are doing everything we possibly can to handle this situation.

To set the stage for this hearing today, we have given you a series of slides which I hope you have before you. We were not able to present a PowerPoint this morning, but I want to begin by discussing the importance of trade to agriculture and highlight some of our markets of substantial importance to America's farmers and ranchers.

As you look at slide 2, fundamental to our discussion on current agricultural negotiations is an understanding of the importance of

trade to so many farmers and ranchers. Does everyone have it? I want to make sure everyone has these charts as I go through them.

As you can see from slide 2, a substantial percentage of U.S. production of many U.S. crops is exported. It is important to recognize that United States productivity in agriculture has grown about 2 percent per year. At the same time, our domestic demand grows slowly, only at about the rate of eight-tenths of a percent per year, which reflects primarily population growth. So over a 10-year period, not accounting for compounding, our capacity to produce increases by 20 percent, while our domestic demand increases by only 8 percent. If we are to fully utilize our capacity, we have to continue to look at foreign markets, where 96 percent of the world's population lives.

As we look at slide 3, on U.S. agricultural exports, we estimate that in fiscal year 2003, U.S. agricultural exports will reach \$57 billion. That compares to about \$53.5 billion last year.

Now, what does this mean? It creates an additional \$84 billion in supporting economic activities to harvest, process, package, store, transport, and market those products. High value products generate even more economic activity than bulk products: \$370 million more in value for value-added products for every \$1 billion exported. While traditionally, we have export bulk commodities such as wheat, rice, coarse grains, oilseeds, cotton and tobacco, since the early 1990's our exports of high-value products, meat, poultry, live animals, meals, oils, fruits, vegetables and beverages have expanded rapidly and now exceed the value of bulk commodity shipments, and I think that you can see from this chart No. 3 the increasing value of our high-value exports.

An additional benefit is that with the growth in the livestock exports, we are increasing our utilization of feed grains, so we have exports of feed grains going out in the form of livestock exports. At the beginning of the 1990's, we exported relatively few livestock products, the equivalent of only 2 percent of all grain and oilseed production. This year, it is projected that we will export over \$9 billion of livestock products, representing the equivalent of fully 5 percent of our entire grain and oilseed production.

Over the last 10 years, many of our major export markets have grown significantly. In 2002, Canada surpassed Japan as the leading export market for U.S. agriculture with our exports valued at a record \$8.7 billion. Exports to Mexico have reached \$7.3 billion, exactly double the amount the year before NAFTA's implementation. We also see that China is a strong growth market for U.S. products.

On slide 4, one of the focuses is if you look to the future opportunities for American food and agriculture, we have a focus increasingly on the markets of developing countries. There are solid, long-term fundamentals for growth in developing countries' demand for food. Rising incomes mean expanding demand for more and better food, a greater variety in people's diets, more processed and value-added foods, more livestock, which again requires more feed grains and proteins. This market shows us an estimated addition of 610 million middle class customers over 10 years in the 10 largest growing markets. It is important that we focus on the emerging opportunities in these markets.

Moving to slide 5, the trade landscape has changed dramatically over the last decade. In the mid-1990's, as the NAFTA and the Uruguay Round agreements were implemented, we saw the decrease in tariffs, the end of import bans, improved market access under tariff rate quotas, but at the same time our exports were affected by the rise of other kinds of trade barriers, including the use of sanitary and phytosanitary measures that are not based on sound science, import licensing schemes, and impediments to the adoption of new technologies such as biotechnology. It became increasingly important to focus on the development internationally of science-based regulatory systems.

But as the opportunities for trade expanded, so did the opportunities for impediments to trade. A critical element of the implementation of trade agreements is maintaining the access that we have already achieved. This is a core activity at USTR and one that we work very closely with USTR on as we move forward.

Now, going to the next slide, there has been a lot of discussion about Mexico and what has happened since the NAFTA, and I thought it would be a good idea to take a look at some of the export gains since the implementation of the NAFTA. This is a very important market for many U.S. agriculture sectors. First, U.S. agricultural exports to Mexico have doubled since NAFTA was implemented, reaching \$7.3 billion in 2002. Mexico is now our third largest agricultural market, and the benefits of NAFTA are distributed widely across U.S. agriculture. In 2002, we saw record exports of intermediate products, processed fruits and vegetables, red meats, wheat, rice, and soybean oil. In addition, two-way agriculture trade between our two countries has more than doubled since 1994 when the agreement first went into effect, reaching \$12 billion in 2002. Since NAFTA, the share of U.S. agricultural exports sold to our two partners has risen from 21 percent to 30 percent.

Last year, in 2002, for the 44 categories of agricultural products listed in USDA's monthly reports, the U.S. had record exports to Mexico for 13 of those categories. At the same time, we had record exports in 24 of those categories to our other NAFTA partner, and that is Canada.

Now, this is not to say that we do not have serious trade problems with Mexico, and the chairman has alluded to those. As of January 1, Mexico reduced substantially all of its tariffs to zero, providing duty-free access to the majority of U.S. products for the first time. As a result, implementation issues are affecting trade in grains, poultry, meat and horticultural products.

As you look at slide 7, this shows what has happened to pork exports in Mexico since implementation of the NAFTA. Mexico is a pork-deficit country and U.S. exports have increased 188 percent since 1994. However, on January 1 of this year, the tariff was reduced to zero and there is no tariff rate quota in effect. Mexico initiated an antidumping investigation on January 7. We and our industry are concerned about the reason that this action was taken. We continue to remind Mexico of our expectation that it must follow its NAFTA obligations.

The next slide shows what has happened with U.S. poultry exports to Mexico since the implementation of the NAFTA. This has now become our third largest export destination for U.S. poultry.

Imports were valued at \$174 million last year. The tariff on poultry imports also went to zero on January 1 and no tariff rate quota impacts trade. Due to Mexican concerns about the volume of imports of chicken leg quarters in particular, on January 22, a provisional safeguard was put in place for 6 months. Both governments are working on a final safeguard as allowed under the NAFTA.

Slide 9 shows the situation with regard to U.S. beef exports to Mexico since the NAFTA. Mexico similarly is a growing market for U.S. beef. It is now the second largest export destination for beef and beef offals from the United States. The value of trade was \$829 million last year. This has grown, despite antidumping duties, but there is a concern that the Mexican industry has petitioned their government for a global safeguard on imported beef. We see no economic basis for initiating the safeguard investigation and will continue to make this point with Mexican officials. In all of these cases, U.S. exports have grown in response to Mexico's demand for protein. Any trade restrictive activity by the Mexican Government will harm Mexican consumers as well as U.S. producers.

Slide 10 just simply emphasizes some of the other market maintenance activities that we have been working on throughout the last several months. We are devoting more and more resources to this, both at USDA and at us USTR. We have spent substantial time, for example, addressing the trade issues with regard to Russia. In the longer term, our objective is to have Russia join the WTO, which will require their participation in a rules-based system. We have spent a great deal of time discussing access for U.S. poultry and their intended use of tariff rate quotas.

Last month, I met with the Russian Deputy Prime Minister and Agricultural Minister and we made progress on several high priority issues. We are continuing to voice concerns about Russia's use of import restrictions and working with USTR on this matter.

A major focus of our market maintenance work has been with China as it has implemented WTO commitment concessions as a result of joining the WTO 18 months ago. We recognize that China had to adapt many of its laws and regulations to reflect these new obligations and has gone through some government reorganization as well. However, it is a top priority for this administration to ensure that China fully implements their obligations. We are working closely with USTR to monitor this compliance, particularly the administration of tariff rate quotas, the elimination of export subsidies, and the implementation of biotechnology regulations.

I know that Ambassador Zoellick will focus his remarks on the current WTO negotiations. I hope that the comments I have provided you this morning have set the stage for this discussion, reviewed the importance of trade in agriculture, and some of our high priority activities to maintain markets.

Mr. Chairman, that concludes my overview that hopefully emphasizes that trade is critically important for U.S. agriculture and the entire food industry, that we are maintaining markets, that maintaining these markets that we have requires our constant vigilance and aggressive action to make sure our producers' interests are protected, and that other countries keep the bargains that they have made. We at USDA are devoting more and more resources to market maintenance and opening new markets. We are working

closely with USTR and the industry on trade issues, and we very much appreciate that cooperative relationship.

Thank you very much, and I will be happy to answer questions at the appropriate time.

[The prepared statement of Secretary Veneman appears at the conclusion of the hearing.]

The CHAIRMAN. Well, Secretary Veneman, thank you for that very informative statement. Before we turn to Ambassador Zoellick, let me say also in regard to the BSE issue, first that I join Congressman Stenholm in thanking you and the Department for promptly addressing this issue, and I know that the Department is very actively investigating this matter.

Second, I fully agree with you that we have a very safe food supply in this country. And third, I would announce to the members of the committee and to the public that shortly after the Memorial Day recess, the committee will hold a full hearing on this issue after the Department has the opportunity to gather more facts.

With that, we will turn to Ambassador Zoellick. We are delighted to have you with us today as well.

**STATEMENT OF ROBERT B. ZOELLICK, U.S. TRADE  
REPRESENTATIVE**

Ambassador ZOELLICK. Thank you very much, Mr. Chairman and Mr. Stenholm. I really appreciate the opportunity to be here with you and the committee and my good friend, Ann Veneman. As she was beginning her testimony, I was trying to reflect back. We first started to work together I think some 17 years ago, shortly after Ann graduated from high school, and not only is Ann a good partner, but frankly, as all of you know, USTR is a pretty small place, so we rely very heavily on USDA staff, and they are great. We get great help all throughout.

I want to thank all of you, frankly, for your leadership on trade. All of you went through the wars with us to try to get the President's trade negotiating authority, and we know how important this committee and the support of the agriculture community was. Frankly, it helped us regain momentum and get us back on the table in terms of pushing the interests of American agriculture. I also want to thank the chairman and Mr. Stenholm. We worked together very closely on this biotechnology issue. The Speaker had a little event where the chairman took part, and I asked to have distributed to you, I hope it is on your desks, a little opinion piece that we just published in the Wall Street Journal today that helps give some of the arguments we are making about the importance of this to the developing world and nutrition and environmental issues, as well as productivity.

I prepared a written testimony, Mr. Chairman, and if you find it acceptable, I will just ask to put that into the record. I put together a little PowerPoint presentation that I would propose to talk to that I hope is on your table.

The first slide just emphasizes what Ann emphasized, so I won't go over it, which is the critical importance of agricultural sales and income linked to expanding imports. I think she mentioned a number of numbers, but just a couple basics there. When you look at actually some of the importance for crops, there are many crops

where half the production is exported. That is true for wheat and rice, it is true for a lot of specialty crops, almonds, walnuts, dried plums, about a third of soybean and meal, about 20 percent of corn and, all told, about 25 percent of cash receipts for America's farmers come from our export markets.

Now, the strategy that we pursued you will see described on the next slide; it is called competitive liberalization. And what this means is we try to work on multiple fronts: Globally, through the WTO; regionally through primarily the free trade area, the Americas; but also through bilateral agreements which are with individual countries or small regions. You probably get a lot of questions on this, so let me just make sure you understand the logic we have on this.

By moving on multiple fronts, frankly, we expand America's leverage. We start out with about 25 to 30 percent of the world's economy, but the question is how can we use that more efficiently. Well, we want to be in a position to say, we will move forward with openness or cutting subsidies if you do, but if you don't, we will move forward with those who do. So frankly, it gives us additional leverage. It keeps openness and free trade on offense. But also, some of these smaller agreements allow us to break some new ground and set higher standards. I know that some of you are now looking at the Singapore and Chile free trade agreements and it is interesting, if you look at the Chile agreement, you will see that we were able to get recognition of U.S. dairy inspection so we don't have to go through a special inspection process, and they also accepted U.S. meat standards just straight away. So these are some of the more detailed aspects you can get into with small agreements that we hope set precedents for others.

Finally, going to a point that Mr. Stenholm sort of discussed generally is that with 146 countries in the WTO, part of our challenge is to build coalitions, and these countries become good partners for us. They become allies in trying to develop our larger goals in the WTO.

The next slide I will just headline real briefly. It shows some of the progress that we have made with your help over the past couple of years. I do believe we have been able to regain momentum for trade but, in addition, in talking about sort of tariffs and subsidies, we have been able to link it to some of the broader goals about growth and development, and even after 9/11, some of the security issues. I would not be one to suggest that tariffs are driven to destruction by poverty but, on the other hand, it is hard to ignore that if a society loses hope, if it fragments, if people really have no sense of the future, that becomes a breeding ground, whether it is in the Arab world or whether it is in Southeast Asia or other parts. So part of what openness in trade does is give people a sense of the future.

I have just listed some of the items here. The Trade Act of 2002, the Trade Promotion Authority, we launched the Doha Development Agenda, which I will focus most of my remarks on, reversing what happened in Seattle, completed the accession of China and Taiwan into the WTO, which will be critical for America's agriculture in the future. This was a labor of many administrations over many years but, frankly, there were some of the key multilat-

eral agriculture issues we still had to resolve during the course of 2001. We now moved the free trade area of the Americas negotiation to a concrete stage, completed Singapore and Chile, launched new free trade agreements with Central America, Southern African Customs Union, Morocco, Australia. The enterprise for the ASEAN Initiative, which is a stage set of developments for some countries, getting them into the WTO, for others developing a trade investment framework agreement and, finally, the goal would be to move some of them to free trade agreements, and for American agriculture this is a very growing and important market. So if they are ready to open up, this is one that we hope to target. And the same with what the President announced recently, trying to open markets with the Middle East.

Now, I was asked specifically today to try to focus on the WTO negotiations. I know a number of you have had long familiarity with this, so I apologize if I am repeating some points. But I wanted to give you a little sense of the structure of how Ann and I have viewed this. The starting point is the Uruguay Round, which ran from 1986 to 1994. The reason that is important is that was the first time, as Mr. Stenholm said, we really started to impose disciplines in agriculture. Since 1947, people had been doing this in the area of manufactured and consumer goods, but the 1994 agreement was the first time we started to get the agriculture under disciplines and, as the nature of all compromises, it involved getting some of what you want but, frankly, leaving some inequities in the system. I will come back to the importance of that as we look ahead.

So this trade round, the Doha Development Agenda, which Ann and I were both together in Doha in November 2001, we were able to launch, it has 146 countries. The next key meeting on the agenda will be in September in Mexico, and I think the chairman is planning to lead a delegation from the committee down. The target date for that is January 2005.

Now, the way that we are approaching this is to recognize that since it takes a number of years to do one of these rounds and it takes a number of years to implement them, sometimes 10, 15 years, we really should see this as a once in a generation opportunity. We have to be bold, we have to be aggressive and setting out the mark. And that is frankly what we did in agriculture, consumer industrial goods and services. It has put the United States in the lead in trying to open markets.

Now, the next slide, page 6, gives you a sense of the core problem we face in the agricultural trade. Look at on the left the average WTO allowed tariff. Now, this varies a lot. I mean some of the tariffs for rice in Japan go up to 500 or 1,000 percent. But if you look at the average, the United States average is about 12 percent. We have some high ones too, as you know, but our average is 12. EU is about 30 percent, Japan about 50 percent, and the world about 62 percent. So the challenge, as the chairman said, is how do we bring that down.

On export subsidies, the little box to the right, you can see that the European Union has about 88 percent of the world's export subsidies; depending on the year, about \$2 billion to \$3 billion, and their cap is about \$5 billion. We had, in the last year we had the

numbers for this, about \$15 billion and the rest of the world is about 10 percent. And then the allowed trade-distorting support, and this is what trade people call the amber box; in other words, you have different types of domestic subsidies, as all of you know. If they are decoupled from production, and the Agriculture Department has a lot of these, whether it be for environmental or forestry or other purposes, so you provide the money but it does not affect production, that is called the green box. That means it is acceptable under the rules. Then there is something called the amber box. That means it distorts production, but it is limited, and you can see on this bottom chart the EU's numbers in these very little bit because they are done in their currency, not ours, are about \$67 billion, Japan's is over \$30 billion, ours is \$19.1 billion, and as bad as the other two look to us, there is a category that should be listed here as "others," which is kind of zero. So our 19.1 looks big to them.

Now, there is one other—and this is called the amber box. There is one other colored box here called the blue box and this is primarily something the European Union has. These are subsidies that affect production, but they are supposed to reduce production. There are ways of trying to limit it. This has not been restrained. Frankly, we have had some questions about whether that box really does what they say it does.

So the next slide gives you a sense of the negotiating mandate that we put together in Doha, and you can see the guidelines are as follows. We commit ourselves to comprehensive negotiations at: substantial improvement in market access, those tariff levels you saw; reductions with a view to phasing out all forms of export subsidies, that big number the European Union had; and substantial reductions in trade-distorting domestic support, that bottom chart.

Now, the question we had is how do we operationalize that, and the next chart gives you the heart of our proposal. We proposed first to eliminate agricultural export subsidies. After all, the mandate said, reductions with a view to phasing out. We also suggested a rather dramatic cut in tariff proposals that would cut the average allowed world farm tariff from that number of about 60 percent, 62 percent to 15, and none being greater than 25 percent. And in the category of domestic trade-distorting farm support, we used a proposal of saying let's limit it to 5 percent of your total agricultural production, and that would cut about \$100 billion out of this area globally, and it would close the cap between the United States and the EU very substantially. And, we said, this should be a step on the way of agreeing to a date for tariff and trade-distorting support elimination. In a sense, if you take this language, what it comes to is the basic principle that the chairman mentioned in his opening remarks. Harmonize, reduce, on the way to elimination. We are very pleased as we launched this, some of you may know even before we finished trade promotion authority, we got broad support from agricultural groups and many of the members on this committee.

Okay. So with that as our proposal, what comes next? Well, when you have 146 countries and everybody has a say, the way the WTO process works is that the chairs of the negotiating group play a key role in trying to assemble the information and put forward

a draft. Sometimes the draft falls dead, sometimes it becomes the basis of negotiations, sometimes it has further work.

Well, the chairman of the agricultural group, a man named Harbinson, put forward a text earlier this year, and I emphasize, this is not an agreement. In fact, some countries have even refused to accept it as a basis of negotiation, but it gives you the framework that he felt, after listening to many countries, could give a basis for negotiation.

So again, to go through these three categories, the first one, export competition, what was positive is he proposed elimination of export subsidies, as we have argued, and also the elimination of export monopolies, with which I have worked closely with some of you dealing with the Canadian Wheat Board over the years. On the negative side, he said to do it over 9 years where we proposed 5, and there are some open issues that are very important to us that we have to work through. How do we deal with export credit rules and food aid rules?

In the category of market access, the positive part was that his proposal subjected higher tariffs to deeper cuts. That is important on the whole harmonization principle. He eliminated a special safeguard that existed for developed countries, and something that is very important to us was that he said there was no justification for new market access barriers to address nontrade concerns. These are issues you will often hear from the European Union, Japan, Korea and others.

The negative part, it wasn't as ambitious as our proposal. So, for example, you take that average tariff of 62 percent and bring it down to 37, where we had proposed bringing it down to 15, and it allowed monopoly importers to continue, which we do not like, because we want people to be able to compete directly. Then there is the issue that Mr. Stenholm mentioned where he put in some criteria for a new safeguard for developing countries, and it is very loose. This is an issue to be discussed and debated and, frankly, an issue that is even of greater concern was the suggestion that there would be special products in developing countries subject to marginal tariff cuts. The question about this is how many, how does it work? Some countries have quickly said, well, our list of special products include about 100 different products, so the exception eats up the rule.

Then the third category is domestic support, the amber box. Here the good news is he would reduce the disparity between the European Union and the United States, cuts about \$40 billion from the EU, cuts \$12 billion from us. The blue box he proposed to cap and possibly eliminate. No cap on the green box, which is important in preserving our flexibility with farm policies, and said if there are nontrade concerns, do it through the green box. In other words, you want to subsidize people, you do it, but you don't affect production. This might be something for an animal welfare issue. On the negative side, in our view it doesn't go nearly far enough in harmonizing the support levels between the EU and the United States, and it cuts something called the de minimis amount from 5 percent to 2.5 percent. Let me explain what this is.

The rules that were agreed to in the Uruguay Round said if your support is below a certain level, 5 percent for developed countries,

we will not even count it. This is both by product and nonproduct specific. Frankly, the United States has not used this so much for product specific items because our programs are either above 5 percent or way below it. But it has used it for some of the nonproduct specific, whether it be irrigation or other things that cut across lines. Then, the open issue here of special and differential treatment in terms of domestic subsidies as well.

So where do we go from here? Page 12. Well, the lines are drawn, and, as I said, this text that I just went through, there is some countries like the European Union that kind of choke at even discussing working off this, so the question is how we move this forward. And the hearing, and I want to compliment the chairman on this, comes at a very important point. Because the key issue on the table right now is what the European Union does with its reform of its common agricultural program. And what is on the table is that Commissioner Fischler, Ann's counterpart, the Agriculture Commissioner, and Commissioner Lamy, the Trade Commissioner, my counterpart, have made proposals to the member states of the European Union to reform the common agricultural program. Now, they are doing this not primarily for trade reasons, but as many of you know, the European Union has 15 members, they are going to expand to 25, they have to start to adjust their policies and also they, like you, are debating some of those issues about support for environment and rural. So they have suggested a rather significant decoupling. So they keep the money, but they don't do it in a way that distorts production, and there are some other areas where they propose some market reforms; for example, dairy.

Commissioner Fischler is trying to get this done by June, and as I said on two trips to Europe over the past 3 weeks, it is obviously in their own agricultural interests, but it is absolutely critical if we are going to move ahead in terms of the Doha negotiations, because as I outline more in the testimony, the decoupling is fundamental for us being able to harmonize those domestic subsidy supports. It would allow the European Union to cut much more, and a lot of their export subsidies are really a derivative. In other words, they pay people to produce it and then they have to pay people to buy it. So we could perhaps work much more closely to our goal of elimination. Frankly, because I know many of you are always properly concerned about how agriculture fits with some of the other topics, we have said, look, the cap reforms are critically necessary, but they are not sufficient. For example, they don't do enough for what we need in market access. But what I have been trying to do, and this is why I was just in Europe twice recently and just met with a big German business group, is to say, look, there is other parts of this negotiation; for example, manufactured goods where our proposals are very similar with what European business wants. But if European business is going to get the benefits of tariff cuts for some of these other manufactured goods areas, the European business has to help us with the member states' move on agriculture. So we are trying to build coalitions of support within these countries.

So just to identify some of the key issues working ahead. I thought it would be useful to put these out so as we talk with the chairman and the ranking member and members of the committee

going forward, you have a sense of some of the topics that we see on the agenda. One, how do we expand support for ambitious reform? We have to build a coalition. Part of this is simply explaining to a lot of countries, you realize you have 146 countries, a lot of them small, it is complicated stuff, trying to explain the issues, and also listening to their concerns. For example, China, because China actually made some significant market access openings as part of its accession to the WTO. They are supporting our agriculture proposal, not the EU's case.

The second part, and this is the key point that Mr. Stenholm mentioned, is we have to balance developing countries' special needs to a degree of ambition. Let me be very straight with the problem.

India has 650 million subsistence farmers, so India is not the most aggressive supporter of agriculture reform, because it is afraid of what happens when 650 million people march on Delhi. So the question is, can we try to deal with those sets of problems while, as Mr. Stenholm said, recognizing that that doesn't necessarily have to apply to every developing country, including those that are agricultural exporters, and how do we do it in a way that does not undermine the system for the future. So that is the exact sort of issues that Al Johnson and I and J.B. Penn and Ann are trying to work out in consulting with you and your staff about some of the ideas.

Another important question is trying to maximize market access gains in priority sectors and, I might add, countries. In other words, what I have talked about so far are general formulas. We also want to get into specifics. We need to know we are going to make targeted shots: What is most important for American agriculture to try to open up? Addressing this disparity that we have talked about between the U.S. and EU on domestic support, and let me give you an example of how this process works.

The way that Harbinson put forward his text in cutting tariffs, he said, well, let us cut more from a higher band and then a lower band. Well, the Canadians said let's do that for domestic subsidies, too. So you would cut a greater percentage from the EU than you would from the United States and some more from the United States than you would from some little players. And then this critical issue of framing disciplines on export credits and food aid, the text acknowledged the use of export credits which we have in food aid, but it said these need to be disciplined and we have an objective to that if we can do it right.

So the last point in the slide, as I mentioned, teamwork and support. It is very important as we go along that we move in lockstep with this committee and your Senate counterpart and, frankly, the agriculture community. It helps us to understand the priorities. Ann and I have a formal Advisory Committee on Agriculture that meets really I guess every 2 months, and then there are specialized committees in other areas that is set up by law. And of course we have contact with lots of the different groups informally and formally. But this is a way that we hope we can get some more guidance from you about your priorities.

A second point is in terms of promoting the synergies between trade policy and farm policy. We need to make sure these are mutually supportive.

Third, building farm community and public understanding of the stakes for trade. From having talked to you, and I know you have family that still farms and, being a farmer, your God given right is to complain, whether it is too much rain, not enough rain, farm exports, imports; but I think the presentation that Ann gave sort of helps to give an important sense that there are important gains here, but we have to explain it to people.

Another key point is communicating the U.S. message abroad, building coalitions abroad. Here again, we need your help. A number of you do travel overseas and I know you are part of different delegations, and we resonate the message about this overall strategy, how it is a benefit to the developing world as well as us. Because at the end of the day, this is a question of building coalitions, just as it is in other areas of international life. And whether you do it with other parliamentary members or whether you do it with governments you meet, it can be a big help to us.

So I just want to again close by thanking the Chair for suggesting this hearing. It gives us an opportunity to say a little bit formally. Obviously, as I hope you will expect and since it is an open hearing and I am a negotiator, I have to be a little careful here, but it gives you some structure of what we are trying to do.

Thank you.

[The prepared statement of Ambassador Zoellick appears at the conclusion of the hearing.]

The CHAIRMAN. Well, thank you, Ambassador. That certainly was a very helpful statement.

Let me ask you about these developing countries. The concern that many of us have is that if you are able to define yourself as a developing country and thereby postpone implementation of various reforms, particularly in agriculture, that creates some kind of an unfair advantage. I know that Secretary Veneman, in her chart, showed massive increases in middle class citizens in a number of interesting countries, China being the foremost at 525 million middle class citizens. Now, that couldn't be the same definition we might use for the middle class in the United States. Do either of you know what that is based upon?

Secretary VENEMAN. I can't give you the exact numbers, but we can get more information to you from ERS. But basically, as you look at expanding populations, it is basically moving from a very subsistence lifestyle into one where you have income from productive employment; therefore, you have disposable income to spend on more food, goods and services. And what we find is when you look at developing countries and you look at consumers around the world, that as countries become more developed and there are more people that are earning incomes, that are living beyond a subsistence kind of existence, that they will first and foremost spend that on more and better food. And that is why we think that it is so important to understand where these emerging middle classes are, where the economic development is taking place, because we believe that is where we should focus our marketing and our market development efforts.

The CHAIRMAN. It would be very helpful to have that information.

Ambassador Zoellick, if you could help me out with just how hard we can push to get to some kind of an objective standard here, so that as these countries develop the idea that they can somehow create a continued advantage for themselves, even if their economies are experiencing very significant growth, I think would give a little more confidence to us in terms of how fairly we are being treated in our agricultural exports. Can you respond to that?

Ambassador ZOELICK. Yes, Mr. Chairman. First, let me use the China example. As Ann mentioned, it probably varies a little bit by category. I was just in China a couple of months ago and I was visiting a U.S. auto plant. It was quite striking, because one of the points that the Chinese joint venture partner made, it was a Ford plant actually, was that given their lower tariff reduction, it turns out in the auto area, when people start to get around \$4,000, \$5,000, \$6,000 a year, whatever, you start to see a big boost in auto purchases, and although this was in the western part of China, in the coastal provinces, you start to get a large number of people that can afford that purchase.

Now, what I think you are seeing in the agricultural area and, frankly, I went to an open market where I saw some Sunkist oranges and others, is that it probably starts at earlier areas where people start to go to first fruits and vegetables and then as you have seen in the United States, then you start to get to the meat products too, the sort of higher value products. So it probably varies by line.

Now, more specifically, Mr. Chairman, one way we have tried to address that issue, and it was a point you made in your remarks, is that our overall approaches are trying to harmonize as we reduce. So a lot of the developing countries are at higher levels of tariffs. So if we have a formula as we suggest in tariffs that bring down the higher levels more, then you are going to get more effect.

Now, within the trade area, there are, depending on the different types of trade rules, there are different approaches to what qualifies as a country getting special treatment. Let me give you an example. There is one area where in terms of ability to use special subsidies, it is like \$1,000 a year per capita income is the standard, and this has been used in some of the subsidies areas for special and different treatment. So that precedent has been set. And the key point, and I made this as recently as meeting with a number of trade colleagues at the very end of April, was to say, take Brazil, which is a very competitive economy. If you want us to do something for some of the Caribbean countries that may be possible, but I can't do the same thing for Brazil, which is an exporter. So we have suggested a number of ideas, whether, as you said, the exporting basis or different per capita income. But it is clear to us, Mr. Chairman, that if we are going to get openness more generally, we have to bring others along in this.

Let me just make one other point on this. That is, this is where we can build a coalition with some of the developing countries. Some of them are agricultural exporters too, and it is not just a question of whether they sell to us or we sell to them, but there is the possibility of the south-south trade. In the area of industrial

goods, 70 percent of the tariffs that developing countries pay are to other developing countries, and some of the developing countries are now recognizing that the proposals that we put forward which lower developing country tariffs can help them as exporters too. So there are different ways of getting at that issue, and we want to use all of them, Mr. Chairman.

The CHAIRMAN. Let me ask you one other question. My time has expired, but I have a parochial question that a number of members have contacted me about. I understand you have been working closely with the U.S. apple industry and the Mexican Government to conclude an agreement on the apple dumping issue. It is also my understanding that the Mexican Government is maintaining a regular dialog with the U.S. apple industry and has even helped draft a possible agreement, but that the talks never came to any conclusion. It seems to be a common affliction in the trade area.

What can we do to conclude an agreement that will remove the 46.58 percent duty that Mexico has imposed on the export of U.S. apples?

Ambassador ZOELICK. Well, Mr. Chairman I have learned there are no such things as parochial questions in the trade world. I just received a letter from Minister Derbez; timely, given this hearing, where he has mentioned some of the areas where he is going to make progress. Of interest to a number of you are dried beans, poultry, stone fruit and others. But particularly on the apples one, I had a chance to talk with him this past weekend, and the key is their rules on this are similar to ours, which is that, as you properly mentioned, our industry has agreed to the terms of a suspension agreement. He has to convince his industry to accept it, just as we would in this situation. And he has told me that he believes he can do that and he is working to do that, but he has not done it yet. So that is one that is not specifically mentioned in this letter, but we are continuing to work with him on.

The CHAIRMAN. The gentleman from Texas.

Mr. STENHOLM. Just a constructive suggestion to your testimony. When you put in charts that show how much our exports are growing, but the imports. It is one of the big mistakes we have made on trade over a period of time, is overselling what trade will do for various industries, and I think it would be very helpful if we always talk about not only the good exports, but also the good imports and how that relates, because many of our trading partners emphasize the negative of what we consider as positive and vice versa. So it would be very helpful.

Also, I was in China in January and emphasized over and over to the Chinese that I don't know how long America can continue buying \$500 billion from the rest of the world more than the world buys from us, and in China specifically how long we can keep buying \$100 billion from you, and we talked to everybody from then Chairman Jiang Zemin and then the new leader.

Without the law of economics, are politics taking over? And with the fiscal conditions of our country today of which the amount of money we are having to borrow to finance our economic game plan today, that is a legitimate question. Under the law of politics we had a one-vote margin that gave you the authority to negotiate. That is not a very big margin. Therefore, my question on China,

with their accession into WTO and their agreements of what they are going to do on a scale of 1 to 10, how much have they accomplished roughly?

Ambassador ZOELLICK. That is an interesting way of asking the question, Mr. Stenholm. No, I am hesitant to give a number, but I will say this.

Mr. STENHOLM. Well, they haven't done much.

Ambassador ZOELLICK. Well, I differ a little bit on that, but I will come to the areas in agriculture, is that part of this depends on where they started from, Mr. Stenholm. That is that they have actually gone a long way in terms of changing the laws and rules, implementing a lot of the changes, and we are seeing a lot more product or different types of things going in, but recognizing this was a totally Communist, nonmarket economy, so there is a long way to go on these issues.

But I think the key point, and I am really delighted you made it, is the one that you said that you and I am sure others made in China which I have been making to go my Chinese counterparts, which is to say, look, I am not one that objects to people bringing in Chinese exports. A lot of low-income people get good clothes and go to Wal-Mart and that is fine. But you have to understand, if I am going to be able to sustain that, you have to be able to give our people a fair shot. And the main issue that we have on the table with the Chinese right now, and it is the priority issue, is dealing with these tariff rate quotas which I know have a real concern in the cotton area.

Another issue we had was the biotech soybeans. I think we have that in the right place. We still don't have it finally nailed down, but the exports are going up. But their tariff rate quotas have not been operated in a fair fashion. They have had bias in terms of cotton imports, particularly for export promotion as opposed to just the regular import rules. They have had sort of noneconomical quantities, they have lack of transparency.

So when I was there I think in February, I emphasized this is an issue that we have to get cleaned up fast. And Ambassador Johnson is ready to go to China when I get a strong sense that they are going to really solve the problem. I will say that I have gotten some positive indications that they recognize the importance of this. And if they do not, Mr. Stenholm, I told them, I said look, we have got WTO rights and I will not hesitate to pursue those rights if we have to. I would rather solve the problem and wait 18 months for a case. So that is the key issue right now on our plate with China.

Mr. STENHOLM. Quickly on the area of food aid. If I ask the question, I take all my remaining time. But from the standpoint of the food aid discussion with the Europeans, where are we and what are the chances of making the kind of significant improvements, and a definition of what is and is not food aid and what is acceptable? Where are we headed?

Ambassador ZOELLICK. Well, Mr. Stenholm, I would go beyond the Europeans. It is not just a question in this one of kind of working with the Europeans. It is going to be working with other countries; and I guess what I would say is, first off, we are having technical-level discussions with a lot of countries on that and the export

credit topic. But the main one that has to break is the one that I mentioned in terms of capital form.

But on the specifics, if my recollection serves, there are really two aspects of this. One is, Harbinson's text proposed to say that it would have to be actually in commodity form; and this is a question we are trying to work with them on, related to some of the Public Law programs, and then the other aspect of it is—let me try and remember this. It's a question of whether they go through the U.N. System.

The draft said that the food aid should go through the U.N. Agencies. A lot of our food aid does, and this is a question of whether it is emergency or not, emergency food aid. But we also have bilateral food programs, and frankly, we would like to be able to keep those bilateral programs as well.

Mr. STENHOLM. I will submit this and additional questions to you in writing.

The CHAIRMAN. I thank the gentleman.

The gentleman from Ohio, Mr. Boehner.

Mr. BOEHNER. Thank you, Mr. Chairman. And let me add my voice to those congratulating both you and Mr. Stenholm for your great work on the floor yesterday with the healthy forest initiatives.

And, Madam Secretary, thank you for your excellent work in the Department dealing with the BSE problem.

Last year, this committee spent considerable time and effort redeveloping a domestic safety net for American farmers, and while I may not have been enthusiastic about the end product, I think all of the members on the committee understand that the future for farmers in America is going to be paced on our ability to export product. We talked about it for a long time.

We have got the most efficient producers, we have got the right climate, and instead of always worrying about the safety net, I am a big believer that we need to get on a real offense in order to provide our farmers an opportunity for real wealth.

I do believe that the bilateral strategy that is being employed is a good one, and I am a strong believer that if we continue to work on these bilateral agreements around the world, we do, in fact, strengthen our hand in Doha.

I will not be one who is overly optimistic about Doha, because in my view, the Europeans are locked in a very serious political problem in their ability to do what they need to do. For us to ever come to an agreement with them is limited at best. They have got high social welfare costs; they have got these huge subsidies. They cannot afford either, but politically I do not know how they are able to move where they need to move, where we could ever get to an agreement politically.

So, having said that, I still believe that the best defense is a good offense; and as we continue to work toward these bilateral agreements, I would suggest we even take more offense.

Now, we have got these agreements with Chile and Singapore; and, Mr. Ambassador, if you could, for a moment, briefly outline what you think the agricultural benefits are to those two agreements.

Ambassador ZOELLICK. Well, thank you, Mr. Boehner.

In the case of Singapore, since they are not much of an agricultural producer, they have been pretty open and they will lock in that openness.

I think the one that we are particularly pleased about is what we are able to do to in the case of Chile. In every overview, over 80 percent of U.S. farm goods, by value, exported to Chile will be able to be duty free within 4 years of the implementation of agreement, and immediately we move on pork and barley and sorghum and soybeans and meal. Within 2 years, you have corn and distilled spirits. Beef tariffs will be removed within 4 years.

And I know that at times we have had some very sensitive issues on the dairy side. We are pleased; we have got a lot of support in the dairy community because we are able to deal with that issue in a fair way.

So we also try to deal with some of the sensitive crops that people have by coming up with a new safeguard mechanism along the way. So we again—if I looked at the Farm Bureau recently and number of the commodity groups with soybean. Others have all been supportive of this agreement; and it makes your larger point, Mr. Boehner, which is I don't want to let one country veto America's trade policy.

And so I know that, when talking with the agriculture community, they are often saying, Hope you are putting attention on the WTO. Well, we are here, as you can see, and I am, frankly, flying around the world trying to put coalitions together, but if one country gets up on the wrong side of the bed and holds the thing up, I do not want to be stopped. The best way to move those countries is to keep moving with those who will.

And keep in mind, the European Union had some 30 free-trading customs agreements. When we took office, we had NAFTA, Israel. Now we have got Jordan. I hope by the end of the year we will have Chile and Singapore. We have got four more along the way. A lot of these have some important potential for American agriculture.

I think the other thing to keep in mind with the bilateral agreements is, we will not negotiate our subsidies in the bilateral agreements. It is pure tariffs as market access, so that is another benefit as we go forward.

As I mentioned, the other part is some of the benefits you have in terms of dealing with some of these sanitary and phytosanitary standards.

Mr. BOEHNER. What are the agricultural objectives in our discussions with the Australians, and when can we expect an announcement on discussions, hopefully, with the New Zealanders, the "kiwis"?

Ambassador ZOELLICK. Well, to take your first question, the first issue that Ann and I work very closely on was one of the sanitary and phytosanitary standards, because a lot of American agriculture was justifiably frustrated in that Australia is both a continent and an island. It has treated itself in a way that has been somewhat restrictive.

We don't want to negotiate sanitary and phytosanitary standards because it has to be based on sound science. It is the way we want it and they want it, but they are now at the point where they are

poised to eliminate all their SDS measures on beef. We had a breakthrough on grapes. We hope to get some movement on Florida citrus, and we are working on sweet corn and feed grain and pork and others. That is one element.

More generally in the case of Australia, we know this is a sensitive one, particularly for the beef community, but we found we get some pretty good support from pork, oilseeds, some of the other commodities that have a potential market in Australia and New Zealand.

New Zealand is a challenge, Mr. Boehner. It is a challenge because when we set up the notice on Australia, there was put in a paragraph that said we sort of take a sense of Congress.

But there really are kind of two issues that have caused some impediment. One is, just to be frank with the committee, a lot of their agricultural exports are ones that are very sensitive here; and we have to bring something back that we can get some broad-based support on. And if you start thinking about dairy and others, it is not the easiest thing to be able to carry here.

Then the question is how we can handle that and whether we can handle it, given the overall relationship; and there are some things done recently that I think made that a little bit harder for us to carry.

So we work very closely with New Zealand in the WTO. They are a good partner, and we continue to talk with them about prospects. But right now our goal is to move forward with Australia.

Mr. BOEHNER. Thank you.

The CHAIRMAN. I thank the gentleman.

The gentleman from Minnesota, Mr. Peterson.

Mr. PETERSON. Thank you, Mr. Chairman.

Mr. Zoellick, yesterday we had a hearing on the state of the dairy industry. During that hearing, this issue about the 15 cent assessment on imported dairy products that was put in the farm bill last year came up; and according to testimony from some people in the industry, they accuse the USDA of being in violation of the law, and they say that the reason was because you are holding things up.

So I would like your response to that.

Ambassador ZOELLICK. We are working very closely with USDA on this. But if one looks closely at the law—and I think this may come from the gentleman to your right, if I recall correctly—there is a requirement in that law that the fee be done in a way that complies with our international obligations; and since this is an issue that at some point could be part of other international discussions, what we have suggested is to come up with the committee and the staff and point out some of the issues that we think are useful to discuss on that topic.

Mr. PETERSON. So that means this isn't going to happen anytime soon; is that what you are telling me?

Ambassador ZOELLICK. We have offered to come up at any time to discuss those topics.

Mr. PETERSON. I think some of us thought that this was going to happen, that this assessment was going to be put on importers.

You are saying that it is going to be in violation of some agreement; is that what you are telling me?

Ambassador ZOELLICK. I am saying that the law has a number of requirements in it.

Mr. PETERSON. It is a great law here.

Ambassador ZOELLICK. And we have to follow all the law. And there are some issues there that, as we have discussed with USDA as we are putting it together, that we think we need to discuss with the committee staff; and I think then the committee members would be pleased. And I think if this, at some point, could go to international dispute, I think it is probably best to do it privately.

Mr. PETERSON. That is fine. Hopefully, we can get that done, Mr. Chairman, sooner rather than later, if we could bring that to resolve.

I am also going to submit a question to you in writing. I have been getting some complaints from my dry edible bean people that were using Great Northern beans instead of cheaper Pinto beans or other kinds of dry edible beans in our food aid, and I will send that to you to respond to. I will not take the time here today.

And so on the Australian deal, you are telling us that New Zealand will not be linked to the Australian situation?

Ambassador ZOELLICK. That is my present expectation.

Mr. PETERSON. Okay. And in the Australian negotiations or discussions, what—has there been anything in the area of sugar that has come up.

Ambassador ZOELLICK. As we prepare to launch the negotiation, I will just mention that I mentioned to the prime minister and the various ministers the extreme sensitivity of the sugar issue as we try to deal with an agreement that should have many other benefits to both countries.

Mr. PETERSON. So they are aware of that?

Ambassador ZOELLICK. They are indeed.

Mr. PETERSON. And lastly, on this whole ramping up on the Doha situation, I kind of agree with Mr. Boehner that it is—I just don't see the Europeans moving on this stuff. What—and apparently we missed this March 31 deadline with getting some kind of framework for the agriculture thing.

Do you think we are going to have framework by the time you are in Cancun, if you had to guess?

Ambassador ZOELLICK. I honestly think, Mr. Peterson, we have a reasonable shot, but it depends on the items that I mentioned. In other words, if the European Union gets through its common agricultural program changes—and I cannot give you an exact percentage guess on that, but you have got a number of member states that are quite active in this. The Germans were in town recently and, they were pushing it very hard; the Scandinavians pushed it, the British have pushed it.

The main resistance here has come from the French. There are some signs, some things that the French recognize as some of the benefits to this change; and so frankly what I have been trying to focus a lot of my energy on, and quite intensively, is trying to create an environment in which to increase the likelihood of that. But I can't say for sure.

Mr. PETERSON. What would happen if we don't have an agreement by the time we get to Cancun? Is that going to back everything up?

Ambassador ZOELLICK. My view—and I have said this to the Europeans and said it to others—is, it is not just a question of the United States, but it is a question of many other agricultural exporters. If we cannot move forward agriculture, I don't see how we can move forward anything.

Mr. PETERSON. Right. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. The gentleman from Michigan, Mr. Smith.

Mr. SMITH. Mr. Chairman, thanks. A good series of meetings, some challenges ahead.

Madam Secretary, first of all, legislation that I have developed that I would like you to look at, regarding biotechnology, regarding those—our people in government that are in other countries and the cooperation of the different agencies, knowing what the scientific information is on biotech, knowing what the safety is. I expressed some concern with our attache's knowledge and understanding.

But Ambassador, for both of you, the legislation calls on a cooperative effort between USDA and State and Commerce and USTR and NSF and AID to coordinate and work together; and I would like to give you that legislation to see if you have any suggestions on it before we finalize it in terms of where we go on future trade and do we know, for example, what products we intend to export at below the cost of production.

Secretary VENEMAN. If I might just comment on your biotechnology issue first, I have not seen your legislation and will be happy to look at it. But let me say that we do feel very strongly about the importance of educating people about technologies in agriculture and their importance, and we are working very closely not only with just USTR and USDA, but Commerce, State and other interested agencies, the science-based agencies, to advance our policies and our education, particularly in international markets as regards the biotechnology.

If that regard, I think some of the committee knows that I am hosting an international meeting in Sacramento towards the end of June which will bring together ministerial-level people.

Mr. SMITH. Good. But do not take too long on this because I have another 22 questions in my 5 minutes.

Secretary VENEMAN. But we are bringing to these discussions some of these very issues and will talk about the importance of these technologies, for the future particularly.

Mr. SMITH. Good. I think we are really gaining momentum, and I asked the question on, do we know what commodities we are exporting below the cost of production, because it seems important to me that we should know that. Because if you export a product below the cost of production, which we have been doing with several of our commodities, then that means something is filling the gap with that farmer-producer to which there are subsidies quite often to accommodate the fact that he is still able to exist.

So, Madam Secretary, Mr. Chairman, I would like an effort from USDA—and I do not know if I should put it in writing or what, but it seems to me that we should know what the cost of production is for different commodities and what the world market price on those commodities are.

And this leads to a concern, whether we are talking about New Zealand or Australia with lamb or dairy products. Some countries are producing at a lower cost than we are producing.

I just returned from Brazil, and as soon as they get some of their transportation problems completed as far as infrastructure, their cost of producing soybeans is much less and they have already realized that they have got to have the Roundup ready soybeans meeting with some legislators. They are producing Roundup ready up to 80 percent of their production in parts of that country already using Roundup ready.

I met with the Canadians on the interparliamentary meeting last week, and some of Canada's production is a lower cost than our production.

And so that brings me to the boxes. And, Ambassador, if I were to send 100,000 Eurodollars to every farmer and define that farmer as somebody that produces agricultural products, would that be considered technically—it would not, but actually it is an export subsidy. If you pay a farmer and you define that farmer as somebody that produces, and so they produce to get that payment and—sometimes they are going to clear the market at a price lower than their cost of production, and so to me it becomes an export subsidy.

Just a quick comment maybe.

Ambassador ZOELLICK. Well, your question is actually all interconnected on that. On the cost of production, the first question you asked, at least directly this would only be ones where we use an export subsidy, and ours are quite small. I think it is primarily in dairy; last year it was about \$15 million.

That is going to lead to your next question, when you start to talk about Brazil, which I think is a very fair question and a good one to look at more generally, farm policy, about how do our other farm policy supports affect our cost of production whether it is capitalized in land or other aspects.

Because to take the oilseeds issue, my sense is, as a marginal cost producer, the United States can compete with Brazil. One question to look at is whether some of the other payments over time might actually increase the costs over time, some of the payments to U.S. Farmers, and may make us less competitive over time.

And that goes to your third point which at least in terms of the Uruguay Round rules, if you give money to somebody and he is dealing from production, that does not count and that is what we used under the Freedom to Farm Act and.

Mr. SMITH. That is my point. Eventually, if you are going to send \$100,000 to a farmer and you define a farmer as somebody that produces agricultural products, so they produce it and they export it at a cheaper cost than they could otherwise, if the market forces were all in play without that kind of subsidy, so the box is, I think, eventually going to be somewhat confusing, and so it is going to be to our advantage.

Ambassador ZOELLICK. Just on that, Mr. Smith, I guess the catch would be, there is no requirement that you produce. In other words, so—at least the way the decoupled payments work is, you don't have to produce anything and you certainly do not.

What has really been a bad thing is when you have the type of price support, or something that pays somebody, that makes it a higher price and then the government or somebody has to buy it and then—and this has happened in Europe, and then they have to pay somebody to—they buy it and they have to pay somebody overseas to buy it; and this is the direct case of export subsidies.

But I do not disagree with the fact that you have got different degrees of effect. I will say there have been World Bank and other academic studies done on the green box payments, and they really are found to have little effect on production.

Mr. SMITH. Thank you.

The CHAIRMAN. I thank the gentleman. The gentleman from Louisiana, Mr. Alexander.

Mr. ALEXANDER. Thank you, Mr. Chairman.

Mr. Ambassador, I am from the State of Louisiana and timber is our No. 1 crop there. On page 6 at the bottom of the page and relating to timber subsidy in Canada, where would Canada fall on that chart?

Ambassador ZOELLICK. You are looking at the written testimony, or which one? I am sorry, sir. Those subsidies are—I will get you the precise numbers for Canada's numbers; they are much less than ours overall.

Does anybody recall the exact number? We will get you the exact number.

But that is an issue that, frankly, under the WTO rules, we have been able to deal with in a different way and that is the question that we have tried to pursue, some parties have pursued through a countervailing duty case, as you probably know, which is that because at least some of the Canadian provinces cut timber off crown lands, we and others have argued they have subsidized it in terms of the stumpage cost they have given and in other policies that have made it more economical for somebody to cut timber than they otherwise would. So that led to a countervailing duty case that the Commerce Department found both injury and a subsidy and increased the tariff on that timber coming in.

Now what's happened since then, as you may well know, is that the Canadians, particularly in some of the Western provinces, have continued to cut; and so even though that tariff is put on, the overall price has still come down.

The Commerce Department recently put together some guidelines working with our industry, working with the Canadian provinces, to say, Look, what are the reforms, the end subsidies, that we would like to have the provinces take so we could remove the problem of the subsidy, and also eventually remove this added tariff which does not really have any effect as some people thought it would have anyway. And the key province there actually is British Columbia, because in Canada the rules are really different by province and the British Columbia government has been willing to try to do some of these reforms.

And so that is an area where, right now, the state of play is, the Department of Commerce either has put out or is about ready to put out those guidelines and if we could get them to remove some of those subsidies in place, then we need to see if we could work

out with the industry some way of removing the tariffs as they make the changes in policy.

Mr. ALEXANDER. Thank you.

The CHAIRMAN. The gentleman from Minnesota, Mr. Gutknecht.

Mr. GUTKNECHT. Thank you, Mr. Chairman and I thank you for this hearing. And we are delighted to have the distinguished guests here to talk to us today about trade, because trade is a very important issue as many members have talked about.

We are, though—at the end of the day, we are Representatives, and we are here to represent our constituencies; and I would remind you that neither one of you are conscripts. Both of you are volunteers, and it is a tough job.

Yesterday, as has been said, we had a hearing on dairy; and let me start, though, first, by talking a little bit about China and I want to associate myself to the comments of Mr. Stenholm earlier.

I think we have been guilty in the past of overselling what the benefits of Most Favored Nation status are, for example, with China and what the benefits would be in terms of agriculture, because, to date, we have seen very little. That is something that farmers can get their arms around in terms of trade with China. In fact, I was in Taiwan in January and was surprised to learn how aggressively the Chinese are trying to export into Taiwan. I am happy to report, after meeting with some of the agriculture officials over there, that they want to continue to remain America's best customer in terms of the percentage of agricultural products that they buy.

But China is both a huge potential market and a huge competitor, and I think we have to be more honest about what is coming in and what is going out.

I was surprised to learn, for example, when my wife and I built a new house, we started looking at furniture, and the manager of the one of the furniture stores said, Well, over half of the furniture in her store came from Communist China. And so I think we have to be honest.

But I want to come back and talk to dairy policy, because I have an enormous amount of empathy and I think most of the people in this room have an enormous empathy for our dairy farmers. They are folks who get up before dawn every day and are usually in the barns after dark every single day, 365 days a year, and they are experiencing 25-year lows in terms of what they receive for their product.

Despite what you may think in terms of the dairy farmers themselves, these generally are not people that complain all that much. I talk to them a lot. And they are, in my opinion, the salt of the Earth.

When you look at what has happened in the last several years, the last numbers we have—and I do not know what the exact numbers are, but we imported somewhere between 5- and 8 million pounds of MPC and/or caseins in the last year.

I looked at the dairy export subsidies in the European Union in the last year that I have numbers for; they subsidized their dairy exports to the tune of \$1.3 billion. In that same year, we used dairy export subsidies to the tune of \$8 million.

And now they are looking down the barrel of a potential trade agreement with Australia and New Zealand, and I have to tell you that my constituents are becoming less and less enthusiastic about trade every year; and I guess I would just like to have you comment on that. And, tell us, what can we tell our constituents in terms of what will they benefit from in terms of being dairy producers or even other farmers in our districts?

Ambassador ZOELLICK. Thank you, Congressman, and I appreciate the strength and feeling about this, because I know for those of you that are making the effort on these trade issues, you get these tough questions put at home, and I know they are not always easy to answer.

The first thing I would say is that we used the international system effectively and brought a case against Canada to end their export subsidy, and we did; and we just reached an agreement that will totally end that. And we have got some pretty complimentary responses from the various dairy associations.

Second, I would say that we do have some opportunities, for example, in Central America—that is a market where we have got some very strong interest of our dairy industry, because there are higher barriers there than we have—and we believe we could open that market and help on the dairy side.

Third, I would say in terms of export subsidies from the European Union—and you are exactly right, the best way that we can get at those is not by sitting on our hands but by trying to get this negotiation done, where our goal is to eliminate their export subsidies.

So on the particular issue of MPC, at least numbers that I have are that in 1998 it was about \$564 million. Then it rose to \$653 million in 2000, and it actually came down in the most recent, \$533 million. Part of that, as you probably know, is that that is a product that has been increasingly used in some of the fast food or the energy bars that people have used. So, in a sense, part of the import numbers I think reflect the increase in the development or demand for that product.

Mr. GUTKNECHT. Thank you.

The CHAIRMAN. I thank the gentleman.

The gentleman from Georgia, Mr. Marshall.

Mr. MARSHALL. Thank you, Mr. Chairman.

I suppose this question is addressed to you Secretary Veneman. I have seen in your testimony that you have been talking with Russia about the problem with poultry imports, and voicing concerns; and I know the administration is aware that this has been a problem now for over a year.

Last year, rough estimate, cost the industry about \$250 million and the impact overall on the industry was about a billion dollar hit. Last year, the explanation from Russia was the need to enter into some mutually satisfactory agreement concerning veterinary services; and then, in the fall, the word was that we had done so, that we would enter into the agreement.

Then, as I understand it, in January, Russia simply came forward and said, Look, we are not going to license the poultry imports; we are going to impose quotas.

It is clear they are not working with us at all on this issue, and I know that I and many other Members of Congress sent a letter to the President some time ago—I have not received a response—and in that letter we described the problem. It is a very significant problem for my district and for many producers in my district, and we asked that the President take action, including retaliation, if need be.

It seems to me we have gotten to that point. There is enough talking about this that has gone on. There has been no action that I know of from Russia, and we simply need to consider responding in kind in order to get some movement. And so I would just like you to address more particularly that particular situation and whether or not retaliation or some other action will be taken by the administration.

Secretary VENEMAN. Well, Congressman, I can tell you that this situation with poultry in Russia remains one of the top market maintenance issues for this administration. Russia is the largest export market that we have for poultry, and this is our largest export to Russia of any product, nonagriculture and agriculture combined. So this is a very high priority. This is an issue that we have had people throughout government involved in, talking with their Russian counterparts about.

We have been able to keep this market open through a series of negotiations. As I indicated in my opening remarks, the Russian Deputy Prime Minister and Agriculture Minister Gordeyev were just here. We have continued to work with them, through USDA, on the issues relating to inspection questions that they have about our system, and we have made progress on that. We have inspectors that are now approving the plants, and we expect trade will continue as it has been under the temporary agreements as a result of the agreement we reached in that negotiation.

At the same time, there is a negotiation going on that USTR is leading on the issue of the quotas. And we continue to work very closely in conjunction with USTR to negotiate on that quota issue.

But I can tell you, this continues to be a very high priority for us and, in fact, has been the—it has been the topic of conversation several times with Secretary Powell and his counterparts, Secretary Evans and his counterpart, and the President and Mr. Putin. So it has been a very high priority of this administration.

Ambassador ZOELLICK. If I could add just a little bit to that, just to distinguish the issues. The first issue we probably have with them, which Ann was focusing on, was the sanitary and phytosanitary issues, and that is one we work on very closely with the poultry industry. We hope, coming out of some recent meetings, that we have got that one back on track.

But then they came up with a series of quotas, not only for poultry, but also, frankly, for beef and pork and one of the—and again this goes to system of the other connection—they have argued, while some of this has to be done in beef and pork, because they are dealing with subsidized meat from the European Union. We have made it extremely clear that this is not the way to do business if they expect to get into the WTO, and I met with the deputy prime minister and finance minister about 3 weeks ago and said, look, we are trying to help you work into the WTO, but if you at-

tack our basic agriculture industry like this, we are not going to be able to go anywhere in this process. And, frankly, like you, Congressman, I believe all options should be open.

Now, Ambassador Johnson went to Russia recently, gave them some suggestions on how we could make this workable in poultry and beef and pork, after trying to talk with our industry, and we have yet to get a response on that. And I emphasized to them most recently that we are going to need to get a response very quickly or else this problem, in my view, is going to get one that is out of control in our overall relationship economically with Russia.

So as Ann mentioned, it is an issue that we have stressed. The President knows about. He will be meeting President Putin soon, so I am hopeful we can make some progress here, but if we do not, we should use the tools at our disposal.

The CHAIRMAN. I thank the gentleman for raising an issue that has a great deal of interest to me as well and I can assure him that we are being very vocal on that. I met with the Deputy Prime Minister of Russia just a few weeks ago and we spend most of our time talking about poultry, and I think they get the message that this is a considerable import not only because of the fact that it is our largest export item, as Secretary Veneman notes, to Russia but also because it is our bellwether as to how they are going to behave when they do become a member of the WTO, so we will continue to press that. The President has raised it in the past directly with the President Putin and I hope he raises it again.

I thank the gentleman for his efforts. The gentleman from Nebraska, Mr. Osborne.

Mr. OSBORNE. Thank you, Mr. Chairman, and thank you for being here. We really appreciate your accessibility. It has been something that has been noteworthy and also Alan Johnson, we appreciate that greatly.

As both of you here understand, some of us asked in exchange for our vote on trade promotion authority to support the agriculture issue and I see some encouraging signs in regard to the action against the Canadian Wheat Board. I agree with you on the Chilean agreement that it is favorable to agriculture. I hope that we can move forward.

I really have a couple of issues I would like to raise with you that I hear all the time from people that I deal with in agriculture. There is a considerable concern right now regarding the antidumping posture of Mexico in regard to pork and beef and my understanding right now is that it is more or less rumblings but maybe not. How they are formulated I would like to get your views a little bit more expanded in terms of where that is, and then the second issue, it is really two questions, is the European Union. And I know you are working in this area but to me that is the big one and we have had a ban on hormone fed beef now for a period of time, no scientific evidence that would indicate that has waned. It was mentioned in a Wall Street Journal article. The biotech ban has gone on now for 5 years. The disturbing thing to me this has not just been European Union, but they have expanded that to Africa and put out some scare tactics, and to me this has simply been a tariff barrier and a very real sense. I am not sure that they completely believe their own information.

So I guess what I am asking is an expansion of the discussion regarding the Mexico issue and then also what are we prepared to do because after 5 years at some point it seems that we have to move forward and we have to be very aggressive with the European Union, and I would imagine that the political climate right now is fairly good for doing something like that. So I would appreciate your comments on those issues.

Ambassador ZOELLICK. Well, Congressman, let me start on the Mexico issues. The issue where the Mexicans have already had an antidumping duty in place is live swine, and the letter I just received today confirmed my conversation over the weekend, which is that Mexico has agreed to lift the duties on live swine effective May 26 and so that will be moving forward.

The second issue is the pork and that is one where there has been a request to begin an antidumping investigation, and that decision is to be made by Mexico no later than July. A couple of weeks ago the Mexican Foreign Minister, who also has the trade responsibility, was in Washington and we arranged a meeting with our pork industry because we obviously believe that this case that is being requested in Mexico has no basis, just an effort to try to thwart the exports because the tariffs have come down. And the point that my Mexican counterpart made, and this is an issue that we have come across frequently, is to say, well, what can our industry do to work with their industry to try to help in the overall climate and help some of their industry because sometimes these are getting integrated. And so we have asked our pork industry—they have been in touch with us about this—about trying to supply some of that information to see if we could avoid even starting that case because once you get to that case then you have got to bring dispute settlement, which we are willing to do. We think they have got no legs for it, but we would like to try to head that off.

In the case of beef, there has been two developments. One is again there is the question about an antidumping order and there is a NAFTA process moving forward on that that I believe the NAFTA panel—we have challenged it in NAFTA—is due by June. Then there is a question, there has been some division in the beef industry about whether we should go forward in the WTO, let this NAFTA panel go forward and then, as Ann mentioned, there has also been some rumblings about a beef safeguard in Mexico which we believe that there is no basis for. So one of the other issues on this one is whether it might also be useful for the two industries to have further discussions about that basis, which we will do at the governmental level.

On the European beef case, the challenge we have now, Mr. Osborne, is that because the European Union did not respond to the WTO's ruling, the United States has already retaliated. So we raised tariffs on a number of series of goods and the question that we faced, and I remember discussing this with some of your colleagues on the committee, is that is there a way where we can try to open that market that will help the cattlemen and the beef producers separately. So we were trying to explore with the European Union whether as compensation for this we could get additional beef exports but they would not be hormone beef and we have been in discussions about that with the Europeans, and the first step

was to make sure that we dealt with their sanitary and phytosanitary authorities and we made some progress on that. And then the question is working with the industry to see what number in terms of tonnage would be acceptable.

So that is an area we are continuing to pursue because in a sense we have taken the retaliatory step but at the end of the day that does not get any more beef into Europe. The question we have had to work with with our industry is it increases their costs and others if they try to have a herd to make sure it is nonhormone beef. That is something we have been drawing on from USDA with some of their organic standards. So it is still our goal to try to get beef into Europe as opposed to try to retaliate.

The CHAIRMAN. The gentleman from California, Mr. Dooley.

Mr. DOOLEY. Thank you, Mr. Chairman, and I just want to thank both of you for coming and also thank you for the terrific work that you are doing on behalf of farmers throughout the country.

Ambassador Zoellick, I really appreciate the presentation you made and the progress update and you have a lot of accomplishments under your belt, especially the completion of the Singapore and the Chilean FTAs, which I think are terrific work. But I guess some of us are concerned that the administration has yet to send and sign the Chilean agreement and some of us are concerned that this is in fact a form of retaliation because of Chile's decision not to support us in the Security Council, and some of us are mystified by this because when we step back is that we turn to this FTA with Chile in order to level the playing field with other countries that had bilaterals or custom agreements with Chile. And in fact U.S. workers are losing jobs to Canada because of their bilateral. We are losing jobs to France and Germany because of their agreement they had with Chile, and so it appears to me that our failure to move forward with this Chilean free trade agreement that we have negotiated, if it is a form of retaliation, is that we in fact are retaliating against U.S. workers and we are providing a continued advantage with the French and the German workers as well as the Canadian workers.

And I guess when is the administration, and I hope that you can give us some indication, is the administration willing to sign this soon so we can get this process moving through Congress?

Ambassador ZOELLICK. Well, first, Mr. Dooley, there is no one more than you that has a right to ask that question because you have done a tremendous amount for trade and agriculture.

Mr. DOOLEY. I kind of enjoyed asking it, too.

Ambassador ZOELLICK. I will make three points. One is I think we will be able to move forward on resolution on this very soon. Second, indeed following the advice of some of you who have helped us a great deal on the trade side, we have gotten a sense that leadership and others would be interested in maybe trying to take Singapore and Chile together, perhaps even this summer, and I hope that we will be able to give you the option to do that as well.

But third, I hope you can do what I have done, which is that I have also heard many voices from Congress urging us to sign the Chile agreement and bring it up and have asked some of them will you promise to support us. I know you, Mr. Dooley, but I am not

sure all have. I hope when they press on that question you can get their vote like I am trying to get it.

Mr. DOOLEY. I am confident we will have a strong bipartisan vote in support of the Chilean as well as Singapore agreement.

The other thing I want to compliment you on, Ambassador Zoellick, was the tenor of your statements in terms of the status of the WTO negotiations and that I think that you did identify a lot of the positive components of the Harbinson draft that really could provide significant benefits to U.S. agriculture and I think that is important because while there are some things in it that we would like to see go further, we cannot lose sight of the fact that the issue we are facing is do we want to see a continuation of the status quo and the status quo with Europe right now is ensuring that they have at least \$48 billion additional in aggregate measure of support than we do in the United States. I mean in a worst case scenario it was my understanding when the Harbinson draft was adopted that \$4 billion differential would be reduced to \$19 billion differential. It is not the harmonization we would like to have in a best case scenario, but as a farmer and as a policymaker, \$19 billion is still a significant improvement over \$4 billion and I guess as we move forward to Cancun I am interested in terms of what do you detect is some of the sentiments with some of our other allies who are similarly like-minded countries, in particular the Cairns group, about what more is it, how much more progress do we have to see on this, on the Harbinson draft before we can actually begin negotiations to see if we can at least make progress and an improvement over where we are at today?

Ambassador ZOELLICK. Well, Mr. Dooley, I think you have asked the critical question here and I am glad you have asked it. I actually put at the end of my written testimony, I think it was on page 8, I said if we are able to get the CAP reforms and we are able to start to get some more substantial cuts in subsidies, the key question we need to consider together is this, given the foreign subsidies and market access barriers U.S. producers must contend with currently and also taking into account our own sensitive sectors, what combination of major reforms can be achieved that represents a successful step forward, and as I add, that is not a question that has an easy or direct answer. We all know that. This is something we have to try to address together, and I assure you that I would like to try to do that.

Specifically, where you asked where some other countries stand on this, it is important to keep in mind that the Harbinson text is just a text. For all our frustrations with the Harbinson text, I assure you, the Europeans are spitting blood over it much more than we might be, but that means it is only a reference point as we go forward. I think a number of agricultural exporters were pleased with aspects of that text. We have a little bit more of a challenge, Mr. Dooley, and that is my sense, is that for us to be able to cut subsidies we have got to do more on market access here as well. Some of the other countries that do not have subsidies do not really have that dilemma, but I think if the major move they could see, if the European Union moves forward would be that could be translated in much more significant domestic subsidies reduction in Europe, and then that I think, I hope could also lead toward elimi-

nation of export subsidies, get us much closer to that and that has been a big issue. It is an issue this committee has emphasized. It is emphasized in the Trade Promotion Authority but we have to combine that, as Mr. Stenholm and others will remind me about market access elsewhere. The question is how can we bring that together, and that really goes to one of the points I tried to emphasize in the testimony. We will press with other countries to try to get some formula reduction, but then we also need to be much more effective in terms of targeting, well, where do we have a particular interest, because I think this negotiation and other points will move beyond formulas to a little bit more of sort of bilateral efforts in the negotiation and then we need to know some of our priority product and interest. At the same time we have got defensive points.

I want to make this point, it is understandable that people would say oh, well, this process isn't going anywhere. I don't believe that is true. I can't tell you for sure that it will, but I can see a path to get these things done. Maybe by nature I am an optimist, but I have managed to do a few things in my time, but part of it is trying to organize the forces together. This is where working together I think we can maximize the focus on the European Union right now and if we move that step then I think the game is afoot.

The CHAIRMAN. Let me interrupt, we are nearing the end of our time. Let me ask Secretary Veneman and Ambassador Zoellick do you have time to do two more, one on each side here? We will do that and regrettably that will not encompass all the Members here. That is going to be Mr. Janklow on the Republican side and Mr. Pomeroy on the Democratic side. And let me suggest that, Mr. Janklow, do you have a few seconds left to yield them to Mr. Putnam and likewise Mr. Pomeroy, and we will take questions in writing and submit to you as well.

Mr. ETHERIDGE. But for those of us who have been here almost the whole time can we submit written questions because it is very disappointing when you sit 2 hours and don't get a question in.

The CHAIRMAN. We understand. The gentleman from South Dakota is recognized for 5 minutes.

Mr. JANKLOW. I will not take all my time. I will be very, very brief. I have got quick questions if you can give me quick answers, and what is the current tariff that we have that our beef faces in Japan? What is the percentage?

Ambassador ZOELLICK. If you wait 2 seconds, I think it is about 36 percent but I will check for you.

Mr. JANKLOW. I think that is about right under the agreement. That comes down to about 2 percent a year. So in 1 year the tariff will be gone, isn't that correct?

Ambassador ZOELLICK. I don't think that part is so. I think that tariff is 38.5 percent and the issue that we face right now is the question of whether they will try to use this safeguard to increase it up to 50 percent.

Mr. JANKLOW. So it is not coming down at all?

Ambassador ZOELLICK. Not unless we negotiate it further.

Mr. JANKLOW. OK, where are we at very briefly, sir, with respect to the WTO issues that the Europeans filed against us that WTO I believe wrote against us? Is this restricting or inhibiting in any

way our ability to negotiate with them with respect to the current round of things you are trying to do?

Ambassador ZOELLICK. Well, Congressman, actually this is a good thing about the U.S.-European relationship. We both tried to deal with this professionally, but we bring cases against them, they bring cases against us. We don't let it get in the way of our other negotiations, but where it could bite, Congressman, is when we lose these cases then they can retaliate. Just as I mentioned to Mr. Osborne, we retaliated against beef and so there are some big cases. The biggest one is the Foreign Sales Corporation case where right now the European Union had \$4 billion of retaliation rights against the United States and they have said that it is not their goal to retaliate. They want to get this tax provision fixed and they are going to review it again towards the end of the year.

So you are hitting on a critical point actually, in that where we run the risk, sir, is that if we do not fix some of the things where they win against us we could get retaliated against, including agriculture. I don't believe that it affects our negotiations with them.

Mr. JANKLOW. Sir, with respect to China, very briefly again, with respect to China, what is the mechanism that can really get them to follow up on their agreements? The history of dealing with China is deals are made and they are never kept. Do they feel as strongly that we don't keep deals as strongly as we all feel they don't keep the deal?

Ambassador ZOELLICK. Well, that is an interesting question. Sometimes they do feel that way but what we will be willing to do is to find out, if necessary, in the WTO if there is a difference. But Secretary Veneman had some statistics there, including in soybeans, and maybe we should make sure we provide them to Mr. Janklow and others on the committee. There have been some big pretty big boosts in American agriculture exports to China.

Having said that, the key issue now for agriculture is making sure that the soybeans, GMO issue is resolved, and I think we are well on the way to do that, and then the second issue is these tariff rate quota issues and there the direct answer to your question is if they don't fix the problem at least it would be my recommendation that we take them to dispute resolution. But I would rather see if I could fix the problem because dispute resolution takes a longer period of time and I think we have a reasonably good chance of doing that based on my conversations not only with the Trade Minister but all the way up to the new Premier.

Mr. JANKLOW. With respect to the GMOs, very briefly, is this going to get resolved or isn't it? I mean it has been laying up on there for a long time now. We are to the point of talking about some other kind of imports into the country to make up for it. It is not just an issue that deals with the European Community. As I understand it from the previous session we had when the Secretary was here, it is a problem with countries in Africa, even to the point of taking our aid.

Ambassador ZOELLICK. Well, I agree quite vehemently with you. As people know, earlier in the year I was quite outspoken on this subject and that is why we finally brought this case. Now the case, Mr. January, is about the moratorium which to me is the most egregious thing which they are not even approving the products to

come in. Some Europeans argue they will lift the moratorium. If they don't live the moratorium, we will pursue the dispute settlement and I have a high degree of confidence that we will win. Now, after that, then just as in the cases where we lose, they can either have retaliation or they can take the action.

Mr. JANKLOW. I am talking about Africa, sir, briefly. I am talking about it is what they are doing to their former colonies and countries where they have great influence, I suspect just an issue that deals with Europe.

Ambassador ZOELLICK. I totally agree with that and in fact in this case that I think I put up for you I pointed out that Uganda was trying to develop some bananas that were more disease resistant and they did not do it because they were afraid they could not export it, and an equally bad one the Namibians were no longer buying biotech corn from South Africa to feed their cattle because they were afraid they could not sell their cattle.

The CHAIRMAN. The gentleman from North Dakota.

Mr. POMEROY. Thank you, Mr. Chairman. I want to commend Ambassador Zoellick for his action against the Canadian Wheat Board and his leadership in this area as a state creating enterprise that we strongly believe had inappropriate subsidizing. About 18 months ago you outlined the steps to take during your tenure and you and Alan Johnson have followed in each respect what you outlined, and we are beginning to feel some relief from these actions and look forward to the successful prevailing in the WTO challenge that has now been filed. Thank you very much for your leadership.

Ambassador ZOELLICK. Thanks, Mr. Pomeroy.

Mr. POMEROY. I want to turn our discussion back to where it began; that is, on this BSE case yesterday, in light of the significant consequences that had cattle markets falling the limit yesterday and I think the most important thing, Madam Secretary, to provide stability in this immediate reaction to this isolated case in Canada was your closing down Canadian imports while we responded to this case situation.

About 70 percent of the cattle come in as imports, and the imports are extremely significant: 1,700,000 head of live cattle coming in from Canada, 70 percent crossing North Dakota and Great Falls, Montana. So how long this temporary freeze stays in effect is of great importance to us. We want your assurance that absolutely every question is answered, the investigation thoroughly complete, all indications of safety of food supply satisfactorily resolved before that trade opens up again. Would you care to comment on that?

Secretary VENEMAN. Well, Mr. Pomeroy, we took the action yesterday because it is in the normal practice of what we do when there is a finding of BSE in a country. We also committed that we would work very, very closely with the Canadians, because this is, as you indicate, in many ways a North American market. And because obviously animal diseases know no border, we want to make sure that we are a part of this investigation, that we are working very closely with the Canadians on all actions to make sure that we ensure that we know what happened here.

We don't know very much yet. It is very early. We just found this out. But we believe that there is no significant risk to human health at all, that people should feel very assured about the safety

of the food supply, and as far as the border is concerned, at this point, it is a temporary measure pending further investigation, and that is as far as I can go right now because I simply don't know how long it is going to take to look into this situation or what the investigation is going to show. But all indications are this is an isolated incident of one animal that did not enter the food chain.

Mr. POMEROY. Right. I didn't ask for a time specific. I mean, you have emphasized temporary. What I emphasize, and I am sure we don't have a difference of opinion here, maybe it is just a difference of emphasis, this doesn't open—this border doesn't open until all of our questions have been answered. I mean, I think that the American consumers need to know there has been—nothing like this has been found in the United States, the border is closed, it appears to be an isolated case, it is under very thorough investigation. No border is opened up until we have absolute assurance that we don't have any prospect of this BSE or mad cow coming across the border. That is your position, correct?

Secretary VENEMAN. Well, we want to make sure that we have good, sound science before we take additional action in terms of the border. And again, we are going to do everything we can in this investigation to make sure that we can understand everything that we can. It is a temporary action pending further investigation.

Mr. POMEROY. Well, Madam Secretary, you emphasize temporary. I wish you would emphasize nothing comes across until all questions are answered.

Let me come to the final point I want to make. You say that animal diseases know no border, but inspection and regulatory regimens do know borders. They are a product of what each government indicates.

Now, you have talked about the provisions that have been implemented in the United States that make certain we do not have a BSE outbreak, and, in fact, a determination from Harvard University that the prospects here are nominal, minimal, but almost non-existent in light of the regimen we have put in place.

Now, I think that this makes the case emphatically for why country of origin labeling is so important to the United States consumer. This hour, more than any other in recent memory, I believe, shows that today the American consumer wants to go to the grocery store and buy a U.S.-labeled product. This was part of the reason—

The CHAIRMAN. I am going to interrupt the gentleman since we have gone beyond our time.

Mr. POMEROY. Mr. Chairman, I will wrap up my question. I would sure like the Secretary's response.

Doesn't this show that the company of origin labeling that has been passed and that you are now charged with implementing is important to providing consumer assurance at times like this that the products they have meet the highest standards of U.S. production, and that, therefore, might be the one they want to select as they prepare their supper for their families tonight?

Secretary VENEMAN. Well, I think it is very important to point out that we require of our trading partners the same level of food safety as we have in this country. And Canada's system is very, very similar to ours. And I think it is important to recognize that

country of origin labeling is information for the consumer, but it does not imply anything with regard to food safety because any product that comes into this country has to meet our rigorous food safety rules.

The CHAIRMAN. I thank the Secretary. I think the gentleman from Texas had a brief announcement he wanted to make.

Mr. STENHOLM. Just for the record, May cattle that closed yesterday down the limit has been trading above yesterday's close as recently as 15 minutes ago. So therefore the manner in which, Madam Secretary, you and your folks have handled this, I think, is having the desired effect in the marketplace at this time, and we certainly hope that, as it has been presented, will prove to be the ultimate fact.

Secretary VENEMAN. Thank you.

The CHAIRMAN. I want to apologize to the other members of the committee who were not able to ask oral questions.

Mr. PUTNAM. Point of inquiry, Mr. Chairman. Will the record stay open for our questions and statements in writing?

The CHAIRMAN. Yes, it will, and we would ask both of our witnesses to give particular attention to those Members who submit questions in writing who were unable to submit them here today.

I want to thank both of you for appearing before the committee today. The committee is very hopeful that the United States will succeed in negotiating an agricultural agreement that improves access for U.S. farmers and ranchers to worldwide markets. The USDA and the USTR must defend the rights of America's farmers and ranchers in this current round of WTO negotiations in order to have a free and fair trading area, and in order to have the kind of strong support from agricultural America, rural America that we have given to these trade agreements in the past.

The committee will continue to watch this issue very carefully as we proceed through the summer. It is my intention, along with Mr. Stenholm, to lead a delegation of Agriculture Committee members to Cancun for the WTO ministerial meeting in September, and we look forward to working with Secretary Veneman and Ambassador Zoellick through this process.

Our next trade hearing is scheduled for June 18, at which time the committee will invite representatives of U.S. agricultural organizations and others to discuss past, present, and future trade agreements and the current bilateral and multilateral trade negotiations.

Without objection, the record of today's hearing will remain open for 10 days to receive additional material and supplemented written responses from witnesses to any questions posed by a member of the panel.

This hearing of the House Committee on Agriculture is adjourned. Thank you very much.

[Whereupon, at 12:15 p.m., the committee was adjourned.]

[Material submitted for inclusion in the record follows:]



United States Department of Agriculture

Office of the Secretary  
Washington, D.C. 20250

**Statement of Ann M. Veneman  
U.S. Secretary of Agriculture  
Before the House Agriculture Committee  
Washington, D.C.  
May 21, 2003**

Mr. Chairman, members of the Committee, I am pleased to join Ambassador Zoellick to update you on the status of the agriculture negotiations under the World Trade Organization (WTO).

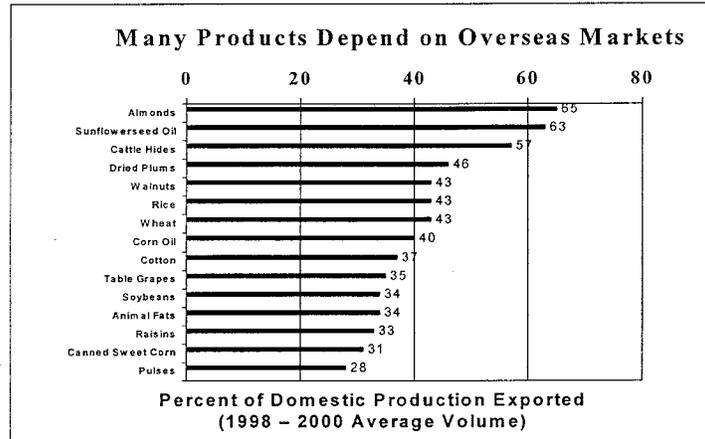
Fundamental to our discussion this morning on current agriculture negotiations is an understanding of the importance of trade to American agriculture and our efforts to maintain the market access gained to date.

**Importance of Trade to Agriculture**

Over the last fifty years, U.S. agricultural productivity on average has grown about 2 percent per year. At the same time, domestic demand for agricultural products grows only slowly, about 0.8 percent per year, the pace of population growth. Over a ten-year period, our capacity to produce increases by 20 percent, while domestic demand rises only 8 percent. Thus, we must look to foreign markets if we are to continue to be able to fully utilize our capacity. We must keep seeking opportunities to sell U.S. food and agricultural products to the 96 percent of the world's population who live outside of this country.

We know that America's farmers and ranchers have succeeded in expanding export markets for their products. Approximately one-third of our production capacity is devoted to

export sales. Today, even larger portions of many U.S. products are exported.



All of us know that export success is an important determinant of our farm sector's annual cash income. Exports also heavily influence farm sector asset valuation and the balance sheet.

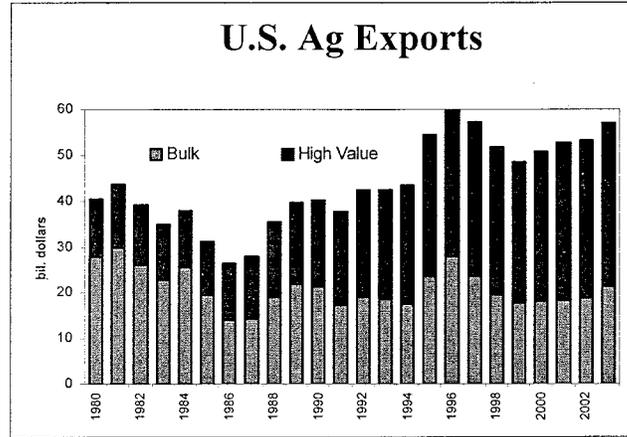
Trade stimulates economic activity beyond the farm gate. In fiscal 2003, U.S. exports are expected to reach \$57 billion. This trade is expected to create an additional \$84 billion in supporting economic activities to harvest, process, package, store, transport, and market those products. Most of these activities occur in the non-agricultural sector of our economy. Traditionally, bulk commodities such as wheat, rice, coarse grains, oilseeds, cotton, and tobacco accounted for most U.S. agricultural exports. However, since the early 1990's, U.S. exports of high-value products – meats, poultry, live animals, feeds, hides and skins, fruits, vegetables, processed foods and beverages – have expanded rapidly and now exceed the value of bulk commodity shipments. High-value product exports generate even more supporting economic activity than bulk shipments – roughly \$1.4 billion for every \$1 billion exported.

In addition to its income effect on the farm and food sector, trade means jobs. U.S. food and agricultural exports support 750,000 jobs. Every \$1 billion in exports creates 15,000 jobs. Exports support one-third of all jobs in rural communities. Some of the jobs are on the farm, but most are in trade and transportation, services, food processing, and other manufacturing sectors.

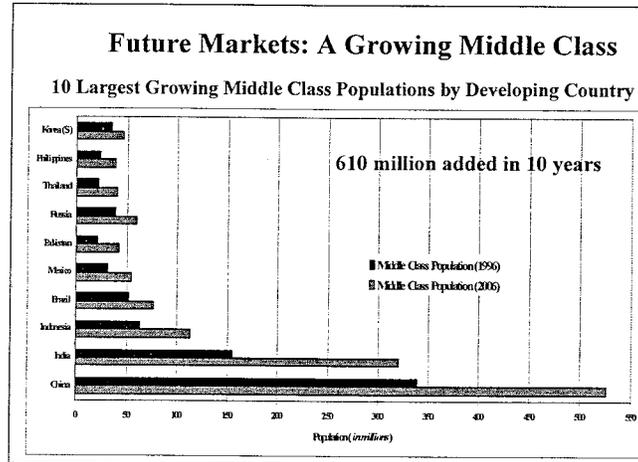
Below is a table indicating the change in the destinations for our top export markets from 1992 to 2002. The change over the past decade serves to illustrate the dynamic nature of these markets.

<b>Major Customers: Top Markets</b>			
<b>(Exports in US \$Billions)</b>			
	<b>1992</b>	<b>2002</b>	<b>% Δ</b>
▪ Canada	\$4.9	\$8.7	75
▪ Japan	\$8.5	\$8.4	-2
▪ Mexico	\$3.8	\$7.3	91
▪ EU	\$7.5	\$6.1	-18
▪ Korea	\$2.2	\$2.7	23
▪ China	\$0.5	\$2.0	300
▪ Taiwan	\$1.9	\$2.0	1
▪ Hong Kong	\$0.9	\$1.1	22
▪ Egypt	\$0.8	\$0.9	14

Traditionally, bulk commodities such as wheat, rice, coarse grains, oilseeds, cotton, and tobacco accounted for most U.S. agricultural exports. However, since the early 1990's, U.S. exports of high-value products – meats, poultry, live animals, meals, oils, fruits, vegetables, and beverages – have expanded rapidly and now exceed the value of bulk commodity shipments.



For U.S. agriculture to build on this success, we must recognize and adapt to the changing global market landscape. Developed country markets, such as Japan and the European Union (EU), are characterized by mature food demand and slow import growth. On the other hand, food consumption in developing country markets is growing much faster, as their demand for food is more sensitive to changes in incomes, which are growing faster than those in developed countries. The greatest potential for future expansion of agricultural exports lies with the burgeoning middle classes in these developing countries. The economic viability of American agriculture will depend upon our ability to develop and enhance market opportunities there.

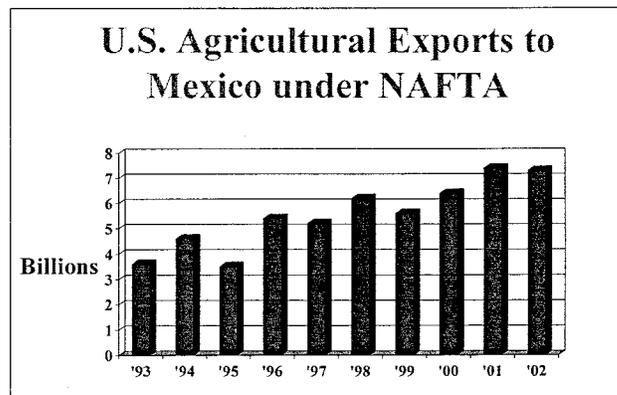


#### Market Maintenance Activities

For nearly all of the last decade, the trade landscape has been changing dramatically. In the mid-1990's, import bans gave way to tariff-rate quotas, and many tariffs were substantially reduced as a result of trade negotiations. However, we saw the rise of other barriers to trade, including use of sanitary and phytosanitary measures not based on sound science, and import licensing schemes, among others. Impediments were put into place to stop development and use of new technologies rather than evaluate them on a scientific basis. While U.S. export opportunities were expanded by the Uruguay Round agreements and NAFTA, it became increasingly important to focus on the international development of science-based regulatory systems. As trade opportunities expand, so does the opportunity for impediments to trade. This makes our efforts at maintaining markets so critical.

Today, much of U.S. agriculture has benefited tremendously from NAFTA but is also

very concerned about Mexico's commitment to fully implement that trade agreement. Let's look first at NAFTA's impact on our exports. U.S. agricultural exports to Mexico have doubled, reaching \$7.3 billion in 2002. Mexico now is our third largest agricultural market and the benefits of NAFTA are widely distributed across U.S. agriculture. Two-way agricultural trade between the United States and Mexico more than doubled since 1994 when the agreement went into effect, reaching \$12.8 billion in 2002.



That is not to say that we do not have serious trade problems with Mexico. Some difficulties can be expected owing to the huge volume of trade that I just mentioned. Also, Mexico implemented many of the most substantial tariff cuts last January 1, providing duty-free access to the majority of U.S. products for the first time. As a result, implementation issues are affecting trade in grains, poultry, meat, and horticultural products. Recently, USDA and USTR led a delegation to Mexico to address the U.S. agricultural community's concerns with that country's impediments to trade. I have also had a number of discussions personally with the Mexican Secretary of Agriculture on the importance of Mexico fulfilling its commitments under

NAFTA. I will continue to aggressively pursue that objective.

Similarly, we have addressed continuing trade issues with Russia. In the longer term, our objective is to have Russia join the WTO, which will require their participation in a rules-based system. Over the past year, we have spent much time discussing access for U.S. poultry, Russia's use of tariff-rate quotas and quotas, and its approach to biotechnology.

Last month, I met with the Russian deputy prime minister and agriculture minister to discuss several high-priority issues, including a resolution to a long-running dispute that severely damaged our poultry exports. We are continuing to voice our concerns about Russia's imposition of quotas on poultry, beef, and pork. The matter is being actively pursued by USTR with its counterpart agency.

Another example of our activities in maintaining markets is the follow-up to China's accession to the WTO 18 months ago. We recognize that China had to adapt many of its laws and regulations to reflect its WTO obligations and is going through some governmental reorganization. However, it is a top priority for this Administration to ensure that China fully implements the obligations to which it agreed. USDA and USTR are working closely together to monitor China's compliance with its WTO commitments, particularly the administration of tariff-rate quotas and the elimination of export subsidies. We also are closely monitoring its biotech regulations to ensure continued access for over \$1 billion in sales of U.S. soybeans.

Another aspect of market maintenance is utilization of the WTO complaint process to protect access to markets. Just last week, Ambassador Zoellick and I announced that the United States is challenging the EU moratorium on approving new biotech products. We also are working with Japan, our second-largest export market, because of continuing problems with rice, beef safeguards, and sanitary and phytosanitary restrictions on horticultural, meat, and poultry

products.

### **Trade Policy Initiatives**

To maximize opportunities for the U.S. food and agricultural sector, we have an ambitious trade agenda underway. We are working in three major areas:

- Multilaterally through the WTO Doha Development Agenda;
- Regionally with the 34 nations involved in the Free Trade Area of the Americas, with five countries in Central America (CAFTA), and with the five member countries of the Southern Africa Customs Union (SACU); and
- Bilaterally with Free Trade Agreements with Singapore and Chile, which have been concluded; and with Morocco and Australia.

In the WTO Doha Development Agenda, global negotiations are underway on a range of issues including agriculture, services, non-agriculture market access, WTO rules, and environment and trade.

When WTO members met in 2001 in Doha, we made a strong commitment to help developing countries meet Uruguay Round commitments. There was unprecedented engagement by developing countries, which comprise 80 percent of WTO membership.

These agriculture negotiations build on the reforms negotiated in the Uruguay Round Agreement on Agriculture. The Uruguay Round was a first for agriculture. It defined core problems such as high tariffs, export subsidies, and trade-distorting domestic support. But it only began the reform process, leaving high tariffs and subsidies in place.

The goal of the current agriculture negotiations is to establish a rules-based and market-oriented trading system through a program of fundamental reform. The members committed to

reductions, with a view to phasing out, all forms of export subsidies; substantial reductions in market access barriers; and substantial reductions in trade-distorting domestic support.

Last July the United States put forward a bold, ambitious agriculture proposal. This comprehensive reform package addresses all three pillars: export competition, market access, and trade-distorting domestic support. It would result in substantial reductions in trade barriers; greater equity in the use of subsidies across world agriculture; and expanding sales opportunities for competitive producers.

Briefly, our proposal would do the following: eliminate export subsidies in five years; reduce trade-distorting domestic support to 5 percent of the value of agricultural production over five years; reduce all tariffs over five years to average 15 percent with a maximum of 25 percent; and increase tariff-rate quotas over five years.

In March, Agriculture Chairman Harbinson released his revised negotiating text. It was a thorough and timely attempt to move the negotiations forward. However, the paper does not fully address the U.S. objectives of an ambitious and harmonizing approach to trade reform.

For export competition, the draft modalities call for the elimination of export subsidies in nine years and the disciplining of export state trading enterprises. These are good first steps, but the real debate is over how quickly.

For America's food and agriculture sector, the tariff reduction formula is key to these negotiations. Tariffs and tariff-rate quotas account for most of the price distortions in world agricultural markets. These distortions prevent us from achieving our objective of a more market-oriented trading system. An ambitious harmonizing formula is critical to correcting these distortions.

Unfortunately, the draft modalities do not go far enough. For the highest tariffs -- in

some cases approaching 1,000 percent -- the tariff formula envisions only a 45-percent minimum tariff cut. For example, under the draft, Japan's tariff on rice would drop from 965 percent to 530 percent. This would not provide meaningful market access. High tariffs undermine the credibility of any reform effort and it is impossible to justify the imbalances that they create.

The draft on domestic support is equally disappointing. As written, it would leave too much trade-distorting support concentrated in one member, the European Union (EU). At the end of the implementation period, the EU would be allowed to provide about three times the support the United States is permitted. There must be an ambitious harmonizing formula to address this disparity.

Making progress in the WTO negotiations will require full involvement and strong political will on the part of the major players in the negotiations. Unfortunately, one of the key players, the EU, has been reluctant to engage fully in the debate because of its internal process to reform its Common Agricultural Policy. I have met with EU Commissioner Fischler to discuss the timetable for CAP reform. He has many challenges before him with the divergent views of the Member States. I support his efforts to bring the EU members to agreement on substantial reform by June of this year. I believe movement on CAP reform is critical to moving the agriculture negotiations forward and we will continue to keep in close contact with EU officials as they move through their process to better assess the progress and possible implications for the WTO negotiations.

Another key player, Japan, also is considering agricultural policy reforms. Japan's Ministry of Agriculture, Forestry, and Fisheries has proposed a new framework for its rice policy that would end government controls of rice production by 2008. The proposal would reduce Blue Box expenditures by shifting to direct payments and loan-rate guarantee. We hope that

Japan moves forward with these policy changes, which we believe would make it possible for Japan to engage in meaningful domestic support discussions in the WTO negotiations.

**Conclusion**

Mr. Chairman, as you can see, the months ahead are crucial to the U.S. trade agenda. The future of American agriculture is dependent upon maintaining existing export markets and creating new opportunities. Much work lies ahead if we are to achieve our goals. I look forward to working with the Committee on this vital issue. That concludes my statement. I would be happy to answer any questions.

## USDA ANSWERS TO SUBMITTED QUESTIONS

## QUESTIONS FROM CHAIRMAN GOODLATTE

**Please comment on the participation of developing countries in these negotiations on agriculture. I understand that the Doha Development Agenda directs that special and differential treatment for developing countries is to be a part of all negotiations. The real question is what is a developing country. Is it expected that a country will continue to be able to declare itself a developing country and thereby have a longer time period to implement reforms to its agricultural program?**

Member countries self-declare their status as developed or developing upon entry into the World Trade Organization (WTO). Although this issue has been discussed on the margins of the negotiations, there is no strong backing to formally change this process. Developing countries are actively participating in this round, and special and differential treatment is an important part of the draft texts. Even developing countries, however, recognize that there are vast economic differences among their group, and some suggest differentiating countries by indicators other than developed and developing. For example, in some instances, there is support for allowing some special and differential treatment to apply only to Least Developed Countries or Net Food Importing Developing Countries.

We are willing to work with Chairman Harbinson's draft text and other WTO members to move the agriculture negotiations forward. While key participants may gain more flexibility to lower barriers to world agriculture, our goal is freer markets for developing and developed countries alike. We believe that developing countries have a powerful interest in broad-based reform for all countries. In particular, reducing trade barriers in developing countries will yield benefits through expanded south-south trade and by increasing market openness in their own economies. We need to strike the proper balance. We should address special needs of particularly poor countries or sectors that need sensible transitions while still advancing open markets for exporters and consumers in all countries, including developing nations.

The United States has shown flexibility on special and differential treatment in the WTO agriculture negotiations. However, we are concerned with certain special and differential treatment provisions in Chairman Harbinson's draft text, which in our view exempt developing countries from further liberalizing selected commodities. Specifically, we are concerned with the new Special Products category, which would allow a developing country to take a minimal five percent tariff cut on selected products. We are concerned with the broad language for the Special Safeguard Measure that would allow developing countries to take undefined safeguard actions against imports. We are also concerned with the broad language on domestic support provisions that would exempt developing countries' unlimited use of certain trade-distorting supports to maintain or even increase production of selected products.

**In my opening statement, I mentioned the issue of confidence in U.S trade negotiations and the fact that it has been undermined by trade problems with the European Union, China, and Russia and now with Mexico. Will you tell the committee how you believe this issue of weakening confidence on the part of U.S. agriculture can be addressed, both generally and specifically with regard to Mexican trade barriers.**

There is no question that the European Union will continue to impose burdensome requirements on its own producers and on imports, and to use standards as a basis for restricting trade. That is precisely why we need to deal with these issues in a multilateral context where we can use other countries to help ensure that the EU meets its obligations. We have developed a coalition to fight the EU's restrictive biotech policies, for example, and will pursue that case aggressively. Earlier this year we negotiated successfully with the EU to maintain access for our wheat, corn, and sorghum producers.

The problems we have had with Russia stem largely from the fact that we do not have a strong trade agreement with them. Their actions over the past fifteen months have severely hampered their progress toward WTO accession. They are not bound by the SPS agreement, and we have no binding agreement with them that requires them to use equivalency rather than compliance as a benchmark. Nevertheless, we have negotiated a solution that is allowing our poultry trade to flow. Neither is Russia obliged to follow WTO rules on safeguards. However, we are currently evaluating all of our options to defend our valuable trade in poultry products and ensure it is not overly restricted by Russia's recently imposed safeguard quota.

Regarding China, while we have had a number of trade-related problems with China, we are engaging the Chinese by addressing our concerns in a variety of fora,

both bilaterally and multilaterally. Now that China is a member of the WTO, we have even greater leverage than before, and more tools at our disposal in addressing many of these on-going market access issues. I would like to mention that we have some success stories as well; most notably a record \$1.3 billion in soybeans exported to China this past marketing year. We are also finalizing a date to convene the U.S.-China bilateral Biotechnology Working Group this summer, in which we will have a forum to press China on their proposed biotechnology regulations, which could threaten our soybean trade. We believe that by engaging the Chinese on a number of levels, we will continue to see an improvement in market access for American agricultural exports.

We have been engaged at the highest levels working to resolve issues related to our bilateral trade disputes with Mexico. The U.S.-Mexico discussions have been constructive—a good sign of both sides taking the issues seriously and in good faith. We will continue to work hard to try to understand issues (both technical and policy matters) and pursue resolutions. Despite some bilateral trade disputes with Mexico, the U.S. Government remains confident that, as the NAFTA trading relationship matures, U.S. farmers and ranchers will continue to realize the benefits of a more fully integrated North American market.

#### QUESTIONS FROM CONGRESSMAN CHARLIE STENHOLM

**Food Aid. Europe has argued that surplus-based food aid should be subject to the same rules as export subsidies. Harbinson's first draft called for food aid to be provided exclusively in grant form, as untied grants to recipient countries for the purchase of food, except for in-kind food aid provided via UN food agencies.**

1. What changes were made in the revised Harbinson paper, and under the revised draft, what are the implications for U.S. food aid programs and what is the status of your discussions with the U.S. private voluntary community on this issue?

2. What alternatives to the EU and Harbinson food aid proposals have been developed that could address European and other concerns on food aid?

We are pleased to see that the latest draft modalities paper (otherwise known as Harbinson-II) allows private voluntary organizations to continue regular food aid operations without having to work under the auspices of the United Nations. We see two remaining issues with the draft modalities text. First, concessional sales e.g., [PL 480-Title I] would not be allowed as food aid. Second, the current draft does not allow for government-to-government non-emergency food aid programs.

In the March 2003 meetings, the United States proposed changes to the modalities text that would allow for government-to-government food aid to be provided to needy populations that are recognized by a UN agency, and would allow for the continued use of concessional credits. In the latest version of the draft modalities, private voluntary organizations can act independently of the UN, which is important for many of the U.S. food aid programs and implementing partners.

Our strategy is to continue to educate the WTO Secretariat and other Members on the way food aid works in the real world. To date, this strategy has yielded positive results. We will continue to work with recipient countries by giving them information on food aid programs active in their own countries, and by encouraging them to voice their support for the U.S. position during the negotiations.

#### QUESTIONS FROM CONGRESSMAN BOB ETHERIDGE

**I have a question relating to Mexico. Mexico is our Nation's second largest pork export market and pork recently became North Carolina's biggest generator of farm cash receipts, just passing poultry, which was hurting because of Russia.**

I am pleased to see from your testimony that USDA and USTR have sent delegations to Mexico to address that nation's impediments to trade. However, my pork producers are telling me that Mexico could soon issue a preliminary determination in a dumping case that could sharply curtail—and even completely halt—U.S. pork exports to Mexico. I'm also told this case is not based on an actual material injury, but on the fear of a potential injury that could occur later on.

If Mexico moves forward to block our pork exports, what will be our response? And what assurances can you give that this administration will use all available tools to ensure that Mexico abides by its NAFTA obligations and that U.S. pork exports will continue to flow without interruption to Mexico?

During our discussions with Mexico, we have made it perfectly clear that the basis for their anti-dumping investigation on pork has no standing, and we consider the initiation of this investigation a possible violation of Mexico's WTO obligations.

Mexico does not produce enough pork to meet the demands of Mexican consumers, and that is why U.S. exports to Mexico have increased 439 percent since 1995. We are committed to ensuring that we maintain and grow this important market for U.S. pork, and we will use all appropriate tools at our disposal to do so.

**Mexico has also announced a new sanitary regulation, known as NOM 6, which will be applied to imported pork, beef, and poultry. I am told that this is a phony regulation that, if implemented, will significantly raise the cost of exporting U.S. meat to Mexico. What is USDA doing to make sure that Mexico stops using bad science and phony regulations to harass U.S. products at the border?**

We are aware that some inspections ordered by Mexico may be unjustified, and we have made our objections known to the Mexican Government.

We are working with the Mexican Government in a variety of technical areas to make sure that all inspection procedures follow sound science. In fact, our Food Safety and Inspection Service visited Mexico last month for technical discussions on meat inspections.

We will continue to monitor all inspection procedures ordered by the Mexican Government to ensure they are in compliance with both sound science and their international obligations.

**Both of you in your testimony talked about EU's efforts to reform its Common Agricultural Policy (CAP). I understand and agree with you that if adopted by the EU, these reforms could make it easier for the U.S. and EU to reach an understanding regarding WTO AG negotiations.**

**However, my question is, what impact will these reforms have on the market. I know ya'll are more familiar with the details of those possible reforms than I am. I'm concerned that at the end of the day, the Europeans will achieve the same results they do now—cheap agricultural products that can be dumped on the world market—only through less objectionable means. Can you talk in greater detail about these possible reforms and what they will mean to the marketplace?**

We still do not know what exact shape the reform of the EU Common Agricultural Policy might take, or even for certain that it will be concluded. However, one major component of the proposal is decoupling, i.e., delinking payments to producers from the actual production of the commodity, in the crop and livestock sectors. Another major component is the long-term shift of government expenditures from direct support for agriculture to funding for rural development. It is difficult at this point to assess the specific market effects of such changes, but some shift in crop production patterns could be expected, possibly making it less likely that the EU will find itself in the type of surplus production situation that it has frequently seen in the past. This then could lessen the pressure to use export subsidies to dump surplus commodities on world markets.

**If the Europeans reject reform, yet again, the chances of a WTO agreement being reached on agriculture, in my view, are slim unless somebody backs away from their earlier negotiating period. If progress is made on the non-agriculture aspects of this WTO Round, you will come under tremendous pressure to surrender your position and accept the European agricultural proposal, which would reduce tariffs and subsidies, but not level the playing field between our two economies.**

**I hope you are prepared to resist that pressure, because I promise you that many of us here on this Committee who traditionally support trade will abandon you in droves if agriculture again gets the short end of the stick. Can you give us reassurance that this will not happen to agriculture?**

I am strongly committed to reaching an agreement in the Doha Development Agenda (DDA) that benefits U.S. agriculture. We have not backed off the DDA mandate on agriculture to substantially improve market access, to reduce with a view to phasing out all forms of export subsidies, and to substantially reduce trade-distorting domestic support. We remain unsure of how far the EU is willing to commit to reform, even if it continues to work toward the DDA mandate. Fulfilling the mandate, while certainly a challenge, will benefit U.S. agriculture.

#### QUESTIONS FROM CONGRESSMAN RICHARD POMBO

**There has been a lot of discussion about the provisions in the farm bill that mandate country of origin labeling (COOL) for a variety of products, including meat, beginning September 30, 2004. I would like to ask you to**

**explain to the committee exactly what the statute requires under the mandatory COOL.**

The law requires retailers to label muscle cuts of beef, pork, and lamb as well as ground beef, ground lamb, and ground pork; farm-raised and wild fish; perishable agricultural commodities; and peanuts as to their country of origin.

Specifically, the law requires beef, pork, and lamb labeled as have a United States origin be derived from animals that are exclusively born, raised, and slaughtered in the United States (including cattle that were born and raised in Alaska or Hawaii and transported for a period not to exceed 60 days through Canada to the United States and slaughtered in the United States). For farm-raised fish and shellfish labeled as have a United States origin, commodities must be derived exclusively from fish or shellfish hatched, harvested, and processed in the United States. Wild fish and shellfish must be derived exclusively from fish or shellfish either harvested in the waters of the United States or by a U.S. flagged vessel and processed in the United States or aboard a U.S. flagged vessel. Fresh and frozen fruit, vegetables, and peanuts labeled as have a United States origin must be derived exclusively from produce or peanuts grown, packed and, if applicable, processed in the United States.

The law also requires suppliers of covered commodities to supply information to retailers indicating the country of origin; it prohibits USDA from using a mandatory identification system to verify country of origin; and it requires USDA to enforce country of origin labeling.

**Is self-certification for livestock producers allowable under the statute with regards to the mandatory COOL?**

The law requires retail suppliers of covered commodities to supply information indicating the country of origin. This information must address the production steps included in the origin definition (born, raised, and slaughtered). The law does not prescribe the method for conveying this information through the marketplace. Although self-certification documents or affidavits may be a part of the chain of custody, records of the production steps are required to verify the origin claims.

**Under the mandatory COOL, would it allow you to label meat, only derived from foreign born/raised livestock?**

No. The law applies to all covered commodities and specifically identifies the criteria that product of U.S. origin must meet. Questions from Congressman Cal Dooley

**As part of the WTO Doha Agenda negotiations on agricultural tariffs, the administration has indicated a willingness to consider Asectoral initiatives that would provide for more aggressive tariff cuts and subsidy reductions for individual agricultural sectors seeking greater liberalization commitments than the across-the-board approach. In California, the fruit and vegetable sector is particularly interested in seeking faster and deeper tariff liberalization than the general approach that is likely to emerge.**

**Is the administration currently seeking a sectoral initiative for fruits and vegetables? If not, would you be willing to work with the private sector interests who support such an approach to build an international consensus around a more aggressive sectoral initiative? What are the likely challenges and prospects for such a sectoral initiative?**

The concept of "sectoral initiatives" has been an element of our approach since talks started in 2000. As negotiations have progressed, we have intensified our outreach to industries, including fruits and vegetables. Support from other countries will be key to developing a successful sectoral initiative, and we have raised our interests with other countries in Geneva and encouraged our private sector to begin building coalitions with private sector interests in other countries. Improvements in trading opportunities through negotiation are difficult by their very nature, and these difficulties will be compounded by the complexity of organizing a coalition of countries willing to reduce support and protection beyond levels required by the modalities. In particular, countries with high tariff and subsidy levels will likely resist further reform commitments.

QUESTIONS FROM CONGRESSMAN NICK SMITH

**How will the U.S.'s recently filed WTO case against the EU's moratorium on genetically modified products influence the ongoing WTO agricultural negotiations? Will this result in delays in the negotiations or trade retaliation by the EU?**

We do not anticipate a direct effect on the WTO agriculture negotiations. The core negotiating issues have been well established and under discussion for a number of years and are enumerated in the chairman's first draft of modalities. None of these issues relates to the dispute settlement proceedings on agricultural biotechnology

products. Similarly, we do not anticipate this action to precipitate delays or retaliation from the EU: the WTO has a procedure for addressing disputes between members. We expect to move our trade relationship forward despite disagreements over specific issues.

**In the past bulk commodities have accounted for most of U.S. agricultural exports. In the 1990's the U.S. started to export more high-value products such as meats, poultry, live animals, oils, fruits, vegetables, and beverages. Has this shift in export products influenced how negotiations are handled?**

The United States' negotiating priorities in the WTO have remained consistent for over two decades: substantial reduction and eventual elimination of trade-distorting measures in each of the three pillars of market access, export competition and domestic support. These objectives cover both bulk and high-value agricultural products. While some differences in protection and support apply to various U.S. exports, such as greater importance of tariff protection and relatively lesser importance of domestic support and export subsidies for high-value products, trade-distorting measures in all three pillars impair all U.S. agricultural products.

**In pursuing our negotiation goals of increasing market access and eliminating export subsidies and trade-distorting domestic support, we have obviously met divergent views. Some nations (Cairns group) are saying that the U.S. proposal (Harbinson paper) is not aggressive enough in pursuing these goals, while others (EU, Japan) are saying that our proposal is too aggressive. In regards to the proposal that has been put forth, where is the U.S. willing to make concessions and where are we not willing to negotiate?**

The U.S. WTO agriculture proposal reflects our core interests in multilateral agricultural reform: substantial reductions in trade-distorting measures and reductions in disparities across countries in allowed levels of trade-distorting support and protection. Achieving a result that meets these objectives is of fundamental importance to the United States, but we need to be open to different approaches that achieve the desired results.

**Throughout the WTO negotiations the EU has been reluctant to engage fully in debate due to its internal process to reform its Common Agricultural Policy (CAP). What is the administration's strategy to push the EU to make progress on CAP reform and bring them to the table on WTO negotiations?**

The administration has been forcefully advocating a CAP reform package that results in substantial reductions in trade-distorting support in the EU. Engagement with EU leaders, private sector interests, and the press has all highlighted the virtues of meaningful CAP reform, including the positive effect it will have on the WTO agriculture negotiations. The U.S. negotiating proposals in Geneva have reinforced this message: the United States has made it clear that the WTO negotiations must result in substantial reductions in trade-distorting support and tariffs, and elimination of export subsidies. CAP reform will be a necessary, but not sufficient, step in achieving this result.

**How optimistic is the administration that some sort of agreement will be reached on modalities by the mid-term review in Cancun, Mexico in September 2003? How about the final deadline of January 2005? How is the nature of the negotiations changing as we are getting closer to the deadlines? Are countries becoming more willing to negotiate?**

Meeting the January 2005 deadline is possible and remains our objective, but will require focused work and substantial progress over the coming year. The meeting in Cancun in September is a critical opportunity to reach agreement on some of the core issues under consideration in agriculture and in other areas. In agriculture, progress in the near term continues to depend on movement in the EU. If the EU is able to achieve substantial reform of the CAP and translate that reform into more focused engagement in Geneva, there is an opportunity to make meaningful progress on agriculture by the Cancun meeting. Without substantial progress on CAP reform, it will be difficult to move the agriculture negotiations forward before Cancun.

#### QUESTION FROM CONGRESSMAN JERRY MORAN

**As you know, Mexico is the U.S. dry bean industry's largest export market. Dry bean exports to Mexico have historically contributed as much as \$110 million annually to the U.S. agriculture economy.**

**On January 21 of this year, Mexico closed its borders to U.S. dry edible beans with no apparent justification. It seems that this action clearly vio-**

lates the North American Free Trade Agreement, as well as trade agreements under the WTO. Mexico has yet to provide a consistent explanation for shutting down shipments of dry beans from the U.S., and the borders remain closed.

**I understand that this subject has been discussed by USDA and USTR with their Mexican counterparts. What course of action are you pursuing to reopen the Mexican market for U.S. dry beans? How soon can shipments be expected to resume?**

After lengthy discussions with Mexican officials at all levels, U.S. dry beans are now able to resume shipments to Mexico. As of May 26, Mexico rescinded an emergency regulation that restricted imports of dry beans, and has implemented new regulations that can be met by the U.S. dry bean industry. In addition, Mexico has allocated the first portion of its annual tariff rate quota to Mexican importers, which will allow duty free access for U.S. dry beans. We are pleased that Mexico has taken these actions to resolve this dispute, and continue to monitor the situation to ensure Mexico abides by its NAFTA and WTO commitments.

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#### STATEMENT OF ROBERT B. ZOELLICK

Thank you Chairman Goodlatte, Mr. Stenholm, members of the committee.

I appreciate the opportunity to be here today with my close colleague and friend, Secretary Ann Veneman. Working together closely, we have sought to ensure that the Department of Agriculture and the Office of the U.S. Trade Representative operate effectively as partners pursuing the interests of America's farmers and ranchers around the world.

I want to thank you for your leadership on trade. Your hard work has helped propel the U.S. trade agenda forward—and American agriculture is stronger as a result. I look forward to continuing to work with the two of you and the committee in the weeks and months ahead as agriculture negotiations intensify in the WTO and other fora.

I also want to thank you, Mr. Chairman, and many others on this committee for your support of our recent request for consultations in the WTO over the EU's ongoing moratorium on agricultural biotech products, which is in complete violation of international trade rules, the European Commission's rules, and Europe's own scientific analysis. This case underscores our commitment to enforcing global trading rules. Upholding standards based on sound science, not irrational fears, is critical to U.S. agricultural productivity and profitability—and to the lives and health of poor people around the globe.

**Why trade is important to U.S. agriculture.** As Secretary Veneman has emphasized, U.S. agriculture must look overseas to generate sales and the expansion of farm income. U.S. population and consumption growth are relatively flat, which means growth prospects for farmers and ranchers in our home market are limited. At the same time, U.S. agricultural productivity continues to climb, driving increased domestic output that can only be sold profitably if we expand overseas markets.

Foreign customers are already critical for U.S. producers and processors. Twenty-five percent of all cash receipts for agriculture are generated by exports. Nearly half of American wheat and rice, about one-third of our soybean production, and 20 percent of U.S. corn is sold for export. For a number of specialty crops, foreign markets are even more important: 65 percent of U.S. almonds, nearly 50 percent of U.S. walnuts and dried plums, and a third of U.S. raisins and table grapes are sold overseas.

The importance of exports to American agriculture is certain to rise in the future. Ninety-six percent of the world's consumers live outside the United States. Population and food consumption are expanding quickly in the developing world, and consumers overseas are increasingly demanding the high-value products in which the United States has a comparative advantage.

Exports of U.S. agricultural products generate additional economic activity that ripples through the domestic economy. According to USDA's Economic Research Service, every dollar of agricultural exports generates another \$1.47 in supporting activities such as processing, packaging, shipping, and finance. The \$53 billion worth of agricultural products that the United States exported in 2002 generated an estimated \$78 billion in supporting activities. Nearly 800,000 Americans, on and off farm, depend on agricultural exports for their livelihoods.

So we have immediate, tangible interests in expanding export markets for U.S. producers. But we also have structural reasons for opening markets globally. An open trading system fosters the development of many of the virtues sparked by other free market policies: it encourages competition, prompts investment, spurs

technological innovation, rewards initiative and hard work, and allocates resources more efficiently. Open markets provide a conducive environment for opportunity, hope, and development that enables the spread of liberty, democracy, and peace.

For the developing world, free trade for farmers offers a ladder of opportunity to a better, more prosperous future.

**Overview of the U.S. Trade Strategy since 2001.** As President Bush made clear on the day he interviewed me for the post of U.S. Trade Representative, agriculture is at the heart of this administration's trade agenda. We recognize as well that America's farmers, ranchers, and agribusiness have provided the critical momentum for launching WTO negotiations and granting the President Trade Promotion Authority (TPA) as part of the Trade Act of 2002.

Since securing TPA, the President has had the key backing we needed to press ahead with trade liberalization globally, regionally, and bilaterally. By advancing on multiple fronts, we are creating a competition in liberalization, placing America at the heart of a network of initiatives to open markets. If others are ready to open their markets, America will be their partner. If some are not ready, the United States will proceed with countries that are.

This competition in liberalization strengthens U.S. leverage, which is already considerable given the size, innovation, and appeal of the American economy. Countries now knock on our door to ask for free trade agreements. By encouraging a reciprocity in openness, we can strengthen the domestic politics of trade: The United States is already a highly open economy and the biggest single importer in the world; to maintain support for trade at home we need to open markets—and opportunities—for American interests around the world.

We have made important progress over the past two years, including helping bring China and Taiwan into the rules-based multilateral trading system through their accession to the WTO; launching a new global trade round at Doha in November 2001; advancing bold proposals and principles in the WTO's Doha Development Agenda for free trade in agriculture, manufactured goods, and services; securing Congressional approval for a Free Trade Agreement with Jordan; completing FTA negotiations with Chile and Singapore; beginning new FTA negotiations with the five nations of the Central American Common Market, the five countries of the Southern African Customs Union, Morocco, and Australia; pressing ahead with negotiations among 34 democracies for a Free Trade Area of the Americas; and launching regional trade initiatives in Asia and the Middle East that expand access to U.S. markets for the world's poorest nations. These initiatives not only create new opportunities for U.S. farmers, companies, and workers, but also provide greater choices for U.S. families.

The United States is once again seizing the global initiative on trade. This committee and its leaders have been instrumental in this effort.

Our bilateral and regional agendas have the potential to yield major benefits for U.S. agriculture, even as we work on the WTO negotiations. These initiatives will allow us to level the playing field where other countries—the EU and Canada in particular—have already negotiated preferential access that disadvantages American exports. Bilateral and regional agreements can help address specific market-access problems—including SPS and other challenging standards issues—in a manner not possible in multilateral negotiations. In the Chile FTA talks, for example, the United States focused the attention of Chilean regulators on unjustified sanitary requirements for U.S. dairy and meat exports and made rapid progress by removing some of those barriers in a way that would have been impossible otherwise. These negotiations help secure open markets for U.S. agricultural exports while reserving subsidy reform commitments for the WTO.

Although it is not the subject of today's hearing, I also want to stress the priority we place on enforcing existing trade rules. USTR and USDA have been working hard on issues concerning China, Mexico, Russia, the European Union, and other countries to ensure that U.S. farm exports get the treatment that has been promised by our trading partners.

Today, however, I have been asked to speak about the WTO negotiations on agriculture. The remainder of my remarks will focus on the developments to date and plans for the future.

**The Doha Development Agenda in the WTO.** The WTO negotiations launched in Doha in November 2001 are the cornerstone of our trade agenda because the most important reforms in the international agricultural trading system can only be attained through substantial changes in global rules. The prior global negotiating effort—the Uruguay Round (1986–94)—was the first serious attempt to impose reforming disciplines on the world agricultural trade. Yet like many first efforts, the concluding compromise left much work to do: The agreement's disciplines came at the price of the accepting of great differences in subsidy and tariff levels. The WTO's

Doha Agenda provides the opportunity to address the barriers and asymmetries in each of the three key problem areas in the agricultural trade: market access; export subsidies; and trade-distorting domestic support.

The United States has set a bold mark in WTO agricultural negotiations, pointing the way towards what should be done by submitting the first comprehensive proposal that set out an ambitious plan for reform. Our goal is to secure substantial improvements in market access, the elimination of export subsidies, and the reduction and harmonization of trade-distorting subsidies on a path to their elimination. By negotiating ambitious cuts in tariffs and trade-distorting subsidies, the U.S. proposal lays the foundation for growth in agriculture, lower prices for consumers, and higher incomes for all.

First, we want to expand market access. In the Uruguay Round, restrictions on trade were turned into tariffs and capped, and developed countries were required to cut their tariffs by 36 percent on average, with individual tariff lines subject to cuts as small as 15 percent. Today, the average WTO-allowed tariff on agricultural products is still 62 percent—with some peak tariffs ranging from 500 to 1,000 percent.

Bringing these tariffs down—particularly the peak tariffs on priority products in selected countries—is a principal aim of the U.S. proposal. Utilizing a Swiss 25 formula, the U.S. plan would substantially reduce tariffs in all WTO countries, bringing down the global average by 75 percent over 5 years, from 62 percent to 15 percent. Countries with the highest tariffs would be required to make the deepest cuts.

Second, we seek to increase export competition. Currently, export subsidies and export monopolies—including state trading enterprises—are permitted by WTO rules, subject to certain disciplines. These policies distort markets and hurt U.S. export sales and productive farmers in the developed and developing world. The EU spent about more than \$2 billion on agricultural export subsidies in 2000, compared to U.S. spending of less than \$20 million that year.

Eliminating export subsidies has been a core U.S. objective for nearly 20 years—and we have made progress. The Uruguay Round cut export subsidies by 36 percent on budgetary outlays and 21 percent on volume. The United States is now proposing the outright elimination of export subsidies within five years and an immediate end to single desk exporter privileges. We have also proposed disciplines for export credit and food aid programs to guard against market disruption while maintaining the viability of these programs.

Third, we want to harmonize and reduce trade-distorting domestic support. The Uruguay Round only started the job of tackling trade-distorting domestic subsidies. That agreement allocated domestic subsidies into three categories: green box subsidies, which involved payments decoupled from production incentives, were permitted without limit; amber box subsidies, which includes payments linked to production, were capped at 1986–88 levels and then cut by 20 percent; blue box subsidies, for payments linked to reductions in production, were allowed subject to specific criteria. Furthermore, amber box subsidies below a 5 percent *de minimis* level were not counted toward annual limits—that is, if the support is less than 5 percent of the value of production of a specific commodity, or if the non-product specific support is less than 5 percent of total agricultural production, it does not count against the ceiling for trade-distorting support.

As a result, the EU's current limit for amber box is around \$67 billion annually, Japan's limit is around \$33 billion, and the U.S. limit is \$19.1 billion. In addition, the EU and Japan use blue box subsidies. All other countries have much lower levels of amber or blue subsidies, if any.

The U.S. agriculture proposal in the Doha negotiations seeks to build on the first step of the Uruguay Round by pressing for much more substantial reductions to achieve a more level playing field. In particular, the U.S. proposal calls for a cut of over \$100 billion in trade-distorting support globally, undertaken in a manner that harmonizes levels across countries, with the eventual goal of eliminating such subsidies altogether. The United States proposes maintaining current rules on non-trade distorting support (the green box)—spending in areas such as conservation, research, food stamps, and the environment—as long as such spending is de-linked from production incentives. We have also proposed maintaining the current *de minimis* exceptions.

As members of this committee know, reactions to the far-reaching U.S. agriculture proposal reflect differing levels of commitment to support fundamental agriculture reform in the WTO. Many countries have voiced strong support for the ambitious reforms we are proposing. Others, such as the Cairns group of agricultural exporters, China, Egypt, and Mexico, have offered their own constructive proposals. The EU, which subsidizes the most—and consequently, would be required to make the deepest cuts—has proposed cuts along the lines of the Uruguay Round method. (For

tariffs, the EU proposed a 36 percent average tariff cut, with a minimum cut for each product of 15 percent; for amber box subsidies, a 55 percent cut; and for export subsidies a 45 percent average cut in budget expenditures and a substantial but unspecified cut in volume.) Japan's proposal would actually move agriculture negotiations backward by reducing quotas on imported rice; even though Japan could cut its subsidy caps and eliminate export subsidies, it remains resistant as it holds out on rice. Many developing countries have participated in only the most narrow sense, calling for protection of their domestic markets while pushing for reforms by developed countries.

Negotiations have been complicated by the EU's and Japan's insistence that non-trade concerns be specifically addressed in the negotiations. All countries value agriculture for reasons beyond food production, such as national heritage, environmental quality, rural employment, and so on. These non-trade concerns play an important role in U.S. farm policy, too. However, we believe they are generally best addressed through targeted and non-trade distorting measures, which are both more effective and cause less collateral damage than blanket trade restrictions. The EU, arguing that it must shield non-competitive producers in the negotiations, has proposed rules that would allow trade-distorting measures such as market access barriers and new subsidies—to achieve its non-trade objectives.

After considering the differences between reformers and resisters, earlier this year the chair of the WTO agriculture negotiations group, Stuart Harbinson, offered a draft of modalities to guide the negotiations. (Modalities are the formulas and rules to structure more detailed negotiations.) Chairman Harbinson obviously faced a difficult task. His draft proposed more substantial reforms than the Uruguay Round—including the elimination of export subsidies and some use of harmonizing formulas. This draft largely maintained the current approach to non-trade concerns, leaving unchanged existing provisions for non-trade distorting support and health and safety measures without opening new justifications for support and protection. We seek more ambitious reform than that offered in the Harbinson proposal. Many countries, however, are vehemently opposed to even working with Harbinson's suggested approach.

Nevertheless, despite the opposition, at this point the Harbinson draft has set the framework for further discussion. Therefore, it is helpful to draw out five areas of particular importance in the text:

First, the draft incorporates substantial progress on export subsidies and export monopolies, including their eventual elimination. The proposed timeframe is disappointing: nine years instead of the five years in the U.S. proposal. There are also other significant unresolved issues in the chair's draft. The treatment of export credits in the text, for example, has not been fully specified, and food aid rules will be tightened with provisions that the chair left for further consideration by WTO members.

Second, the draft proposes some important progress on market access. Improving access for U.S. exports overseas continues to be our key interest. The draft modalities propose cutting the highest tariffs by at least 45 percent—larger than the Uruguay Round cuts. The chair's text also adopted the principle we advocated of deeper cuts for higher tariffs. And it ends the current safeguard provisions for developed countries.

Yet the chair's tariff reduction formula is less aggressive than our proposal. For example, whereas the result of the U.S. plan would be to cut the average agricultural tariff worldwide from 62 to 15 percent, the average under the chair's proposal would be reduced to around 36 percent. The draft text does not end the use of monopoly importers, as we sought. Important issues left open in the text are the extent of special and differential treatment for developing countries, particularly as applied to the new concepts of a special agricultural safeguard for developing countries and limited tariff cuts for so-called "special products" in developing countries.

Third, the draft makes proposals to cut domestic trade-distorting support, but with insufficient harmonization. The draft is much more ambitious than the Uruguay Round agreement in this area: It calls for a 60 percent cut (versus 20 percent in the Uruguay Round) and substantial reform of blue-box subsidies, yet the draft modalities do not harmonize subsidies sufficiently to achieve the level playing field that the United States advocates strongly. To achieve a successful WTO agreement, we must bring EU trade-distorting subsidies much closer to the levels of the United States and others.

The draft text would lower the EU's amber box subsidy limits by \$40 billion, in comparison to a \$12 billion reduction for the United States. The draft also proposes capping and reducing—and possibly eliminating—the blue box. Yet the draft text would leave the EU amber box cap at \$27 billion (plus an uncertain blue box number) and the United States at \$7.6 billion. The draft text also cuts the de minimis

allowance in half. A key open issue in the draft is the extent of special and differential treatment for developing countries' use of subsidies.

Fourth, the draft's provisions on special and differential treatment undermine developing countries—potential benefits as exporters and importers. The United States recognizes that developing countries need special treatment as they make the transition to open market economies. In some countries, up to 70 percent of the population lives in rural areas, often on small, inefficient farms. In India, for example, about 650 million people live outside urban centers, and many survive through subsistence farming. If undertaken too rapidly, the economic restructuring could lead to social and political turmoil.

Yet flexible transitions and special needs should not degenerate into perpetual protectionism. "Good intentions" that cover up trade barriers raise prices for the poorest people, profit cosseted interests, increase costs for competitive businesses, and block exports from productive farmers in other developing countries. The draft modalities suggest the creation of too many new subsidy loopholes and provide an unhealthy level of perpetual protection for producers in developing countries. We need to strike the proper balance: We should address special needs of particularly poor countries or sectors that need sensible transitions while still advancing open markets for exporters and consumers in all countries, including developing nations.

Fifth, non-trade concerns cannot be used to justify disguised barriers to trade. The draft modalities maintain the integrity of current WTO rules on non-trade concerns: countries have full access to non-trade distorting policies, but possibly trade-distorting measures such as SPS barriers and labeling requirements must be consistent with WTO requirements. We will continue to advance market-based farm policy, although others will press for wider latitude to interfere with trade to meet non-trade objectives.

**Looking Ahead.** As described above, the United States and other major agricultural exporters generally seek greater reforms—more cuts in tariffs and subsidies—than those proposed by the chair's draft text. Yet others—particularly the EU, Japan, and Korea—believe Harbinson's text is far too ambitious.

In the coming months, we will be pressing to see if we come closer to finding a way forward. Without substantial reform of the agricultural trading system—as 144 economies pledged in the Doha negotiating mandate—we are highly unlikely to progress with the rest of the topics under negotiation.

A group of about 25 WTO Ministers are scheduled to gather in Egypt in June to discuss key issues. In September, all trade ministers will meet in Cancun to assess progress.

During this period, I would suggest to the committee that two developments are of special importance.

Reform of the EU's Common Agricultural Policy (CAP). First, the European Commission has proposed a package of reforms of the CAP to the EU's member states. The purpose of these proposals is to prepare for EU enlargement, better support rural and environmental objectives, and move toward market reforms. A key element of the package is to decouple farm subsidies from production. (Fully decoupled payments would qualify for the green box, as they do in the United States.) The Commission is pressing EU member states to approve its proposal by mid-June.

Although these CAP reforms are being pursued for the EU's own internal reasons, they offer a second benefit for one action: The decoupling and other reforms would give the European Commission more flexibility in the Doha negotiations, especially to cut subsidies.

Without the prospect of substantial movement by the European Union on CAP reform—and then in the Doha agricultural negotiations—we cannot achieve the necessary reforms in the world agricultural trade.

Second, we need innovative special and differential treatment for developing countries. Countries that are seeking to avoid an ambitious result in agriculture will try to gain the support of developing nations by warning of the difficulties of liberalization and organizing a coalition that favors only modest change. For example, the EU and some 70 countries circulated a letter advocating the use of the Uruguay Round's approach of percentage cuts for tariff reductions rather than harmonizing formulas.

The challenge for the United States and other major agricultural exporters is to help design special and differential treatment provisions that facilitate reform and development, not frustrate it. Therefore, we have suggested a discussion of combining ambitious tariff cuts with safeguards for developing countries that enable them to temporarily restrict imports that displace subsistence farmers. We are also examining special subsidy provisions that would allow developing countries to support domestic industries with minimal market distortions. Striking the right balance is critical: Developing countries should have their legitimate concerns addressed; at

the same time, we have made it clear that the negotiations must result in meaningful reforms by all members.

As the negotiating process proceeds, we will be able to better assess the prospects for CAP reform and the EU's willingness to reform world agricultural trade, Japan's and Korea's willingness to permit agricultural intransigence to subvert the Doha negotiators, and the developing countries' willingness to open their own markets while meeting special concerns. If there is positive movement, the key question we need to consider together is this: Given the foreign subsidies and market-access barriers that U.S. producers must contend with currently—and also taking into account our own sensitive sectors—what combination of major reforms can be achieved that represents a successful step forward? Of course, this is a question without an easy or direct answer.

Since agriculture was not governed meaningfully by multilateral trade rules until the Uruguay Round, the industrial sector has had a nearly 50-year head start on eliminating trade barriers. We need agriculture to catch up quickly, recognizing carefully and realistically our own interests, given our current position. We will work closely with this committee, your Senate counterpart, and others in Congress—and with American agriculture—to make a clear-eyed assessment of how to maximize benefits for U.S. farmers and ranchers and of what is best for the United States.

In conclusion, I would like to stress again how much we value the support and guidance that we have received from Members of this Committee. The administration is working hard to promote the interests of U.S. farmers, ranchers, processors, consumers, and families through global agricultural reform. A close consultative relationship with Congress will be particularly important as we face challenges in the months ahead.

We also hope that Members of this Committee will help us through your contacts with foreign government officials, legislators, and opinion leaders—stressing the message sent by the combination of last year's farm bill and Trade Promotion Authority: that America's farmers and Congress back open markets and lower subsidies, but that we expect our trading partners to move with us.

We also appreciate the need to follow through on past trade pacts. We will be monitoring compliance closely, working to solve problems constructively where possible, and insisting on enforcement of our rights when necessary.

Finally, I want to make a special note of the progress that we have made on concluding trade agreements this year. We will present the Singapore and Chile FTAs to the Congress this year. We are pleased with the support from farm groups for approving these agreements. We look forward to continued close cooperation with this Committee on those two FTAs.

Thank you, and I would be pleased to take your questions.

# **Importance of Trade to U.S. Agriculture**

- **Growth in agriculture sales and income linked to expanding exports**
  - **U.S. market is mature**
  - **Growth potential is overseas**
  - **U.S. farm productivity continues to grow**
- **U.S. agriculture relies on export sales**
  - **\$53 billion in exports in 2002**
  - **Half of production of some crops exported**
  - **25% of cash receipts come from exports**

# Competitive Liberalization

- **Promote free trade through multiple initiatives:**
  - **Global**
  - **Regional**
  - **Bilateral**
  
- **Moving on multiple fronts allows the United States to:**
  - **Help U.S. farmers, ranchers, exporters, consumers**
  - **Exert leverage for openness**
  - **Put free trade “on offense”**
  - **Break new ground and set higher standards**
  - **Build coalitions for free trade in the WTO**

# **Progress: 2001-2002**

## **Generally:**

- **Regained momentum for trade**
- **Linked trade to growth, development, and security post 9/11**

## **Specifically:**

- **Trade Act of 2002**
  - **Trade Promotion Authority**
  - **Expansion or extension of ATPA, AGOA, CBTPA, and GSP**
- **Launch of new Doha Development Agenda in WTO**
- **Completed accession of China, Taiwan to WTO**
- **Free Trade Area of the Americas (FTAA) in concrete negotiations**
- **Completed Singapore and Chile FTAs**
- **Launched new FTAs: CAFTA, SACU, Morocco, Australia ...**
- **Launched Enterprise for ASEAN Initiative (EAI)**
- **Launched Initiative for Middle East Free Trade Area**

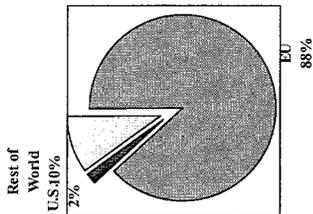
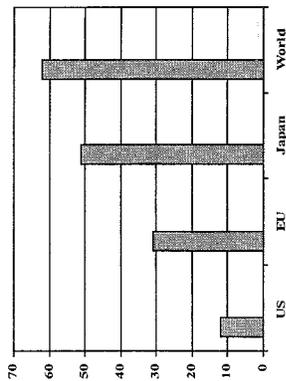
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# WTO Negotiations

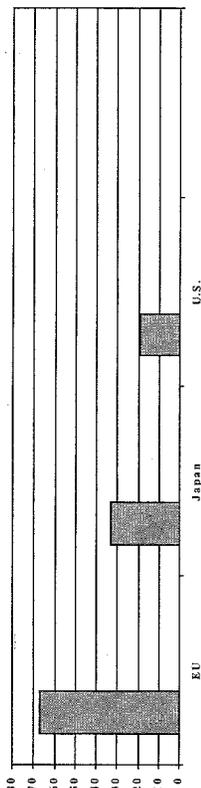
- **Uruguay Round (1986 – 94) first imposed significant agricultural disciplines, but only began to address inequities**
- **World Trade Organization – Doha Development Agenda**
  - **Launched at Doha, Qatar: November 2001**
  - **146 current participants**
  - **Next Ministerial Meeting: Cancun, September 2003**
  - **Target date for completion: January 2005**
- **Once-in-a-Generation Opportunity**
- **Bold U.S. proposals set the mark:**
  - **Agriculture**
  - **Consumer & Industrial Goods**
  - **Services**

# Core Problems in Agricultural Trade

**Avg. WTO Allowed Tariff (%)**      **Export Subsidy Expenditures**



**Allowed Trade-Distorting Domestic Support (\$billion)**



# Doha Development Agenda

## Doha Agriculture Negotiating Mandate

**“[W]e commit ourselves to comprehensive negotiations aimed at: substantial improvement in market access; reductions of, with a view to phasing out, all forms of export subsidies; and substantial reduction in trade-distorting domestic support.”**

## **U.S. WTO Agriculture Proposal**

- **Eliminate agricultural export subsidies**
- **Cut average allowed world farm tariffs from 60% to 15%, with none greater than 25%**
- **Cut allowed trade-distorting domestic farm support \$100b, closing gap between U.S. and EU**
- **Agree on date for tariff and trade-distorting support elimination**

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# WTO Agriculture Negotiations

## *First Draft of Modalities: Key Issues*

### EXPORT COMPETITION

#### Positive:

- Elimination of export subsidies
- Elimination of export monopolies

#### Negative:

- Export subsidy elimination takes 9 years

#### Open Issues:

- Export Credit rules
- Food Aid rules

# WTO Agriculture Negotiations

## *First Draft of Modalities: Key Issues*

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### MARKET ACCESS

#### Positive:

- Higher tariffs subject to deeper cuts
- Eliminate special safeguard for developed countries
- No justification for new market access barriers to address non trade concerns

#### Negative:

- Not as ambitious as U.S. proposal
- Monopoly importers continue

#### Open Issues:

- Criteria for new safeguard for developing countries
- Extent of “special products” in developing countries subject to marginal tariff cuts

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# **WTO Agriculture Negotiations**

## ***First Draft of Modalities: Key Issues***

### **DOMESTIC SUPPORT**

#### **Positive:**

- Reduces disparity between EU and U.S.: EU cuts \$40 billion and U.S. cuts \$12 billion
- “Blue Box” capped and possibly eliminated
- No cap on “Green Box”
- Non trade concerns addressed through “Green Box”

#### **Negative:**

- Does not harmonize support levels
- Cuts *de minimis* from 5% to 2.5%

#### **Open Issues:**

- Extent of Special and Differential Treatment

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# The Road to Cancun -- 2003

- **EU CAP Reform?**
  - Fischer/Lamy proposals: “decoupling” and market reform
  - June schedule for CAP reform decisions
  - For Doha, CAP reforms are critically necessary, albeit not sufficient
  - Incentive of cooperation on industrial goods and other areas
- **Key Issues for Work**
  - Extending support for ambitious reforms
  - Balancing developing countries special needs and degree of ambition
  - Maximizing market access gains in priority sectors
  - Addressing disparity in U.S./EU domestic support
  - Framing disciplines on export credits and food aid

# **Teamwork and Support**

- **Understanding priorities**
- **Promote synergies between U.S. trade policy and farm policy**
- **Building farm community and public understanding of the stakes for trade**
- **Communicating a U.S. message abroad**
- **Building coalitions abroad**
- **Consulting closely**

## United States v. European Union

By Robert B. Zoellick

The U.S.—joined by Argentina, Canada and Egypt, and supported by nine other countries—last week asked the European Union to lift its moratorium on approving agricultural biotech products, in accordance with the rules of the World Trade Organization.

The world stands on the threshold of an agricultural revolution. The science of biotechnology can make crops more resistant to disease, pests and drought. By boosting yields, biotechnology can increase farmers' productivity and lower the cost of food for consumers. It can help the environment by reducing pesticide use and preventing soil erosion. And new crops offer the promise of something greater still: foods fortified with nutrients that could help stem disease—including saving the eyesight of over 500,000 children who go blind each year because they lack Vitamin A. Where food is scarce, or climates harsh, increased agricultural productivity could spell the difference between life and death, between health and disease for millions. Biotech rice, for example, is twice as resistant to drought and saltwater, while withstanding temperatures about 10 degrees lower than other varieties.

For almost five years, the EU has violated its own rules and procedures—and disregarded the advice of its scientific committees and commissioners—by arresting action on applications for biotech food products. This moratorium violates the EU's basic WTO obligations to maintain a food approval process that is based on "sufficient scientific evidence" and that acts without "undue delay."

Some Europeans have asked why the U.S. and its 12 partners would not wait longer. Yet the European commissioners working to lift the mor-

atorium are the hostages of their member states. As Environment Commissioner Margot Wallstrom concluded last October: "I have stopped guessing when the moratorium would be lifted. . . . [S]ome member states are opposed. . . and will try to move the goal posts." We stopped guessing, too.

As we have waited patiently for European leaders to step forward to deploy reason and science, the EU moratorium has sent a devastating signal to developing countries that stand to benefit most from innovative agricultural technologies. This dangerous effect of the EU's moratorium became evident last fall, when some famine-stricken African countries refused U.S. food aid because of fabricated fears—stoked by irresponsible rhetoric—about food safety.

As a major importer of food, Europe's decisions ripple far beyond its borders. Uganda refused to plant a disease-resistant type of banana because of fears it would jeopardize exports to Europe. Namibia will not buy South Africa's biotech corn for cattle feed to avoid hurting its beef exports to Europe. India, China and other countries in South America and Africa have expressed the same trepidation. "Thirty-four percent of the children [in Africa] are malnourished," says Dr. Dhiran Makinde of the University of Venda in South Africa. Yet Africans are told of biotech crops: "Don't touch them."

For five years, the world has waited patiently, assured by European officials that a change in policy is "just around the corner." But

around every corner we have found a new roadblock. First, we were asked to wait until new biotech approval regulations were drafted. Then it was to wait for a labeling scheme, then for rules on legal liability, and then for new regulations on where biotech crops can and cannot be planted.

While Europe has added barrier after barrier to fight fiction, biotechnology has demonstrated benefit after benefit based on facts. "No till" biotech farming has reduced soil erosion by one billion tons a year. Over the past eight years, biotech cotton and corn have reduced pesticide use by 46 million pounds of active ingredients. The Chinese Academy of Science estimates biotech could reduce China's pesticide use by 80%.

Overwhelming scientific research shows that biotech foods are safe and healthy—a conclusion that the EU's own Directorate-General for Research reached two years ago. The National Academies of Science and Medicine in France concur. So do the Scientific Academies of Brazil, China, India, Mexico, the U.K. and the U.S. Dr. C.S. Prakash of Tuskegee University presented me with a statement signed by more than 3,200 scientists world-wide, including 20 Nobel laureates, supporting agricultural biotechnology.

Some claim that we are "forcing" biotech foods on European consumers. Yet all we ask is for consumers to have the right to make their own decisions, a right they are now denied because the EU is blocking access to foods that EU regulators and scientific associations acknowledge are safe. The legal case for biotechnology is clear, the science overwhelming, and the humanitarian call to action compelling. We hope this debate will lead the EU to finally lift its moratorium without imposing new barriers.

Mr. Zoellick is the U.S. Trade Representative.

## MULTILATERAL AND BILATERAL AGRICULTURAL TRADE NEGOTIATIONS

WEDNESDAY, JUNE 18, 2003

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON AGRICULTURE,  
*Washington, DC.*

The committee met, pursuant to call, at 10:11 a.m., in room 1300 of the Longworth House Office Building, Hon. Bob Goodlatte (chairman of the committee) presiding.

Present: Representatives: Pombo, Smith, Lucas of Oklahoma, Moran, Jenkins, Gutknecht, Hayes, Osborne, Pence, Rehberg, Putnam, Janklow, King, Nunes, Stenholm, Peterson, Dooley, Holden, Etheridge, Baca, Alexander, Ballance, Cardoza, Scott, Lucas of Kentucky, and Udall.

Staff present: Lynn Gallagher, Jason Vaillancourt, Brent Gattis, Elizabeth Parker, Callista Gingrich, clerk; Elyse Bauer, Kellie Rogers, and Andy Baker.

### **OPENING STATEMENT OF HON. BOB GOODLATTE, A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF VIRGINIA**

The CHAIRMAN. Good morning. The hearing of the House Committee on Agriculture to review multilateral and bilateral agricultural trade negotiations will come to order.

I want to thank you all for participating in this hearing today. The topic of today's hearing is a review of the multilateral and bilateral agricultural trade negotiations, and I want to welcome all our witnesses. We will hear from representatives of major agricultural organizations, all representing the crops grown in the United States.

It is important to hear their views on the current agricultural negotiations, which include the World Trade Organization and the Free Trade Area of the Americas. Other negotiations going on that will have an impact on U.S. agriculture include the Central America Free Trade Area (Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua), Morocco, Singapore, the Southern African Customs Union (Botswana, Lesotho, Namibia, South Africa and Swaziland), and Australia.

In addition, the administration and the Government of Bahrain have announced the intention to begin negotiations for an FTA. Other possible FTA's include countries in the Middle East and Thailand.

Just last month the committee heard from Secretary Veneman and Ambassador Zoellick on issues related to agricultural trade

and the WTO negotiations. This hearing is a continuation of the promise I made at the beginning of this Congress that the committee intends to pay very close attention to all trade negotiations and to listen to U.S. agriculture's views on this important matter.

This includes ongoing multilateral trade negotiations and all regional and bilateral negotiations. It also includes oversight of past agreements, such as with China, and other accessions to the WTO, such as Russia. It means looking closely at problems U.S. agriculture faces regarding sanitary and phytosanitary issues, such as those with Australia.

I am pleased that the administration has acted regarding the problems U.S. agriculture has with some exports to Mexico. On Monday, Ambassador Zoellick announced that the U.S. is filing a WTO case against Mexico in connection with Mexico's antidumping orders on U.S. beef and U.S. rice. Again, the committee will follow this matter closely, including those issues with other agricultural exports to Mexico.

United States agriculture depends on exports and a vibrant trade policy is important to U.S. farmers and ranchers. We want to seek greater opportunity for our agricultural products and trade negotiations can make that possible. U.S. agricultural markets are already open to imports and our tariffs are low, agricultural tariffs worldwide average about 62 percent, while U.S. agricultural tariffs are 12 percent. It is to the advantage of U.S. agriculture that we continue to open markets and remove barriers to our agriculture exports.

I know that many of our witnesses will pay close attention both individually and through organized groups, such as the Agriculture Policy Advisory Committee and several agriculture technical advisory committees. You should continue to make sure that both USDA and USTR are aware of the impact of trade agreements and negotiations on your members back home. This hearing will provide a means to share your views and theirs with me and other committee members.

Again I thank you all for participating in the hearing, and at this time it is my pleasure to recognize the gentleman from Texas, the ranking member, Mr. Stenholm.

**OPENING STATEMENT OF HON. CHARLES W. STENHOLM, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS**

Mr. STENHOLM. Thank you, Mr. Chairman. I would like to welcome all of the witnesses today. I look forward to your testimony, which among other things discusses in some detail the many potential problems with the Harbinson approach on WTO agriculture negotiations. You are up continuous to discuss possible compromises on partial decoupling of farm subsidies, perhaps up to 60 percent on subsidies on grains, and 40 percent on livestock. Commissioner Fischler reportedly insisting on at least 75 percent decoupling.

These half measures appear to be aimed at the Harbinson proposal to cap blue box subsidies and reduce them by half. Given the fact that the United States would not be able to use the blue box, and that Europe's blue box subsidies are on top of its amber box subsidies, which are subject to a limit that is three times the United States limit, I find it hard to see much reform in the EU

cap reform. And I think this foot dragging illustrates why I now like to talk about fair trade as opposed to free trade. Some who preach Free Trade think that the United States would be better off if it unilaterally reduced its tariffs, and ended subsidies. I agree that there are benefits to lowering our tariffs, which are not only taxes on our competitors, but also taxes on our own consumers. But I think we have even more to gain by negotiating with our trading partners for mutual changes in policy.

In his testimony today, Mr. Camerlo mentions the willingness of our dairy producers to give up export subsidies in exchange for Europe and the rest of the world doing the same. He goes on to say that contradictory as it may sound, to destroy export subsidies we must use them, which means using our DEIP program to the fullest extent needed. The same basic philosophy that I thought everyone understood, but there still seems to be those out in the world that do not understand the rationale of the farm bill that we passed in 2002.

Everybody talks about us increasing our subsidies, but all we did was increase the potential subsidization of our agriculture in America by what we are allowed to do by the agreements that we have already signed. In other words, we now are at the level we are allowed to be under law. And I hope everyone understands that I for one, and I believe the majority of this committee would gladly reduce all subsidies, if everybody did it. But everybody is not going to do it any time soon, so I like the approach suggested by Mr. Camerlo.

I would also like to quickly mention food aid. And I appreciate Mr. Stallman's comments on Food Aid in his testimony we will hear in a moment. I would encourage all of the commodity organizations here today, that have helped to make the U.S. food aid programs the most successful in the world to take a look at attachment 6 of the Harbinson paper which contains reporting requirements on food aid. Article 10-4 of the Uruguay Round already contains provisions adequate to ensure that food aid does not interfere with trade. Specifically, the Uruguay Round requires that aid not be tied to commercial sales, not create disincentives to recipient country production or marketing, and not displace commercial imports in the recipient country. These provisions are enforced by the Food Aid Convention, and the Foreign Agriculture Organization of the UN. Let's leave humanitarian aid to the experts at those agencies, and keep the WTO focused on trade. We do not need new provisions on food aid and the Doha Round.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Stenholm. We would acknowledge any other members who have opening statements. We would be happy to make them a part of the record.

PREPARED STATEMENT OF HON. NICK SMITH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Thank you Chairman Goodlatte and Ranking Member Stenholm for holding this important hearing to review multilateral and bilateral agricultural trade negotiations.

It is a tribute to our agriculture industry that we will export roughly \$57 billion in agricultural products in 2003. With nearly 25 percent of farm income resulting from agricultural exports, it is easy to decipher that the success, profitability, and future of American agriculture is directly dependent upon maintaining existing ex-

port markets and creating new market opportunities through free trade agreements like we are discussing here today.

To the groups represented on the panels today, I thank you for your informative testimony. At past hearings on agricultural trade negotiations, this committee has heard from representatives from the USDA and USTR. I believe that it is equally important to hear from groups such as yourselves who speak directly for the producers of these various agricultural commodities.

It is imperative that this administration and Congress continue to pursue free and fair agricultural trade agreements that allow U.S. producers to compete on a level playing field in the world market. Besides focusing on tariff reduction, export subsidies, and trade distorting domestic support policies, we should aggressively seek to strike down scientifically-unjustified barriers to trade such as regulations on GMO products and sanitary and phytosanitary (SPS) measures.

I also believe that it is equally important for both Congress and producers to take a hard look at our own domestic support programs to ensure that they are not negatively influencing domestic and foreign markets, which could in turn hinder our negotiating leverage and waste the opportunity to open new markets for our products through ongoing and future trade negotiations. Given a level playing field, I believe that our producers' efficiencies will allow them to not only compete but profit substantially on the world market.

PREPARED STATEMENT OF HON. MAX BURNS, A REPRESENTATIVE IN CONGRESS FROM  
THE STATE OF GEORGIA

Mr. Chairman, due to markup of H.R. 2210 (Head Start) in the Committee on Education and the Workforce, I was unable to attend the full committee hearing on multilateral and bilateral trade negotiations. However, I would like to thank you and Ranking Member Stenholm for holding a hearing on this important issue to the future of American agriculture. It is imperative that Ambassador Zoellick and the USTR increase market access for agriculture producers. I look forward to positive outcomes from the World Trade Organization's Fifth Ministerial meeting in Cancun, Mexico, and look forward to working with you in the future as multilateral and bilateral trade negotiations progress.

The CHAIRMAN. At this time we would like to welcome our first panel of witnesses. Mr. Hobe Bauhan, president of the Virginia Poultry Federation, in Harrisonburg, VA; Mr. Bob Stallman, president of the American Farm Bureau Federation; Mr. Ernest Reeves, National Cattlemen's Beef Association, Executive Committee member, from Mt. Solon, VA; Mr. John Caspers, president of National Pork Producers Council, Swaledale, IA, and Mr. Dennis McDonald, Trade Committee chairman of R-CALF USA, in Melville, MT.

I want to particularly note and welcome Mr. Bauhan and Mr. Reeves, who are from the Shenandoah Valley and the Sixth Congressional District of Virginia. I would like to welcome you all. Your full statements will be made a part of the record, and we would ask that you limit your comments to 5 minutes. And we will start with Mr. Bauhan.

**STATEMENT OF HOBEY BAUHAN, PRESIDENT, VIRGINIA  
POULTRY FEDERATION, INC., HARRISONBURG, VA**

Mr. BAUHAN. Good morning and thank you, Chairman Goodlatte, Congressman Stenholm, and committee members for this opportunity to present the U.S. poultry producers and processors views and recommendations regarding the very important issue of international agricultural trade negotiations. The issues for U.S. poultry are many, and this hearing can serve as an important opportunity to more fully and successfully address the many issues confronting agricultural trade negotiations. U.S. poultry companies appreciate the chairman's invitation to be part of this very vital discussion. It is our hope that our efforts can contribute to and be a part of a satisfactory resolution of these trade issues.

My name again is Hobey Bauhan, president of the Virginia Poultry Federation. In addition to representing my organization, I am pleased also to be representing today the National Chicken Council, the National Turkey Federation, and the USA Poultry and Egg Export Council. My organization, the Virginia Poultry Federation, was founded in 1925 and represents all sectors of the Virginia poultry industry. A healthy and robust export market is essential, not only for my member companies, but essential for all poultry companies across the United States.

I would appreciate my entire written statement will be included in the record of the hearing. And in the interest of adhering to my allotted time, I will forego presenting the body of my statement, and use my time to list the recommendations that are presented near the conclusion of my written statement.

Permit me to highlight these recommendations, they are: to continue to work diligently toward a successful conclusion to the Doha Round of WTO negotiations; continue to pursue the successful conclusion of bilateral free trade agreements that include acceptable provisions for poultry trade; continue to work aggressively to have full and complete compliance by signatories to agreements that have already been concluded; have trading partner agree to pre-determined procedures for an expedited resolution of sanitary and veterinary issues; withhold Congressional approval of graduating Russia from the annual review as provided by the Jackson-Vanik Amendment until U.S. poultry trade with Russia returns to more normal levels; withhold support for WTO membership for Russia, until Russia fully demonstrates it will abide by WTO rules; in the absence of a resolution for the Russia import quota issue for poultry that trade actions be pursued by the U.S. Trade Representative; that USDA organize a permanent, dedicated, full-time task force of USDA technical and scientific experts to be dispatched to trouble spot countries that are using non-science based sanitary and veterinary measures to disrupt or halt U.S. poultry and red meat exports, and finally provide the U.S. Trade Representatives Office with a more adequate budget so that more sufficient resources can be dedicated to resolving existing agricultural trade issues and preventing new issues from occurring.

I realize these issues may be difficult to fully appreciate without the information presented in my statement. Therefore I would be pleased to respond to any questions to help clarify and elaborate upon these recommendations.

Thank you for the opportunity to present our recommendations regarding agriculture trade negotiations and issues. As you will note from my prepared statement, U.S. poultry producers have a number of significant serious issues with a host of countries. It is my hope, and the hope of my fellow industry men, that U.S. poultry exports can increase in the years ahead. We are confident that with the support of this committee will help us achieve that necessary goal. I appreciate and look forward to that continued support. Thank you.

[The prepared statement of Mr. Bauhan appears at the conclusion of the hearing.]

The CHAIRMAN. Thank you, Mr. Bauhan. Mr. Stallman, we are pleased to have you with us today.

**STATEMENT OF BOB STALLMAN, PRESIDENT, AMERICAN  
FARM BUREAU FEDERATION**

Mr. STALLMAN. Thank you Mr. Chairman, Mr. Stenholm, members of the committee. It is certainly my pleasure to be here today to present the views of our farmer and rancher members on the current status of agricultural trade negotiations.

U.S. agriculture depends heavily on exports. Some farmers and ranchers would like us to turn our backs on trade and especially on efforts to expand foreign markets. These folks are understandably frustrated by foreign trade barriers and subsidies, which put us at a competitive disadvantage in many markets. However, we need to look for opportunities to improve the situation.

Agriculture's best opportunity to respond to the array of problems in the global market is the Doha Round of WTO trade negotiations.

The AFBF Board have spent a substantial amount of time discussing the Harbinson proposal. The board voted unanimously that the Farm Bureau position is that having no WTO agreement would be better than accepting a poor agreement, and that the current Harbinson proposal would be a poor agreement for American agriculture. While we have supported freer and fairer trade agreements in the past, and currently support the U.S. agricultural proposal for the Doha negotiations, we do not support the current Harbinson proposal.

However, we do believe it is important to provide a clear indication of our objectives for each of the specific topics to create a better understanding of what constitutes an acceptable agreement. We are encouraged by several provisions in Chairman Harbinson's current text:

The complete elimination of export subsidies has been an important an longstanding Farm Bureau objective. The Harbinson proposal is consistent with that goal of complete elimination and would do so under a mechanism that front load the stated phase-out of those subsidies. We would encourage a quicker phase-out than proposed.

Mr. Harbinson's approach to export State Trading Enterprises forces elimination of their monopolistic practices and increases transparency in their operations. There should be no watering-down of this proposal.

Mr. Stenholm commented on food aid. He is absolutely correct. We are glad the Harbinson proposal revised the initial proposal that was there, but it is going to involve a lot of monitoring during the negotiations to be sure that food aid isn't brought in as one of the negotiating items.

The text maintains the basic criteria for non-trade-distorting or (green box) domestic support. We strongly support maintaining that current criteria and ensuring there are no caps on non-trade-distorting support.

The Harbinson text does not open the Sanitary and Phytosanitary Agreement. We strongly support that provision and would adamantly oppose any changes to the SPS agreement. We urge strong resistance, to any attempts by the EU or others to allow social or economic considerations to form any basis for apply-

ing SPS measures in exchange for reduction in subsidies, tariffs or other negotiating issues.

Farm Bureau does have major concerns with other aspects of the Harbinson text. Only modest tariff cuts from the bound levels and the lack of harmonization in trade-distorting domestic supports are both extremely troublesome. We must truly level the playing field in this negotiation if we are to gain the support of America's farmers and ranchers.

And I will talk about some of the Harbinson modalities that would not produce a positive impact for U.S. agriculture.

Market Access. the Uruguay Round created inequitable, unbalanced access to markets. The Harbinson paper recognizes the problems of those tariff inequities and accepts the need for a mechanism to adjust them. However, he rejected the Swiss formula proposal advanced by the United States which we strongly support, in favor of a banding approach. The Harbinson approach contains some degree of tariff harmonization and we would not rule out such a technique, but it must result in significant improvement in the percentage of reductions so that the effect is commercially meaningful access to markets.

On applied tariffs, the United States also proposed that tariff cuts be implemented from applied rates, rather than bound rates. The Harbinson text, which proposes reductions only from bound rates would have almost no effect on the actual opening of many markets.

On special and differential treatment, GATT and WTO negotiations have traditionally recognized the developing countries, and particularly least developed countries may require S&D treatment under trade rules to give them more time to adjust to competition and to allow mechanisms to address some economic development. The Farm Bureau does not disagree with the need for S&D treatment, but is quite concerned about the Harbinson proposal which provides markedly lower levels of commitment and longer phase-in periods for developing countries.

Any S&D treatment should be temporary, narrowly targeted, transparent, and based on objective criteria.

On domestic supports, the Harbinson proposal addresses several Farm Bureau objectives, at least partly, but is woefully inadequate achieving an acceptably level of overall harmonization.

The blue box proposal does provide an option for elimination which we would support, however that is contingent upon significant reductions in amber box expenditures as the blue box is rolled into the amber box to result in a satisfactory level of harmonization.

On the amber box the Harbinson text accepts the European proposal for equal percentage reductions from unequal levels of domestic support that locks in place the disparities that exist now, and that is unacceptable.

Secretary Veneman characterized it accurately as a perpetuation of inequities. We have just completed an analysis of the Harbinson text, and have provided a copy of that to the committee, and I think it indicates why we need some significant change.

I will probably in the interest of time, I will let the written record stand with respect to our Free Trade Agreements and Chile FTA and FTAA. Thank you.

[The prepared statement of Mr. Stallman appears at the conclusion of the hearing.]

The CHAIRMAN. Thank you, Mr. Stallman. We are pleased to welcome Mr. Reeves. I would note a number of members of the committee staff and the staff of some individual members had the opportunity to visit your farm in Mt. Solon, and we were all very impressed. We are delighted that we are able to have you up here today as well. Welcome.

**STATEMENT OF ERNEST S. REEVES, REGIONAL VICE PRESIDENT, POLICY, NATIONAL CATTLEMEN'S BEEF ASSOCIATION**

Mr. REEVES. Thank you Chairman Goodlatte and members of the committee. National Cattlemen's Beef Association appreciates the opportunity to present our views on the current situation regarding multilateral and bilateral agricultural trade and negotiations. I am Ernie Reeves, NCBA vice president for policy from Mt. Solon, Virginia.

NCBA supports trade initiatives that reduce barriers to access for U.S. beef. NCBA and many other U.S. agricultural organizations worked tirelessly for Trade Promotion Authority to support the administration's pro-trade agenda. We support this agenda because it is the right thing to do for U.S. agriculture and for the country. Trade liberalization has been a key to economic growth for centuries. Nonetheless, there is concern that past negotiations have given more access than we have received. We need trade agreements that provide opportunities for U.S. beef producers to expand their ability to export product.

The United States is the world's largest beef importer and the second largest beef exporter. In 2002, the U.S. imported approximately \$2.8 billion of beef and variety meats and exported \$3.2 billion. Due to the unique position of our industry as importer and exporter, NCBA must consider balance, equity, and fairness of proposed trade initiatives to assure that any agreement provides net access for U.S. beef.

In a world of unlimited trade issues and limited negotiating resources, NCBA strongly prefers focusing on the World Trade Organization's Doha Round multilateral initiative. Expansion of market access for U.S. beef during the past decade was directly related to negotiations during the Uruguay Round. NCBA will not support increased access to U.S. beef market until meaningful access and tariff reduction is achieved in other major beef importing countries.

NAFTA has contributed to a 33 percent increase in per capita income over the last 5 years for Mexico's 103 million citizens. This increase in disposable income has led directly to increased Mexican beef consumption. From an inconsistent market of about 100,000 million metric tons and \$200 million prior to NAFTA, Mexico was our most significant market in terms of tonnage in 2002 of 350,000 metric tons, \$854 million.

This is a mutually beneficial trading relationship, as U.S. also imports around 1 million head of Mexican feeder cattle each year that have a value of over \$300 million. In fact, today's integrated

North American cattle market now looks very much like what was envisioned a decade ago by NAFTA proponents of consumer-driven economic signals dictating the future direction of this industry.

Increasing trade relationships with Central American countries will contribute to economic growth, political stability, bolster front-line defenses against the introduction of foreign animal diseases into North America and have the potential to moderately increase U.S. exports of high quality beef.

With these negotiations soon reaching a critical phase, NCBA believes there are three key aspects that need to be considered. The first is that this agreement must not exclude any agricultural product. The second, the five participating Central American Governments must begin to understand that U.S. congressional ratification of this agreement will be difficult and improbable without the support of U.S. agriculture on Capitol Hill. Third, the beef industry does not consider it acceptable for the participating countries to increase their tariffs from the current applied rates to the WTO bound rates prior to harmonization, so as to negotiate down from a higher level. We expect our Central American trading partners to negotiate this agreement in good faith—market access negotiations on tariff rate should start at the current applied tariff rates.

The United States is already the most open, least restricted major beef market in the world and NCBA firmly believes that there would be no-net benefit for the U.S. cattle industry from an FTA with Australia. We continue to believe that the multilateral WTO negotiations provide the best strategy for reducing unfair trade barriers and opening markets for U.S. agricultural products.

Australia did not fill its TRQ in 2002. Therefore, NCBA does not believe that increasing Australia's access to the U.S. beef market is warranted. Conversely, Australia will never be a market of any consequence for U.S. beef.

Recent developments regarding the timeline for negotiating this agreement are very concerning to NCBA. The shadow this situation casts over our long-time support of trade liberalization can only be brightened via greater multilateral access negotiated on a parallel track.

At this moment, NCBA is currently embroiled in challenges in a relationship with our top two customers: Mexico and Japan. We are also constantly reminded of our long-standing dispute with the EU, a case that our industry clearly won but has yet to fully resolve.

The United States must hold its trading partners to commitments agreed to in previous trade agreements and aggressively negotiate access for U.S. agricultural commodities, or risk losing public support for trade and international marketing. NCBA firmly believes that any expansion of access to the U.S. beef market must be part of an overall package that gains access for U.S. beef exports. NCBA will oppose any agreement that allows a net increase in access to a U.S. beef market. A strong, clear and irrevocable message must be sent to Cairns Group and Mercosur beef exporting countries, that no increased access to U.S. beef market will be forthcoming until meaningful access and tariff reduction is achieved in other major beef importing countries.

NCBA appreciates the initiatives that have been undertaken to gain access to international markets and to resolve lingering issues

that restrict the ability of the U.S. beef industry to offer its products to international consumers. We look forward to working with all of our trading partners to address industry concerns about current global disparities in market access, export subsidies and domestic support, as well as maintaining the disease-free status of the U.S. herd. Thank you for the opportunity to present this information before the committee. I'd be willing to answer questions at the appropriate time.

[The prepared statement of Mr. Reeves appears at the conclusion of the hearing.]

The CHAIRMAN. Thank you, Mr. Reeves. Mr. Caspers, welcome.

**STATEMENT OF JON CASPERS, PRESIDENT, NATIONAL PORK PRODUCERS COUNCIL, SWALEDALE, IA**

Mr. CASPERS. Thank you. Mr. Chairman and members of the committee, I am Jon Caspers, a pork producer from Swaledale, Iowa, and currently President of the National Pork Producers Council.

In 2002, U.S. pork exports set another export record. Much of the growth in U.S. pork exports is directly attributable to new and expanded market access through recent trade agreements. However, as the benefits of the Uruguay Round and the North American Free Trade Agreement begin to diminish, the negotiation of new trade agreements becomes paramount to the continued growth and profitability of U.S. pork producers.

While the WTO negotiations clearly offer the single largest opportunity to increase exports, the bilateral and regional negotiations also offer significant opportunity. We support the recently signed U.S. Chile Free Trade Agreement, and have provided specifics in my written statement.

While U.S. pork producers and others in U.S. agriculture have benefited significantly from past trade agreements, we must all remain vigilant in protecting the gains made in past trade agreements. It is imperative that the United States act decisively to protect the gains made in past trade agreements in order to retain and shore up support in U.S. agriculture for new trade agreement initiatives.

Effective May 26 of this year, Mexico terminated its antidumping duty order on U.S. live hogs. While this is a most welcome development, Mexico's most recent actions with respect to U.S. pork imperil the livelihoods of thousands of U.S. pork producers.

Like the U.S. and other countries, Mexico has a right to use its trade laws. However, Mexico does not have license to flaunt WTO rules and use its trade laws as a tool of protectionism. The antidumping investigation that Mexico initiated against U.S. pork exports on January 7, is probably the greatest abuse ever of WTO antidumping rules. As underscored by USTR in its discussions with Mexico, the case is illegally initiated and must be terminated.

In addition to the illegal initiation of an antidumping case against U.S. pork, Mexico continues to illegally stop U.S. pork production at the border for alleged sanitary concerns. In December 2002, large quantities of U.S. pork were rejected at the border for unjustifiable sulfamethazine concerns costing the U.S. pork industry millions of dollars in losses. Earlier this year, Mexico slowed

U.S. pork exports by testing for copper and other metals. And most recently, Mexico has promulgated new regulations which are clearly intended to restrict U.S. pork, beef, and poultry exports to Mexico.

To make matters even worse, Mexican producers and members of the Mexican Congress are claiming, based on dubious data that U.S. pork exports to Mexico have increased in 2003. As detailed in the table in my written statement, the preliminary Mexican statistics overstate U.S. exports by approximately 38 million kilos, or 499 percent in January 2003. And by approximately 10 million kilos or 157 percent in February 2003.

This gap between the U.S. and Mexican data is far outside the historical variance and can only have been caused by incorrect data. In fact as demonstrated by the official U.S. exports statistics, U.S. exports of pork are decreasing in 2003. It is imperative that the U.S. Government convince the Mexican Government to base its decision in the antidumping case on accurate import data.

The preliminary determination in the antidumping investigation could be issued imminently. The possibility of an affirmative finding of injury by Mexico with the imposition of trade restricting antidumping duties, is exacerbated by these suspect data.

The stakes in Mexico are very high for U.S. pork producers and any interruption of our pork exports to Mexico, whether through a trade case or through legislative or regulatory means would be catastrophic for the industry. Mexico is the second largest export market for the U.S. pork industry. In 2002, the U.S. exported to Mexico almost 218,000 metric tons of pork valued at \$252 million.

There is no good time to lose a major export market, but U.S. pork producers are particularly vulnerable at the present time. The average U.S. pork producer has endured 18 straight months of losses. If the Mexicans place antidumping duties on U.S. pork or take other action to restrict U.S. pork exports, U.S. hog prices will decline and thousands of producers will be forced out of business.

Mr. Chairman, I thank you for the opportunity to present this statement.

[The prepared statement of Mr. Caspers appears at the conclusion of the hearing.]

The CHAIRMAN. Thank you, Mr. Caspers. Mr. McDonald, welcome.

**STATEMENT OF DENNIS McDONALD, INTERNATIONAL MARKETS COMMITTEE CHAIRMAN, R-CALF USA, MELVILLE, MT**

Mr. McDONALD. Yes, thank you Mr. Chairman, ranking member Stenholm, Congressman Rehberg from Montana, and members of the committee.

My name is Dennis McDonald, and my wife Sharon, of 26 years and our four children, own and operate the Open Spear Ranch located in South Central Montana. I serve as International Markets Committee chairman for R-CALF. I have served for 4 years as a USDA Trade Advisory Committee member for livestock. And serve as vice president of the Montana Cattlemen's Association.

I would like to start by commending USTR on working to expand agricultural trade and reduce trade barriers around the globe. I

also would like to applaud the administration, as our chairman pointed out earlier, on their stands with Mexico vis-a-vis U.S. beef.

Today, I would like to focus my comments on special rules to address distinct issues associated with perishable, seasonal and cyclical agricultural products.

I am probably a typical cattle producer in Montana, raising a cow herd to produce weaning calves at around 600 pounds. And then I background my cattle at the ranch to a weight of 700 to 750 pounds. Thereafter, with varying degrees of success or lack thereof, I make a judgment on the market and either sell the calves as feeders, or send them on to a feed lot to be finished as slaughter ready cattle. Cattle that are fed to a finished rate of 1,250 to 1,300 pounds, must be processed when ready. A producer feeding cattle has little choice when the cattle are ready for slaughter. When they are ready, they are ready. I call it gate to plate. To continue to feed cattle after they have reached their prime, may cost the producer in quality and added feed costs. Thus, cattle have been properly classified as a perishable and cyclical agricultural product.

When Congress passed the Trade Promotion Act, Congress addressed the particular problems facing producers of perishable and cyclical products. Cattle at that time were recognized legally as such a product. Incorporating changes to WTO rules, recognizing perishable seasonal and cyclical products is critical to the health of the U.S. cattle and beef industry.

In March of this year, USTR tabled a paper in Doha Round rules urging that the WTO members clarify and improve the rules for antidumping and countervailing duty investigations. While this was a major solid first step, more needs to be done. R-CALF looks forward to making the special rules more specific and concrete as we approach the Cancun Ministerial, which I will attend.

To emphasize the practical need for special rules affecting perishable and cyclical products, I ask you to recall the depressed cattle prices in the years from 1996 through 1998.

When imports surge causing a corresponding collapse in prices. During this depressed cattle market, producers suffered greatly as did our rural communities. This devastating depression in our industry could have been softened and shortened if we had in place special rules to deal with these special circumstances.

Special rules for perishable and cyclical products. While not the only approach to alleviate such special problems faced by the perishable agricultural producers, it is potentially the most effective. An example of a simple fix to the problem is to modify the existing special safeguard provisions contained in article 5 to tailor them to apply only to perishable, agricultural products.

And I see my time is about up. So let me make a general statement. I believe U.S. cattle producers can compete in the global market, despite the fact that our costs of production is often three and four times that of our foreign competitors because we raised the best product in the world, the safest, cleanest in an environmentally sound matter. But we need special rules to protect the industry from those rare situations, where surges in imports result in collapsing prices.

Thank you.

[The prepared statement of Mr. McDonald appears at the conclusion of the hearing.]

The CHAIRMAN. Thank you, Mr. McDonald. Let me announce to the committee members because we have such great interest in this. Since we have three panels, I am going to strictly enforce the 5-minute rule on questions, including on myself.

I will start with a question for you, Mr. Stallman. You attached to your testimony a very useful analysis of the proposal from the WTO Agricultural Committee Chairman Harbinson. It shows the pluses and minuses for U.S. agriculture and you state that the Harbinson proposal must be improved, which I fully agree with. What do you see as the next step in the WTO negotiations, taking note of the fact that between now and then, there is not likely to be another Harbinson paper before the next ministerial?

Mr. STALLMAN. Well the next step has to be to come to some agreement on agricultural modalities. I mean the Harbinson paper is a text that is out there, but since no one accepts it, that is: (a) not the only thing out there, but (b) it is not anything that really is a document they are working from at this point. So prior to the ministerial in Cancun there will be discussions. If the ministerial in Cancun provides pressure to move in the direction of an agreement on the modalities, that might create some additional text or working text. But at this point, the next step is for countries to agree on what the modalities are.

The CHAIRMAN. Any suggestions about how we move that process forward in the months before the next meeting in Cancun?

Mr. STALLMAN. Well not by giving in essence to what the other side wants to do with respect to the negotiations. I think we just have to stand firm. I think we need to work on the other sectors, which the USTR is doing to provide some balance. Because a lot of these countries will have to make political decisions there will be great benefits in this WTO round beyond agriculture for some of these countries, and they have to make the tough political decisions to in essence, say OK it is time to reform agricultural trade in the world, but in return we get benefits from these other sectors.

The CHAIRMAN. Thank you. Mr. Bauhan, I know you have been following the proposed Russian accession to the World Trade Organization. What recommendations would you have for the administration regarding those negotiations? You cite as one of your recommendations that the U.S. should withhold support for WTO membership for Russia until Russia fully demonstrates that it will abide by WTO rules. And given the situation with trade in poultry, which I have a keen interest in as you do, what would in your mind demonstrate to you that Russia is abiding by WTO rules and will in the future?

Mr. BAUHAN. Well obviously, we need to stay on the course with Russia, and put as much pressure on them as possible. We don't know and we supposedly have a resolution of sanitary and veterinary standards, and they have inspected U.S. plants, but we have not heard their ultimate response on that. And so it is very important that, that be resolved by July 1 or exports are going to shut down again. In terms of—does that answer your question?

The CHAIRMAN. Well I am curious what you think about the course of the negotiations that have taken place, and their various

on again, off again actions taken by the Russians in terms of my question about their reliability as a trading partner. If they were to accede to the WTO, are they going to abide by WTO rules, or are we going to continue to have the same type of situation, that we have had for the last several months?

Mr. BAUHAN. Well Mr. Chairman, our key problem that we have right now is the quota system that has been proposed, which will limit exports by about one-half to Russia, and as I think 51 Members of the U.S. Senate, and 140 Members of the House have urged the U.S. Trade Representative to consider pursuing official petition of action against Russia. I think in terms of a demonstration by Russia, it would be that exports be allowed to return to the more normal levels that they were before they were cut off in 2002. And I think some resolution on this quota issue would help move in that direction.

The CHAIRMAN. Thank you. Mr. Reeves, very briefly, the Free Trade Agreement with Mexico, you cite that NAFTA in your testimony has a positive development for the U.S. notwithstanding some of the concerns we have about Mexican antidumping orders. Do you see any similar opportunities for other countries in the Free Trade area of the Americas?

Mr. REEVES. Well we would certainly welcome the opportunity to increase our exports to any of the countries. And yes, we think there are 500 million consumers in those countries that have the potential to possibly increase their imports of the U.S. beef.

The CHAIRMAN. Thank you very much. The gentleman from Texas.

Mr. STENHOLM. A question for Mr. Reeves and Mr. McDonald. A recurrent theme in the testimony we will receive today is that because of the Harbinson papers reduces tariff levels from bound rates, not for tariff rates actually applied, which are lower, many countries choose not to charge as much as they are allowed to under the Uruguay Round. The reductions will not help U.S. agriculture producers to increase exports from current levels. A recent study by FAPRI—Food and Agriculture Policy Research—concludes that the reduction in tariffs on beef that would be required under the Harbinson paper would be unlikely to significantly increase exports, specifically because the current world beef bound tariffs average 70 percent. The required Harbinson reduction would be 21 percent, leaving the new bound rate at 49 percent. And right now, the current applied tariffs are averaging only 20 percent. So the reduction of the bounded rate to 49 percent would not do anything, according to FAPRI. Do you agree with the FAPRI analysis, and if so, would a Doha Round agreement based on the Harbinson paper lead to the type of increased reciprocal access you called for as a condition of your support for the Free Trade Agreement of the Americas, and the FTA with Australia?

Mr. REEVES. We do not think the Harbinson paper goes far enough in the reductions.

Mr. McDONALD. R-CALF's position generally we agree with the basis of the Harbinson paper. But again, market access whatever the numbers ultimately become, it is only part of the equation. Again, we would emphasize that the implementation of the thesis

of the Harbinson paper without special rules for perishable and cyclical products will put the cattle industry in jeopardy.

Mr. STENHOLM. Thank you very much.

The CHAIRMAN. Thank you. The gentleman from Michigan, Mr. Smith.

Mr. SMITH. Thank you very much, and gentlemen, thank you for your studying and your expertise in advising us where we go on trade negotiations. I am a member of the International Relations Committee, and as I meet with delegations throughout the world, often their criticisms are large subsidies from the current Farm Program Legislation that we recently passed. And it is just I think important for all of us to remind them that subsidies to agriculture to farmers under this farm bill is actually less than it was the 3 years prior to the farm bill. But it does bring up a question of how much we in this country, and how much are other countries going to protect their agricultural industry?

It is my opinion that any subsidy to farmers is to a certain extent trade distorting. But is also I think most of us agree that Europe is going to play games with us to protect their agriculture, regardless of the current color coding of the boxes that designate trade distortion.

My question is should we export below the cost of production, and how, if on a long-range basis? I think my answer is no, we shouldn't. The other question is to what extent are direct payments to farmers trade distorting in your mind, if we do away with what is currently identified as trade distortion subsidies? And for example—or suppose the EU gives each one of their farmers 1,000 Euros or 100,000 Euros a piece, as if they are farmers regardless of whether or not they produce. And then there's an encouragement through some other form, say property tax subsidies or something, that if they produce 90 percent of their livestock or poultry or crops, they cannot pay property tax. I am just supposing you know what we might involve into. Just give me your opinion on subsidies, all subsidies to the extent of being trade distorting, and are we going to eventually face a problem where what is currently not considered trade distorting, are really trade distorting? I don't know if I said that clearly enough. That is why I practiced earlier on. But let's just go right down the line and start with you, Mr. Bauhan.

Mr. BAUHAN. OK, thank you. Some of my colleagues here might be better prepared to discuss direct payments. The poultry industry doesn't receive any, but we are certainly very much impacted and we are very concerned about particularly export subsidies that are distorting markets and impacting our ability to trade with a variety of countries.

Mr. SMITH. Mr. Stallman.

Mr. STALLMAN. Well, you are right that all public support somehow affects economics to producers, and then therefore would have a trade impact. But there is a continuum for most distorting to least trade distorting. And I think the goal of this negotiation is to move most trade distorting, eliminate or move most of the trade distorting into a least trade distorting category. I mean, even research, conservation, those kind of things have an economic impact. But the key is to do away with the worse offenders, like export sub-

sidies, those sorts of things. Moving to decoupled payments is less trade distorting than having coupled payments, and so those are the goals of the negotiations.

Mr. SMITH. Any comment that you would have Mr. Stallman on the policy of exporting below the cost of production on a long-range basis, which we are in some of our commodities, partially because of our subsidies?

Mr. STALLMAN. Well, if we had a world in which you didn't have the distortions created by various trade and supports, in that case I would suggest you wouldn't be exporting below your cost of production very long. But as a mechanism to maintain a production base in the face of these international distortions and trade, I think it is something we do in the interim while we move forward to go ahead and try to negotiate away some of these distortions.

Mr. SMITH. And just briefly, Mr. Reeves, and then Mr. Caspers, and then Mr. McDonald.

Mr. REEVES. Cattlemen traditionally have not received direct payments, although we have received cost share help in our environmental measures, and also in meeting some EPA requirements that we face. So I guess we are only affected to that amount, but we believe that any help we get, we would like to have in helping open up markets to our products.

Mr. SMITH. Mr. Caspers, similar in pork?

Mr. CASPERS. Well, thank you. I guess your comments about exporting below cost, I appreciate those. I don't think we have to export below cost. I think we can be a competitive producer. I think it is imperative that we take a look though at our industries, and how Government policies, regulations and things like that continue to impact our industries. We need to make sure that we remain a competitive producer of agricultural commodities, if in the long-term we are going to export those products. I think primarily we are concerned more with many trade distorting subsidies, whether it is exporter of domestic subsidies that impact our markets, also import tariffs, and other non-tariff barriers. They more directly affect us now, and there are other ways to subsidize. I am sure we will see some of those things occur, but if that does, I think we just need to make sure on the U.S. basis, we are on a level playing field.

Mr. SMITH. Mr. McDonald, I think my time is up. But your quick comment?

Mr. MCDONALD. Thank you. As Mr. Reeves said the cattle industry has traditionally not received direct payment, and R-CALF certainly supports the position for the elimination of trade distorting subsidies vis-a-vis the cattle and beef. But your example is well taken and points out the need for us to be vigilant in examining all of these proposals that may be coming forth from the European Union and others with regard to subsidies.

Mr. SMITH. Mr. Chairman, thank you. My concern is European farmers get subsidized five times as much as American farmers, and I don't—as much as we try, it is going to be difficult to stop them. Thank you, Mr. Chairman.

[The prepared statement of Mr. Smith appears at the conclusion of the hearing.]

The CHAIRMAN. Thank you, gentlemen. The gentleman from California, Mr. Dooley.

Mr. DOOLEY. Thank you, Mr. Chairman. And following up on your question to Mr. Stenholm. I guess I am struggling with in terms of what is the best strategy, and the policy to approach the Doha Round for agriculture. There is a lot of criticism of the Harbinson text, which is really in some ways is the starting point of negotiations, or what could contribute to developing the modalities for the starting point. Mr. Stallman, in your testimony you folks did an excellent job in identifying, some of the potential impacts. Taking in your testimony, we acknowledge that there is going to be with the EU alone, which is primarily the problem we are facing internationally in trade distorting subsidies, is that there will be 60 percent reduction in their amber box payments, which would be from \$56.4 billion down to \$28.8 billion. That would also be the same amount of money that they would spread over the expanded EU as I understand it. So it is a further delusion. We would like to see the immediate elimination of export subsidies, but we get what Harbinson is proposing zero for 50 percent of the commodity, or aggregate spending over 6 years and all total elimination over 10 years. We have a 50 percent reduction in the blue box expenditures. Not that is not everything we want, I would acknowledge that. But are we in a situation where our failure to even begin negotiations will result in a postponement of the WTO, the Doha Round, which perpetuates the status quo, which we all acknowledge is an unlevel playing field today. So I don't understand exactly when we come to make a decision in terms of we are better off trying to make some progress in beginning negotiations, versus the failure to move forward at all, where we perpetuate what clearly is a unlevel playing field?

Mr. STALLMAN. Well, I would concur that we need to work to move forward. The question becomes where do you draw the lines as to what constitutes a good agreement for American agriculture, versus the status quo? Because it is conceivable that depending on how the reductions were negotiated for the three pillars, the market access, domestic supports and export subsidies, we could be—even though you reduce those, at some level we could be relatively worse off, if we are not careful. And I think that is the challenge, is to figure out where those lines are. And the way we are looking at it is number one, exports subsidies are the worse, the EU uses them the most, and they have to be removed the quickest. And that is why we characterize the quicker phase-out was absolutely needed. But then you have the trade off between market access and domestic supports. And what we need in market access is commercially meaningful market access, and then we have to balance the positive economic affects of that, with whatever negatives there are for reducing domestic supports. And so all of that is what is going to have to be considered when we go into these negotiations. Something is better than nothing as long as we don't end up worse than we are now.

Mr. DOOLEY. I guess where I am still struggling, and I really am not sure what the right strategy is at this point. But I am very concerned that the Doha Round is on the verge of imploding in part because of what we have seen with the failure in EU to address

some of their decoupling proposals, just as recent as the last 3 weeks. But we have a proposal as a starting point that zeros out export subsidies over 10 years. Maybe we would like it to be a little more rapidly. Maybe we can negotiate that a little more rapidly. But yet we have now I hear almost from every agriculture commodity group out there, they are saying we can't even begin negotiations unless we have a commitment by all the parties that we are going to have a quicker phase out. Well, we are almost setting ourselves up for us to be the fall guy for the failure to begin negotiations which is going to result in the continuation of the status quo. And I don't know as a farmer how that is in our longer term interest. I would agree with your premise here is that we want to make sure we see progress, but if we can't even engage in negotiations, there is no opportunity for progress. And so we end up with what we have now, and I just, I don't know where our strategy is moving forward is we can even create an environment where we can begin negotiations. And I think right now, we are almost setting the stage for the United States being the fall guy for the WTO, or the Doha Round moving forward, and thus all of our farmers are going to be faced with the same inequities that we currently are trying to deal with.

The CHAIRMAN. Does anyone have any comments? I think you have stumped the panel. The gentleman from Minnesota, Mr. Gutknecht.

Mr. GUTKNECHT. Thank you, Mr. Chairman. I am going to change the direction slightly because I have become so involved in this whole issue of how we deal with different products coming in and going out from our country. And ultimately, this is a trade issue. The issue I have gotten involved with is pharmaceuticals. Now you may say well, what does that have to do with farmers? It is interesting that many of the farm chemical companies are owned by the big pharmaceutical companies. And that is where the tie in comes. Mr. McDonald, you are probably familiar that if you are close to the Canadian border, that American farmers pay anywhere from 20 to 40 percent more for the same farm chemicals, compared to what those chemicals are priced at in Canada. Am I correct?

Mr. McDONALD. Absolutely, and it puts Montana producers and U.S. producers generally at a disadvantage right from the beginning. But that is in part what I was eluding to when I was talking about our cost of production being higher than many of our foreign competitors.

Mr. GUTKNECHT. Well, the reason I bring that up is I have become very involved in the prescription drug issue. And it is just amazing to me, the more I learn about it, the differences between what Americans are forced to pay and what consumers around the rest of the world are paying.

Mr. Chairman, I don't know if it is appropriate to submit this for the record, but I have a chart here of some prescription drugs, and the difference between what we pay, and what Germans pay for the same drugs.

It is not just Canada, and it is not just Mexico, it is most of the industrialized world. And the issue that is always raised by our FDA, that it is the Food and Drug Administration, is about safety.

It really is in my opinion nonsense because it is amazing to me to learn how much food we import everyday. It is literally thousands of tons of foods of all kinds. But they raise the issue of safety, and here is the point I want to make. I believe my numbers are correct. Now I don't have my actual chart that we got from CDC, but in 1998, 1,468 Americans became seriously ill, and now we don't know how many of them ultimately died. But 1,468 Americans became seriously ill from eating raspberries from Guatemala.

So we suspended raspberries from Guatemala for a short period of time, but not very long. Because the very next year, 1,160 of our American citizens became ill again from eating Guatemalan raspberries. The reason I want to make that point is when we start talking about trade policy, it seems to me we need to talk about imports and exports. We need to talk about open markets.

Ultimately, Mr. Chairman it seems to me we have a responsibility on this committee to try and ask the question: Why is it that American farmers are required to pay so much more for many of their imports than people in other countries? We talk about price so often and what farmers receive on the output side. But we have spent precious little time exploring why is it that American farmers are held hostage. And more importantly, as Mr. McDonald would probably admit, along the border, they will do everything they can to keep you from going to Canada to buy your RoundUp, or whatever the chemical is. I just want to make this point for the record that if we can have open markets, and we are going to see a glut of Canadian beef coming into our market sooner or later because of what has happened over the last 6 or 8 weeks. And when that opens up, I think it is fair to assume that the price of beef here in the United States is probably going to come down. But if we can have open markets for pork bellies and beef, why can't we have open markets for Prilosec and RoundUp? And maybe perhaps one of you, wants to talk about that.

Mr. McDONALD. Well, I would—just on the same theme, it is not just the farm chemicals. It is the wormers that we use in the cattle industry, the vaccines that we use, the antibiotics that from time to time we use; it runs the whole gamut. And again, it increases our cost of production, which makes it difficult for us to compete with our foreign competitors.

The CHAIRMAN. I thank the gentleman. The gentleman from Colorado, Mr. Udall.

Mr. UDALL. Thank you, Mr. Chairman. I at this time don't have any questions for the panel, but I did want to thank the panel for being here today. It has been very informative for me and I in part am going to pass at this point, because on the second panel, we have a Coloradian. Mr. Camerlo, I am eager to hear what he has to say.

The CHAIRMAN. I thank the gentleman. The gentleman from North Carolina, Mr. Hayes.

Mr. HAYES. Thank you, Mr. Chairman, and thanks to all of you all and the other panel members who will be here. A question first on Mexico. What is the consensus of the panel on these specifics you have on are we making any progress resolving the sanitary issues that are before us?

Mr. BAUHAN. I think there is some progress that has been made. There have been some agreements, but we have to be very vigilant in trying to continue to work with the Mexicans. And we have been talking about these export subsidies. Well, one of the key issues that we face in the poultry industry are other countries taking non-science based actions based on sanitary and veterinary issues. And we have seen that with Mexico and other countries, and it is going to be a continuing concern that we are going to have to work very hard on.

Mr. HAYES. Would anyone else like to comment on that?

Mr. STALLMAN. Well, Mexico is a huge problem right now with respect to agricultural trade, and that is probably an understatement. But it can get really serious for two reasons. One is the actual effects on our trade and blocking our products at the borders, whether it is for SPS reasons, or other concocted reasons. The other difficulty we face is the message it sends to those who have to make a decision to support more trade or not, because if we have a NAFTA agreement, it is not being enforced and it is being ignored in many cases, not to mention the WTO rules. Then that sets the stage if we don't as a Government work to resolve those issues and take them to task, then that lessens I think the support for trade, because our producers say well, what is the use? And incidentally, I am headed down there this afternoon to make the case in Mexico City that we need to honor the NAFTA agreement. Otherwise, the consequences are going to be bad economically for both countries.

Mr. HAYES. It didn't seem like the Mexicans were there for us in Iraq either. Mr. Caspers.

Mr. CASPERS. Well, Congressman, in a way that is a major concern, and frankly we don't see a lot of improvement yet at this point. I think it is imperative that the U.S. Government, USTR, and anybody else that can help continue to keep pressure on to enforce the NAFTA agreement as we have it. We had the expiration of all quotas and tariffs January 1 of this year on pork going in. And in response to that, I think we have seen a lot of political pressure placed on the parties in power there. And we have seen the Pam Party, the President Fox, and the PRI Party that has been in power for more than 70 years prior both at other times very supportive of the NAFTA agreement, and now all of a sudden they seem to be outright pandering to a lot of the commotion in the countryside that they are claiming that they can't live under this agreement, even though there has been huge benefits for Mexico in general and their economy.

We are concerned about the continuing offering of the new sanitary regulations that they spring on suddenly and intend to enforce 4 days later in violation of trade agreements. They start looking for heavy metals that are just generally not a concern in the type of products we are talking about. We continue to see this litany of things coming out of them, and we don't say any resolution yet, at this point.

Mr. HAYES. You raised a very important issue, and that was my next question. Comment in general or specifically, as it relates your specific area of expertise, on the continuing problem we have with artificial trade barriers, both Mexico and other countries.

Mr. CASPERS. Well, I think it is common to see that just in general, as tariffs come down and as quotas are removed under the trade agreement, there is certainly a big incentive then to find other ways to restrict trade without those things, the tariffs in place. And so it is very common. I think we see it. I think it is why I think we need to change focus in the trade agreements now to make sure we enforce our current free trade status in a number of the countries from the Uruguay Round. But I think we had a good example here in the recently signed treaty with Chile, the Free Trade Agreement there. When that negotiation was going on, there was a side by side companion negotiation on sanitary and phytosanitary issues, and they have agreed now in Chile to adopt our U.S. meat inspection system as equivalent to theirs, so that we won't have to go through any individual plant inspection and things like that. I think those kind of things can occur, and they need to occur up front in the new rounds of trade negotiations that are really brought forth by our ability to negotiate now with the passage of trade promotion authority.

Mr. HAYES. Well, thank you again for being here as we look at future trade potential agreements. Mr. Dooley pointed out some, but CAFTA and other proposed agreements like that, we really appreciate you all helping us keep our eye on the ball as we negotiate on behalf of the American farmer and the American consumer.

The CHAIRMAN. Thank you, gentlemen. The gentleman from Georgia, Mr. Scott, is recognized.

Mr. SCOTT. Yes, thank you. Thank you very much, Mr. Chairman. I am going to ask a question to I think Mr. Stallman, or perhaps someone else may want to mention as well. Given our trade policies that we have enacted over the last few years, there appears to be more and more of a dependency of our food chain and our food products coming from foreign areas. And there is rising concern about the threats of terrorist attack that might be, could very well be imminent to our food chain, given our trade policies and our dependency now on more and more nations providing our food to us and the change on it. And I am wondering what could we tell the people of America, how safe are we from a terrorist attack on our food chain, given our dependency so much now on so much of our food products coming from foreign countries? And particularly, due to the fact that many of these foreign countries do not have the level of standards of inspections of their food products that come into this country that match our own. I use, for example, just in my own State of Georgia, let's look at tomatoes. And in this country now, I understand that 80 percent of our tomatoes are coming in from Mexico and from other countries that don't have that standard. Just how safe is our food chain, and are our trade policies maybe making us more vulnerable? Then I have a follow-up question.

Mr. STALLMAN. Well, that question probably extends beyond my area of expertise, but your first question about is our food safety, I think in the United States we are fortunate to have one of the best food safety systems in the world. Our consumers have a lot of confidence in our food safety system contrast that with the European consumers, who have almost zero confidence in their food safety system. We are vigilant. We have interacted with the USDA

and others in protecting our borders from products coming in, whether they are harmful to consumers for unintentional or intentional reasons. And I think we just have to be ever vigilant. That is why the role of our inspection border inspection systems is so important. But at the same time I don't think you can ever guarantee that there will not be some adulteration at some point, whether accidentally or not. But the point is, you have a food safety system that is vigilant and that is ready to respond quickly. And I think we have that in this country, and I think that we are fortunate.

Mr. SCOTT. Let me follow-up for a moment. Mr. Bauhan, you mentioned in your testimony earlier about the idea of creation of a USDA task force could be created. What impact would you like to see this task force have, let's say on the poultry industry, which again is a key industry in my State of Georgia?

Mr. BAUHAN. Right. Well, as I mentioned a few minutes ago, we are having a lot of issues around the globe with countries taking actions against U.S. poultry products. In some cases, they are just downright arbitrary actions. And in many cases, they are not based on sound science and they are intended to protect the domestic poultry industry of that country. And I think that resolving these issues needs to be a key component of our ongoing discussions, and that if we have a task force that could focus in on that, it would certainly help keep our eye on the ball, and try to get these problems resolved before they can do significant harm to our industry. And the examples are numerous of the negative economic impacts to the poultry industry based on unscientific actions that have been taken.

Mr. SCOTT. Thank you. Thank you very much.

The CHAIRMAN. The gentleman from South Dakota, Mr. Janklow.

Mr. JANKLOW. Thank you, Mr. Chairman. I think I am only going to have one basic question for you folks. Let me just commend you all. The testimony you have given, it is unfortunate—and your written testimony. Frankly it is unfortunate that everybody in America can't read and understand this stuff. Only a limited number of us get the privilege to hear it, because it is from this kind of information people can make decisions. I understand the candidates for office have all of the answers. Once you get in office, we don't have that many. But as candidates, we do. I listened to the testimony. We have got all of these agreements. We have got our neighbor to the north, Canada. I love the Canadians, and I mean that. When the rest of the world was sitting by, it was the Canadian Government and its diplomats that took the American diplomats that weren't hostages in Iran, hid them in their basements, and in their embassy, and protected their lives at the risk of their own lives. When Americans were dying on Omaha Beach, so were the Canadians. We have got a long history of being friends. But they cheat in agricultural trade.

It is like a game. When you commit a foul, the referee blows the whistle and you have got to have a penalty shot. I was the Governor of South Dakota when we banned Canadian cattle in our State and started a revolution in the ware, on account of the NAFTA agreements, when other states came in. Chloromycetin could be used in Canadian cattle, but not American cattle. But you could import into America livestock that had chloromycetin, which

can cause sometimes aplastic anemia in human beings. And we have had the situation where cattle have come down from Canada to North Dakota in an overloaded truck. North Dakota off-loaded them into a Canadian truck going back to Canada, and they have been told they couldn't go into Canada because they have been in the United States, and these are North Dakota livestock. The Canadians would change the rules on what size sacks you put potatoes in, so Idaho potatoes don't meet their standards. We talk about all of these trade deals, yet we have got Chile and this is amazing. According to your testimony sir, we have a 2-year agreement stand still with Chile under the new Chilean agreement, where the Chilean inspection is approved.

Well, excuse me, Chile has given the opportunity for 2 years to have its poultry inspection system approved as being equivalent to USDA's standards and requirements for poultry. Then your next sentence says, in the meantime, Chile does not recognize USDA's inspection system for poultry. U.S. exports cannot ship to Chile, so they don't recognize our inspection system. But they are given 2 years under the Chilean agreement in order to come up to our standards for processing inspection. That is nonsense. The Soviet Union once again is ignoring agreements that they have made, and we will forgive them because we always forgive the Soviet Union when they don't live up to their agreements. Indonesia won't follow its rules. South Africa won't follow the agreements. Japan won't live up to its agreements. Europe doesn't allow stuff treated with chlorinated water. I find that interesting, because as a kid I lived in Germany, and we had to put chlorine pills in the water in order to be able to drink it because the water was so unsanitary. But I am glad you can't process chickens with it, because you could just drink it without the processing.

France has violated every agreement that it has ever made with us in agriculture, depending on the success of the French farmers in any given year. It has nothing to do with the agreements they make. Now Mexico, as it becomes more prosperous, is having a revolution with its agricultural producers wanting to put up more kinds of barriers that we are having to knock down. The Argentinians and the Brazilians continuously talk about how safe their livestock industry is, and then just lie about things like hoof and mouth disease and other types of diseases they have, where we need the Panama Canal as a barrier or actually some of the geography in Panama. But they keep their livestock away from causing these problems.

My question is in recognizing these things are negotiated by an Executive Branch and approved by the Senate, what can we as a Congress do to fix the problem of people who are making trade agreements having to follow them? These games have gone on my whole lifetime. My whole lifetime. The tariffs on Japanese foods are up 38½, 39 percent. They are coming down a couple of percent a year. I am going to be 84 years old before we have a level playing field with the Japanese in beef, and I just hope I live that long in order to see it. But do you all understand what I am saying with my sarcasm? The point that I would like to ask you all is what can we do to fix the problem? Is there something we can legislatively do?

Mr. STALLMAN. Well, I think as the chairman indicated, provide very good oversight on these negotiations in a consulting role as you have, and I think that is key. The other thing is to be sure we have the resources. You talked about all of the trade problems we have, and we have a multitude—have had and will continue to have a multitude of trade problems as we enforce these agreements. We need to be sure that we have the resources as a country to go in and challenge these infractions of the rules, and take these countries to task in enforcement of the agreements. Unfortunately, it is never going to be a perfect world, but those two things, the oversight and providing the resources to fight the battles, I think are key.

The CHAIRMAN. Did you want to respond to it, Mr. Reeves? Go ahead.

Mr. REEVES. Yes, I think one possibility would be to continue to commit resources to USDA, and USTR to fund full-time equipment to oversee these trade issues and maintain our vigilance in working for our side.

The CHAIRMAN. I thank the gentleman. The gentleman from California, Mr. Cardoza.

Mr. CARDOZA. Thank you, Mr. Chairman. I have to tell you that I have not heard explanation that more fits my philosophy than what the former Governor of South Dakota just described. I think that we as a country often forget one of the fundamental rules. That is if something is not working, you better fix what is not working, because doing more of the same is not going to get you a different result. As farmers, my grandfather was a farmer, and he used to tell me about the first rule of holes. And I know a lot of you have heard that, but the first rule of holes is when you find yourself in a hole, you quit digging. And I don't have a question, I just have a comment. That I think that we have to seriously look at changing the direction we are going with some of these trade agreements and be tougher because we have not had a history of being tough on our trade partners.

The CHAIRMAN. I thank the gentleman. The gentleman from Indiana, Mr. Pence.

Mr. PENCE. Thank you, Mr. Chairman. And thank you for holding this hearing. I wish to commend the Chair and the committee for its leadership on this issue. And I would like to thank the panel for some very thoughtful remarks and look forward to perusing in more detail your prepared statements. I am as many of you on the panel know, a strong advocate of trade. I believe that trade means jobs. I represent a slice of Heartland America and the State of Indiana that is a checkerboard from the air. And I was very proud in the last Congress to strongly support the new farm bill. And despite my strong conservative instincts, believe that our commitment to American agriculture has to be unwavering. I am also a very strong advocate of the North American Free Trade Agreement, the general agreement on trade tariffs. But I have to tell you that I am very troubled about what is happening in the Mexican market, and am growing increasingly irritated with the lack of cooperation and compliance, the lack of enforcement of the clear principals and requirements of the North American Free Trade Agreement. The outright ignoral of rules from the World Trade Organization.

Just as I sat here waiting to speak, I wrote a list of cities in eastern Indiana that have lost thousands of jobs since I arrived in Congress in January 2001 to Mexico. Richmond, Indiana. Marion, Indiana. Anderson, Indiana, just to name a few. And I have to tell you, President Fox and the policies of Mexico are doing that which liberals in my 44 years could never accomplish. And they are beginning to change my mind about trade. And I guess I want to be consoled by the pro-trade members of this panel to tell me why, as a Member of Congress who has strongly supported trade, why I shouldn't seriously rethink my commitment to expanding trade, to considering new agreements and supporting new agreements. I suspect that as a member of the Deputy Whip Team and a leader in the Conservative Caucus in this House, I will be looked to in relevant votes to play some important role in a part of this Conference. And I am increasingly reluctant to do that. And I throw it open as partly just to vent my spleen, but another part to tell me what apart from some of us in Congress simply withdrawing our enthusiasm for expanded trade agreements in this hemisphere, what can we do in this Congress and in this committee to address this non-compliance with NAFTA. And maybe Mr. Stallman would start.

Mr. STALLMAN. I don't know if I can provide a lot of consolation, Mr. Pence, at this point. But with Mexico—and coming from Texas, you learn that sometimes dealing with Mexico can be difficult. And that some degree of patience to successfully deal with them is generally useful. They are now just learning to operate under a two party system. And they have the elections coming up in July, and that has created a lot of pressure, as has been mentioned here on a lot of these trade issues. I think we have to be firm. I think we have to tell them as a country that they need to get their act in order and abide by the agreement, and then take them to task and file challenges when they don't. But I think we need to gradually increase that pressure and my hope is, that after July, the situation will improve. So you kind of take Mexico as an isolated case. But then you look at the other problems we have around the world, once again, we have to be vigilant. We need the resources to enforce our trade agreements and take countries to task who will not live up to them.

Mr. PENCE. Anyone else? I have a little more time.

Mr. CASPERS. Yes, Congressman. To give you a little light at the end of the tunnel, I would say in the case of pork, we have had 11 years of record exports in a row. Every year for 11 years, we have set a new record in exporting pork. So I think there is a good story to tell, and I think certainly we would like to continue that string. Having said that, I think what we see now, as trade agreements live through their life and we see tariffs coming down, and quotas eliminated, we are seeing more and more trade take place, and that is demonstrated in our record exports. So at the same time, when that increase trade comes about, we see more and more pressures within other countries then that are all of a sudden importing our products to try to do what they can to restrict trade. Now from what you can do, certainly I think in the future in trade negotiations, I think certainly some kind of a quicker dispute settlement mechanism in those treaties will certainly be justified. And

I think just a more willingness I guess to aggressively pursue cases where countries are not living up to their agreements. Certainly, I think that is justified.

Mr. PENCE. Thank you, Chairman.

The CHAIRMAN. Thank you, gentleman. The gentleman from Iowa, Mr. King.

Mr. KING. Thank you, Mr. Chairman. And I would like to thank the panel for your presentations, your testimony, and for this great stack of information that I will be able to peruse through in my non-existent leisure time. A lot of details in here to be absorbed, and I think it is my responsibility to do that to a larger degree than I have prior to these hearings. But as I listen to your testimony and listen to the questions and the remarks that are made around this panel, certain things come to mind. And one of them is with regard to our allies as Congressman Janklow pointed out, and also with remarks from Mr. Hayes. That in looking at the administration in Mexico in particular, and recognizing that you are prepared to head in that direction, Mr. Stallman, then a lot of things go on around the border there that do not reflect compatible partnership that we anticipated we would develop when we supported NAFTA, and I was a NAFTA supporter, and I happen to have the good fortune of being in the gallery in the United States Senate when it was debated. I do believe that we should—I am a supporter of free trade, and I think as Adam Smith did. That if you can buy it cheaper than you can make it, you should buy it. Find something else you can make that you can compete with. And I believe I agree with you all on this panel that we can compete with the rest of the world, particularly in our meat production.

But the Mexican border has got pressure on it from a lot of different ways, and the Fox administration is one of them. And their opposition to our position in France is something that I think should color the rest of our negotiations with Mexico, and President Fox's promotion of dual citizenship, and the Mexican counselor card, that matricular counselor card. And the very idea that, for example in Iowa, 85 percent of the Meth comes across the border from Mexico.

All of these things I think are tied into us also trying to get a free fair trade agreement. And when I listen to the remarks with regard to disease, and I am thinking about your return back to the United States from Mexico, I have a red ink pen here, and I would be willing to wager you a steak dinner that if you write on that little immigration card—I have been walking on a few dozen farms, and these are the shoes I wore, and I am going to go to farms in the United States. I will bet you walk straight through there, and I don't think we have the kind of controls we need at our borders for hoof and mouth disease, or potentially I think that is the biggest risk right now. But I wanted to pose a question to Mr. Caspers.

do you have some knowledge as to the quality of the food inspection that they have for Mexican domestic products, and if so, is there a way that we can begin to use that in our argument that USDA approved standards which should be an automatic approval in Mexico? Do they have standards at all in Mexican domestic meat and how do they inspect them, and what are the standards and

how can we match up ours to theirs and take the argument away from them, if theirs is more dangerous to consume by far than can't we use that in our leverage?

Mr. CASPERS. Well, I believe so, and I am probably a little bit out of my area of expertise. But my understanding is that the U.S. Government requires individual plants to be inspected on an individual basis for exports into this country, or through this country into ports for exports to other countries. Generally, their domestic inspection program has not been found by our Government to be the equivalent of the U.S. meat inspection system. So that is why they require those individual plants then to be inspected. And I have been in some of those plants in Mexico, and while I don't know very much about the slaughter industry or processing industry, at least the plants that I have been in that are currently licensed to export into the United States seem to be very well run and quite clean and sanitary. And so it can be done, but it is only done on a plant by plant basis.

Mr. KING. And that means then that a significant percentage of the domestic marketed pork in Mexico would not be inspected in that standard. And their standards would be I would think then far lower for the Mexican consumers, which is what we have to point to as the standard for the Mexican consumers.

Mr. CASPERS. Well, I believe that would be the case, and then you only have to visit there and smell the smell coming off the web market to get the idea what really occurs.

Mr. KING. Well, that is the real remark. Mr. Reeves, with regard to beef, would you have any comments?

Mr. REEVES. Disregard it.

Mr. KING. OK. And also all of you I think have traveled in and out of the United States, and filled out the little form that says if you have been on a farm or not. Has anyone ever been stopped or questioned as to where you have been? Well, I am sure you answer honestly, and I am sure you have to go to farms when you go. Has anybody ever been stopped and questioned?

Mr. CASPERS. I had a trip to—wait a minute, if I could comment on a trip to Canada. We get together with the Canadian and Mexican Pork Producers about twice a year, and last fall we entered Canada and of course I put down that we had been on a farm and actually that we were going to a farm. And so they did. I had to follow a different line through the system, and they quizzed us to about where we were going, where we had been. They did some extra x-rays on our luggage and took our shoes and disinfected them and brought them back in a bag and told us to leave them in there for 20 minutes. So I was impressed, and I told my Canadian counterparts that I was impressed, and they were thankful to hear that because they have had experiences like you say where they have been entering back into the country, and did not have that. So at times—now when we re-entered the U.S., it was just like you say; we just walked right back through.

The CHAIRMAN. The time of the gentleman has expired. The gentleman from California, Mr. Nunes. We are going to try to get the gentleman from Florida, Mr. Putnam, in too. We have three votes pending.

Mr. NUNES. Well, I will make my questions really brief. Can you comment at all on the situation that many of my constituents face, and that is that we get zero subsidies across the board on many fruits and vegetables? So otherwise known as chapter 7 and 8, which I think is grossly unfair and makes it even though we are—some of my constituents are truly the only free traders in the United States, because we are really the only ones that are not receiving Government support. So I would like to—and I know many of the groups that you represent do in some form or another receive some type of subsidy. But I would like for you to comment on those industries, that even though you don't represent them, I don't know if anyone has any thoughts on that issue, but I would like to hear your thoughts. Anyone?

Mr. STALLMAN. Well, we have had extensive discussions internally within our organization about you know what world policy, whether it is trade or domestic supports effects you know, those particular commodities. During the course of the farm bill debate, those groups decided they did not want to try to incorporate some type of support system, but looked for additional system through EQIP and other conservation programs. And in addition, a big component of it was to be sure that trade. That we were cautious and vigilant in trade agreements and enforcing trade agreements, because that is where the real economic has been for those sectors, has been through trade the imports and through SPS type of issues. So that has been our focus, has to be been to look at the trade issues and then look at whatever assistance can be provided through some of the conservation programs.

Mr. NUNES. Thank you. I know we have to vote Mr. Chairman, so I will conclude.

The CHAIRMAN. Thank you. The gentleman from Florida, Mr. Putnam.

Mr. PUTNAM. Let me just say Amen to what Mr. Nunes said, but to follow-up by asking do you believe, Mr. Stallman, that there should be a reduction in scope of negotiations for the FTAA? Do you believe that agriculture should be taken off of the FTAA table and moved to the WTO?

Mr. STALLMAN. We think our first priority needs to be the WTO negotiations. But if we are going to have an FTAA actually based on WTO rules, it is supposedly to cover all sectors, and you are not supposed to exclude any particular sector. So I think we have to be in there for agriculture. But once again, I think most of our problems need to be resolved in the WTO negotiations.

Mr. PUTNAM. And should domestic support programs be a part of the discussion for an FTAA agriculture sector?

Mr. STALLMAN. Absolutely not.

Mr. PUTNAM. How do you see us moving forward on agricultural negotiations to lower barriers to trade if domestic support programs are off the table? Who does that leave on the table for an FTAA discussion, other than fruits and vegetables?

Mr. STALLMAN. It is market access. Market access actually does affect some of the other commodities too, not to the extent probably the fruits and vegetables. But our concern is that we rush to an FTAA agreement before we resolve a lot of these issues in the WTO. And the WTO is the only place that you can balance those

domestic support issues and market access issues all together worldwide.

Mr. PUTNAM. And for any of the panelists, are we spending an inordinate amount of time on trade agreements outside of the WTO? Are we spending too much time negotiating bilaterals and regionals to the detriment of the WTO?

Mr. STALLMAN. We think there are limited resources in USTR and USDA with respect to agricultural trade negotiations. We do have concerns that those resources are being stretched extremely thin by the number of bilaterals and multilateral negotiations outside of the WTO that are occurring, and we have encouraged the administration to focus and use resources in the WTO, even if that means not moving forward with some agreements on a bilateral basis.

Mr. CASPERS. I would add my echo. My concern that we need to make sure that USTR has the resources to participate in all of those negotiations, because we think that both WTO negotiations and any bilateral negotiations we engage in are both. They are both important, and collectively, the bilateral agreements do add up to significant business for our industry.

Mr. BAUHAN. From the poultry industries' standpoint, we would agree that we need to have more resources, because the bilateral discussions are very critical.

Mr. PUTNAM. Is it fair to say that agriculture's unwavering support for free trade agreements has dimmed somewhat as a result of what some would characterize as a failure to enforce existing trade agreements? And has American agriculture lost some of its zeal to open up new trading negotiations, new trade agreements because of the way the current ones, or the previous ones have been enforced or have not been enforced?

Mr. STALLMAN. I think that situation has led the American agriculture farmers and ranchers to become more pragmatic rather than philosophical about trade. And I think that is why we need to be looking at these agreements one by one. Look at the impacts and be sure that they are positive for American agriculture.

Mr. PUTNAM. Thank you. Thank you, Mr. Chairman.

The CHAIRMAN. I thank the gentleman. I want to thank this panel and we will dismiss you now and resume with the second panel when we get back from three votes. I want to thank all of you for excellent presentation. The committee will reconvene at 12:15, or as soon thereafter.

[Recess]

The CHAIRMAN. The committee will reconvene and we will now go on to our second panel. We would like to welcome Mr. Tom Camerlo, chairman of the National Milk Producers Federation from Florence CO; Mr. Bobby Greene, chairman of the National Cotton Council in Courtland, AL. I skipped Mr. Alan Lee, vice chairman, of the Wheat Export Trade Education Committee in Berthold, ND; Mr. Ron Heck, first vice president, American Soybean Association, Perry, IA, and Mr. Doug Boisen, chairman of the Trade Task Force, National Corn Growers Association, Minden, NE.

I would like to welcome all of you and remind you that your full statement will be made a part of the record. Ask you to limit your

comments to 5 minutes. And Mr. Camerlo, we will start with you. Welcome.

**STATEMENT OF JAMES P. "TOM" CAMERLO, CHAIRMAN,  
NATIONAL MILK PRODUCERS FEDERATION, FLORENCE, CO**

Mr. CAMERLO. Thank you, Mr. Chairman and members of the committee. My name is Tom Camerlo, I am Chairman of the National Milk Producers Federation, Dairy Farmers of America and the Trade Policy Committee of the U.S. Dairy Export Council. I am pleased to appear before you today, to testify on the topic of negotiations in the World Trade Organization and bilateral and regional agreements.

Rural America depends on the survival of the U.S. dairy industry for its vitality. Not only producers, but also dairy processors add overall strength and employment to the impact of the industry as a whole and on the country's rural economy.

Mr. Chairman and members of the committee, dairy is usually categorized as an import sensitive commodity. If the sensitivity arises as a consequence of the huge level of distortion in global dairy trade. My objective today is to leave you with a clear understanding that the U.S. dairy industry is prepared to negotiate further reform, but we will not do so alone. Balanced trade, not unilateral disarmament is the foundation of our principles, and we believe it should be yours as well.

Rather than give you a long explanation of our WTO position, I would like to bring your attention to the Principle of Trade booklet. This document, which is in your briefing books, compiles the unified position of the Dairy Industry with respect to multilateral agriculture negotiations. The U.S. dairy industry is a proponent of harmonizing tariffs, eliminating export subsidies and reducing domestic support in a manner that will not leave U.S. producers at a competitive disadvantage as compared to other developed countries.

Although the chairman of the Agricultural Negotiating Group, Mr. Stuart Harbinson, made a worthy attempt to compile divergent ideas set forward by many member countries, his set of principles would have a devastating consequence for the U.S. dairy industry. The Harbinson paper does not achieve harmonization of market access of domestic support. In fact, the Harbinson paper as it stands today would only slightly reduce the level of disparities which exist under the Uruguay Round.

Dairy producers will have to re-evaluate their support of the Doha Round, if the method chosen for reducing tariffs forces the United States to open its markets, while other WTO members are permitted to maintain high levels of tariff protection. Also, the United States should only accept reductions in domestic support as part of a package that includes elimination of export subsidies and harmonization of tariffs.

In addition to the three pillars of U.S. dairy trade concerns, the issues of non-trade concerns, as well as the topic of special and differential treatment for developing countries, they all have the potential for severely damaging the future of dairy trade reform.

According to the EU, geographical indications will be a critical element of the Cancun Ministerial and WTO negotiations. The attempts by the EU to reclaim use of generic names could threaten

the exports or production of a number of U.S. products, particularly cheeses such as mozzarella and parmesan.

The U.S. dairy industry is concerned that the current Harbinson proposal could allow developing nations to isolate themselves from global trade for the next 20 years. This goes in opposition to expanding exports and improving the economic well being of the least developed countries.

Gains due to the Uruguay Round have been limited to Australia and New Zealand. Neither the United States nor developing countries brought home real gains from opening their markets. As an alternative to the protectionist tools that the Harbinson paper is outlining, NMPF proposes that a large portion on whatever new access is gained during the Doha Round be reserved for and given exclusively to the developing countries.

The U.S. dairy industry believes that a Free Trade Area of Americas is long overdue. As history shows, we have lost ground to our trade competitors who aggressively pursued and continue to pursue such activities. A particular importance to a balanced trade sector agreement are the issues of rules of origin. Third party export subsidies and the full inclusion of the Canada, particularly the Canadian dairy industry.

The Australian FTA negotiations have alarmed U.S. producers and processors. The Australian FTA does nothing to address the world dairy marketplace and its many inequities. If Australia gains improved access to our markets, the largest consumer market for dairy products in the world, it will have much less motivation to push for a successful WTO Round. Don't be fooled by the reformist stance by Australia in the WTO.

The reality is that Australia is committed to open markets in developed countries such as the United States, while being content to leave developing country tariffs as high as they currently are. One thing is clear: Australia wants full access to our market and is not interested in reaching a fair and comprehensive agreement in the WTO.

Eliminating U.S. dairy tariff rate quotas on imports from Australia without eliminating all global trade distortions in dairy, especially market access and export subsidies, would have a very negative impact on the employment in the U.S. dairy industry.

NMPF's economists have calculated that such an agreement would put at risk roughly 1,170,000 jobs that are generated by the milk production and dairy processor sectors in the U.S. industry. For all of these reasons, on behalf of the U.S. dairy producers and many small and large processors, we urge you to reject any FTA with Australia that reduces U.S. dairy tariffs.

Finally, the DEIP Program has been used in the United States primarily to counter European subsidies, as well as for market development. NMPF as well as the industry as a whole wants balanced trade, but again not unilateral disarmament. Consequently, there is concern that the U.S. Government unilaterally decided to reduce a number of countries eligible for DEIP awards to only 28.

Contradictory though it may sound, to destroy export subsidies, we must use them. In this instance, that means using the DEIP program and using it to the fullest extent that domestic market conditions warrant.

I appreciate this opportunity and thank you very much.  
[The prepared statement of Mr. Camerlo appears at the conclusion of the hearing.]

The CHAIRMAN. Thank you. Mr. Lee, welcome.

**STATEMENT OF ALAN J. LEE, VICE CHAIRMAN, WHEAT  
EXPORT TRADE EDUCATION COMMITTEE, BERTHOLD, ND**

Mr. LEE. Thank you Chairman Goodlatte, members of the committee. I am Alan Lee. I am a wheat and germ barley grower from North Dakota. I am also vice chairman, as you said of the Wheat Export Trade Committee and U.S. Wheat Associates. Today, I am also speaking on behalf of the National Association of Wheat Growers.

Before I start my comments, I would like to thank on record, thanking the administration, especially USTR for the active role that they have played in assisting the North Dakota Wheat Commission, and the Wheat Industry as a whole in our trade dispute with the monopoly practices of the Canadian Wheat world. They have made some promises to us, and they have carried them out very well.

Wheat is a trade dependent commodity. Up to 50 percent of wheat goes for the export market. So my success and failure as a farmer in large part hinges on expanding export markets.

The U.S. wheat industry strongly support an aggressive approach in all negotiations up to removing trade barriers worldwide. Multilaterally and future bilateral trade agreements provide global opportunities resulting in trade problems. Each of us and the organizations we represent must work to cooperate and to bring workable solutions to the table.

You have before you my extended comments. I wish to highlight some of our major concerns at this time. Under export credits, stronger rules are needed to govern export credit activities. Rules that clearly define permissible practices and that enhance transparency, but do not alter the effectiveness of these important programs.

The export credits are very important to agriculture. Our export credit programs are important transition tools for developing countries that lack liquidity. These programs offer a reliable source of food security and can be a key part in moving away from direct food aid dependency.

On food aid, that you heard earlier. The current food aid language in the WTO is sufficient and continues to work very well. We are very opposed to any attempt that the Harbinson text would do to change the food aid convention to require money or grant only donations.

We would really like to congratulate our negotiators for the excellent U.S. text on State Trading Enterprises. This language should end the monopoly practices of our trading partners and allow for more fair competition in wheat markets worldwide. However, the wheat industry remains concerned that monopoly traders will find ways to circumvent these proposals.

The Harbinson text language in attachment 7,5(b)(i) could invite exports by the Wheat Board at less than full value from a monopoly that were not phased out. To deal with that problem, the wheat

industry urges inclusion of the following language in any negotiations.

It goes, "to ensure that exports of a product by a government export enterprise do not take place at a price which is less than full commercial value of the product at the time of the acquisition, producers shall receive full value compensation for the product at the time of the sale of the commodity to the government export enterprise."

Domestic Supports and the Doha modalities paper is totally inadequate as it does very little to eliminate the existing disparities between allowed levels of domestic support for developed countries. The wheat industry strongly opposed the Harbinson domestic support proposal.

The United States must seek to eliminate the cut in the domestic support level and must demand that there be a balance or equalization in the levels of allowed domestic support.

And under Domestic Support and the Free Trade Agreement of the Americas, the U.S. must continue to refuse to negotiate domestic supports within the context of the FTAA. We must not unilaterally disarm within the Western Hemisphere while leaving the European free to continue subsidizing their producers at high levels.

Wheat producers applaud the U.S. Government position that calls for the elimination of all trade distorting import subsidies within the hemisphere, in the establishment of a mechanism that would prohibit agricultural products from being exported to an FTAA by non-FTAA countries with the aid of export subsidies. We are also very delighted with the U.S. position that would discipline state trading enterprises within this hemisphere. The CUSTA and NAFTA agreements have left unresolved issues between the United States and Canada, and we must not allow these unresolved issues to be carried forward into an FTAA. Getting these issues resolved would greatly improve agriculture's acceptance.

In all negotiations on sanitary and phytosanitary issues, we must build upon the Uruguay Round Agreement with respect to plant, health and safety. These negotiations must establish a risk assessment framework, as well as the creation of an accepted and expedited procedure for addressing sanitary and phytosanitary issues.

We also believe going along that line that many Multilateral Environmental Agreements, such as the Cartagena Protocol on Biosafety, have the potential to severely disrupt trade around the world. Our negotiators must use all available negotiating opportunities, to ensure that the WTO has the lead in any trade disputes. Sound science must prevail in disputes over products of biotechnology and other new technologies.

The Free Trade Agreements, the FTAs should be seen as critical stepping stones to free and fair trade on a worldwide scale. Two of these negotiations, and for very different reasons, are very important to the wheat industry. The Chilean agreement, which we urge the Congress to pass, has the ability to once again allow the United States farmers to enter into the Chile market on a competitive basis. But the Australian FTA, which is not about market access, they were asking our negotiators to eliminate the monopoly structured in the Australian Wheat Board. It should not be allowed to continue in a Free Trade Agreement.

And finally, as you have heard many times today, U.S. Wheat has a concern. The wheat industry has a concern that USTR resources are inadequate to address the growing number of trade policy issues confronting the United States, especially for agriculture. Especially now, as new agreements that must be enforced or negotiated.

The USTR plays a critical role in the U.S. to maintain and expand our agricultural roles. And Ambassador Zoellick and his staff are doing a very good job, but they are under-funded. We urge you to provide increased funding for USTR, by an additional 20 percent fiscal year 2004. Thank you for this opportunity, to speak on behalf of the wheat industry.

[The prepared statement of Mr. Lee appears at the conclusion of the hearing.]

The CHAIRMAN. Thank you, Mr. Lee. We appreciate your comments. And Mr. Greene, welcome. Pleased to have you with us.

**STATEMENT OF ROBERT W. GREENE, CHAIRMAN, NATIONAL COTTON COUNCIL, COURTLAND, AL**

Mr. GREENE. Thank you. I am Bobby Greene. I am a cotton ginner from Courtland, Alabama, and serve as chairman of the National Cotton Council of America.

Cotton is a raw industrial product with a food component that adds important value. The economics of cotton production are linked to textile policy and production, both in the United States and around the world.

Over the last 2 years, domestic mill use of cotton has declined dramatically due to increased competition from textile imports. As a result, the U.S. has gone from exporting one-third of its production, to exporting around 60 percent. Without continued growth in exports and the turn around in the U.S. textile industry, the entire U.S. cotton industry will suffer. For the U.S. cotton and textile industries, enhanced trade within the Western Hemisphere provides the greatest near term opportunity to produce apparel products that are competitive with Asian imports.

Our priorities in the Central America and South America Free Trade negotiations are reciprocal market access, effective rules of origin, no tariff preference levels, strong customs enforcement provisions, and effective rules to protect intellectual property.

The Doha Round of agricultural negotiations appears to be in a holding pattern. We are glad that Chairman Harbinson tabled a comprehensive proposal, but it will be difficult to transform it into an agreement that is beneficial to the U.S. cotton industry, and to agriculture in general.

The Harbinson text either leaves in tact or aggravates current trade policy and equities. And the imbalances are not mitigated by increased market access for U.S. exports. When the 2002 farm bill ended years of the U.S. cutting agricultural spending far more than any of its competitors, most of the rest of the world cried foul. The United States was accused of reneging on its WTO commitments.

The 2002 farm bill did not break any WTO commitment. We believe the real goal of these protests is to convince the U.S. it should unilaterally concede part or all of U.S. agriculture to the rest of the world. The protests are designed to divert attention from the cen-

tral thrust of the U.S. proposal. That all participating countries should make real cuts in agricultural distortions, they should provide real improvements in market access, and these changes should be made in such a way that they significantly decrease existing inequities.

Instead of cooperating to continue to move the world toward agricultural reform, some countries are allowing their political objectives to prevent rational and equitable policies from being adopted. The United States has tabled the most ambitious set of agricultural subsidy reforms in history, only to see those reform proposals watered down, littered with exceptions and rejected by the majority of the members of the WTO.

The United States drove the Uruguay Round reform process. It had submitted ambitious proposals for multilateral, broad-based reform in the Doha Round. We urge the administration to reject the policies of division being fomented by various countries and certain international organizations.

In addition to the Doha Round, the U.S. has embarked on an unprecedented number of bilateral and multilateral trade negotiations. In order to be successful, adequate resources must be devoted not only to the negotiations, but also to compliance with existing agreements. Farmers need to receive beneficial results from existing agreements to continue to support negotiations leading to new agreements.

For example, the National Cotton Council has tried unsuccessfully over a year to get China to comply with the market access provisions of the U.S.-China WTO accession agreement. U.S. trade officials have been supportive and acknowledge a clear violation by China, but we have not yet achieved any modifications in China's policy. We are hopeful that Ambassador Johnson's recent discussions with Chinese officials will prove to be more fruitful.

On the other hand, Mr. Chairman, the U.S. textile industry is facing an economic crisis, mainly attributable to dramatic increases in imports of textiles from China. Last year, in eight cotton containing textile product categories, imports surged 641 percent. The United States eliminated import quotas on these products in compliance with the U.S.-China accession agreement. The agreement also allows the U.S. to review surges in imports of products after quotas are removed, but it has taken persistent efforts to get rules published for implementing the safeguard mechanism for this flood of Chinese imports. A long delay has permitted imports to grow to levels where the safeguard will be less meaningful.

On a separate note, we applaud the long-anticipated decision to move forward with the WTO case against the European Union's ban on biotech agricultural commodities. But we are troubled that each of these decisions has been long-anticipated. Every delay costs U.S. agriculture. If agriculture is to continue to support progressive trade policy as adopted by the administration, we must be assured that our trading partners will adhere to their agreements.

Mr. Chairman, thank you for the opportunity to provide testimony, and I would be happy to respond to any questions.

[The prepared statement of Mr. Greene appears at the conclusion of the hearing.]

The CHAIRMAN. Thank you, Mr. Greene. Mr. Heck, we are pleased to have you with us. I understand that you recently have come back from Brazil where you have observed the situation with soybean production there. I know some members of the committee staff were also able to check that out and we appreciate hearing your views. Welcome.

**STATEMENT OF RON HECK, FIRST VICE PRESIDENT,  
AMERICAN SOYBEAN ASSOCIATION, PERRY, IA**

Mr. HECK. Thank you, Mr. Chairman. I also appreciated your opening remarks this morning, and also Congressman Stenholm's opening remarks. We are pleased to be here today, and thank you for loaning us a staff member for our fact-finding trip. We appreciate that too.

ASA has actively supported efforts to open foreign markets through trade negotiations. From 666 million bushels in 1972, exports of U.S. soybeans and equivalent in the form of soybean meal and soybean oil expanded to 1.4 billion bushels in 2002. Exports of pork and poultry products accounted for an additional 130 million bushels last year. Taken together, exports represent 53 percent of annual U.S. soybean production.

Nevertheless, we have seen rising competition from other exporting countries. In particular, the Cerrados region in Central West Brazil includes an estimated 338 million acres of uncleared land that is available to be brought into production of soybeans and other crops. This area is  $1\frac{1}{3}$  times larger than the total U.S. row crop acreage.

To meet this challenge, ASA believes we must substantially increase market access through aggressive reductions in tariffs and elimination or tariffication of non-tariff barriers on soybeans, soy-based products, poultry, pork, beef and dairy, particularly in populous developing countries in Asia where per capita consumption of animal protein and vegetable oil is low. Second, we must maintain the availability and viability of our export credit and food aid programs. Third, we must insist that world class competitors such as Brazil are subject to the same commitments and disciplines regarding domestic support that we are required to meet. Finally, we must maintain an adequate farm income safety net to protect our producers against cut-rate pricing resulting from hidden subsidies, devalued foreign currency exchange rates, and discriminatory trade practices.

ASA strongly endorsed and continues to support the U.S. proposal first advanced by the Clinton administration in 1999 and reaffirmed by the current administration last year. In contrast, the compromise advanced by the chairman of the agriculture negotiations, Stuart Harbinson, falls well short of achieving ASA's goal to offset increasing global production of oilseeds and oilseed products through expanded market access for soy, poultry, pork, beef, and dairy.

In contrast to the U.S. approach, the Harbinson text would preserve the significant subsidy advantage enjoyed by the EU. Harbinson would also allow developing countries, including Brazil, to fund major programs to develop and expand their agricultural production and transportation infrastructure without discipline

while subjecting similar developed country programs to reductions. This is totally unacceptable. If the purpose of the Doha negotiations is to reduce trade-distorting practices, it should not give equally-competitive developing countries a blank check to expand similar programs.

Our purpose for raising concerns is to build support for reaching an agreement on agriculture in the Doha Round. If neither the U.S. nor the Harbinson proposals are acceptable, it is essential that we determine how one or both can be modified in order to achieve a critical level of political support. Absent this support, failure of the negotiations at Cancun is a distinct possibility.

I would also like to briefly mention other trade negotiations and their impact on the soybean industry. Under NAFTA, U.S. soybean exports to Mexico have doubled. The free trade agreement with Chile that President Bush signed in early June will improve market access for U.S. soybeans.

The Free Trade Agreement of the Americas and the Central American Free Trade Agreement will also be beneficial to the U.S. soybean growers. Soybean products exported to FTAA countries totaled \$1.8 billion in fiscal year 2002, despite restrictions on access to 30 percent of the markets in the region.

The Southern Africa Customs Union free trade agreement can be of some benefit to both commercial and humanitarian use of soybean products in that region. ASA works in southern Africa to improve human nutrition and increase soy protein consumption by malnourished and AIDS-affected populations. We have strongly urged our negotiators to work out a humanitarian assistance provision in the agreement that will allocate funds for nutritional support and nutrition programs in Africa.

Intellectual property issues need to be addressed in all trade negotiations. It is estimated that Brazilian farmers will receive \$160 to \$180 million in unfair benefits this year from illegal plantings of RoundUp Ready soybeans. The inability or unwillingness of foreign Governments to enforce intellectual property rights needs to be addressed in all Free Trade Agreements.

Finally, while ASA supports regional or bilateral negotiations, we urge the administration and Congress to focus efforts on achieving a meaningful WTO outcome. Once a meaningful WTO agreement is reached, bilateral or regional agreements to go beyond WTO commitments can be negotiated under a WTO-plus approach.

That concludes my statement, Mr. Chairman. I will be glad to respond to questions.

[The prepared statement of Mr. Heck appears at the conclusion of the hearing.]

The CHAIRMAN. Thank you, Mr. Heck. Mr. Boisen, welcome. We are pleased to have your testimony.

**STATEMENT OF DOUG BOISEN, CHAIRMAN OF THE TRADE TASK FORCE, NATIONAL CORN GROWERS ASSOCIATION, MINDEN, NE**

Mr. BOISEN. Thank you, Chairman Goodlatte, ranking member Stenholm and members of the committee. My name is Doug Boisen. I am a board member with the Nebraska Corn Board. I am Chairman of the Trade Task Force for National Corn Growers. I would

like to thank the committee for giving me this opportunity to testify and speak today, regarding trade negotiations that are so important to corn producers.

Before I begin, Mr. Chairman, let me take this opportunity to thank you, ranking member Stenholm, and other members of the committee for voting in favor of ATRAS 252 last week. The resolution was an important signal to Europe and other around the world that continue to spread an anti-biotech message.

One out of every five rows of corn planted in the United States is exported. The exports of value-added corn and co-products add to the importance of foreign markets for United States corn producers. In 2002, the United States corn exports totaled 47 million metric tons with a value of \$4.8 billion. Our two closest competitors in the international marketplace are Argentina and China with 14 and 17 percent of the world production respectively. It is abundantly clear to me and many of my fellow farmers, that agriculture lives in a more competitive world than ever before.

The NCGA supports trade agreements that will open markets for United States farmers and increase market development opportunities throughout the world. NCGA trade policy revolves around four basic objectives. The reduction of trade barriers, reduction of trade distorting domestic support, elimination of export subsidies, and the elimination of technical barriers to trade that discriminate against products derived from biotechnology.

While many of the ongoing and future trade negotiations are important to corn producers, I will concentrate my comments on the WTO.

NCGA strongly believes that the future efforts to successfully liberalize international agriculture markets hinges on the current WTO negotiations. We were disappointed when members of the agriculture-negotiating group failed to meet the March deadline to produce a set of modalities. While technical discussion continues to proceed, we believe negotiations need to move forward prior to the September Ministerial meeting in Cancun. Like many others, we are closely watching events in the European Union regarding CAP reform. While we hope a breakthrough in Europe will help spur negotiations forward, it is important that a final agreement move beyond incremental reform and lays a bold framework towards redefining international agricultural trade.

While Chairman Harbinson did not provide a document that fully satisfied NCGA, we believe the text will move negotiations in the proper direction, and provide a clear message that the Doha Round must fulfill its original mandate and not hinder further development of international agriculture at the expense of entrenched interests. The Harbinson proposal is a step in the right direction, in that it would expand TRQ volumes for many commodities.

In addition, tariff reduction for feed grains related products should be harmonized so that the same ad valorem duties would apply to corn, sorghum, barley, and wheat. This would remove any policy-driven incentive to import one grain over another, and enable feed compounders to utilize each ingredient rationally in response to price changes in the world market.

NCGA is also pleased in the text that reforms state trading enterprises. The negotiations on export credits and credit guarantees

should ultimately provide for disciplines on the use of export credits that allow the continuation of U.S. export credit programs as a viable and effective tool to assist U.S. agriculture exports. One of the most sensitive yet important aspects of the negotiations will revolve around reduction of domestic support levels. A successful agreement will ensure harmonization of domestic support levels among developed countries.

More important, negotiated modalities need to provide Congress with the ability to construct a farm program that meets our domestic objectives while complying with international agreements. Let me emphasize that negotiators must ensure maximum flexibility to provide agricultural producers with assistance that corrects inequities resulting from governmental incentives vis-a-vis our international competition. The NCGA believes that a national farm program can be constructed that is green box compliant, while meeting the same objectives provided in the current law. This was and remains a stated objective of NCGA and formed the foundation of our proposal to Congress 2 years ago prior to the farm bill reauthorization. We remain committed to this goal, and believe it is necessary to provide corn producers with the tools to remain competitive in the international marketplace, while promoting rural development and a vibrant farm sector.

The NCGA Board of Directors will be meeting this week and plan to discuss this issue more in-depth in an attempt to further define our objectives and specific recommendations to Congress and USTR in preparation for Cancun.

As you might expect, our goals in many of the other FTA negotiations are similar to the WTO, with particular emphasis on reduction of tariffs and the use of export subsidies.

Specifically, the United States feed grain industry would benefit from the elimination, or reduction of the complex system of preferential regional and bilateral trade agreements. This will increase access to more countries and provide exporters access to markets comparable to our competitors.

We also believe FTA is needed to fully embrace trade in products produced through agricultural biotechnology. At a minimum, the United States should seek agreement from countries that products of agricultural biotechnology be evaluated solely on the basis of sound science.

As we look forward to months ahead, the United States Government and organizations like NCGA need to promote the benefits of trade liberalization in multi and bilateral negotiations. We believe our future as agricultural producers, is linked to trade and we cannot retreat from any region of the world. We look forward to working with the committee on this and other issues of importance in the future. I thank you for the opportunity to address the committee, and I would welcome your questions.

[The prepared statement of Doug Boisen appears at the conclusion of the hearing.]

The CHAIRMAN. Thank you very much. Mr. Camerlo, am I pronouncing your name correct yet?

Mr. CAMERLO. Yes, sir, Mr. Chairman, that is great.

The CHAIRMAN. Well, if I am not, please correct me. I noted with interest your considerable concerns and complaints about the Free

Trade Agreement being negotiated with Australia right now. I wanted to throw New Zealand into the picture too, and ask you whether you thought the United States should include New Zealand in those negotiations or should we negotiate with them separately, or should we negotiate with them not at all?

Mr. CAMERLO. We should negotiate as far as dairy is concerned not at all. When you are dealing with Australia, you are going to be dealing with New Zealand too, because the cooperative there which controls all the milk in New Zealand has recently purchased and is into Australia companies and it is going to be really one milk source out of both of those countries. But we believe that if we start dealing with Australia and New Zealand in free trade agreements, it is a mistake. We should spend our effort on the WTO, level the playing field, forget free trade, and as Congressman Stenholm said, let us look for fair trade, let us level that playing field and everyone can take a part in it.

The CHAIRMAN. Thank you. Mr. Greene, after the Cotton Council's experience with access to the China market following WTO accession negotiations, do you have any recommendations for our current negotiations? How can the U.S. ensure that commitments made during the negotiations will be kept?

Mr. GREENE. Well, I think it is an enforcement issue. Mr. Chairman, as you know, China agreed to 3.7 to 5 million bales of open access for raw cotton, and they only have granted something around 20 percent of that to date. And so we don't feel that they have lived up to their accession agreement. We understand that Ambassador Johnson just returned from there, we are not sure what the outcome of that meeting was, but apparently, USTR is making efforts to cause China to live up to their agreements. We hope that progress has been made.

The CHAIRMAN. But if it hasn't, are there other courses of action that you would recommend, or are you not to that point yet?

Mr. GREENE. Well, they flooded our country with textile imports, and we have opened up access to them for their textiles, as we agreed to in the accession agreement. I don't now what sort of thing the Government should do or can do, but certainly the administration should cause China to abide by the agreement that they made. It is just not right for them to sign an agreement, and then at some point later on, negotiate that agreement. And that seems to be what they are doing.

The CHAIRMAN. Fair enough. Let me ask any of you—in fact, I am going to ask all of you. What country or region of the world represents the best opportunity for the agricultural commodity that you represent, and what, if any, barriers are there to that trade right now that you would like to see eliminated? Where are the best places we ought to be looking for trade agreements and trade opportunities? I will start with you, Mr. Boisen.

Mr. BOISEN. Thank you. Northern Africa presents some real opportunities for U.S. corn. We are in the process of negotiating a bilateral agreement with Morocco. One of the biggest problems we have in Africa is the biotech issue with the European Union. And one way to stay on top of that is keep funding USTR.

The CHAIRMAN. Very good. Mr. Heck.

Mr. HECK. Certainly for soybeans, the largest opportunity is in Asia in general, with the developing countries where they are about to reach that point in the wealth curve where their consumption of high quality food goes up sharply. And that would involve soybeans. China, if I had to pick one country, because of the size.

The CHAIRMAN. Very good. Mr. Greene.

Mr. GREENE. Yes, sir. We think the Western Hemisphere is where our future is. If NAFTA has been good for us, we supported NAFTA and as a result of the strong origin content stipulations in NAFTA, Mexico has become our largest trading partner. We think that can be expanded to the rest of Central America and South America. But we also see China as a huge potential market for us. They are not only the largest producers of cotton, but will become the largest consumers, I think, as their lifestyle and standard of living increases. But we are very concerned that they don't seem to be granting us the access that they have agreed to. So there is the potential there for them, but they haven't delivered on that potential.

The CHAIRMAN. Thank you. Mr. Lee.

Mr. LEE. I think for wheat maybe is South America, Mexico, and Central America all have a potential for a large increase. South America, in particular Brazil, can be a huge market for us, but right now Mercosur keeps us out as well as—

The CHAIRMAN. I am sorry, what keeps you out?

Mr. LEE. Mercosur, with Argentina. And the Canadians also continue to undercut us down quite severely. So I think if we can get FTA with South America, that levels the playing field and makes it a fair tariffs for all of us, that we all abide by the same rules, would be a great advantage for wheat industry.

The CHAIRMAN. Very good. Mr. Camerlo.

Mr. CAMERLO. Mr. Chairman, we have made pretty good gains the last few years in Mexico with dairy products. So we want to continue that growth. But I think Japan, Korea, the Asian countries. We are looking into China. We think there is some real growth possibilities there, so I think that is the main area where we are trying to develop. We are the world's largest dairy exporter of whey and whey by-products and we are growing that as we speak. But we would like to get into some higher priced value-added products, like some of the cheeses.

The CHAIRMAN. Very good, thank you. The gentleman from Texas.

Mr. STENHOLM. I thank all of you for your testimony today, and your interest. And I hope and expect that the world agricultural community is following these hearings today and listening carefully to what the witnesses and the members are saying. I know when I had the privilege of visiting China in January, I had a very interesting visit with a French parliamentarian just the last week. The chairman and I met with the Braizialn delegation yesterday. Over the weekend, I spent in discussions with the U.S., Mexico, and their parliamentary exchange. And in each of these levels and every opportunity I get, I ask them how long do you think America can continue to buy \$500 billion from the world, more than the world is buying from us? China, \$100 billion, Mexico, \$37 billion. That is the fundamental question that one of these days, the per-

fect storm is going to be created. We are running fiscal deficits now that just astound me. It astounds me that my friends on the other side of the aisle suddenly believe deficits don't matter, as long as we can have a tax cut. And most of your members agree with that out there today.

How long can we run \$400 billion in fiscal deficits, \$500 billion trade deficits, without something happening? I don't know the answer to that question. But I do know that pursuing fair trade is in agriculture's best interest. With 96 percent of the world's consumers living outside of the United States, all of our futures in agriculture are in the world market. And the world needs us, because there is a lot of hungry people out there. And biotechnology most—and you are talking about Africa. It bordered on criminal of what the Europeans did regarding the threats to Africa, regarding whether they could accept our food or not. That really went over the edge. But as we pursue this fair trade, somehow, some way we have got to reach some accommodations, as Mr. Dooley was saying earlier this morning. And we all don't want to put our cards on the table too quick. But it is fascinating listening to our parliamentarians from these other countries justify their subsidies by comparing them to our subsidies. And when we start talking about export subsidies, we think they do a heck of a lot more, and they immediately say, well, your GSM programs, you are subsidizing. And I say oh, come on. Credit is not a subsidy. Now if we are selling it at below interest rate, then there is a subsidy, and then we will credit that. But the point here that just astounds me is that Europe talks about our export credits as being something that are—our lending credits is equal to what they do directly subsidizing, and to it with a straight face. It is just amazing, but then I am used to that.

I am in politics and I have seen my colleagues every day on both sides of the aisle do the same thing with a straight face. That is part of the deal. But somehow, just like the Europeans; I have watched them really put the britches on America agriculture with turnkey jobs, poultry is one. I watched them, and they would subsidize it from the feed, to the mill, to the equipment, to everything. They subsidized it, like they accuse us of doing, just lend the money. They didn't really subsidize it, they just lent the money. They did it the way I wish that we need to do it.

But, Mr. Camerlo, according to my information, in 2000–01 marketing year, the European Union subsidized their dairy exports to the tune of \$309 million for butter, \$217 million for cheese, and \$23.9 million for nonfat dry milk, totaling \$550 million. How does this compare to what we spend on beef?

Mr. CAMERLO. Congressman Stenholm, I don't have the exact answer, but I would say 300 or 400 times of what we spend at least. We can get you that answer exactly, but—

Mr. STENHOLM. Yes, we had a little trouble getting that figure too, but let us put that, and I want to put that in the record at this point just for the fact, because it is going to be considerably more.

Mr. CAMERLO. It is a huge difference. Yes, sir.

Mr. STENHOLM. Mr. Greene, you talked about China. Are we doing any better in getting China to live up to what they agreed to do when we voted to allow them into the WTO, regarding what

the amount of cotton that they would purchase under tariff rate quota?

Mr. GREENE. Two years ago, we saw something around 10 or 12 percent of the total that they agreed to allow. This year, we are up to 20 percent. But that seems to me to be little if any progress. I would have to say that they are blatantly not living up to their WTO accession agreement.

Mr. STENHOLM. Thank you.

The CHAIRMAN. Thank you, gentleman. The gentleman from Michigan, Mr. Smith.

Mr. SMITH. Thank you, Mr. Chairman. Gentlemen, thank you for being here. I chair the Research Subcommittee in Science, and we had a hearing last week on biotechnology. And what I am pushing for, and what I put in my National Science Foundation bill, is that we start partnering with scientists in Africa producing the kind of biotech products that is going to be most helpful for their particular country. Allowing a more adequate food supply, allowing products that can give them the vitamins, the nutrients, the immunization they need. I think maybe one of our mistakes has been we started out producing the kind of biotech products that maybe reduce the farmers cost a little bit. The only way it helped consumers and therefore public acceptance is a couple of cents a pound less. And when I visited with the scientists in Holland, they said, you guys are pretty dumb. Why don't you produce something somebody likes? I hope all of you will help support the effort of developing the kind of biotech products in Africa that helps particular people in particular countries, because I think that is the foot in the door to penetrate Europe and Japan and Australia, and some of these other countries. You came very aggressively, all of your organizations, maybe not dairy quite so aggressively, insisting that Congress allow China in the WTO. Do you wish now in terms of corn and cotton and wheat that we had waited a little longer, and been more insistent on their performance in terms of sticking to their agreements? Corn?

Mr. BOISEN. No.

Mr. SMITH. You are glad they are in, and we will part to that?

Mr. BOISEN. Yes, I am. We knew going in that they was going to be a challenge. We knew that not everything was going to work smoothly, and it hasn't. But no, I am glad that they are in. It is going to take some time.

Mr. SMITH. How about cotton?

Mr. GREENE. We were never wildly excited about China's accessions to WTO, but I didn't think that there was anything really we could do to stop it, but rather, we needed to be a part of the process so that we saw some reciprocal benefit. Unfortunately, we have not seen the reciprocal benefit. We have given them benefit, but they have not reciprocated.

Mr. SMITH. Mr. Camerlo, give me your perception of how most of your members feel about the current Milk Subsidy Program.

Mr. CAMERLO. The Price Support Program that we are under, Congressman, is across the board in good favor of dairy farmers. They think it is a fair and equitable program.

Mr. SMITH. In Michigan, my impression, the big farmers tell me they don't like it. It doesn't affect that much of their milk sales.

The middle sized farmers say it is a program that keeps the small farmers still in business that adds to the surplus and puts pressure on their ability to buy replacements. You say that is not true, generally?

Mr. CAMERLO. No, no. I talked about the Price Support Program, which is a different program. The Milk Program that you are talking about, those have opposition in the field to large producers. And the way USDA established the rules, it put additional pressure on the herds of three to 700 cow herds. So there is some discontent from which you are—

Mr. SMITH. If all of your members were voting, would they vote to do away with it?

Mr. CAMERLO. You have to remember that there is a lot more smaller producers than there are big producers. I would believe the membership you are asking me personally would vote to maintain the program, because it is helping a lot of producers in very tough times in the industry. Those larger producers, Congressman, are opposed to it, no question.

Mr. SMITH. Mr. Heck, a quick question on Brazil and soybeans. The papers I read that Brazil produces soybeans at a lower price cheaper than we do. Their cost of production is lower than ours, if you don't include the transportation, once they get the transportation and the waterways into the inland, they will be—they will produce soybeans at a lesser cost than what we produce them. Is that—do you guess the same way?

Mr. HECK. Not exactly. They have a lot of hidden subsidies there, and it may hinge on your interpretation. They receive subsidized low interest loans that do lower their costs. But if there were no subsidies, if all of the costs were accounted for, it would be a high cost production area, and not a low cost production area. Without subsidies, we would have the advantage.

Mr. SMITH. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you. Gentleman from Kansas, Mr. Moran.

Mr. MORAN. Mr. Chairman, thank you. I have only one question, I think for Mr. Boisen dealing with Mexico and fructose corn syrup. We all know the problem. I don't need to describe what we faced for the last at least 18 months with the discriminatory tax. My question is, do you have the sense that we are doing enough? That USTR is fully engaged in this issue? And then beyond that, what more can we do to get a fair opportunity to compete and to have our trade agreements lived up to?

Mr. BOISEN. I think part of the problem with Mexico, and this is my opinion only, is that we are reaching for implementation of NAFTA. We are reaching that point. And in every trade agreement, there is winners and there is losers. And with this being an election year in Mexico, I think the rhetoric gets maybe exaggerated a little. I think USTR is doing a good job with the resources they have available, but no, things are not moving fast enough, but they never do move fast enough. So I think we just need to keep the pressure on them. I think we need to enforce the agreements that we have. I don't think there needs to be any side agreements, and I think eventually we will get the issue with high fructose corn syrup, as well as other issues with Mexico resolved.

Mr. MORAN. I am glad to hear you are optimistic, although I guess slightly delayed in your optimism. It is good to know that you think there is a good end result. Thank you very much. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you. I believe the gentleman from Texas has an additional question or two.

Mr. STENHOLM. Not so much a question, but a follow-up comment with the question of Mr. Moran regarding Mexico. And having just spent a weekend visiting with our Mexican counterparts and some very good discussions, I think there is a general recognition that Mexico did not move as fast as they should have regarding the transition from 8 or 10 million farmers whose average farm is 5 hectare, 10 hectare. And there is no one arguing that a farm that size can compete in any market. But that is a problem. That is a social problem for Mexico that I am certainly sensitive to. And understand that we were very specific in saying these little what I call knit-picking things you have been doing with beef and pork and poultry and rice, and all of the things that the non-tariff trade barriers, and all of this, you are testing our patience with this, because even no one would argue that it is legal, but it is done in this. But little did I know, we would have—I knew we were getting close to a WTO challenge on it, and now we are there which is perfectly the thing to do. But somehow, somehow and this committee and agriculture can be very helpful, and I think the chairman has already indicated his desire to look into immigration policy. This is one area we have been derelict in this country. I can be critical of the Mexicans for not moving as fast as they should to implement NAFTA in a way that would make it more harmonious, et cetera. But we can be equally critical as not dealing with our immigration policy in a forthright manner from this country. It is important to agriculture. It is important to Mexico, and the fact that we have literally done nothing, particularly since 9/11/01, is now becoming a national security problem. But this is one area that can possibly be the most helpful thing we could do regarding trade opportunities going both ways in which we have gained in Mexico. Since NAFTA went in, our exports to Mexico have gone up 100 percent. Their exports to us have gone up 103 percent, which is about as close to parity as you can possibly get. But I have got a lot of constituents that don't believe that right now. But this is one area that as we continue to negotiate on trade that gets overlooked by too many of us. And the immigration policy, in trying to seek a good, solid, middle ground approach on that, can be the most helpful for accomplishing the things that you have testified to regarding Mexico trade that I could possibly mention. Thank you, Mr. Chairman.

The CHAIRMAN. I thank the gentleman for his comments and concur. I would like to thank all of the members of this panel for your contributions. I particularly found useful your perspective that there are many trade opportunities in various parts of the globe for each of you. And I hope we can work with our trade representatives to make sure that we focus on those areas and push harder to open up some markets where there is a lot of importation of agricultural products, and not just negotiate with countries that are agricultural net exporters. And so we will keep that list and we will raise it with the administration every opportunity we get.

Thank you all, and we will now go onto our third panel. Now I would like to welcome our third panel. Mr. Joe Zanger, Board of Directors, California Farm Bureau Federation, from Hollister, CA; Mr. Andrew LaVigne, executive vice president and CEO of the Florida Citrus Mutual, at Lakeland, FL; Mr. Jack Roney, director of economics and policy analysis, for the American Sugar Alliance, Arlington, VA; and Ms. Sarah Thorn, director of international trade of the Grocery Manufacturers of America. I would like to welcome all of you. And we will start with Mr. Zanger. I will remind you as I have the other panels that your full statement will be made a part of the record. We would ask you to keep your oral testimony to 5 minutes. Mr. Zanger, welcome.

**STATEMENT OF JOE ZANGER, BOARD OF DIRECTORS,  
CALIFORNIA FARM BUREAU FEDERATION, HOLLISTER, CA**

Mr. ZANGER. Good afternoon, Mr. Chairman. I think I have my presentation scaled back to 5 minutes. We will see how we do. I am Joe Zanger, a grower, processor, packer and shipper, retailer, from the San Jose area. My family business grows prunes, walnuts, pears, apricots, wine grapes, asparagus, lettuce. To varying degrees over the last many years, I have been responsible for the farm activities for the family business for the last 23 years.

Today I am presenting testimony on behalf of the California Farm Bureau Federation, as a member of its Board of Directors and Trade Advisory Committee. I also serve on the Fruit and Vegetable Aid Tack, the pleasure of doing that. And also, I have been on the California Farm Service Agency State Committee for the last 9 years, so that gives me a little additional perspective on the program perhaps.

The California Farm Bureau is the State's largest general farm organization representing more than 90,000 member families. Although California Farm Bureau is actively monitoring and negotiating progress and potential impacts of bilateral trade agreements, my comments today will focus on fruit, nut, vegetable, and other specialty crop interests in the WTO negotiations.

As a proponent of Trade Promotion Authority, California Farm Bureau is every supportive of the administration's efforts to secure broad and meaningful agricultural reform in the WTO talks. We believe an aggressive approach is necessary by our negotiators in this round, since past trade agreements have provided more benefits to U.S. specialty crop importers, as opposed to U.S. specialty crop exports. Significant reform is needed if the agreement is to make a difference in the future prospects for California and U.S. specialty crop growers.

In an effort to secure such reform, the California Farm Bureau is working with other state and national interests, as well as with our international trading partners to advance a sectoral initiative within the WTO agricultural talks for fresh fruits, vegetables, nuts, and other specialty crops as defined in chapters 7 and 8 of the tariff code.

Mr. Chairman, I would like you to divide my remarks into three sections; market access, export subsidies, and domestic supports. And I will explain why our sectoral initiative what it is proposing in each of these areas.

Market access. Average nominal (bound) tariffs in the United States, the EU, and Japan generally fall between zero and 25 percent. Globally, however, average tariffs on fruit, nuts, and vegetable products are much higher, ranging from 30 to 50 percent, and some ranging well above 80 percent. Many of the countries that offer the greatest potential for U.S. specialty crop exports are those that maintain the highest tariffs, such as China, Egypt, the EU, India, Israel, South Korea and Thailand. Examples of excessive tariffs include India's 105 percent tariff on raisins, Saudi Arabia's 100 percent on dates, South Korea's 136.5 percent tariff on onions.

The trade-inhibiting effects of tariffs and quotas on agriculture are well documented. In my written testimony I give two examples; one with table grape exports to Indian, and another with citrus exports to Korea. They are startling what those tariffs do, and also it is the impact, the additional sales we could have, should tariffs were relieved.

Both the Harbinson and EU Doha Round modality proposals would allow these high tariffs to remain. Harbinson less so than the EU. The U.S. Doha Round modality proposal would ensure that tariffs are reduced to a maximum of 25 percent. But even with the U.S. proposal, market access opportunities for U.S. fruit and vegetable exports would still be disadvantaged.

For this reason, the California Farm Bureau and other organizations in the planned coalition will be requesting that an agreement be negotiated that would upon implementation cut tariffs on most fruit and vegetable and nut products included in the chapter 7 & 8 tariff code, beyond what is agreed to in the WTO framework, using a reduction formula that would zero out tariffs over a 5-year period in equal installments.

Export subsidies. While most WTO member countries, including the U.S., do not use export subsidies for specialty crop products, the EU in 2000 had expenditures on exports for these products totaling approximately \$42 million. And in 2002, approximately \$40.6 million is budgeted. While these subsidies are within the EU's WTO commitments, they nevertheless distort the market for U.S. specialty crop exports, and increase unfair competition in third markets where the U.S. and the EU products directly compete. Our sectoral initiative would immediately prohibit the use of export subsidies.

Domestic support. This committee is fully aware that while the U.S. provides some domestic support to its growers, the disparity between the U.S. and European levels of support is striking. For the most part, U.S. fruit, nut, vegetable and other specialty crop producers do not receive any amber box payments. Amber box payments as you know are the trade distorting internal support payments. By contrast, the EU in 1999 subsidized its fruit and vegetable sector to the tune of \$11 billion, including lemons at \$426 million, grapes at \$213 million, and tomatoes at a whopping \$4.15 billion.

The disparity in the level of support provided to U.S. and EU producers must be rectified in the current negotiations. Given the vast disparity between the levels of subsidization, the emerging coalition is proposing to prohibit all amber box supports for most fresh fruit vegetables commodities within chapters 7 & 8, it would

eliminate them, and it would limit the de minimis support to 2.5 percent of production value.

Summarizing, there is significant tariff, export subsidy, and domestic support issues that must be addressed if the U.S. specialty crop producers are to see meaningful reform in the Doha Round. And to this extent, California Farm Bureau is communicating with members of Congress, and has been working with USDA and USTR to ensure that a sectoral initiative for fresh fruit and vegetable products is advanced during the Doha Round. Again, this initiative would serve as a zero-for-zero contract for countries. Zero out tariffs, zero out use of export subsidies, zero out use of amber box supports.

And I see I am way over, so I thank you for the time and perhaps I can answer questions afterwards.

[The prepared statement of Mr. Zanger appears at the conclusion of the hearing.]

The CHAIRMAN. Thank you, Mr. Zanger. Mr. LaVigne, we are pleased to have your testimony.

**STATEMENT OF ANDREW W. LaVIGNE, EXECUTIVE VICE  
PRESIDENT/CEO, FLORIDA CITRUS MUTUAL, LAKE LAND, FL**

Mr. LAVIGNE. Chairman Goodlatte, Mr. Stenholm, members of the committee, I am Andy LaVigne, executive vice president and CEO of Florida Citrus Mutual. And I am pleased to present today this testimony on the status of future negotiations affecting the agricultural trade policy. Particularly, the proposed Free Trade Area of the Americas and the Doha development agenda of the WTO. These negotiations will determine nothing less than the continued existence of the Florida citrus industry and the composition of the world's citrus markets. Mutual is a voluntary cooperative association whose membership accounts for more than 90 percent of Florida's citrus growers and as much as 80 percent of all oranges grown in the United States for processing into juice and other citrus products.

In order to correct a common misunderstanding, Mr. Chairman, Florida orange varieties are grown for processing, and not suitable for the fresh marketplace. I want to emphasize at the outset that Florida's growers, the most efficient in the world, measured by yield per acre, understand that our future economic security lies in the expansion of world markets for processed citrus products. I threw this in. We do not object to the improvement of U.S. economic ties in the hemisphere and the world through stronger trading relationships. And, in fact, we have supported many such programs and agreements over the last year, such as CBI, Singapore and others.

However, new market expansion beneficial to unsubsidized U.S. growers is a long-term objective, which cannot be achieved quickly under current global conditions, especially for crops that are just citrus, which is a perennial tree crop. Efforts to stimulate such expansions through traditional tariff cutting stimulus, which would be disastrous for U.S. growers and consumers, and possibly even the intended beneficiaries within foreign industries.

Our industry in global marketplace are highly unique and import sensitive. Not because of any lack of competitiveness, but because

of the dynamics and history of this sector. The global orange juice industry is dominated by five huge producers in Brazil. The U.S. tariff does not ensure survival, as many of the bankrupt Florida growers can attest, but it counteracts some of the extreme pricing pressure inflicted by frequent evaluations of Brazil's currency, the predatory pricing behavior, the Brazilian orange juice oligopoly, and the sheer market power of a highly concentrated industry selling globally, a dollar denominated commodity, made with progressively devalued local inputs.

Furthermore, the tariff gives Florida growers a fighting chance to make a living in a country that properly places tremendous value on costly worker rights and environmental integrity.

World orange juice consumption is concentrated chiefly in only two regions; the United States and the European Union. Global orange juice production is also located chiefly in two countries, Brazil and the United States, principally Florida. Brazil's five large processors control roughly 80 percent of Brazil's orange juice production and control nearly all of Brazil's orange juice exports.

It must be noted that Brazil's production of oranges is for the processed marketplace. And essentially, 99 percent of that processed product is exported to the world market. The large Brazilian processors benefit from advantages brought by past subsidization and dumping, lower environmental and labor standards, frequent national currency devaluation, which reduces the relative cost of production inputs and provides false incentives to overproduce, and oligopoly price manipulation.

Florida orange growers are not the only U.S. agricultural industry pitted against the unfair advantages of Brazil's agricultural exports; however, they are one of the few industries that the U.S. FTAA proposal threatens with demise. While U.S. farm support programs are used to help level the playing field for agricultural industries whose top markets are abroad, tariffs are used to level the field for industries like orange juice, whose top markets are in the United States. The U.S. industry that grows oranges for processing is unique among U.S. agricultural industries in that it does not receive any production or trade distorting domestic subsidies. Its only offsetting tools are the tariff and enforcement of unfair trade laws.

Any reduction in the U.S. orange juice tariff applying to Brazil would critically damage the entire Florida citrus industry. The economic impact of which has recently been estimated that \$9.13 billion in industry output, \$4.18 billion in value-added activity, and 89,000 jobs. It would also put at risk the environmental viability of over 800,000 acres of commercially planted citrus.

In order to get a glimpse of the likely impact of tariff reductions in the market, one need only look at the record of bulk juice prices, return to growers, and prices to consumers over the past 10 years. As the Uruguay Round tariff cut of 15 percent was forced on the market between 1994 and 2000, the global bulk juice price fell by 21 percent. And average returns to Florida growers declined by 38 percent for the early and mid-season varieties, and 16 percent for the late season or Valencia variety. At the same time, the price of the finished prices to consumers rose by 19 percent for the frozen concentrated product and 24 percent for chilled and reconstituted

juice, seemingly disconnected from the underlying wholesale prices being paid to the grower. And the reason is that a dramatically concentrated global industry with almost limitless cheap resources will take full advantage of any declining constraint on its power represented by tariff cuts, to minimize its competition and maximize its profit at the expense of the consumer, and the livelihood of Florida's growers.

Since the Florida industry is Brazil's only competitor of global significance, its demise would not bring cheaper orange juice to the U.S. breakfast table, but would eventually permit even higher consumer orange juice prices.

For all of these reasons, Mutual strongly opposes any reduction in the U.S. tariff on orange juice under the FTAA, or any other trade agreement in which Brazil would be a party.

Mr. Chairman, I appreciate the opportunity to testify today, and we would be more than happy to answer any questions.

[The prepared statement of Mr. LaVigne appears at the conclusion of the hearing.]

The CHAIRMAN. Thank you, Mr. LaVigne. Mr. Roney welcome, we are pleased to have your testimony.

**STATEMENT OF JACK RONEY, DIRECTOR, ECONOMICS AND  
POLICY ANALYSIS, AMERICAN SUGAR ALLIANCE,**

Mr. RONEY. Thank you Mr. Chairman, and Mr. Stenholm. I am pleased to present the U.S. sugar industries views on the WTO and FTA's, with some focus on the Harbinson text that is the current basis of the WTO negotiations on agriculture.

American sugar producers are efficient by world standards, with costs of production below the world average. We would welcome the opportunity to compete on a level playing field, free of all Government intervention.

Unfortunately, the world sugar price is highly distorted by a vast array of Government subsidies and practices—so distorted, that the so-called world market price for sugar has averaged barely half the world average cost of producing sugar for the past two decades. The only way to achieve the goal of free trade in sugar is to address all of these practices in all countries through comprehensive, multilateral negotiations, in the WTO.

The distorted world sugar market cannot be corrected through bilateral or regional free trade agreements. FTAs leave distortions in the rest of the world untouched. FTAs leave the free trade area vulnerable to the harmful effects of subsidies and other trade distorting policies outside the region. FTAs undercut our efforts to remove such policies in the WTO.

The administration has recognized some of these dangers and wisely decided not to address domestic price supports in FTAs, but rather to reserve price support negotiations for the WTO. To our dismay, however, the administration plans to treat sugar differently.

U.S. sugar policy, unlike other U.S. commodity programs, is based upon import tariffs. It is a no-cost policy, with no price or income support payments to American sugar producers. But the administration is proposing FTAs that would eliminate U.S. sugar import tariffs and undermine the U.S. sugar price support system,

without addressing sugar-price supports and other subsidy programs in the other countries.

How foolish it would be for us to reduce our import tariffs while foreign exporters are still subsidizing—and put efficient American sugar producers out of business. Globally, there is ample precedent for excluding sugar market-access disciplines from FTAs. Sugar has been excluded from the U.S.-Canada FTA; the Mercosur FTA, among Brazil, Argentina, Paraguay, and Uruguay; Mexico's FTAs with other Latin American countries; and the European Union's FTAs with Mexico and with South Africa.

There is one exception: the U.S.-Mexico portion of the NAFTA. The controversy surrounding the sugar and corn sweetener provisions of the NAFTA has been enormous, and a severe strain on U.S.-Mexico relations. This, and compliance issues on other commodities, have left many American farmers questioning the value of FTAs in which the only concessions that appear to be enforced are the concessions made by the United States.

The United States is already one of the world's largest sugar importers. All the sugar from 41 countries enters at the U.S. price, not the world dump market price, and virtually all duty free. Forcing the United States to import more sugar than it needs, as the FTAs would do, would over-supply our market. These potential FTA countries export over 27 million tons of sugar per year. That is nearly triple U.S. sugar consumption. The results would be disaster for domestic producers and for foreign suppliers. Prices would fall, driving more American sugar farmers out of business.

Low prices would also cause forfeitures of sugar loans to the Government, contrary to the Law Congress just passed in the 2002 farm bill. Low U.S. sugar prices would harm the economies of the countries that normally export to the U.S. All but two of the 41 quotaholding countries are developing countries.

Clearly, the only way to address the world of trade-distorting practices in sugar is comprehensively and globally, in the WTO, not piecemeal and regionally in the FTAs. But even in the WTO, we must be cautious. The Harbinson text falls dreadfully short of providing global sugar reform.

Its major shortcomings: Harbinson does too little to harmonize domestic supports. It will lock in rather than narrow the vast differences in price support levels. Harbinson does too little on export subsidies. It provides too long a phase out period, much longer than that provided for import tariff cuts.

Harbinson does far too much for developing countries, virtually excluding them from any serious disciplines. This is an enormous concern for sugar. Developing countries account for three-quarters of the world sugar production and trade. Exclude these countries, and you have no real reform.

In conclusion, Mr. Chairman, U.S. sugar industry is prepared to compete in a global environment, free of Government distortions. But the only way to achieve this goal is through carefully structured, comprehensive and effective reforms in the WTO, and not in FTAs. We must not allow ourselves to be rushed into flawed agreements that could have disastrous results for our industry and for the rest of U.S. agriculture. Thank you.

[The prepared statement of Mr. Roney appears at the conclusion of the hearing.]

The CHAIRMAN. Thank you very much, Mr. Roney. Ms. Thorn, we are very pleased to have you with us today. We know that the Grocery Manufacturers have held meetings in my district for many, many years, and we are glad that you do that, and hope you continue. And we are glad to have your opinion expressed up here today, as well.

**STATEMENT OF SARAH F. THORN, DIRECTOR OF INTERNATIONAL TRADE, GROCERY MANUFACTURERS OF AMERICA**

Ms. THORN. Thank you, Mr. Chairman and Mr. Stenholm. My name is Sarah Thorn and I am the director for international trade at the Grocery Manufacturers of America. It is a pleasure to be here today to offer our views on the status of multilateral and bilateral agricultural trade negotiations. GMA is in a unique position of supporting all current trade negotiations, as we reap benefits from both the increased export and import opportunities these new agreements provide.

GMA is the world's largest association of food, beverage and consumer product companies. Our industry remains a significant and increasingly important component of the U.S. agricultural sector. In fact, consumer food exports account for a higher percentage of U.S. agricultural exports than bulk commodities, making them a key export gateway for many farm products, if there are significant tariff and non-tariff barriers that limit future growth in this sector. For these reasons, the food industry has placed a priority on the successful outcome of the WTO agricultural negotiations.

Our primary objective in the WTO is to improve market access for processed food products and primary agricultural products through comprehensive negotiations that reduce or eliminate tariffs and TRQs on all products, even sensitive ones. To achieve this objective, we believe it is necessary to have a complex formula for tariff reductions that cuts higher tariffs faster than low ones, and harmonizes all tariffs to the already low U.S. schedule.

GMA, like many agricultural groups, was disappointed by the lack of ambition in the Harbinson text on core issues, such as tariffs and subsidies. We are also quite concerned about the extremely generous special and differential treatment provisions afforded to developing countries. We believe, however, that the Harbinson text should not be discounted outright, as it does provide a general road map for the harmonization of tariffs and the elimination of export subsidy, and the reductions of trade distorting domestic supports. The text, therefore, should be considered as a baseline from which to pursue greater reforms, and does in itself represent a significant movement forward in agricultural trade liberalization.

The Harbinson text also wisely ignores many of the EU's protectionist demands on non-trade concerns, such as precaution, labeling and geographical indications. GMA is extremely concerned about the escalation in EU demands for increased protections for geographical indications, in return for movement on agricultural liberalization.

As you may know, in the agricultural negotiations, the EU is proposed to create a register of GIs in order to give their producers the exclusive use of many famous agricultural product names, such as Pilsner, Fetta, Parmesan, Balsamic vinegar, and many others.

GMA is adamantly opposed to these new negotiations on GIs. We believe that sufficient rules already exist to guarantee that GIs are protected, and that new commitments in this area are not needed. The new rules may only serve to confuse consumers and represent a direct threat to trademarks and brands that are essential to the future growth of the food industry. Concessions on GIs will likely have an enormous negative consequences, not just for agriculture, but for a wide variety of industries that rely on strong intellectual property protections to market their products globally.

Now let me quickly turn to our views on the many bilateral and regional negotiations that have been recently launched by the United States. GMA supports these negotiations and believes that they are a necessary compliment to multilateral negotiations. Bilateral and regional negotiations allow for greater integration of markets, and provide the opportunity to enhance existing WTO commitments in key areas such as intellectual property rights and technical barriers to trade. GMA believes that the Chile agreement is in many ways an excellent model for future trade negotiations, as it is comprehensive and includes state of the art commitments in many chapters. We applaud the comprehensive nature of the agreement.

However, we caution that in order for commitments to be truly commercially meaningful, rules of origin and other limiting rules must not be used to deter trade in sensitive commodities. For example, while we were pleased that all commodities were included in the Chile FTA, we were disappointed that sugar trade is subject to both a net surplus requirement and restrict the rules of origin that would effectively preclude any meaningful trade in sugar. On a similar note, it is clear that the confusing and contradictory requirements for sugar trade in the NAFTA have only led to increased trade frictions as opposed to trade facilitation. These trade limiting provisions should clearly not be modest for future trade negotiations.

GMA also supports the Chile-FTA language that codifies the principal of first in time, and first in right are exclusivity of trademarks. This language will help to defend trademark protections from the EUs ambitious and geographical indications.

GMA also believes that negotiators should build on the U.S.-Chile TBT chapter in future free trade agreements. For example, we recently submitted a proposal to USTR to enhance TBT disciplines within the U.S.-Australia FTA, to address our concerns about mandatory labor and regimes, such as those for biotechnology and unjustified technical barriers to trade.

Thank you for the opportunity to be here this morning. I would be happy to answer any questions.

[The prepared statement of Ms. Thorn appears at the conclusion of the hearing.]

The CHAIRMAN. Thank you, Ms. Thorn.

Mr. LaVigne, in your testimony, you talk about narrowing the scope of the Free Trade Agreement of the Americas negotiations

are to reduce political friction among other things. Can you give us some more specifics about that? What would you recommend to the negotiators as to how that scope should be narrowed?

Mr. LAVIGNE. Well, I guess, Mr. Chairman, we were looking at that more from the standpoint of what we have seen in the media, and in discussions with the various negotiators following Ambassador Zoellick's trip to Brazil recently with respect to how we look at either the Mercosur countries in negotiations with a 4 plus 1 issue, or with just narrowing the focus of a FTAA. Taking the subsidized commodities off the table and just looking at market access unfortunately draws a bead on the citrus industry and several other commodities, one that will remain unnamed at this table, but is sitting right to my left, that we feel would be unfair in this kind of a situation. We would be the fruit basket in the middle of the table, while everyone around the table, hi-tech services and everything else, would be shooting at us to straighten us away, out to get whatever they needed. And if that becomes the issue, Mr. Chairman, I think we would push extremely aggressively to also be rolled over into the WTO, if that focus was narrowed.

The CHAIRMAN. Well, we share your concern about agriculture being traded away for other commodities.

Mr. Roney, you may want to comment on that, but I would also like you to comment on the current European Union negotiations within the EU on its own Common Agricultural Policy and its possible impact on the world sugar market.

Mr. RONEY. Thank you, Mr. Chairman. The fact that the EU is the world's second largest sugar exporter and had been the leading exporter for a number of years, and has a price support program that provides a price structure 40 percent higher than ours, suggests that the EU sugar subsidies must be addressed. And our concern, of course, is that FTAs won't even touch those, so we are making ourselves vulnerable to European sugar subsidies. Even in the WTO context, the CAP reform that the EU is considering now and working on as we speak does not include sugar. So we have concern that even the CAP reform we may see emerging from the European Union in the coming weeks will not have a significant effect on EU sugar subsidies. So it is something that we cannot address in the FTAs, but we need to address in the WTO, and I think we need to be very careful on that and watch that very carefully, and I appreciate your bringing up that set of subsidies.

The CHAIRMAN. I thank you. Let me ask of this panel the same question I asked the last panel with regard to the countries or regions of the world that best represents and opportunity to export our agricultural products, particularly the commodities that you represent. And what, if any, particular barriers concern you about the ability to take advantage of those markets. Start with you, Mr. Zanger.

Mr. ZANGER. Yes. When it comes to fresh fruits and vegetables, basically any consumer is our market, and especially countries that have the wherewithal of their population, and the wherewithal to afford fresh fruits and vegetables. It is more cost associated with fresh fruits and vegetables in terms of shipping, its perishability so—and the handling is more expensive. So you need a country that does have some net wealth in order to afford our product. But

incremental sales, we believe, are our long-term solution, so no sale is too small of a sale because they will all add up. And we find that 6 or 7 percent of additional supply causes a situation where we are over supplied and the market is depressed. So rather than producing less, because that is just not going to happen, we are always going to produce more because we need to get the efficiencies up. If we don't produce, someone else will produce. It is just the matter of getting greater distribution, getting more people throughout the world eating more fruits and vegetables, not five a day, 7 a day, as we are promoting here in the United States. All of this incrementally helps, and so I would say each and every country, to answer your question.

The CHAIRMAN. All right. The world is our fruit basket.

Mr. ZANGER. Yes.

The CHAIRMAN. All right. Mr. LaVigne.

Mr. LAVIGNE. Mr. Chairman, that is the discussion that we have had quite extensively with the administration. When we look at the unique nature of orange juice, it is not a product that you can take to every country in the world. Unfortunately, any of the areas the previous panel discussed in Northern Africa or South America don't have the economical wherewithal of the—or structure to be able to use the product, put it in refrigeration and those kind of things and the basics on it. Unfortunately, as we look at the current trading situation with our tariff, elimination of the tariff or reduction of the tariff won't allow us to take advantage of any market growth down the road in any of these potential arenas, whether they be China or other areas as they develop. By the time those markets develop enough for us to take advantage of them, there wouldn't be a Florida citrus industry, so we would prefer to look at those kind of opportunities down the road at the next round, whatever they call it.

Mr. RONEY. Mr. Chairman, the American sugar producers are efficient by world standards. We are net importers in this country, and in fact, we are required to be so by WTO and NAFTA concessions that force us to import an amount of sugar that amounts to about 15 percent of our market year after year. Our only hope to eventually move into export markets, which I think our industry is efficient enough to be able to do, would be to have genuine global sugar reform through comprehensive negotiations in the WTO. It would knock out the less efficient producers, and raise the world dump market price to reflect the actual cost of producing sugar. Since our costs of production are below the world average, then we could compete. But only if we have that global comprehensive reform.

The CHAIRMAN. Everything, nothing, nothing. Ms. Thorn, please help us out with some great targets for grocery manufacturers to export your finished products.

Ms. THORN. Absolutely. In fact, we are very excited about the Western Hemisphere and Asia. These are markets that are a growing populations where income is growing, and as income rises, people tend to go from commodity crops to processed food and higher value products. So just looking at our experience with the NAFTA where our exports actually doubled after NAFTA implementation, we feel very strong about the Western Hemisphere. Some of the issues that we are looking to tackle are those very high tariff bar-

riers on processed food products, as well as the non-tariff barriers to trade. A lot of this is export requirements, mandatory labeling requirements, things that effectively preclude our entry into markets, even if we get the tariffs down.

The CHAIRMAN. Thank you very much. The Chair recognizes the gentleman from Texas.

Mr. STENHOLM. Mr. LaVigne, I believe you are the first witness today that has talked about currency values, and the difficulty that your industry has competing with the Brazilians when the real is 35 cents on the dollar.

Mr. LAVIGNE. Yes, sir.

Mr. STENHOLM. That is a message that we need to get out to the general public, particularly those who have a negative attitude about our farm bill, of us attempting—of us, being the United States Government, attempting to stand shoulder-to-shoulder fairly with our producers in the international marketplace. Because when you are competing against a 35 cent real, it is pretty difficult to do, and that goes for every other commodity and it goes for every other production. It goes for airplanes, it goes for everything when you have a difference in currency, and therefore, to me it has always been one in which I with a straight face can justify us attempting to meet that subsidy of currency with something we do to help our own industry, competing in the international marketplace. That is another form of export subsidy that governments can do, and it is difficult to compete with it.

Ms. Thorn, you mentioned the EUs attempts to make processed based labeling, such as labeling for biotech products more immune from WTO challenges. What is the affect of our adoption of country of origin labeling on our credibility and arguing against processed based labeling?

Ms. THORN. Well, I think it undermines our credibility. We have lobbied strongly against those provisions during the farm bill debate. We don't think that the country of origin has any bearing on the quality or the safety of imported products. And we believe that it potentially could be a technical barrier to trade that we would be vulnerable on. We are working hard to see how that those provisions may actually be implemented in a way that they are workable. We think that this committee would be wise to review those provisions to see the actual impact on farmers, ranchers, and food manufacturers, because we don't think that they are going to meet the stated objective.

Mr. STENHOLM. The Chairman informs me we will be holding a hearing in this committee on—next week, and I think it is very timely. I should have mentioned this with the first panel today, with the BSE having been discovered in Canada and some now are believing that we really need country of origin labeling period now, because of BSE. I urge caution on everyone in this endeavor. Be careful what you ask for when you ask for protections, because if the next case of BSE should turn up in the United States, heaven forbid, then we will have excluded ourselves from every potential market in the world. And we are learning that now with wheat, with carnal bunt where we have a zero tolerance, and this is something that some of the previous questioning of other witnesses has led that we tend to get a little overly exuberant of whether or not

those countries who compete with us have equal food safety standards that we do. And as most of us know, we do a pretty good job, a pretty darn good job of making sure that all of our food include that which is imported is safe. Now we can do a better job, but it is awfully important that we be careful of what we ask for because sometimes when you ask us to do something for you, which none of you have done. Well you have too, in this. But be careful is what we say. Mr. Roney, a FAPRI analysis concludes that Harbinson would reduce bound tariff rates on sugar from about 92 percent to 54 percent since the applied tariff rates are lower at about 25 percent. Would U.S. sugar benefit from the tariff reductions contemplated in the Harbinson?

Mr. RONEY. On the contrary, Mr. Stenholm. We would be made more vulnerable by that. You would see absolutely no progress on foreign import tariffs. However, with our import tariff the bound and applied are the same. But to make matters worse, we are looking at a 5-year phase down on our import tariff, while there is a 10-year phase down on foreign export subsidies. So we would be bringing down our import tariff far more rapidly than foreign export subsidies are being phased out. So we literally would be opening our market to subsidized foreign sugar.

Mr. STENHOLM. Another point just for the record today that I think we are going to hear more of. In fact, there could very well be a bill introduced very soon regarding individual animal identification. Instead of labeling, trace back of which becomes very important, and here I think you know the Canadians can be commended for the manner in which they were able to track that one animal. And as much as we hate to see these kind of things coming, I think from a standpoint of maintaining the credibility of our food supply in which I can, and I say this quite often, we are blessed to have the most abundant quantity of food, the best quality, the safest food supply at the lowest cost to our people of any other country in the world. And that doesn't happen by accident. It is because we recognize, you do, certainly, Ms. Thorn, the people you represent understand that if a product that you sell causes a problem, you are liable. And the same is true for every one of you at the table. If it is your product that causes a problem, you are liable. And then in this day in age in which we have got the sueitis, it is important to note who caused it, and it is important that both us and our competitors are able to do that. So I think you are going to see more and more discussion of this, and hopefully we will move in a way that will be cost effective and efficient. That we don't put another noose around our own producers neck in costs that are unsustainable, that can't be received back from the marketplace. And that is a real challenge that we are going to have, but it is one that we better face up to with the biotechnology, which we have got to get the rest of the world to accept, for the good of the starving people of the world. And that is something that we need. I know you do in the fruits, vegetables area, and which through biotechnology, you can do wonderful things with the product. And it would be a shame to deny the consumers of the world that because somebody decided it was unhealthy, without any scientific evidence whatsoever. But we thank you very much for your attendance here today, your testimony, and look forward to work-

ing with you and with the administration in trying to get a successful Doha Round completed. That is awfully critical to everybody that has been here today.

The CHAIRMAN. I thank the gentleman. And I thank all of you, as well, for your contribution today. It has been very valuable. And we are going to continue to watch this issue very, very closely. It is my intention, along with Mr. Stenholm, to lead a delegation of Agriculture Committee members to the WTO Ministerial meeting in Cancun to be present and to speak up, and to watch closely what is going on. We also hope to do the same thing for the Free Trade Area of the Americas Ministerial in Miami, Florida in November. We look forward to working with American Agriculture and with the administration as they proceed, and the Congress proceeds to go through each of these negotiations. Our next trade hearing is scheduled for late July, at which time the committee will invite the administration and representatives of the U.S. agricultural organization and others to discuss what I find to be a very, very important issue that is not getting as much attention here as it is in Europe and other places. That is the issue of geographical indicators, in relation to trade and the implication of the European Union's WTO proposal on agriculture.

At this time we will close our hearing. Without objection, the record of today's hearing will remain open for 10 days to receive additional material and supplementary written responses from witnesses, to any question posed by a member of the panel. And with that, this hearing of the House Committee on Agriculture is adjourned.

[Whereupon, at 2:03 p.m., the committee was adjourned.]

[Material submitted for inclusion in the record follows:]

#### STATEMENT OF HOBE BAUHAN

Good morning and thank you, Chairman Goodlatte, Congressman Stenholm, and Committee Members for the opportunity to present the U.S. poultry producers/processors views and recommendations regarding the very important issue of international agricultural trade negotiations. The issues for U.S. poultry are many, and this hearing can serve as an important opportunity to more fully and successfully address the many issues confronting agricultural trade negotiations. U.S. poultry companies appreciate the chairman's invitation to be part of this very vital discussion. It is our hope that our efforts can contribute to and be part of a satisfactory resolution of these trade issues.

I am Hobey Bauhan, president of Virginia Poultry Federation. In addition to representing my organization, I am pleased to also be representing today the National Chicken Council, National Turkey Federation, and USA Poultry and Egg Export Council. My organization, the Virginia Poultry Federation, has since 1925 represented all sectors of the Virginia poultry industry. We work closely with other poultry organizations to promote a positive business environment for poultry and eggs. A healthy and robust export market is essential for my member companies to be successful.

The National Chicken Council (NCC) represents companies that produce and process about 95 percent of the young meat chickens (broilers) in the United States. NCC works very actively with Congress and the administration to help promote an expanding export market for U.S. poultry.

The National Turkey Federation (NTF) represents more than 95 percent of the turkeys produced in the United States, including all segments of the turkey industry from breeders and hatcheries to growers and processors. Like the other poultry organizations, NTF has strong membership support from companies allied to the poultry business.

USA Poultry and Egg Export Council represents more than 200 companies involved in exporting all types of poultry and egg products. Members include produc-

ers, processors, further processors, export brokers, shipping companies, and other related firms and organizations.

My statement consists of four parts. These are:

- on-going World Trade Organization' multilateral negotiations of the Doha Round
- bilateral free trade agreements between the United States and certain other countries
- other trade concerns of important interest to U.S. poultry producers/processors
- recommendations to address certain agricultural trade issues

Basics. Before commenting on agricultural trade negotiations, however, permit me to note certain fundamentals about the U.S. poultry industry and the marketing situation. More specifically for young meat chickens (broilers), the 50 or so vertically-integrated companies that produce, process, and market broilers will sell into the market-place this year about 32 billion pounds, measured on a ready-to-cook weight basis. About one-half or 16 billion pounds of this production will be the front half of the broiler, basically breast meat, and one-half or another 16 billion pounds will be the back half of the bird, basically, leg quarters. American consumers through their purchasing decisions express an overwhelming preference for breast meat, which is usually sold as boneless, skinless breast meat or products directly made from this meat. Due to the imbalance of consumer demand between the front half and the back half of the chicken, it is critical that export markets be found for the part of the chicken less preferred by the American consumer. Fortunately, except for North America and, perhaps, certain parts of the Western Europe, consumers around the world have a decided preference for leg meat relative to breast meat. While this situation offers great competitive opportunities for U.S. chicken exporters, it also, at the same time, causes U.S. chicken exports to be criticized as receiving subsidies. While it is true that the price of U.S. chicken leg quarters is quite attractive to buyers, the charge of subsidies is baseless. The U.S. government does not provide any export subsidies for U.S. poultry.

In 2001 exports accounted for over 18 percent of total U.S. broiler marketings. With the disruption in the Russian market in 2002, that share decreased to 15 percent. This year we hope it will recover to at least 17 percent. In short, the export market must take about one of three pounds from the back half of the broiler for the overall market to be in good balance and provide the necessary underlying support for a healthy broiler market.

This brief explanation may help in understanding why U.S. poultry exporters face a very difficult overall market when a sufficient share of chicken leg quarters cannot be exported. When adequate market access for U.S. chicken leg quarters is not possible in foreign countries, the back-up in supplies on the domestic U.S. market not only negatively impacts chicken, but also the problem spills-over and depresses producer prices for hogs and cattle.

WTO Doha Round Negotiations. Progress on the current World Trade Organization' Doha Round of negotiations has been limited and the outlook for future progress is uncertain. Only those who did not appreciate and understand the difficulties of the previous round of multilateral trade negotiations would expect the Doha Round to be any less difficult or protracted. In fact, the consensus was that these negotiations would undoubtedly be much more difficult and time-consuming because there are more players involved now and the issues are tougher to address both technically and politically.

We encourage U.S. negotiations to stay the course and work to improve market access, eliminate export subsidies, and reduce internal domestic support programs that distort production and trade. At the same time, it must be recognized that even with full, successful achievement of these goals, U.S. poultry exports will not expand unless there is the removal of non-science based sanitary and veterinary provisions that are used to limit and block our overseas sales. The examples of these provisions damaging U.S. poultry exports are many and the economic impact is very significant.

Some have criticized the U.S. position and stance on agriculture trade negotiations as lacking flexibility and an unwillingness to meet in the middle. In short, it is our judgment that a bad agreement just to achieve an agreement would be worse than no agreement. If continued WTO negotiations prove frustrating, we encourage our negotiators to re-double their efforts to enforce agreements that have already been implemented but lack full adherence and compliance by other signatories to these agreements. Of course, non-compliance should be aggressively pursued in any event, but we also recognized that the U.S. Trade Representatives Office has limited resources and cannot pursue all the many problems at the same time.

Bilateral Free Trade Agreements. Since it is proving difficult to move forward on agricultural issues in the Doha Round, we encourage U.S. negotiators to step-up

their efforts on bilateral free trade agreements. Bi-lateral free trade agreements do offer the possibility of increasing trade in poultry and other agricultural commodities. But, as in the WTO negotiations, while import tariffs and import quotas may be reduced or even eliminated, the sanitary and veterinary provisions are proving to be the critical hurdle to overcome.

For example, the U.S./Chilean Free Trade Agreement was signed earlier this month and in the near future will be presented to Congress for consideration and possible approval. Under this agreement, there is an acceptable tariff rate quota and over quota tariff rate for poultry. However, there is also a two year standstill time period while Chile is provided an opportunity to have its poultry inspection system approved as being equivalent to USDA' standards and requirements for poultry. In the meantime, since Chile does not recognize USDA' inspection system for poultry, U.S. exporters cannot ship to Chile. Although this two-year standstill is not a preferred position, we understand the realities of the situation. While more immediate access to the Chilean market would be much preferred, we are, nonetheless, supportive of the agreement. We look forward to the time when poultry trade with Chile can be conducted in a more normal and free environment.

An ambitious timetable has been set to achieve another free trade agreement. We understand the United States and five Central American countries plan to have a free trade agreement reached by the end of 2003. Poultry, especially chicken leg quarters, is a priority agricultural issue for all parties involved in a possible U.S./CAFTA. We also understand the Central American poultry industry may be looking to the U.S./Chilean FTA for a template on how to address the leg quarter issue. We believe acceptable arrangements can be found that all facilitate and eventually enhance a more robust poultry trade with Central America.

With respect to another possible free trade agreement, we find Australia' stance on U.S. poultry quite curious. In brief, Australia has a poultry disease called Infectious Bursal Disease (IBD), as does the United States. Although both countries would prefer not to have IBD, it is a manageable disease in both countries. Interestingly, Australia argues that its strains of IBD are different than the U.S. strains of IBD and, therefore, they cannot risk importing uncooked poultry from the United States for fear of having these U.S. strains of IBD transmitted to their poultry flocks. An unofficial risk analysis estimates the chance of this transmission occurring at no more often than once in every 30,000 years. Apparently, anything other than a zero risk is unacceptable to Australia. Since it is not possible for the United States to prove there is a zero risk, Australia will continue to overly-protect its poultry industry from imports. U.S. negotiators must insist that Australia adopt a more reasonable level of risk that will lead to U.S. poultry being permitted in the Australian market.

Other Trade Issues. Almost as curious as the Australian situation for U.S. poultry is the European Union stance on U.S. poultry. Despite exporting poultry to Western Europe since the early 1950's which was prior to the inception of the European Economic Union, the European Union determined that in 1997 poultry that had been processed in chlorinated water to reduce pathogens was unacceptable and such poultry would be banned. It was during the effort to achieve a U.S./EU Veterinary Equivalency Agreement that U.S. poultry was banned. Thus, the very effort to eliminate the use of non-scientific provisions to stop trade actually resulted in U.S. poultry being prohibited. Recently to the EU' credit there has been expressed a willingness to possibly consider allowing the use of other antimicrobials during the processing of poultry in lieu of chlorine. It is important that U.S. poultry again become eligible for export to the EU not just for export to the EU, but, more importantly, to be able to continue to export to countries that are joining the EU and having to adopt the EU rules on poultry. As the EU grows in future years, the damage to U.S. poultry exports will be exacerbated, unless a resolution is soon found.

Russia is the United States largest export market by a significant measure. This market in 2002 accounted for 32 percent of total U.S. chicken exports, and the year before in 2001, Russia' share was 42 percent. As this Committee is aware, actions by Russia last year caused a substantial disruption to U.S. poultry exports. Our chicken exports were off 35 percent in volume and 43 percent in value. Russia said in early 2002 that they found Salmonella in U.S. poultry and thus exports would be halted until U.S. poultry processors could demonstrate they could meet new Russian inspection and veterinarian requirements. Russian actions in 2002 were not unlike their actions in 1996 when they previously disrupted U.S. poultry exports.

We are most appreciative of this Committee' support on the U.S./Russia poultry trade issue. In fact, much of the House and Senate have expressed support for this issue. We are also most appreciative of President George Bush' attention and support. He has raised the poultry problem with Russian President Valdimir Putin over the past year with the most recent discussion taking place during President Bush'

meeting with President Putin in St. Petersburg earlier this month. This strong support is needed to reach a long-term resolution to the current situation.

Earlier this month the ten Russian veterinarians completed their inspection of 341 poultry processing plants and related facilities. We are hopeful that these establishments will be approved by Russia. We are anxious to hear their determinations because on July 1, 2003 all U.S. plants become unapproved unless Russia decides otherwise.

If plants are approved, their remaining issue is Russia' imposition of import quotas for poultry. This quota was implemented May 1, 2003. The quantity of poultry permitted under the quota will cut U.S. chicken leg quarter exports by at least one-half from the level in 2001. Such a drastic decrease in the quantity of poultry imported by Russia is unacceptable. We have asked the U.S. Trade Representative with the support of 140 Congressmen and 51 Senators to consider taking trade actions against Russia if a more fair arrangement cannot be reached.

Regarding Mexico, the U.S. and Mexican governments are working toward a unique Safeguards agreement. We support the U.S. Trade Representatives' efforts to help avoid major market disruptions for U.S. poultry. We encourage USTR to continue pursuing the Safeguard with full vigor. At the same time, it is important that sufficient political pressure is applied to counter Mexico' tenacity for erecting trade barriers that are not scientifically justified.

Regarding South Africa, we continue to look for a resolution to our long-standing dumping case. Although South Africa has indicated a certain willingness to consider a "change of circumstance review" that could possibly provide relief, we have yet to see progress.

Perhaps, the most blatant trade disruption to U.S. poultry is the defacto import ban placed on U.S. chicken parts by Indonesia. Such a totally arbitrary ban must not be tolerated. In brief, it seems prudent to us that some or all of these outstanding, lingering trade problems be resolved before turning most of our government' attention to tackling new trade agreements. There either must be a better balance between the old and new or there must be more resources made available for accomplishing the full trade agenda.

Recommendations. We recognize that agriculture trade negotiations are difficult, complex, and never-ending. We also recognize we do not have all the answers to successfully resolving the many tough problems. However, we respectively suggest that the following recommendations be considered. These are:

- continue to work diligently toward a successful conclusion to the Doha Development Round of WTO negotiations
- continue to pursue the successful conclusion of bi-lateral free trade agreements that include acceptable provisions for poultry trade
- continue to work aggressively to have full and complete compliance by signatories to agreements already concluded
- have trading partners agree to pre-determined procedures for an expedited resolution of sanitary and veterinary issues
- withhold Congressional approval for graduating Russia from the annual review as provided by the Jackson-Vanik Amendment until U.S. poultry trade with Russia returns to more normal levels
- withhold support for WTO membership for Russia until Russia fully demonstrates it will abide by WTO rules
- in the absence of a resolution for the Russia import quota issue for poultry that trade actions be pursued by the U.S. Trade Representative
- that USDA organize a permanent, dedicated, full-time task force of USDA technical and scientific experts to be dispatched to trouble spot countries that are using non-science based sanitary and veterinary measures to disrupt or halt U.S. poultry and red meat exports, and
- provide the U.S. Trade Representatives Office with a more adequate budget so that more sufficient resources can be dedicated to resolving existing agricultural trade issues and preventing new issues from occurring.

Conclusion. We again thank the committee for the opportunity to present our recommendations regarding agriculture trade negotiations and issues. It is our hope that U.S. poultry exports can increase in the years ahead so that farmers and poultry company employees will have greater opportunities to benefit from the economic activity generated by a dynamic U.S. poultry industry. We look forward to working with the committee as this goal continues to be pursued.

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## STATEMENT OF ERNIE REEVES

Chairman Goodlatte and members of the committee; the National Cattlemen's Beef Association (NCBA) appreciates the opportunity to present our views on the current situation regarding multilateral and bilateral agriculture trade negotiations. I am Ernie Reeves, a NCBA Regional Vice President for Policy from Mt. Solon, Virginia and this morning I would like to provide an overview of our philosophy and position regarding the significant number of challenges and opportunities before us regarding U.S. beef trade.

NCBA supports trade initiatives that reduce barriers to access for U.S. beef. NCBA and many other U.S. agricultural organizations worked tirelessly for Trade Promotion Authority (TPA) and support the administration's pro-trade agenda. We support this agenda because it is the right thing to do for U.S. agriculture and for the country. Trade liberalization has been a key to economic growth for centuries. Nonetheless, there is concern that past negotiations have given more access than we have received. Future trade agreements must provide favorable access for U.S. agricultural products. We need trade agreements that provide opportunities for U.S. beef producers to expand their ability to export product.

The U.S. is the world's largest beef importer and the second largest beef exporter. In 2002, the U.S. imported approximately \$2.8 billion of beef and variety meats (\$887 million from Australia) and exported \$3.2 billion. Due to the unique position of our industry as importer and exporter, NCBA must consider balance, equity, and fairness of proposed trade initiatives to assure that any agreement provides net access for U.S. beef. Perceptions in some parts of the industry are that this has not always been the case. Indeed the U.S. is the most open, least restricted major beef market in the world. At the same time the U.S. beef industry has witnessed first-hand the value of market opening trade agreements.

Multilateral Market Access. In a world of unlimited trade issues and limited negotiating resources, NCBA strongly prefers focusing on the World Trade Organization's (WTO) Doha Round multilateral initiative. The expansion in market access for U.S. beef during the past decade was directly related to our negotiations during the Uruguay Round. The Doha Round will again provide us with a tremendous opportunity to reduce impediments to beef trade around the world and we must not squander it. Furthermore, NCBA will not support increased access to the U.S. beef market until meaningful access and tariff reduction is achieved in other major beef importing countries.

Like most, NCBA is impatiently waiting for the EU to resolve its outstanding issues related to its enlargement from 15 to 25 countries and reform the Common Agricultural Policy so it can get to the WTO negotiating table. We loudly applaud any and all administration and Congressional efforts to persuade the EU to actively engage in the WTO negotiating process as soon as possible.

A Bilateral Parallel Track. When it comes to bilateral agreements, the U.S. beef industry instantly thinks of the remarkable success story that is the North American Free Trade Agreement (NAFTA). Those who sought this agreement nearly a decade ago never imagined that one day Mexico would be our number one (or two) market for so many agricultural commodities.

The NAFTA, has contributed to a thirty-three percent increase in per capita income over the last five years for Mexico's 103 million citizens. This increase in disposable income has led directly to increased Mexican beef consumption. While Mexico's domestic beef production has struggled to expand and meet this demand in recent years due to drought, U.S. beef and variety meat exports to Mexico have grown. From an inconsistent market of about 100,000 mt and \$200 million prior to NAFTA, Mexico was our most significant market in terms of tonnage in 2002 of 350,000 mt and \$854 million. (Despite its BSE crisis of late 2001, Japan remains our best market with 2002 beef and variety meat exports totaling \$1.028 billion.)

This is a mutually beneficial trading relationship as the U.S. also imports around one million head of Mexican feeder cattle each year that have a value of over \$300 million. In fact, today's integrated North American cattle market now looks very much like what was envisioned a decade ago by NAFTA proponents with consumer-driven economic signals dictating the future direction of this industry. The challenge before us in future bilateral agreements is to improve upon the NAFTA and negotiate with countries that offer the best opportunities for the U.S. economy as a whole, U.S. agriculture and the U.S. beef industry.

US-Chile Free Trade Agreement. The U.S.—Chile FTA appears to demonstrate solid improvement in many areas since the NAFTA. It should serve as a model for the Central American agreement (CAFTA) and others as well as an eventual Free Trade Agreement of the Americas (FTAA). A critical element of this agreement is Chile's recent acceptance of the U.S. meat grading system as equivalent to Chilean

“Norms.” NCBA also strongly supports the agreement’s system-wide approval of each country’s inspection systems. We recommend that meaningful oversight be continued by our government to ensure that equivalency is achieved and maintained. In addition, the agreement provides phased-in duty free access that becomes unlimited during the fourth year of the agreement. Chilean beef also enjoys the same phase-in access to the U.S. market.

U.S.-Central America Free Trade Agreement (CAFTA). Increasing trade relationships with Central American countries will contribute to economic growth, political stability, bolster front-line defenses against the introduction of foreign animal diseases into North America and have the potential to moderately increase U.S. exports of high quality beef. NCBA stands ready to lend our support in any way necessary to achieve that end.

The U.S. and Central America have an established track record in jointly eradicating animal diseases and pests such as FMD and the screwworm from Central and North American livestock populations. Central America serves as the buffer zone between North American and South America, where these diseases and pests are still prevalent. The Darien Gap in Panama is where this front line of defense against reintroduction exists today.

Only a few countries in Central America currently export beef to the U.S. under the 64.81 thousand metric ton Other Countries TRQ. However, only 35 percent of this quota has been utilized in recent years. There is also potential to export moderate quantities of high quality U.S. beef for Central American restaurants and tourism.

With these negotiations soon reaching a critical phase, NCBA believes there are three key aspects that need to be considered. The first is that this agreement must not exclude ANY agricultural product. Secondly, the five participating Central American governments must begin to understand that U.S. congressional ratification of this agreement will be difficult and improbable without the support of U.S. agriculture on Capitol Hill. Third, the beef industry does not consider it acceptable for the participating countries to increase their tariffs from the current applied rates to the WTO bound rates prior to harmonization, so as to negotiate down from a higher level. We expect our Central American trading partners to negotiate this agreement in good faith market access negotiations on tariff rate should start at the current applied tariff rates.

US-Australia FTA. The U.S. is already the most open, least restricted major beef market in the world and NCBA firmly believes that there would be no net benefit for the U.S. cattle industry from an FTA with Australia. We continue to believe that the multi-lateral WTO negotiations provide the best strategy for reducing unfair trade barriers and opening markets for U.S. agricultural products. Beef markets in other developed countries remain virtually closed to U.S. beef (EU) or protected by relatively high tariffs (Japan at 38.5 percent and Korea at 41.4 percent).

Australia filled its quota for the first time ever during the week of December 5, 2001. Product was placed in bonded storage during December 2001 and released after January 1, 2002 causing front-loading of imports from Australia during 2002. In early October 2002, the Australian Government announced the implementation of a tariff rate quota management system, which controls the amount of product that each exporter can send to the United States to manage the remaining allocated TRQ. However, cattle slaughter has markedly declined in Australia due to drought-reduced supplies.

Australia did not fill its TRQ in 2002. (See attachment 1) Therefore, NCBA does not believe that increasing Australia’s access to the U.S. beef market is warranted. Conversely, Australia will never be a market of any consequence for U.S. beef.

Recent developments regarding the timeline for negotiating this agreement are very concerning to NCBA. The shadow this situation casts over our long-time support of trade liberalization can only be brightened via greater multi-lateral access negotiated on a parallel track.

Free Trade Area of the Americas (FTAA). NCBA is closely following FTAA negotiations and does not outright oppose an FTAA. It makes no sense to ignore the more than 500 million consumers that inhabit the Americas outside the United States. Again, however, our position is that we will only support initiatives that are conducted on a parallel track with multilateral WTO negotiations and result in a net increase in U.S. beef exports. We note that both the Doha development agenda and the FTAA are to be concluded by 2005, meaning that at this time both negotiations are proceeding on a parallel track.

Future FTA Countries. NCBA supports the concept of establishing criteria to evaluate future countries that are interested in an FTA with the US. U.S. agriculture urgently needs a win with the bilateral component of our trade agenda and

we look forward to an opportunity to engage Congress in the development of a set of criteria and priorities for future bilateral FTAs.

**Maintaining Existing Agreements.** Our trade expansion goals also mean that we simply cannot let existing trading relationships slip or be taken for granted. A firm commitment to existing agreements by industry stakeholders and the U.S. government must be maintained. This includes a constant fostering of relationships with our trading partners and constant vigilance with respect to maintaining compliance.

Both the Market Access Program (MAP) and the Foreign Market Development (FMD) Program are very import to the beef industry in that they are the primary avenue by which producers are able to build and maintain relationships with importers, retailers and others who use our product in the beef importing markets of the world. For FY 04 the MAP and FMD programs are authorized respectively at \$125 million and \$34.5 million. We request that these programs be funded at the fully authorized level through the appropriations process as they are essential to the viability of the U.S. beef industry.

Implementation of this strategy also means that our government needs to be adequately staffed. That means we need more full time equivalent employees (FTEs) devoted to trade agreement maintenance at both USDA and USTR. A letter we recently submitted requesting these FTEs is attached to this testimony. (Attachment 2) Our future success depends upon our ability to properly manage both new and existing trade agreements.

At this moment, NCBA is currently embroiled in challenges in our relationship with our top two customers: Mexico and Japan. We are also constantly reminded of our long-standing dispute with the EU, a case that our industry clearly won but has yet to fully resolve.

**Market Access.** The U.S. must hold its trading partners to commitments agreed to in previous trade agreements and aggressively negotiate access for U.S. agricultural commodities or risk losing public support for trade and international marketing.

NCBA firmly believes that any expansion of access to the U.S. beef market must be part of an overall package that gains access for U.S. beef exports in Europe (EU as well as aspiring EU members), Japan, Korea and other existing and emerging international beef markets. NCBA will oppose any agreement that allows a net increase in access to the U.S. beef market. A strong, clear and irrevocable message must be sent to Cairns Group and Mercosur beef exporting countries—major U.S. beef suppliers—that no increased access to the U.S. beef market will be forthcoming until meaningful access and tariff reduction is achieved in other major beef importing countries.

**SUMMARY.** The National Cattlemen's Beef Association is focused on meeting our trade objectives by participating in the process of evaluating critical trade issues within the beef industry. NCBA looks forward to providing additional input as the U.S. advances its proposals at the WTO, negotiates bi-lateral and regional agreements and resolves a growing list of SPS issues with the European Union, Russia and other trading partners.

A recent analysis of future trends shows U.S. beef production growing 14 percent by 2012 and a subsequent 28 percent (or roughly \$900 million) increase in U.S. beef exports. Clearly, our industry's future growth is dependent upon our ability to export.

NCBA appreciates the initiatives that have been undertaken to gain access to international markets and to resolve lingering issues that restrict the ability of the U.S. beef industry to offer its products to international consumers. We look forward to working with all of our trading partners to address industry concerns about current global disparities in market access, export subsidies and domestic support as well as maintaining the disease-free status of the U.S. herd. Thank you for the opportunity to present this information before the committee.

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#### STATEMENT OF JOE ZANGER

Good morning Mr. Chairman and members of the committee. I am Joe Zanger, a grower, processor, packer, and retailer of fruits and vegetables in Hollister, California. Today I am presenting testimony on behalf of the California Farm Bureau Federation (CFBF), as a member of its Board of Directors and Trade Advisory Committee. The California Farm Bureau is the State's largest general farm organization, representing more than 90,000 member families.

I appreciate the opportunity to address this committee on the issue of multilateral and bilateral agricultural trade negotiations. Though CFBF is actively monitoring the negotiating progress and potential impacts of bilateral agreements, my com-

ments today will focus on fruit, nut and vegetable interests (specialty crops) in the World Trade Organization agriculture negotiations.

As a promoter of Trade Promotion Authority, CFBF is very supportive of the U.S. administration's efforts to secure broad and meaningful agricultural reform in the WTO talks. We believe an aggressive approach is necessary by our negotiators in this round, since past trade agreements have provided more benefits to U.S. specialty crop importers than U.S. exports. Primarily because of continued high tariffs in many countries and substantial foreign subsidies—while our competitors enjoy the ease of exporting their product into the U.S. because of our low tariffs. Significant reform is needed if the agreement is to make a difference in the future prospects for specialty crop growers in California and many other parts of the United States.

In an effort to secure such reform, the California Farm Bureau Federation is beginning to work with representatives of other state and national interests, as well as with our counterparts in other countries, to advance a sectoral initiative within the WTO agricultural talks for fresh fruits, nuts, vegetables and other specialty crops as defined in Chapters 7 & 8 of the tariff code. A sectoral initiative is a negotiating concept originally introduced by the U.S. that disciplines trade beyond the framework agreement. This initiative would, in effect, serve as a Zero-for-Zero Contract for Countries. Let me explain.

Mr. Chairman, I would like to divide my remarks into three sections—market access, export subsidies, and domestic supports—and explain what our sectoral initiative is proposing in each of these areas and how it will hopefully lead to decreased tariffs, decreased subsidies and increased trade for U.S. specialty crop producers.

**Market Access.** Average nominal (bound) tariffs in the United States, the EU, and Japan generally fall between 0 to 25 percent. Globally, however, average tariffs on fruit, nut and vegetable products are much higher ranging from 30-50 percent on many commodities and some reaching well above 80 percent. Indeed, many of the countries that offer the greatest potential for U.S. specialty crop exports are those that maintain the highest tariffs. Among these are China, Egypt, the EU, India, Israel, South Korea, and Thailand. Examples of excessive tariffs include India's 105 percent tariff on raisins, Saudi Arabia's 100 percent tariff on dates, and South Korea's 136.5 percent tariff on onions and 368 percent tariff on garlic.

The trade-inhibiting effects of tariffs and quotas on agriculture are well documented. For example, in its 2003 submission to USTR for the National Trade Estimate (NTE) report on foreign trade barriers, the California Table Grape Commission reported that India's 30 percent tariff and other taxes on imported table grapes present a significant impediment to competitive access in one of the world's largest consumer markets. The Commission reported that in 2001, U.S. grape exports to India totaled \$3.3 million, but the market could become a \$10 million market if India's tariff and tax barriers were removed.

South Korea is another market where U.S. products face stiff tariffs and other trade barriers. In their 2002 submission to USTR, Sunkist Growers outlined the effects of both high duties and a tariff-rate import quota controlled and administered by the Korean citrus industry. In 2000-2001, the quota for orange imports to Korea was 40,000 metric tons. The in-quota tariff applied to orange imports was 50 percent, while the above quota tariff was 64.7 percent. Other citrus fruit faces similarly restrictive tariffs, including a 36 percent tariff for grapefruit and lemons and an out-of-quota tariff of 148.8 percent on specialty citrus. Sunkist estimates that if these market access barriers to Korea were removed, citrus exports from California and Arizona would grow \$40 million to reach \$100 million.

Both the Harbinson and EU Doha Round modality proposals would allow these high tariffs to remain and while the U.S. proposal would ensure that they are reduced to 25 percent, market access opportunities for U.S. fresh fruit and vegetable exports would still be disadvantaged.

For this reason, the California Farm Bureau Federation and the other organizations in the planned coalition will be requesting an agreement be negotiated on most fresh fruit, nut and vegetable products (included in Chapters 7 & 8 of the tariff code) that would, upon implementation, cut tariffs beyond what is agreed to in the WTO framework by a reduction formula that would eventually zero out tariffs over a five-year period, in equal installments.

**Export Subsidies.** While most WTO member countries, including the United States, do not use export subsidies for specialty crop products, the European Union in 1998 subsidized 40 percent of its fresh fruit and vegetable exports (as well as 28 percent of its processed fruit and vegetable exports). In 2000, EU expenditures on export refunds for such products totaled approximately \$42 million (46 million euros). And, in 2002, approximately \$40.6 million was budgeted for fresh and processed fruit and vegetable subsidies. While these subsidies are within the EU's WTO

commitments, they nevertheless distort the market for U.S. specialty crop exports, and increase unfair competition in third markets where U.S. products compete directly with those from Europe.

Our sectoral initiative would, upon implementation, immediately prohibit the use of export subsidies.

Domestic Support. This Committee is fully aware that while the U.S. provides some domestic support to its growers, the disparity between the U.S. and European levels of support is striking. For the most part, U.S. fruit, nut, vegetable and other specialty crop producers do not receive any amber box trade-distorting internal support payments. By contrast, the EU in 1999 subsidized its fruit and vegetable sector to the tune of more than \$11 billion, including lemons at \$426 million (84 percent of production value), grapes at \$213 million (13 percent) and tomatoes at \$4.15 billion (19.4 percent). These dollar figures are approximate given the conversion from euros to dollars.

The disparity in the level of support provided to U.S. and EU producers must be rectified in the current negotiations. However, even if the U.S.-proposal was adopted, the agreement would only require that overall average levels of support be equalized. It would be possible, therefore, for the EU to reduce expenditures on some commodities much more than on others, in effect enabling some commodities to continue being subsidized at high rates.

Given the vast disparity between the levels of subsidization, the emerging coalition is proposing to prohibit all amber box supports for most fresh fruit, nut and vegetable commodities within chapters 7 & 8, and would limit de minimis support to 2.5 percent of production value (per four-digit tariff number).

To summarize, there are significant tariff, subsidy, and domestic support issues that must be addressed if U.S. specialty crop producers are to see meaningful reform as a result of this round of WTO negotiations. To this extent, the California Farm Bureau Federation has been communicating with members of Congress and working with the U.S. Department of Agriculture (USDA) and the U.S. Trade Representative's (USTR) office to ensure that a sectoral initiative for fresh fruit, nut and vegetable products is advanced during the current WTO agricultural talks. In specific terms, this initiative would serve as a Zero-for-Zero Contract for Countries on products as defined in Chapters 7 & 8 of the tariff code that would specifically:

- Cut tariffs beyond what is agreed to in the WTO framework by a reduction formula that would zero out tariffs in equal installments over a 5-year period.
- Prohibit the use of export subsidies, and;
- Eliminate all amber box domestic supports, and cap the de minimis exemption to 2.5 percent of production value.

I hope that you will agree that this sectoral approach to the negotiations is fair and equitable and will hopefully lead to decreased tariffs, decreased subsidies and increased trade for U.S. fresh fruit, nut, vegetable and other specialty crop producers.

I will conclude my remarks with a thank you to Agriculture Negotiator Allen Johnson and his team at USTR for their untiring work and their sincerity in reaching out to communicate and work with industry. Their accessibility and openness is to be commended. Considering the broad U.S. trade agenda, USTR has quite a task ahead. I would encourage our negotiators to prioritize the WTO agenda, address outstanding trade issues prior to setting aggressive deadlines on the numerous regional and bilateral negotiations and lastly, resolve sanitary and phytosanitary barriers that impede trade before finalizing future agreements.

I would also like to thank the representatives, specifically from California and others, who have taken a leadership role in trade matters and helped raise the awareness of the needs of U.S. specialty crop producers in trade negotiations.

Members of the committee, this concludes my comments. On behalf of the California Farm Bureau, thank you for your time and attention.

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#### STATEMENT OF THE USA RICE FEDERATION

The USA Rice Federation appreciates the opportunity to provide a written statement for the record concerning the committee's hearing on multilateral and bilateral agricultural trade negotiations.

USA Rice Federation is the national advocate for all segments of the rice industry, conducting activities to influence government programs, developing and initiating programs to increase worldwide demand, and providing other services to increase industry profitability. USA Rice members produce 80 percent of the U.S. rice crop, and are active in all major rice-producing states: Arkansas, California, Florida, Louisiana, Mississippi, Missouri, and Texas. The U.S. Rice Producers' Group, USA Rice

Council and the Rice Millers' Association are charter members of the USA Rice Federation.

The U.S. rice industry is open to the world market 55 percent of production in the current marketing year will be exported, and imports will account for eleven percent of domestic consumption. The United States is regularly the third or fourth largest rice exporter in the world, and the economic health of rice farmers and the rice milling sector in the South and in California is tied to maintaining and expanding access in foreign markets.

Import protection is virtually non-existent in the United States, but meaningful commercial market access is restricted in key foreign markets like Mexico, Central America, the EU, Japan, Taiwan, and Korea. Extremely high domestic production supports in Japan, the EU, and Korea, for example, force those governments to restrict imports, while nearly all countries in Central America protect their domestic milling industries by prohibiting the import of milled rice.

Signing new trade agreements mean little to U.S. rice producers and exporters if existing trade agreements are not enforced. Mexico's imposition of anti-dumping restrictions on U.S. milled rice is a prime example of efforts to turn back the North American Free Trade Agreement. The need for targeted enforcement by the administration of existing trade agreements must go hand-in-hand with new negotiations.

Key Negotiating Objectives:

USA Rice urges administration negotiators to seek the following objectives for rice in multilateral and bilateral trade agreements:

- Equal market access for all types and forms of rice;
- Immediate, substantial reductions, leading to the elimination, of import duties;
- Elimination of export subsidies;
- Tighter disciplines on trade-distorting domestic subsidies;
- Reliance on scientific standards when evaluating new technologies and implementing sanitary and phytosanitary trade measures;
- Enforcement of SPS import restrictions on the basis of sound science only;
- Tighter disciplines on the administration of tariffs and tariff-rate quotas to eliminate the discriminatory effect of price bands, import licensing regimes, and reference price regimes;
- Tighter disciplines on the operation of state-trading enterprises, particularly import STEs, in order to increase transparency; increase participation by the private sector in import and export transactions; and ensure that importing STEs provide access to all segments of commercial demand in a market;
- Increased food security for importing nations by obtaining a commitment among WTO members not to restrict or prohibit the export of agricultural products.

As a major exporter of milled, brown, and rough rice, U.S. exports will benefit from a combination of equal access for all types and forms of rice and a sharp reduction and eventual elimination of import duties on rice. Many countries have discriminatory tariffs for one type or form of rice versus another in order to protect or subsidize domestic industries. This discourages the importation of U.S. rice based on market fundamentals, and hampers the overall market development effort of the U.S. industry. Unequal duties on an ad valorem basis are especially discriminatory towards value-added rice (the majority of U.S. rice exports), which is exported from the United States at a higher per unit price reflecting the value added in the milling process.

The administration of tariff-rate quotas (TRQs) and the continued existence of non-tariff barriers are a substantial impediment to U.S. rice exports. Today, many countries have administered TRQs in such a manner as to prohibit or severely reduce imports of rice. Some problems include the discriminatory use of import licenses, making the operation of TRQs dependent on utilization of the domestic rice crop, lack of transparency, and price-distorting mark-ups. In the upcoming negotiations, the United States should seek to eliminate TRQs as tariffs become low and approach zero, and, in the interim, address the problems noted above.

Domestic support. The reliance by some countries on trade-distorting domestic support regimes for producers severely limits their flexibility to liberalize import barriers. Rice is particularly disadvantaged by these domestic supports. According to an OECD report, rice received the third highest level of producer support among all commodities surveyed among OECD members in 2002 -- the equivalent of \$22.6 billion. Japan, Korea, and the EU provided much of this estimated domestic support for rice in 2002. Each of these markets maintains high market access barriers (especially Japan and Korea) in order to support the domestic price of rice. As a result, the price of rice overall in OECD countries in 2000-2002 was estimated at about five times higher than the world price. High, trade-distorting domestic supports in high-income countries like the OECD deny sales to U.S. rice that is marketed at the world price.

Science-based trade policies. USA Rice believes that the SPS Agreement has benefited U.S. rice exports. The U.S. government should resist efforts to reopen the Agreement for negotiation in general, and, specifically, should continue to support in all bilateral and multilateral negotiations, the primacy of science as the basis upon which countries may institute SPS-based trade restrictions.

The United States should encourage food security for importing nations by avoiding sanctions on food exports combined with a commitment within the World Trade Organization not to restrict or prohibit the export of agricultural products.

Japan—Limited Access to Consumers; Import STE. U.S. rice exports to Japan are constrained by a highly protectionist tariff rate quota and by the Japan Food Agency whose actions as a monopoly importing state trading agency greatly limit the ability of U.S. rice exporters to market directly to Japanese consumers.

The Japan Food Agency (JFA) manages imports within the TRQ through periodic tenders for imported rice and by imports through the simultaneous-buy-sell (SBS) program. In both programs, the activities of the Food Agency lack transparency and less than one-half of one percent of rice imported from the United States reaches Japanese consumers as an identifiable product of the United States. Imports of U.S. rice under the periodic tenders, for example, are destined for government stocks or re-exported as food aid.

U.S. negotiators should press for substantial liberalization of Japan's rice import market. Long-term improvement in market access will not occur, however, absent reductions in the amount of domestic support made available to rice producers and the manner in which this support is provided.

European Union—Complex & Discriminatory Tariffs. Despite its position as the fifth largest export market for U.S. rice, the EU has a highly complex tariff regime for rice that discriminates among types and rice and among foreign suppliers. The import duty in the EU on milled rice, for example, is nearly double the rate for rough rice; the only substantial U.S. market access in the EU is for brown rice.

The EU also provides significant tariff concessions for specific types of rice or rice from certain origins not enjoyed by U.S. rice. For example, basmati rice from India and Pakistan; rice from the OCT/APT countries; and rice from developing countries have or will enjoy by the end of this decade substantial tariff preferences.

The current EU import regime facing U.S. rice has been the source of debate and frustration in the EU and the United States since it was implemented as a result of the Uruguay Round. While the current import regime has allowed traditional levels of U.S. exports to continue, the effective duty-free access for rice from U.S. competitors like India, Pakistan and, by 2009, countries covered by the EU's Everything But Arms (EBA) policy, threatens to effectively shut U.S. rice out of Europe.

USA Rice believes that zero tariffs in Europe for all types and forms of rice and the prohibition of EU export subsidies for rice are the only viable objectives in the current trade negotiations that will preserve current access and allow for market expansion.

Latin America—High Duties, Non-Tariff Barriers. The U.S. rice industry sees tremendous growth potential in Latin America. Consumption in the region will continue to outstrip production in the foreseeable future, and the United States is well placed geographically to meet the region's demand. However, bound duties are very high (ranging from 25 percent to 130 percent) and discriminate against milled rice; and the region makes extensive use of non-trade barriers and questionable SPS restrictions.

Market access for U.S. rice is threatened in several countries by non-transparent and inconsistently applied import requirements. Government officials, most recently in Costa Rica, Panama, and Guatemala have refused to issue import permits or instituted last-minute SPS requirements in connection with the sale and shipment of U.S. rice. These actions are taken without justification and are inconsistent with the obligations of WTO members. Additionally, they greatly disrupt trade, cause financial loss to U.S. exporters, and adversely affect the long-term marketing of U.S. rice in the region.

USA Rice recommends that the United States seek the following trade objectives with regards to Latin America in:

- Substantial disciplines on the operation and transparency of TRQ administration and licensing regimes, including enforcement of SPS import restrictions on the basis of sound science only.
- Immediate low and equal tariffs on all types and forms of rice, with all tariffs eventually falling to zero.
- Elimination of the use of price bands and absorption agreements.

Enforcement Must be a Priority. U.S. rice producers and exporters, along with nearly all U.S. agriculture, greeted the conclusion of the NAFTA and the Uruguay

Round Agriculture Agreement with optimism. The promise of agricultural trade between Mexico and the United States without barriers was attractive to many U.S. producers. The Uruguay Round further raised expectations as agriculture was for the first time brought within the disciplines of international trade. New markets were opened, like Japan and Korea for rice, and agriculture was set on a path towards liberalization in tariffs, trade-distorting domestic supports, and export subsidies.

Agriculture's optimism for trade agreements has been tested of late as countries, most visibly Mexico, resist making the adjustments to market forces implicit in the trade agreements they have signed. The administration must commit to enforcing existing trade agreements at the same time that U.S. trade negotiators carry out an aggressive agenda of bilateral and multilateral trade negotiations.

Mexico is an illustrative example of the importance of enforcement. On paper, Mexico's import duties on U.S. rice ceased to exist on January 1, 2003, following a 10-year phase out under the NAFTA. During this phase out, annual U.S. rice exports to Mexico rose steadily from just over 250,000 tons to 730,000 tons in 2003. Mexico is now the number one export destination for U.S. rice. NAFTA has clearly benefited U.S. rice producers and exporters.

However, last year rice joined a growing list of U.S. commodities subject to unjustified import restrictions by Mexico that, cumulatively, are a direct threat to the NAFTA and to the pro-trade consensus of U.S. agriculture. Mexico announced punitive anti-dumping duties on most exporters of U.S. long grain milled rice in June 2002. This action was taken following a preliminary determination of no injury from imports of U.S. long grain milled rice and no evidence of dumping. The U.S. rice industry believes strongly that basis exists in fact for Mexico's action, and has spent considerable resources to defend itself.

The announcement earlier this week by the administration that the United States would ask for consultations with Mexico to address the anti-dumping orders against rice and beef as well as recent changes in Mexico's foreign trade law is a welcome and much needed step. This action sends a message that Mexico must live up to its international obligations, and demonstrates to U.S. agricultural export interests that enforcement of trade agreements is a priority.

The U.S. rice industry appreciates and thanks the administration for taking this important step in support of U.S. agriculture. The support of many in the House and Senate was instrumental as well in educating the administration on the need to act.

As the administration moves on from the U.S.-Chile and U.S.-Singapore Free Trade Agreements (FTA) to negotiate FTAs with Central America, Morocco, Australia and others as well as to complete talks for a Free Trade Area of the Americas and the WTO multilateral negotiations, our negotiators must not lose sight of enforcement and follow-up. We have learned that it is simply not enough to conclude an agreement and move on to the next negotiation. The difficult domestic political decisions inherent in implementing trade agreements mean that we must tend to the welfare of existing agreements while moving forward.

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#### STATEMENT OF BOB STALLMAN

Good morning. I am Bob Stallman, President of the American Farm Bureau Federation. I appreciate the opportunity to provide the views of our farmer and rancher members on the current status of the agricultural negotiations in the Doha Round of World Trade Organization (WTO) multilateral trade negotiations as well as the Free Trade Area of the America (FTAA) and other pending Free Trade Agreements.

U.S. agriculture depends heavily on exports. Some farmers and ranchers would like us to turn our backs on trade and especially on efforts to expand foreign markets. These folks are understandably frustrated by foreign trade barriers and subsidies, which put us at a competitive disadvantage in many markets. This frustration cannot be allowed, however, to cause us to turn inward and forgo opportunities to improve the situation. To do so, would cause economic harm to our producers and would play into the hands of our biggest competitors.

#### DOHA ROUND OF THE WORLD TRADE ORGANIZATION NEGOTIATIONS

Agriculture's best opportunity to respond to the array of problems in the global market is the Doha Round of WTO trade negotiations. This negotiation includes 146 countries and covers virtually every type of measure that countries now employ to impede trade or gain an unfair advantage. We appreciate this opportunity to provide

you with our analysis of the current proposal on modalities by WTO Agriculture Committee Chairman Harbinson.

The AFBF Board spent a substantial amount of time at their Board meeting a few weeks ago discussing the Harbinson proposal. The board voted unanimously that the Farm Bureau position is that having no WTO agreement would be better than accepting a poor agreement and that the current Harbinson proposal is a poor agreement for American agriculture. AFBF has supported freer and fairer trade agreements in the past, as well as supporting the U.S. agricultural proposal for the Doha negotiating round released last summer. However, we do not and will not support the current Harbinson proposal.

We believe it is important to provide a clear indication of our objectives for each of the specific topics because the overall agreement will not be acceptable if our specific objectives are not adequately met.

We are encouraged by several provisions in Chairman Harbinson's current text:

**Export Subsidies**—The complete elimination of export subsidies has been an important and longstanding Farm Bureau objective. Export subsidies are recognized as the most trade-distorting measure in trade and have been banned for manufactured products from the inception of the GATT/WTO. Currently the European Union (EU) spends between \$2 billion and \$5 billion a year on export subsidies and is allowed to spend as much as \$8 billion under the previous WTO agreement. The EU accounts for about 90 percent of all export subsidies and uses them on many products of export interest to the United States. The Harbinson proposal is consistent with Farm Bureau's goal of complete elimination and would do so under a mechanism that "front loads" the staged phase-out of those subsidies. The chairman has suggested such a front-loading mechanism because he allows nine years to completely eliminate these subsidies. Farm Bureau supports the Harbinson proposal to eliminate export subsidies, but we would like the Bush administration to pursue a quicker phase-out. In addition, we are concerned by the provision in the text that allows for countries to choose which export subsidies to phase-out in five years and which in nine. This would allow countries to maintain their most sensitive subsidies for nine years.

**State Trading Enterprises (STEs)**—Mr. Harbinson's approach to export STEs forces such enterprises to operate in a competitive environment by eliminating their monopolistic practices and increasing transparency in their operations. Farm Bureau believes that the goal of these new requirements should be to make it impossible for STEs to export at unfair prices into the world market. There should be no "watering-down" of this proposal.

**Food Aid**—The original Harbinson proposal would have mistakenly, and probably inadvertently, eliminated programming of food aid directly through non-governmental organizations (NGOs) in non-emergency circumstances. This proposal would not have advanced the causes of eliminating trade-distorting exports and protecting indigenous producers. Rather, it would have unnecessarily prevented humanitarian organizations from carrying out aid programs that in no way impede commercial production and trade. We were pleased that Mr. Harbinson's proposal was revised. We will continue to monitor the negotiations on this subject carefully.

**Green Box Domestic Supports**—The text maintains the basic criteria for non-trade-distorting (green box) domestic support. Non-trade-distorting support generally consists of measures de-linked from production incentives, such as food stamps, research, extension, pest and disease control, and de-linked direct payments to producers. We strongly support maintaining the current criteria and ensuring there are no caps on non-trade-distorting support. We believe more countries should move away from trade-distorting government payment programs and instead make greater use of "green box" programs to achieve their policy objectives.

**Sanitary and Phytosanitary (SPS) Agreement**—The Harbinson text does not open the SPS agreement. We strongly support that provision and would adamantly oppose any changes to the SPS agreement. We urge strong resistance to any attempts by the EU or others to allow social or economic considerations to form any basis for applying SPS measures in exchange for reduction in subsidies, tariffs or any other negotiating issue.

**Non-Trade Concerns**—The Harbinson proposal does not include provisions for certain "non-trade concerns"—such as compulsory labeling, multifunctionality or the precautionary principle—in the agriculture negotiations. The EU has made proposals on these subjects that, if adopted, would substantially offset any gains we could hope to obtain through reductions in tariffs and subsidies. In our view, the EU proposals appear to be, in large part, a blatant attempt to introduce permanent non-tariff barriers into trade in agriculture. The EU proposal does provide for producer costs for animal welfare regulations offset by government payments to be included in the green box. Farm Bureau believes that, in general, non-trade concerns should

not be included in the agricultural negotiations. However, we believe that animal welfare concerns could be accommodated in the green box, as long as such payments were limited to the extra cost of complying with the regulatory requirements (as currently required of environmental programs).

**Geographical Indications (GIs)**—In the agriculture negotiations, the EU has suggested expansion of the types of products given special protection by geographical indications. The EU's proposal calls for taking back the names of many famous products such as pilsner, feta, Parmesan and balsamic vinegar. These EU ambitions could seriously compromise the export opportunities of many primary agricultural products such as rice and possibly animal and plant names (fruits, vegetables and other grains) that originate outside the United States. The intent of the European proposal is to give producers in the EU exclusive, monopolistic rights to make and market many products that U.S. producers have spent time and money to make famous. Chairman Harbinson's text does not support this initiative. We strongly oppose expansion of GIs.

Farm Bureau has major concerns with other aspects of the Harbinson text. Modest tariff cuts from the bound levels and the lack of harmonization in trade-distorting domestic supports is extremely troublesome. If implemented, those countries that began with high barriers and large subsidies will still have high barriers and large subsidies. Those that began small will end up somewhat smaller. We must level the playing field in this negotiation to make trade fairer and more equitable. To be succinct, farmers and ranchers are unwilling to support "more of the same" in this negotiation.

The following Harbinson modalities would not produce a positive impact for U.S. agriculture:

**Market Access**—Though converting all non-tariff measures to tariffs was critical for agriculture during the Uruguay Round, it created inequitable, unbalanced access to markets. The commitments in the last round permitted many members to isolate their markets entirely, beyond the negotiated minimum access, while countries like the United States provided significantly more net access. Current WTO rules require all countries to cap the maximum tariff that can be applied on any product. While tariffs have come down in recent years, the level of allowed tariff is often substantial. The world average on agricultural products is 62 percent while the U.S. average agricultural tariff is 12 percent.

The United States proposed the use of a harmonizing formula for reducing all agricultural tariffs so that high tariffs would be reduced more than low tariffs, thus reducing the gap between high-tariff and low-tariff products. The Harbinson paper recognizes the problem of tariff inequities and accepts the need for a mechanism that would result in greater tariff harmonization. However, Mr. Harbinson rejected the "Swiss formula" proposal advanced by the United States—which Farm Bureau strongly supports—in favor of a "banding approach." The Harbinson approach contains a degree of tariff harmonization—and we would not rule out such a "banding" technique but it must result in significant improvement in the percentage reductions so that the effect is commercially meaningful access.

**Applied Tariffs**—The United States also proposed that tariff cuts be implemented from applied rates rather than bound rates. The impact of tariff reduction is likely to be very limited since many countries maintain bound rates far above actual applied rates. This means the Harbinson text would have almost no effect on opening many markets. Market access negotiations should use the lowest applied rates rather than the higher bound rates when negotiating tariff reductions.

**Sensitive Products**—Under the Harbinson proposal, members would be required to make average cuts in their farm import tariffs along with more modest minimum cuts on every tariff line, thus giving members flexibility to shield more sensitive products from deeper cuts. A similar approach was adopted in the Uruguay Round where members were obligated to cut their tariffs by an average of 36 percent while reducing tariffs on all agricultural goods by a minimum of 15 percent.

**Special and Differential Treatment (S&D)**—GATT and WTO negotiations have traditionally recognized that developing countries, and in particular least developed countries, may require S&D treatment under trade rules to give them more time to adjust to competition and to allow mechanisms to address economic development needs. Farm Bureau does not disagree with the need for S&D treatment, but is quite concerned about the Harbinson proposal. The Chairman's proposal for S&D treatment for developing countries provides markedly lower levels of commitment and longer phase-in periods. Since more countries that are WTO members are developing countries this produces a real lack of reform.

Any S&D treatment in agriculture should be temporary, narrowly targeted, and based on objective criteria. Obligations for developing countries must be commensurate with the level of a country's development and, in particular, commensurate

with a country's level of development in a given product sector. Some developing countries are actually highly developed and competitive in certain products and it makes no sense for those countries to receive special treatment in such commodities. A good example would be soybean production in Brazil.

Objective and transparent criteria should be established for determining whether a country is developing or developed and whether it is developing or developed within a given product sector. Such criteria are used to determine which countries are "least developed" and there is no reason that countries should be able to "opt out" of WTO obligations by self-designating themselves as "developing." Farm Bureau is also concerned that the Harbinson proposal grants developing countries the right to impose temporary import restrictions on certain sensitive farm products. This would in essence allow them to continue protection for their agricultural products and avoid further liberalization. The focus must be much more narrow and must be transitional so that those countries are able to assume greater obligations in the future.

**Special Safeguard**—The Harbinson text allows developing countries to designate certain strategic products essential to their needs for food security, rural development or livelihood security. These special products would be subject to less substantial tariff reductions and benefits from other S&D provisions. Products designated as special products would be subject to a 10 percent average tariff cut and a five percent minimum cut.

Special safeguards for developed countries are eliminated. Without a special safeguard, the U.S. market would be extremely vulnerable in the event that the reforms envisioned by Chairman Harbinson are not effective or that countries are not compliant with their obligations in the future. Farmers and ranchers are frustrated with current compliance with trade agreements and are fearful this will continue in the future.

**Domestic Supports**—Mr. Harbinson's proposal addresses several Farm Bureau objectives, at least partly, but is woefully inadequate in achieving an acceptable level of overall harmonization.

**Blue Box.** The Harbinson text forces reductions in blue box expenditures. The EU and Japan (to a far lesser degree) are the only trading entities that provide trade-distorting supports under programs (payments based on production controls) that are considered blue box. Harbinson offers the EU two options for reducing such expenditures: cut them by 50 percent, or eliminate the blue box exemption and incorporate such expenditures in the amber box, which would then be reduced by 60 percent. Farm Bureau strongly supports elimination of the blue box exemption and supports the second Harbinson option as long as reductions in amber box expenditures result in a satisfactory level of harmonization.

**Amber Box**—The Harbinson text accepts the European proposal for equal percentage reductions from unequal levels of domestic support that locks in place the safety net advantage currently held by the EU and Japan. We agree with Secretary Veneman's characterization of this proposal as a perpetuation of inequities. Mr. Harbinson's requirement that amber box expenditures be cut by 60 percent over five years would require the EU to cut such trade distorting supports from \$67.2 billion to \$26.9 billion and the United States to cut its supports from \$19.1 billion to \$7.6 billion. This maintains the inequity in domestic supports we currently face. While domestic supports are reduced, the EU will continue to be able to provide its producers 3.5 times more trade distorting support than the United States provides its producers. The Harbinson proposal does not sufficiently address the need for harmonization of amber box supports among key countries. Our negotiators must obtain significantly more harmonization in trade-distorting domestic support expenditures before agriculture can support an agreement.

**De Minimis**—The Harbinson proposal cuts the de minimis provision by 50 percent. The U.S. proposal would retain the de minimis provision unchanged and Farm Bureau supports the U.S. position. We are also concerned that the Harbinson text prohibits subsidization under the de minimis classification if there was no assistance for that product from 1999 to 2001.

**Aggregation**—As under the Uruguay Round Agreement, amber box subsidy reductions should be made on an aggregated basis rather than a commodity specific basis. Countries should be provided the flexibility to shift subsidies between products on an annual basis.

The reductions suggested by Chairman Harbinson in trade-distorting domestic supports may not have any actual impact on several countries. The percentage of trade-distorting domestic support actually used by various countries will not require them to reduce domestic supports at all under the Harbinson text.

Mr. Chairman, Farm Bureau has just completed an analysis of the Harbinson text on nine commodities and the impact of the Harbinson proposal on each commodity

for our top three markets and our top three competitors. We have attached that analysis to the testimony. The analysis makes the point very clearly that the Harbinson proposal needs to be significantly improved before Farm Bureau can support the agreement.

#### FREE TRADE AGREEMENTS

The U.S. administration has proposed an ambitious trade agenda in the midst of current WTO negotiations. We have recently seen the completion of Free Trade Agreements (FTA) with Singapore and Chile and the continuation of negotiations on the Free Trade Area of the Americas (FTAA), Central American Free Trade Agreement (CAFTA) and the Australia, Morocco and Southern African Customs Union (SACU) Free Trade Agreements. At the same time the administration is planning to move forward on agreements with other countries. While we believe these FTAs are important in promoting and creating new trade relationships, our top priority is the current negotiations of the WTO. We believe that any FTA currently in negotiation or planned for the future should meet the same goals and objectives that have been set out by the United States in the WTO negotiations.

The United States is a large and open market for foreign farm and food products. Current tariffs on agriculture products entering the U.S. market are often well below our bound tariff rates established in the WTO Uruguay Round. For U.S. agriculture to be successful in the FTA process, the U.S. government must be dedicated to removing tariffs and other forms of barriers to U.S. products in FTA countries that tend to be much more restrictive. U.S. agriculture is looking for partners in agriculture trade that can be expanded for both countries.

As new partners are selected for FTAs the trade impacts on our domestic agriculture industry must be taken into account. We strongly encourage the administration, as a part of its strategy in seeking future FTA partners, to seek negotiations with countries that will lead to benefits for U.S. agriculture. We understand that agriculture is not the only sector being discussed in these negotiations, but agriculture should not be used as the trade-off for increased benefits in another sector. Agriculture must have input into this selection process and we are willing to work with USTR and USDA/FAS to find those markets that will improve trade for our industry.

**AFBF Negotiating Principles On FTA Negotiations: Market Access—**Negotiations on FTAs should start from a point in which all agriculture products are on the table for negotiations. Negotiations on market access must take place from the point where each country has categorized all of its commodities for tariff elimination. USTR must work with agriculture to determine the best negotiating position on import sensitive products and how they should be categorized within the agreement.

We believe that any negotiation on agriculture tariff rates should be done from the applied rate, not the WTO bound rate. In many cases the tariff rates at which U.S. products are entering other markets are well below the WTO bound rates. Negotiating at rates higher than what are actually applied could lead to lost opportunities and place many sectors at a disadvantage in the negotiations.

All FTA negotiations must provide for adequate transition periods for the elimination of tariffs and other protective measures, as well as workable safeguards to respond to disruptive import surges. Import sensitive commodities should receive the greatest transition period available under the negotiations to provide producers with the opportunity to adjust for the time at which tariffs will be eliminated on their products.

**Sanitary and Phytosanitary (SPS) and other Barriers—**In the area of SPS, we believe that major SPS concerns should be resolved prior to the conclusion of all FTA negotiations. True access is contingent on resolving these issues.

We also see the FTAs as an opportunity to expand foreign understanding and acceptance of U.S. regulations and standards, i.e. inspection and biotechnology, and will work to have these considered as principles included in a final agreement.

**Domestic Support—**We oppose the negotiation of domestic support in any FTA. Domestic support should only be negotiated in the WTO due to continued subsidization by non-FTA countries.

**U.S.-Chile FTA:** The American Farm Bureau Federation supports the U.S. Chile FTA. We remain concerned regarding the SPS issues involving poultry. We understand that the poultry industry has accepted an agreement that will establish a 2-year standstill on poultry sale between the United States and Chile during which time the United States and Chile will work to resolve their concerns. We will closely monitor these efforts in the hope that the United States can begin the export of U.S. poultry to Chile.

In addition we commend USTR for resolving SPS concerns regarding equivalency of the U.S. meat inspection system. The government of Chile signed and published a final decree granting immediate access to U.S. processed beef, as well as all lamb and pork products from federally certified U.S. plants.

**Benefits For U.S. Agriculture: Market Access:** Three-quarters of U.S. farm goods will enter Chile duty-free within four years with all duties on U.S. products being phased out over 12 years. Phase-out on duties falls into four stages; four, eight, 10 or 12 years.

**Export Subsidies:** Both countries agreed to work together in the WTO negotiations to eliminate export subsidies and the agreement eliminates the use of export subsidies on U.S.-Chile farm trade, but the United States preserved the right to respond if third countries use export subsidies to displace U.S. products in the Chilean market.

**Agriculture Safeguard Measures:** The agreement provides safeguard measures for trade sensitive agriculture products. A country may impose these safeguards on products if the import price of the goods is below the trigger price. The trigger price varies for each commodity eligible for the safeguard, and was determined by the negotiators based on past price levels of those commodities.

**Agriculture Marketing and Grading Standards:** Agreed to provisions for recognizing grading, quality or marketing measures.

**Price Bands:** Phases out the Chilean price band over 12 years.

**Free Trade Area Of The Americas (FTAA):**

The American Farm Bureau Federation remains committed to seeing a successful and positive negotiation for agriculture in the Free Trade Area of the Americas (FTAA). Trade in agricultural products among the nations of the Western Hemisphere could be expanded substantially, if the many and varied forms of impediments to that trade were eliminated. Our free trade agreement with Mexico demonstrates how farmers can benefit from freer trade. U.S. agricultural exports to Mexico and U.S. imports from Mexico have both more than doubled since 1993 as a result of the North American Free Trade Agreement (NAFTA). The benefits of this trade to the consumers in each country—in the form of more variety, reduced costs and often better quality food products—also extend to the economy as a whole in the form of added disposable income and new employment opportunities.

U.S. agricultural exports to non-NAFTA FTAA countries totaled \$14.6 billion in 2002, about 27 percent of total U.S. farm exports. U.S. imports of agricultural products from non-NAFTA FTAA countries totaled about \$14.9 billion in 2002, about 36 percent of our total agricultural imports.

In many cases, our tariffs are already or will soon be free for products from FTAA countries under various special arrangements (e.g., the Caribbean Basin Initiative, the Andean Trade Preferences Act, the Generalized System of Preferences, NAFTA and the Chile FTA). As a result, the average tariff applied by the United States on imports from FTAA countries is certainly substantially less than the average 12 percent the United States applies on imports from the world. Tariffs and other forms of barriers to U.S. products in FTAA countries tend to be much more restrictive.

As tariffs and other trade barriers are gradually removed by all of the parties to the agreement, trade will expand both between the United States and the other FTAA participants and among the other FTAA countries. The fact that markets are being opened and shared among 34 countries will help to ensure that any single country does not become a dumping ground for other countries exports. More open import regimes and the economic growth the FTAA will bring to the Western Hemisphere will generate greater demand in more countries for products that might otherwise flow to the United States.

**Export Subsidies—**The FTAA member countries should agree to ban the use of export subsidies in agriculture trade within the region, both on internal trade and on imports from non-FTAA countries.

**Price Band—**We support elimination of the price bands that some FTAA countries currently have in place.

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## STATEMENT OF THE DISTILLED SPIRITS COUNCIL

### I. INTRODUCTION

Over the past decade, the export market for U.S. distilled spirits products has become increasingly more important to the U.S. distilled spirits industry. In fact, since 1990, U.S. exports of distilled spirits worldwide have doubled, growing to over \$550 million in 2002. While the Uruguay Round Negotiations produced significant benefits for U.S. distilled spirits exporters, numerous barriers still remain. Therefore,

the U.S. distilled spirits industry actively supports the U.S. Government's efforts to seek the elimination or reduction of these remaining barriers within the context of the ongoing World Trade Organization negotiations, and in other multilateral and bilateral trade negotiations. Improving market access for U.S. distilled spirits products worldwide is necessary in order to ensure the continued growth of the U.S. distilled spirits industry.

## II. WORLD TRADE ORGANIZATION: DOHA DEVELOPMENT AGENDA

The Distilled Spirits Council has had a long and active involvement with the World Trade Organization (WTO), and remains a strong supporter both of the organization and its ongoing work program, as well as the Doha Development Agenda negotiations. The Distilled Spirits Council and its member companies are enthusiastic supporters of efforts to liberalize international trade and to strengthen the rules-based multilateral trading system administered by the WTO.

Unquestionably, the U.S. distilled spirits industry has benefited significantly from the leadership role the United States government has assumed in the WTO. The tariff elimination commitments on distilled spirits, secured during the Uruguay Round and subsequent negotiations under the WTO's auspices as part of the U.S. Government's "zero-for-zero" initiative, have paved the way for a significant increase in U.S. spirits exports. The industry has reaped the rewards of the WTO's dispute settlement mechanism, which the United States government has used to challenge successfully the discriminatory excise tax regimes of Japan, Korea and Chile. The provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) include important protections for geographical indications for spirits, including Bourbon and Tennessee Whiskey, which are essential for the protection of these distinctly and exclusively American products. And the reporting mechanisms established by the Agreements on Technical Barriers to Trade (TBT Agreement) and Sanitary and Phytosanitary Standards (SPS Agreement) have, in many cases, at least given the industry some advance notice of significant regulatory changes that could have significant—and sometimes adverse—effects on the industry.

The improvements in market access achieved under the auspices of the WTO—and before it, the General Agreement on Tariffs and Trade—have led directly to a sharp increase in U.S. spirits exports. For example, since the Uruguay Round agreements entered into force in 1995, U.S. exports of Bourbon—the leading U.S. distilled spirit export—have increased 57 percent over their 1994 levels, reaching \$351 million in 2002.

### *A. Market Access Negotiations—Agricultural Products*

Distilled spirits are processed agricultural products classified under HTS headings 2207.10.30 and 2208, and fall within the scope of the ongoing negotiations on agriculture. As noted previously, distilled spirits (HTS 2208) were included in the Uruguay Round's zero-for-zero negotiations and yielded significant benefits to the industry. However, participation in the spirits zero-for-zero agreement has been limited. Until recently, only the United States, the European Union, Japan and Canada, were participants in the agreement with respect to most categories of spirits. More recently, Taiwan joined the spirits zero-for-zero agreement upon its accession to the WTO in January 2002. Macedonia has also agreed to phase out its 48 percent tariff on distilled spirits in connection with its WTO accession.

Notwithstanding the progress that was achieved during the Uruguay Round and more recent accession negotiations, however, the U.S. distilled spirits industry continues to face pervasive—and in some cases prohibitive—tariffs in a number of the industry's most important markets. This is particularly true with respect to emerging markets. For example, in India imported spirits are assessed a base tariff of 166 percent ad valorem. As noted below, the central government also levies an additional customs duty on top of the base tariff, which results in effective tariffs rates ranging from 240 percent to 578 percent ad valorem. In addition, although South Africa applies a tariff of 5 percent ad valorem (arguably a "nuisance" tariff) on imported spirits, its bound rates are exorbitant, ranging from 67 percent for bottled brandy, whisky, rum and gin to an astronomical 597 percent for vodka and liqueurs. South Africa represents a potentially lucrative market for U.S. distilled spirits exports, and is itself a significant producer of distilled spirits products. Moreover, pursuant to its recently-concluded free trade agreement with the European Union, South Africa will reduce and eventually eliminate (by 2012) its tariffs on imports of EU-produced spirits. Thus, one of the U.S. spirits industry's objectives in the Doha Round is to secure South Africa's commitment to bind its tariff on spirits at zero.

Furthermore, in some developed country markets the tariff burdens on imported spirits are significant, which add significantly to the costs of doing business. For example, Australia also applies a “nuisance” tariff of 5 percent ad valorem, which, despite being relatively low, imposes a high tariff burden: more tariffs were assessed on the importation of U.S. spirits into Australia (\$2.7 million) in 2001 than were assessed by any other government. Similarly, New Zealand applies a tariff rate of zero on imports of whisky, brandy and rum, but assesses a 5 percent “nuisance” tariff on liqueurs and a 6.5 percent tariff on vodka and gin.

Moreover, since the conclusion of the Uruguay Round, the U.S. spirits industry has encountered setbacks in a number of its priority markets:

- The margins of preference extended to distilled spirits produced in the European Union (EU) by a number of the Central and Eastern European countries in the process of acceding to the EU have progressively increased, putting U.S. distilled spirits at an even greater competitive disadvantage. For example, Bulgaria’s tariff on EU spirits is approximately half the rate applied to U.S. spirits. EU spirits enter the Czech Republic subject to duty rates that are 40 percent-70 percent lower than the rates applied to U.S. spirits. In Poland EU spirits are assessed tariffs ranging from 52.5 percent to 73.5 percent (within a quota of 3,000 liters of pure alcohol), while U.S. spirits exports face tariffs ranging from 75 percent to 105 percent.

We have seen a significant improvement, however, in Romania, where the import tariff on Bourbon was reduced recently from 70 percent ad valorem to 35 percent ad valorem, which is the same rate that is currently applied to whisky imported from the European Union (EU). The action was prompted, in part, by a Distilled Spirits Council petition seeking the withdrawal or suspension of Romania’s benefits under the Generalized System of Preferences (GSP) program. (The petition, therefore, was subsequently withdrawn.) Unquestionably, this successful result would not have been possible without the persistent efforts of the U.S. government.

When India lifted its quantitative restrictions on distilled spirits on April 1, 2001, it simultaneously imposed additional duties on spirits imports, on top of its already prohibitive base tariff. Currently, additional tariffs ranging from 25 percent to 150 percent ad valorem or US\$40 to US\$53.20 (depending on the case price) apply to imported spirits, on top of India’s base tariff of 166 percent ad valorem. Thus, the current effective tariff on imported spirits ranges from 240 percent to 578 percent ad valorem. When India fully phases in its Uruguay Round commitment in 2004, the base tariff will still be an exorbitant 150 percent, wholly apart from the additional customs duties imposed in April 2001.

- The EU’s free trade agreement negotiations with the Mercosur countries (Argentina, Brazil, Paraguay and Uruguay) continue to move forward, with the prospect that EU spirits will at some point enter these markets duty-free. U.S.-produced spirits will continue to face significant tariffs (applied rates currently range from 13.5-21.5 percent). The Distilled Spirits Council strongly supports the ongoing negotiations for the Free Trade Area of the Americas (FTAA), but also urges the United States government to make reductions in the Mercosur countries—spirits tariffs, on an MFN basis, a high priority.

In the current Doha Development Agenda negotiations, the industry seeks the broadest possible participation in the spirits zero-for-zero agreement, and views those developed countries whose spirits tariffs constitute, in essence, “nuisance” tariffs (including Australia, New Zealand and Switzerland) as prime candidates. China, Korea, and Thailand should also be encouraged to join the zero-for-zero agreement, just as Taiwan and Japan have done. Although U.S. negotiators secured significant tariff concessions from China in the spirits sector (a reduction from a base rate of 65 percent to 10 percent over five years) in the context of its WTO accession negotiations, the next logical step—and one that is consistent with China’s role as a major spirits producing- and consuming-nation—is full adherence to the zero-for-zero agreement. Both Korea and Thailand are also major spirits producers. Korea’s current applied rates range, however, from 15–20 percent, while its fully-phased in bound rate is 30 percent ad valorem. Thailand currently applies a complex tariff, with an applied rate of 55.2 percent or 59.8 Baht per liter, whichever is higher, on gin, and a rate of 60 percent or 120 Baht per liter, whichever is higher, on all other spirits. (Thailand’s bound rate on gin is 55.2 percent or 59.8 Baht/liter, whichever is lower; for other spirits, the bound rate is 62 percent or 124 Baht/liter, whichever is lower.)

In parallel with these objectives, we seek the U.S. government’s support in ensuring that the Central and Eastern European countries implement the EU’s common external tariff on spirits—zero—immediately upon their accession to the EU. Ten of the EU-accession countries are scheduled to accede in May 2004, while others are not currently scheduled to join until 2007 at the earliest.

With respect to the industry's other priority countries, the Distilled Spirits Council seeks significant cuts in the effective tariff rates, i.e., reductions that will yield rates that are substantially below the currently applied rates. Anything short of this goal would fail to achieve any real improvements in market access. We continue to urge that negotiations be conducted on the basis of applied, rather than bound, rates, and applaud the U.S. government's success in the FTAA negotiations to proceed largely on the basis of applied rates.

In the context of the Doha Development Agenda, we understand that certain countries whose current applied tariffs are below their bound rates have objected to this approach because they fear that they will not be given credit in the negotiations for having undertaken unilateral tariff liberalization. In order to address this concern, a method could be developed whereby the country in question could receive credit toward its overall tariff-reduction commitment in the agriculture sector for any such unilateral tariff cuts that occurred before the beginning of the new round. If it is not possible to negotiate on the basis of applied rates, a formula should be employed whereby cuts in bound rates translate immediately into commensurate cuts in applied rates: without such an approach, there will likely be no real improvements in market access in countries maintaining the highest tariff barriers, as was the case for distilled spirits products in the Uruguay Round. At the very least, we urge that the U.S. government insist that WTO members adopt a benchmark measure for real market access that would quantify the actual improvements in market access—i.e., a quantitative assessment of the differences between the rates applied at the beginning of the Doha Development Agenda negotiations and the bound rates agreed at the conclusion of the Round—in order to provide a more accurate assessment of actual improvements in market access. Indeed, one of the agreed goals of the market access negotiations should be to seek a significant improvement in this real market access indicator.

For the U.S. distilled spirits sector, the following goals for the WTO agriculture negotiations are of paramount importance:

- a minimum reduction of 50 percent or more for each line item;
- a ceiling rate for all line items once reductions are phased in, e.g., 20 percent for developing countries; 5 percent for industrialized countries;
- elimination of current "nuisance" tariffs of 10 percent or less;
- no exceptions for individual products or participants;
- a 5-year maximum for staged implementation; and
- the binding of tariffs at the intermediate stages, as well as at the final stage.

The Distilled Spirits Council also strongly believes that any "special and differential" treatment accorded least developed countries should be reflected in longer implementation periods, rather than by exempting these countries altogether from their obligations to improve access to their markets.

#### *B. Geographical Indications—Agriculture Negotiations*

The Distilled Spirits Council and its member companies have a direct and significant interest in the negotiations under Article 23.4 of the TRIPS Agreement on the establishment of a multilateral system of notification and registration of geographical indications (GIs) for wines and spirits. Although the inclusion in the TRIPS Agreement of provisions specifically mandating the establishment by all WTO member countries of a legal means of protecting GIs associated with distinctive distilled spirits was, in our view, a major achievement of the Uruguay Round, protection of internationally-recognized GIs remains uncertain in many WTO member countries.

Accordingly, our objective in the ongoing negotiations is to secure more certain recognition and protection, in all WTO member countries, of internationally-recognized GIs for spirits such as Bourbon and Tennessee Whiskey. We are concerned that certain proposals currently under review will do little to achieve this goal, while other proposals appear to incorporate complex and cumbersome procedures that may impose significant additional and unnecessary costs on industry. Moreover, we are concerned that the effort on the part of certain WTO member states—in the context of the agriculture negotiations—to extend the TRIPS Agreement's current enhanced protection of geographical indications for wines and spirits to other products has unfortunately deflected attention from the negotiations on wines and spirits, which were specifically mandated by the Doha Declaration.

The Distilled Spirits Council and its members stand ready to work with the U.S. negotiating team to design a system that would secure more certain protection for internationally-recognized GIs for spirits without constructing cumbersome and costly new procedures for doing so.

#### *C. Non-tariff Barriers*

With respect to non-tariff measures, the Distilled Spirits Council urges that particular attention be given to seeking improvements under GATT Article X (transparency). In that connection, the Distilled Spirits Council and its members have wit-

nessed a proliferation of new and proposed regulatory measures concerning, e.g., product labeling requirements and food safety standards. Although the TBT and SPS Agreements incorporate basic notification and consultation obligations, a number of these new regulatory proposals are simply never notified, or are notified well after they have entered into force, thus nullifying the benefits of any existing notification obligation. We urge the U.S. government to ensure that the Article X negotiations embrace improvements in the TBT and SPS notification and consultation procedures.

### III. OTHER MULTILATERAL AND BILATERAL TRADE NEGOTIATIONS

The Distilled Spirits Council and its members also strongly support the United States' efforts to further open markets within the context of the negotiations towards a Free Trade Area of the Americas (FTAA), and in the ongoing bilateral negotiations towards free trade agreements (FTAs) with Australia, Central America, Morocco, and the Southern African Customs Union. Pursuing these negotiations provides an unparalleled opportunity to liberalize further these markets for U.S. distilled spirits products.

The objectives of the U.S. distilled spirits industry for these regional and bilateral negotiations are consistent with those identified above for the Doha Development Round. These include, for example, securing the immediate elimination of the import duties on distilled spirits products from the United States. As stated above, the United States has already eliminated tariffs on nearly all spirits products from all countries. In contrast, U.S. spirits currently face tariffs ranging from, for example, 5 percent to 40 percent in Central America, and up to 133 percent in some Caribbean countries. Securing the immediate elimination of these duties will enable U.S. spirits entering these markets to be accorded the same tariff treatment as spirits from these countries entering the United States. Furthermore, since some of these countries have already concluded free trade agreements that include tariff preferences for spirits products, U.S. spirits exports are currently at a competitive disadvantage vis-a-vis, for example, spirits products from the EU (in South Africa), Canada (in Costa Rica) and Mexico (in Colombia and Venezuela). Thus, securing the elimination of these tariffs on U.S. spirits products will place U.S. spirits exports on a level playing field with our competitors.

Second, the Distilled Spirits Council and its member companies place a very high priority on securing certain protections for Bourbon and Tennessee Whiskey as distinctive products of the United States within the context of regional and bilateral negotiations. Such protection will ensure that only spirits produced in the United States, in accordance with the laws and regulations of the United States may be sold as Bourbon and Tennessee Whiskey.

Third, these negotiations provide an opportunity to address the specific technical barriers to trade affecting imports of U.S. distilled spirits products into some of these markets. These include, for example, certain technical standards in, inter alia, El Salvador, Nicaragua, South Africa and Australia, labeling requirements in Australia and Morocco, and burdensome brand registration, certification and import licensing requirements in some Central American countries. These negotiations, therefore, provide a significant opportunity to seek the elimination of these practices that impede trade in U.S. spirits products.

Finally, the Distilled Spirits Council and its member companies enthusiastically support the prompt entry-into-force of the free trade agreements with Chile and Singapore, which will bring about significant and measurable benefits for U.S. spirits exporters. The agreements eliminate several of the barriers that U.S. spirits exporters currently face in these markets. Prompt implementation of the FTAs will permit U.S. spirits exporters to benefit from improved market access to Chile and Singapore, thus contributing to the continued growth of the U.S. distilled spirits industry.

### IV. SUMMARY

The U.S. distilled spirits industry views the Doha Development Agenda as providing the industry with its best—and in some cases only—opportunity to address a broad range of significant market access problems that continue to impede U.S. exports of distilled spirits. As described in greater detail above, our principal objectives for the WTO market access negotiations on agricultural products are:

- elimination, where possible, or, at a minimum, significant reductions in both bound and applied tariffs on distilled spirits products, including through an expansion of the zero-for-zero agreement;
- improvements in regulatory transparency through focused negotiations targeting procedural improvements in the TBT and SPS Agreements; and

- more certain recognition and protection of geographical indications associated with distinctive distilled spirits.

Similarly, the industry's goals within the context of the FTAA negotiations and the various bilateral free trade agreement negotiations are to:

- secure the immediate elimination of import duties on U.S. distilled spirits products;
- obtain certain protections for Bourbon and Tennessee Whiskey as distinctive products of the United States; and
- remove the technical barriers to trade that unnecessarily impede the import of U.S. distilled spirits in these markets.

We stand ready to work with the Congress and the administration to ensure that these goals are achieved in the multilateral and bilateral agriculture negotiations. Thank you very much for your consideration.

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*Gutknecht*

### Comparison of U.S., European and Canadian Drug Prices

DRUG	U.S. PRICE	EUROPEAN PRICE	CANADIAN PRICE
Rugmentin	\$55.50	\$8.75	\$12.00
Cipro	\$87.99	\$40.75	\$53.55
Claritin	\$89.00	\$18.75	\$37.50
Coumadin	\$64.88	\$15.80	\$24.94
Glucophage	\$124.65	\$22.00	\$26.47
Norvasc	\$67.00	\$33.00	\$46.27
Paxil	\$83.29	\$49.00	\$44.35
Pravachol	\$85.60	\$29.00	\$40.00
Premarin	\$55.42	\$8.95	\$22.46
Prempro	\$31.09	\$5.75	\$14.33
Prilosec	\$112.00	\$49.25	\$59.00
Prozac	\$91.08	\$18.50	\$20.91
Synthroid	\$33.93	\$8.50	\$13.22
Zestril	\$40.49	\$20.00	\$20.44
Zocor	\$123.43	\$28.00	\$45.49
Zoloft	\$114.56	\$52.50	\$47.40

Source: Life Extension Network, 2002

## Pharmaceutical Drug Price Comparison

Pharmaceuticals Purchased at Metropolitan Pharmacy, Munich Airport		Pharmaceuticals Purchased at Pharmacies in the United States of America	
<i>Cipro</i> (10 tablets - 250 mg)	\$35.12	<i>Cipro</i> (10 tablets - 250 mg)	\$55.05
<i>Coumadin</i> (100 tablets - 5 mg)	\$21.00	<i>Coumadin</i> (100 tablets - 5 mg)	\$89.95
<i>Glucophage</i> (30 tablets - 850 mg)	\$5.00	<i>Glucophage</i> (30 tablets - 850 mg)	\$29.95
<i>Pravachol</i> (50 tablets - 20 mg)	\$62.96	<i>Pravachol</i> (50 tablets - 20 mg)	\$149.95
<i>Prozac</i> (20 tablets - 24 mg)	\$36.46	<i>Prozac</i> (20 tablets - 24 mg)	\$49.95
<i>Synthroid</i> (50 tablets - 50 mg)	\$4.00	<i>Synthroid</i> (50 tablets - 50 mg)	\$21.95
<i>Tamoxifen</i> (60 tablets - 20 mg)	\$60.00	<i>Tamoxifen</i> (60 tablets - 20 mg)	\$360.00
<i>Zestril</i> (100 tablets - 2.5 mg)	\$25.04	<i>Zestril</i> (100 tablets - 2.5 mg)	\$59.95
<i>Zocor</i> (30 tablets - 10 mg)	\$41.20	<i>Zocor</i> (30 tablets - 10 mg)	\$89.95
<i>Zoloft</i> (50 tablets - 50 mg)	\$82.52	<i>Zoloft</i> (50 tablets - 50 mg)	\$132.95

**TOTAL=\$373.30**  
**Munich, Germany**

**TOTAL=\$1,039.65**  
**United States of America**

Congressman Gil Gulknecht  
First District, Minnesota



National  
**Corn Growers**  
Association  
www.ncga.com

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**Testimony of Doug Boisen  
National Corn Growers Association  
Chairman, Trade Task Force**

**Before the House Committee on Agriculture**

**Washington, DC  
June 18, 2003**

Good morning. Chairman Goodlatte, Ranking Member Stenholm and members of the Committee. My name is Doug Boisen. I am a board member of the Nebraska Corn Development, Utilization and Marketing Board and Chairman of the National Corn Growers Association Trade Task Force. I would like to thank the Committee for giving me the opportunity to testify and speak today regarding trade negotiations important to corn producers. Today's hearing is very timely, and I commend the Chairman and the Committee for convening it.

The National Corn Growers Association (NCGA) was founded in 1957 and represents more than 32,600 dues-paying corn growers from 48 states. The Association also represents the interests of more than 350,000 farmers who contribute to corn checkoff programs in 19 states.

NCGA's mission is to create and increase opportunities for corn growers in a changing world and to enhance corn's profitability and use. Trade is vital to the future of corn growers as we search for new markets and provide grain that is more abundant and of better quality.

One out of every five rows of United States corn is exported, and exports of value-added corn and co-products add to the importance of foreign markets for United States corn producers. In 2002, United States corn exports totaled 47 million metric tonnes with a value of \$4.8 billion. This represents approximately 20 percent of total United States production, with the United States accounting for nearly 57 percent of worldwide production last year. Our two closest competitors in the international marketplace are

Argentina and China with 14 and 17 percent of world production respectively. The United States Department of Agriculture (USDA) recently estimated United States corn exports would be down in the 2002/2003 marketing year at 1,675 million bushels, (42.6 million metric tonnes), the lowest export level since 1997/98. United States production will be at the lowest level of worldwide production since 1985 or even the late 1960s. This decrease represents the rising level of competition we are experiencing in the international market from countries like Argentina and China. More so than any time in the past, corn producers operate in an international marketplace that is competitive. The importance of free trade agreements has never been more essential to the future success of our industry.

NCGA supports trade agreements that will open markets for United States farmers and increase market development opportunities throughout the world. NCGA trade policy revolves around four basic objectives. They include: 1) Reduction of tariff barriers, 2) Reduction of trade distorting domestic support, 3) Elimination of export subsidies and 4) Elimination of technical barriers to trade that discriminate against products derived from biotechnology. I would like to spend a few minutes elaborating our trade priorities in ongoing and future trade negotiations.

### ***Mexico***

Like many of the commodities at this table, corn is experiencing problems with Mexico in terms of its commitments under the North American Free Trade Agreement (NAFTA). Mexico is our second largest trading partner, importing 5.3 million metric tonnes of bulk corn last year.

As you already know, on April 28, 2003, Mexican President Vicente Fox signed a "National Farm Accord" that pledges more domestic support to Mexican farmers and hints at preliminary steps to initiate safeguard actions on dry beans and white corn. In addition, the document alludes to the ultimate goal of unilaterally renegotiating the agriculture provisions of NAFTA by suspending the issuance of import permits (cupos) for white corn except in times of short supply and encourages the establishment of domestic production contracts to reduce dependence on United States yellow corn imports.

I do not intend to discuss our problems with Mexico at length. It is essential Congress and the Administration not renegotiate NAFTA and work towards its full implementation. Renegotiation of NAFTA would be unwise and unproductive for both countries. NAFTA is a working agreement that provides benefits to Mexico and the United States.

#### ***World Trade Organization***

NCGA strongly believes that future efforts to successfully liberalize international agriculture markets hinges on the current World Trade Organization (WTO) negotiations. We were disappointed when members of the agriculture-negotiating group failed to meet the March deadline to produce a set of modalities. While technical discussion continues to proceed we believe negotiations need to move forward prior to the September Ministerial meeting in Cancun. Like many others, we are closely watching events in the European Union regarding reform of their Common Agriculture Policy (CAP). While we hope a breakthrough in Europe will help spur negotiations forward, it is important that a final agreement moves beyond incremental reform and lays a bold framework towards redefining international agricultural trade.

Earlier this year, NCGA formally endorsed the U.S. negotiating proposal to the WTO. Corn producers can compete in the international marketplace but face unfair trade barriers in the form of high tariffs, restrictive tariff rate quotas (TRQs) and in the case of China, export subsidies that undercut exporters in markets that are traditionally supplied by the United States.

The Swiss 25 formula and the complete elimination of export subsidies are bold goals set by the U.S. Trade Representative (USTR), and these should remain the central pillars of U.S. attention in the WTO negotiations. The strength of the U.S. argument is clearly illustrated in the first and second draft modalities issued by Stuart Harbinson. While Harbinson did not provide a document that fully satisfied USTR and NCGA, we believe the text will move negotiations in the proper direction and provide a clear message that the Doha Round must fulfill its original mandate and not hinder further development of international agriculture at the expense of entrenched interests.

The Harbinson proposal is a step in the right direction in that it would expand TRQ volumes for many commodities. In many cases, corn and other feed grain exports would be facilitated by the expansion of tariff rate quota volumes and reduced tariffs for feed grains. One area of concern is the limited potential gains resulting from special provisions for developing countries. While NCGA does not oppose discussions providing incentives for developing countries, we believe it is necessary to move forward carefully to ensure that any final agreement provides increased access for feed grains rather than provide markets with new tools to restrict or manage trade that distorts market demand. Developing countries represent a large portion of future growth in feed grain exports and reducing high tariffs in these countries is an important objective of our members.

Tariff harmonization continues to be an important component to the international grain trade. Tariff reductions for feed grains and related products should be harmonized so that the same ad valorem duties would apply to corn, sorghum, barley and wheat. This would remove any policy-driven incentive to import one grain over another, and enable feed compounders to utilize each ingredient rationally in response to price changes in the world market. Many countries in the Middle East and Southeast Asia have high to moderate tariff levels on imported corn, barley and sorghum, and low or zero tariffs on wheat going into the feed channels. Much of that imported wheat displaces feed grains in those markets due to the tariff inequalities.

NCGA is pleased the Harbinson text liberalizes state trading enterprises (STEs). The monopoly powers enjoyed by STEs have the effect of limiting competition and distorting trade flows. In countries such as China, Canada and Australia the result is unfair competition and a lack of transparency that impacts feed grain exports from the United States. While Harbinson does not eliminate STEs outright, the text will fundamentally change their behavior in the international marketplace.

The negotiations on export credits and credit guarantees should ultimately provide for disciplines on the use of export credits that allow the continuation of U.S. export credit programs as a viable and effective tool to assist U.S. agricultural exports. USDA administers export credit guarantee programs for commercial financing of U.S. agricultural exports to developing countries where credit is necessary to maintain U.S.

sales, but where financing may not be available without such credit guarantees. Feed grains export coverage under the GSM-102 program (covers credit terms up to 3 years) amounted to approximately \$730 million in 2002 with Mexico, Latin America, and the Caribbean Region accounting for approximately 80 percent. Disciplines also must cover the full range of export credit programs and practices that other countries employ. A number of governments support agricultural trade through direct credit, credit guarantees, or similar programs but which there is a substantial lack of information and transparency.

One of the most sensitive yet important aspects of the negotiations will revolve around the reduction of domestic support levels. A successful agreement will ensure harmonization of domestic support levels among developed countries. Even with lower tariffs, international competition in feed grains will not be fair if certain countries can price U.S. corn producers out of the marketplace. As stated earlier, while our main competitors for corn production are in Argentina and China, grain produced in Europe and the Black Sea region impact our markets significantly. Recent imports of feed wheat from the United Kingdom into North Carolina illustrate the fundamental market distortions inherent in the grain trade.

More important, negotiated modalities need to provide Congress with the ability to construct a farm program that meets our domestic objectives while complying with international agreements. Negotiators must ensure maximum flexibility to provide agricultural producers with assistance that corrects inequities resulting from governmental incentives vis-à-vis our international competition. The NCGA believes a national farm program can be constructed that is green box compliant while meeting the same objectives provided in current law. This was and remains a stated objective of NCGA and formed the foundation of our proposal to Congress two years ago prior to farm bill reauthorization. We remain committed to this goal and believe it is necessary to provide corn producers with the tools to remain competitive in the international marketplace while promoting rural development and a vibrant farm sector.

The NCGA Board of Directors will be meeting this week and plan to discuss this issue more in-depth in an attempt to further define our objectives and specific recommendations to Congress and USTR in preparation for Cancun.

***Free Trade Area of the Americas***

At the center of attention of trade negotiations in the Western Hemisphere is the Free Area of the Americas (FTAA). Through the FTAA process, corn growers seek the following objectives: 1) overall reduction in tariff levels; 2) elimination of the use of export subsidies for trade in the Western hemisphere; 3) the phasing out of tariff-rate quotas; 4) fair administration of quotas and import permits; 5) eliminate other market access restrictions ; 6) disciplines on State Trading Enterprises; 7) science-based regulations pertaining to human, animal and plant health and; 8) an expedited dispute settlement process.

Two of these objectives deserve special note. Specifically, the United States feed grain industry would benefit from increased access to the complex system of preferential regional and bilateral trade that has emerged in the Hemisphere. Tariff reduction, and ultimate elimination, would ensure that United States corn exports gain or retain access to markets on a basis comparable to that granted to other trading partners.

For example, duties between Mercosur countries are generally zero whereas members apply the common external tariff and statistical tax for imports from the United States (and other non-member countries). For example, Argentine enjoys a 2 percent tariff for corn exports to Brazil. The comparable rate for U.S. exports is 9.5 percent. While Brazil recently announced a tariff reduction for U.S. exports due to short supplies, it remains difficult for the United States to compete in that region for much of the year, despite some seasonal and freight advantages.

Bilateral Economic Complementary Agreements (ECA's) also work to our disadvantage. The ECA between Chile and Mercosur members subjects corn from Argentina to a lower import duty (1.8 percent in 2003) than the United States (6 percent in 2003).<sup>1</sup>

Such elimination of feed grain tariffs for our exports similar to those extended under regional and bilateral agreements would allow United States feed grains to compete in the Hemisphere under market conditions.

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<sup>1</sup> Under the U.S.-Chile FTA, tariffs on corn exports drop to zero in the third year.

The "price band system" employed by Andean Pact countries continues to protect domestic agricultural products from imports. Under the Andean Pact's common external tariff policies, corn imports from non-member countries are subject to a fixed tariff and a variable tariff based on import prices. The complex variable tariff component keeps internal prices high when world prices are low and declines as world prices increase, effectively setting a floor on the import price of third-country products. Overall feed grain demand is dampened as domestic markets are insulated at artificially high price levels, and as a result demand for imported feed grains is diminished. The use of price bands is inconsistent with WTO rules and should be eliminated as part of the FTAA agreement.

Another top priority for corn growers is to prevent export subsidies from being used by any member. We seek a commitment from each country to refuse to accept subsidized exports from third parties. Export subsidies are the most trade distorting of government policies and severely injure efficient producers. Elimination and prohibition of future subsidies in the FTAA will not only level the playing field for agricultural commodities but also will increase pressure on the European Union to reform its export subsidies in the WTO negotiations on agriculture.

#### ***Central America Free Trade Agreement***

Regarding a Central American Free Trade Agreement (CAFTA), the domestic feed grain industry looks to gain greater market access through the elimination of tariffs. In total, the region imports more than 1.6 million metric tonnes of corn per year, with the United States supplying nearly all of that demand. While each country applies a different tariff rate for corn, immediate tariff elimination should be sought in as many of these countries as possible.

In addition to tariff elimination, internal support measures employed by some Central American countries continue to hinder access for United States feed grains. El Salvador, Honduras and Nicaragua use commodity absorption agreements, which require domestic end users and processors to purchase a certain percentage of domestic production at high prices before being issued a license to import commodities. Typically, domestic production of white corn and sorghum must be purchased before

import licenses are issued to import yellow corn at preferential tariffs. These mechanisms are clearly illegal under WTO rules, and should be eliminated under an FTA agreement.

In addition, we feel the FTA with Central America should fully embrace trade in products produced through agricultural biotechnology. At a minimum, the United States should seek agreement from those countries that products of agricultural biotechnology be evaluated solely on the basis of sound science.

***Conclusion***

No doubt, our future as agricultural producers is linked to trade. The United States Government and organizations like NCGA need to promote the benefits of trade liberalization in multi and bilateral negotiations. We cannot retreat from any region of the world.

We look forward working with the Committee on this and other issues of importance in the future. I thank you again for the opportunity to address the Committee. I welcome your questions.

**Tom Camerlo  
Chairman  
National Milk Producers Federation**

**Written Testimony**

**House Agriculture Committee**

**June 18, 2003**

Mr. Chairman and members of the committee, I am Tom Camerlo, Chairman of the National Milk Producers Federation (NMPF), Dairy Farmers of America and the Trade Policy Committee of the U.S. Dairy Export Council. The National Milk Producers Federation works closely with the U.S. Dairy Export Council (USDEC) on issues of trade policy. I am pleased to appear before you today to testify on the topic of negotiations in the World Trade Organization and bilateral and regional agreements.

America's dairy industry is the second largest agricultural commodity sector in the United States, measured by farm cash receipts. The 85,000 dairy farmers in the U.S. are in every state of the Union, from Vermont to California, New Mexico to Idaho. Dairy is one of the top three agricultural sectors in fully half the states, and almost two-thirds of the members of the House hail from one of these "dairy" states. Internationally, the U.S. is the world's largest single-country producer of cow's milk.

Impressive as those numbers are, they represent only the milk producer side of the industry; dairy processors, the companies that turn milk into yogurt, cheese, ice cream and milk powder, add overall strength and employment to the impact of the industry as a whole on the country's economy. In addition, we know that our ability to increase production, impacting employment in both producing and processing sectors, is almost unconstrained. This makes our efforts to market U.S. dairy products for export all the more important to the industry and to this country's overall rural economy. However, these efforts will be meaningless if the United States becomes the dumping ground for heavily subsidized products from countries with small markets. We cannot continue down the road of unilateral disarmament. Markets need to be opened overseas before we open ours further.

**The World Trade Organization -- Doha Development Round**

As its title states, the Doha development round has been characterized as a catalyst for developing countries to achieve greater economic opportunities. In that vein, the United States government and the dairy industry are poised to accomplish those objectives through further trade reform. The U.S. dairy industry has been a proponent of

harmonizing tariffs, eliminating export subsidies and reducing domestic support in a manner that will not leave U.S. producers at a competitive disadvantage as compared to other developed countries. The United States government has also pursued these general principles as it presented its proposal at the agricultural negotiations of the World Trade Organization.

An overall analysis of the Harbinson paper approach to the three pillars and its impact on dairy has shown significant flaws. The Harbinson paper regrettably achieves harmonization neither on market access nor in domestic support. In fact, the Harbinson paper as it stands today would only slightly reduce the level of disparities which exist under the Uruguay Round. In fact, Harbinson's proposals would create an even worse scenario by reducing the already low tariffs (e.g. U.S. dairy) even further while allowing for other countries to maintain three digit levels of protective tariffs. Likewise, the Harbinson paper could permit the EU to begin reducing their domestic support from a significantly higher point than the United States, thus leaving the current inequities in place.

#### *The Three Pillars*

The U.S. dairy industry has built its trade priorities around the proposition that the playing field must be leveled and inequities eliminated. Our dairy sector can compete internationally, but only if distortions disappear in a fair manner and not unilaterally. The United States Congress needs to carefully examine the pros and cons of an agreement that goes beyond the three "pillars".

#### *Export Subsidies*

The U.S. dairy industry has stated numerous times that is willing to give up the Dairy Export Incentive Program as long as the Europeans and others eliminate their export subsidies entirely. In fact, we believe the pervasively negative effect of export subsidies is so extensive that the U.S. industry's competitiveness in world markets will improve given rapid elimination of export subsidies. The majority of WTO members have already identified the complete elimination of export subsidies as a goal.

The Doha Ministerial mandated the Chairman of the Agriculture negotiating group (Stuart Harbinson) to produce a modalities paper (principles for negotiating) by March 31<sup>st</sup>, 2003. In order to meet the deadline, Mr. Harbinson produced a modalities paper that seemingly was intended to represent in some form the views of member countries. However, the Harbinson modalities paper currently under review by WTO member countries is not ambitious enough. Inasmuch as it calls for the elimination of all export subsidies, the nine year period allowed for this elimination is too long. Globally, dairy industries are the largest recipients of export subsidies, with the European Union (EU) holding nearly 72 percent of all export subsidy allowances in dairy. The EU has significant levels of export subsidies available in commodities other than dairy. Allowing countries such as the EU to maintain export subsidies for a longer period for certain products (e.g. dairy) in exchange for eliminating the subsidies on other commodities at a faster rate would be devastating for our industry and should not be considered a viable avenue.

State Trading Enterprises (STEs) do not necessarily constitute interference to trade. An example of a properly structured entity is the Commodity Credit Corporation (CCC) in the United States. However, monopolistic STEs, receiving preferential treatment with respect to exports and imports, have consistently distorted trade. The Doha Round must not allow State Trading Enterprises, or companies sanctioned by the government to have exclusive rights to all domestic milk as well as exclusive rights to export markets, to continue to function. Any elimination of export subsidies should address the enormous distortions created by STE organizations.

Although the industry is a relative newcomer to international trade, and such trade is still modest in comparison to the size of the domestic market, the United States exported approximately 5 percent of its domestic milk production in 2001. Exports amount to roughly 8 percent if one removes fluid drinking milk, which is difficult to export due to its perishable nature. More importantly, our export share for cheese has grown more quickly in recent years than traditional and heavily subsidized exporters such as Europe, and at about the same rate as low cost producer countries such as New Zealand. America's share of exported production on a milk solids basis has generally been growing over the past five, typically keeping pace with the steady increases in production that have marked the industry's historical trends.

In fact, the United States exported over \$1 billion in assorted dairy products in 2002; the third consecutive record-breaking year of foreign sales. Despite this impressive number, the U.S. is only fourth in the world in dairy exports. This status reflects both the industry's recent turn from its inward focus, as well as the often hostile world dairy trade environment that is beset with price depressing export subsidies and high market access barriers. If the next WTO round eliminated all export subsidies, the EU would lose a significant tool to export at sub-market prices:

- Approximately 78% of last year's exports of 458,500 metric tons of cheese, or about 35% of total world trade.
- Approximately 80% of last year's exports of 358,000 metric tons of SMP, or about 24% of total world trade.
- Approximately 60% of last year's exports of 131,000 metric tons of butter, or about 12% of total world trade.

#### *Market Access*

NMPF values export markets and the potential for expanding those markets. However, poorly negotiated WTO terms will dramatically affect U.S. dairy farmers and the U.S. industry as a whole. Therefore, our market access objectives focus on leveling the playing field and ensuring that the United States does not continue to provide greater access than other member countries.

Market access is perhaps the most important aspect of the negotiations for U.S. dairy producers. But unlike many who prioritize this issue, the U.S.'s position does not result from a trade adverse stance, but rather from an aggressive pursuit of trade reform.

Contrary to what many in this committee and in the media may believe, the U.S. dairy industry imports large quantities of non-quota products, as well as a significant amount of products above and beyond their quota limits. During the 1999 to 2001 time period, out of a total of 805 million lbs. per year, 65 percent of that amount came from non-quota products. During those years, the U.S. also imported 55 million lbs. per year of over-quota products, an additional amount equating to roughly 25 percent of the in-quota product imports. Unfortunately, the commitments in the last WTO round permitted many members to isolate their markets entirely, beyond the negotiated minimum access, while countries like the United States provided significantly more net access.

Since the Uruguay Round, over-quota imports have severely affected the United States because of our relatively low over-quota tariffs when compared to other protected markets. Therefore, the industry's priority is the harmonization of tariffs, especially over-quota tariffs. Final Uruguay Round bound tariff levels on key dairy products are still in excess of 50 percent for many WTO members, while the U.S. in-quota rates are nearly or simply zero. Likewise, the average U.S. over-quota tariff for dairy products is about 52 percent, while the average over-quota dairy tariff in the EU, Canada, Japan, Korea and other countries typically remains well into the triple digits.

U.S. companies strongly believe we can be competitive in many dairy categories if given a truly level playing field. To this end, the United States should concentrate on the reduction and harmonization of high tariffs, while improving the administration and enforcement of tariff rate quotas. Because the Uruguay Round accomplished important but very limited access improvements for U.S. dairy products; without another round of market access reform, we cannot negotiate viable commercial access for U.S. dairy products to many important markets, as well as address the issue of peak tariffs around the world. Most importantly, the pace of reforms in market access should be linked to the timetable on export subsidy elimination.

We oppose any additional in-quota access unless export subsidies are eliminated and over-quota tariffs are harmonized. Furthermore, considerations of additional in-quota access should also take into consideration the net trade flows through over-quota access. Also, if agreed, additional in-quota access should be given first to developing countries and to those countries that did not enjoy special country allocations (e.g. the United States) during the Uruguay Round. Any access that benefits European or other OECD countries should be compensated for with a specific country allocation for U.S. dairy products into those markets.

Finally, it is necessary to ensure that the United States does not provide more access (in-quota or over-quota) than any other protective world market, particularly in ways that put our industry at a competitive disadvantage. Because of the disparities created by the Uruguay Round peak tariffs, it is essential that the market access modalities include a system to evaluate the actual over-quota access that each protected market offers. In other words, calculations of minimum market access should also consider both in-quota access as well as over-quota access when calculating any further concessions. Dairy producers will re-evaluate their support of the Doha Round if the method chosen for

reducing tariffs forces the United States to open its markets while other WTO members are permitted to maintain high levels of tariff protection.

The continuation of safeguards is essential to remedying price depressing import surges of dairy products. Although we understand the danger of improperly stifling access to foreign markets, a transparent, quick and efficient safeguard, with specific disciplines that address import surges, is extremely important. The special safeguard provisions adopted in previous negotiations have not proven to be very effective and need modification towards transparency and simplicity. The U.S. government needs to be able to implement these safeguards without delay.

#### *Domestic Support*

With respect to domestic supports we support the expansion of the green box principles, which do not distort trade. The green box principles should be maintained and expanded to include programs that allow producers to support themselves with and without taxpayers' money.

In general, we support the U.S. government's proposal of an exempt and non-exempt approach to subsidies. However, the elimination of the blue box should not be accepted as a condition for the EU to maintain the current huge disparities under the amber box. The elimination of inequities under the blue and amber boxes is a high priority for the U.S. dairy industry and should be addressed in the negotiations on agriculture. We do not support the elimination of these programs. Moreover, the United States should only accept reductions in domestic support as part of a package that includes elimination of export subsidies and reciprocal market access. Unless negotiations reduce serious disparities in the levels of government support and offer significant market access in all countries, developed and developing, the United States must continue internal programs that counter heavy subsidization by Europe and other OECD members.

The Farm Bill of 2002 authorized the price support program for another seven years. Under the WTO's nomenclature for agricultural domestic support, the price support program is considered classified in the "amber box" category with most trade distorting systems. We believe that the current WTO rules of notification regarding the amber box that emanated from the Uruguay Round, under which the U.S. price support program operates, have significant flaws.

The most obvious oversight is the double counting of producer support. For instance, the U.S. price support program had little impact on U.S. dairy prices until 1999. Nevertheless, the United States notified to the WTO an average of \$4.5 billion annually for dairy price support, when in reality government outlays were near zero.

#### *Non-trade concerns*

In addition to the three pillars of U.S. dairy trade concerns (export subsidies, market access and domestic support), the issues of non-trade concerns (geographical indications, the precautionary principle, labeling and food safety), as well as the topic of special and

differential treatment for developing countries, have the potential for severely damaging the future of dairy trade reform.

The EU commission has begun a rampant process to expand the types of products given special protection by so-called "geographical indications" (GIs). Domestically, the EU recently proposed changes in its GI rules for products imported into the 15 countries of the EU. This is an action that has divided the European continent between those who want to capture and monopolize generic names versus those who believe that generic names, as well as trademarks, are protected both by laws and by years of marketing and development.

Internationally, in the WTO forum, the EU has made it a priority to extend protection for GIs beyond the carefully limited category of wine and spirits. This action could threaten the exports or production of a number of U.S. products, particularly cheeses such as mozzarella and parmesan, as well as other hundreds of other types of products. Every effort should be made to oppose the EU's actions and to create a coalition of countries that understand the consequences of extending GIs to an unprecedented number of products. Under no terms should the U.S. government agree to a trade-off between GIs and progress in the agricultural negotiations.

The so-called "non-trade concerns" also include topics such as animal welfare, consumer attitudes and fears (known as the precautionary principle), and the notion that the special characteristics of agriculture should permit the continued use of trade restricting measures or trade distorting subsidies. These "non-trade" issues mainly interest the EU and Japan.

We agree that the specific role of agriculture as a provider of public goods should be recognized, yet we strongly disagree with any attempt to use those concerns to prevent trade. The U.S. dairy industry does not oppose the idea that agriculture is a unique economic activity that merits different treatment. However, the real issue is the manner in which the objective is accomplished. Legitimate social, cultural and environmental goals are best accomplished through other programs that do not prevent trade. It is important that the United States prevent the inclusion of issues such as labeling, animal welfare and others in a final agreement if the provisions would result in further trade distortions.

Special and differential treatment for developing countries given in the form of restricting trade is an impediment to further trade and economic reform. The U.S. dairy industry is concerned that the current Harbinson proposal could allow developing nations to isolate themselves from global trade for the next 20 years. This goes in opposition to expanding exports and improving the economic well being of the Least Developed Countries (LDCs). These were major arguments expressed by the Administration for gaining Trade Promotion Authority. In addition to delaying the prospect of increased U.S. exports to these countries, this long-term protection will ensure that those countries miss out on many of the economy-building benefits of trade while the rest of the world profits from these measures.

The U.S. dairy industry rejects the concept of strategic products for developing countries. It also disapproves of permitting developing countries to maintain high levels of protection. Finally, under no circumstances should countries with large economies be allowed to be exempted from the trade reform process under the auspices of "developing country". For instance, although not as prosperous as the United States or the EU, Korea, Mexico and Brazil possess significant economies, neither of which should be classified as "developing". Moreover, despite living in a developing country, in many places, dairy producers are considered wealthy compared to the majority of their counterparts in the United States.

With regard to dairy, developing countries are right about the lack of benefits generated from the Uruguay Round. In fact, in dairy there are only two nations that have reaped the benefits of the Marakesh agreement - Australia and New Zealand. Neither the United States nor developing countries brought home real gains from opening their markets. The United States should look at alternatives to help LDCs establish competitive agriculture sectors as well as support their ability to access food supplies at reasonable prices. Nevertheless, protecting their market while we open ours will not accomplish the objective. The National Milk Producers Federation proposes that a large portion of whatever new access is gained during the Doha Round be reserved and given exclusively to developing countries.

#### **Free Trade Area of the Americas (FTAA)**

The U.S. dairy industry believes that a Free Trade Area of the Americas (FTAA) is long overdue, as history shows we have lost ground to our trade competitors who aggressively pursued and continue to pursue such activities. For years, the United States has failed to profit from the potential economic benefits that would arise from greater trade links with the Western Hemisphere countries.

The potential for export growth in Latin America is enormous. Every country in that region except Argentina, Uruguay, Costa Rica and Nicaragua is a net importer of dairy products. Of these exceptions, only the first two generate significant exportable surpluses. The region as a whole imports three-and-a-half times as much dairy products as it exports. And the United States produces more milk, cheese, milk powder, whey and lactose than the other combined 34 countries in the hemisphere.

Total cheese imports for Latin America approach a quarter of a billion pounds a year, more than a month's output from Wisconsin, the largest U.S. cheese producing state. Latin America imports more than a billion pounds of milk powder annually, and buys more than 150 million pounds a year of whey proteins. These are significant numbers.

Existing measures of per-capita consumption illustrate the potential demand for U.S. dairy products in a more open hemispheric trade environment. Annual dairy consumption in South America (excluding the large production bases in Argentina and Uruguay)

averages 229 pounds per year. In Central America and the Caribbean, the average is 192 pounds. It is unrealistic to expect these countries to quickly achieve the levels of consumption in the United States and Canada, both around 585 pounds per year. However, it is realistic to see continuing growth as per capita incomes rise and begin to drive consumption to the levels that exist in Turkey, Pakistan or Russia (respectively, 321, 403 and 520 pounds per year). After all, Latin Americans use dairy products widely in their local diets and cuisine. Unlike Asian countries, where dairy products are rapidly building familiarity among non-traditional consumers, increased dairy demand by Latin American consumers is much more a matter of increased income and wealth, both factors that increased trade will foster.

More importantly, Canada, our largest trading partner, with whom the United States has concluded trade agreements in the recent past, will be a significant market should an FTAA eliminate its tariffs on U.S. cheese (245 percent) and butter (300 percent), as well as their tight quotas on other U.S. dairy products.

The dairy industry supports the U.S. goal of facilitating the process of ongoing hemispheric integration through trade. Furthermore, we support elimination of most, if not all, tariff and non-tariff barriers from the Arctic Circle to Tierra del Fuego, just as the North American Free Trade Agreement (NAFTA) has sought to do with the United States, Canada and Mexico.

The challenge will rest on negotiating an agreement that removes barriers within the hemisphere, but does not, as a consequence, leave the U.S. dairy industry vulnerable to the trade inequities that will remain in world dairy trade. Of particular importance to a balanced dairy sector agreement are the issues of rules of origin, third party export subsidies and the full inclusion of Canada.

Rules of origin is a fundamental concept of a regional trade agreement that dictates that economic benefits accrue exclusively to the countries within the region. Dairy suppliers from around the world continually explore ways to expand their shipments to the United States. Milk's versatility creates the opportunity for that expansion by its great variety of tradable products – almost 400 individual tariff lines of the HTSUS include significant proportions of milk and dairy components. In the absence of appropriate rules of origin, it will no doubt be tempting for non-party countries to attempt to transship their dairy products through participating countries.

NAFTA also includes a provision addressing rules of origin. For the purpose of determining origin, NAFTA allows for products to be “accumulated” from any of the participating countries, as long as all other relevant conditions are met (i.e., those relating to non-originating materials used in the production of the good undergoing a required tariff classification change, and the good satisfying any applicable regional value-content requirements). Although accumulation is included in NAFTA; its relevance is limited, since the agreement only has two parties. Accumulation would be a much more complicated issue in a free trade agreement covering many countries, such as the FTAA.

That is why NMPF believes it is vital that FTAA rules of origin do not allow for accumulation between the member countries. Were accumulation to be truly restricted to the participating member countries, this accumulation would be acceptable. However, determining the necessary logistics of such a process and providing proper monitoring would be virtually impossible, thereby providing no assurance that the products are not actually being transhipped from a third party.

If the rules of origin permit non-parties to transship dairy components into the U.S. market via FTAA partners, then we estimate that the quantity of these additional imports – above and beyond those that truly originate from FTAA members – could amount to as much as 4 billion pounds per year, on a milk equivalent basis, following full implementation of the FTAA. The negative impact of these additional imports on the U.S. dairy industry would be substantial. Milk prices received by producers would average up to \$.60 per hundredweight lower and gross revenues received by U.S. dairy farmers would drop by as much as \$1.2 billion per year. Several thousand dairy farms, mostly smaller family farms, would be forced out of business, and the industry would undergo consolidation.

Another key issue, the issue of export subsidies, must also be addressed in the FTAA. If the United States agrees to stop using subsidies to export dairy products to FTAA members, we must then ensure that our trading partners do not accept subsidized product from outside the hemisphere. If Brazil, for example, accepts subsidized product from the EU, while we agree not to use the Dairy Export Incentive Program (DEIP) to meet that subsidized competition in the Brazilian market, it will put us at a serious competitive disadvantage.

For example, in its most recent report to the WTO, the EU reported spending more than 100 times what the United States spent - \$955 million versus \$9 million. Such a statistic demonstrates why it is critical that FTAA members not accept subsidized dairy imports from non-FTAA parties if the United States is to agree not to provide its own subsidies to compete in FTAA member markets. In the absence of such provisions, a U.S. agreement not to subsidize into such markets will effectively deny the United States any significant gains from the agreement in terms of increased exports within the hemisphere. The costs to the United States in terms of increased dairy imports from FTAA members would therefore have no offsetting benefits and the agreement would be seriously detrimental to the U.S. dairy industry.

Finally, but most importantly, for the U.S. dairy industry the true economic value of Western Hemisphere trade cooperation is the inclusion of the Canadian dairy industry in any form of economic or trade integration. The U.S. dairy industry is united in agreement that a failure to bring Canada on board would substantially nullify any prospective net gains to closer regional integration.

In the U.S.-Canada FTA, in NAFTA and in its recent trade agreements with Chile and Costa Rica, Canada successfully kept dairy products off the bargaining table in order to preserve its supply-management regime. The real challenge for FTAA negotiators will be

to find a way to bring the Canadian dairy industry into the agreement. If Canada succeeds in excluding its dairy sector, the U.S. dairy industry would find little reason to support an FTAA.

Following full implementation of the FTAA, we estimate that the United States would gain net dairy trade into Canada amounting to about 5 percent of Canada's commercial dairy market, equivalent to about 1 billion pounds of milk. This would boost milk prices received by U.S. producers by about \$.15 per hundredweight and would increase gross revenues received by U.S. dairy farmers by over \$300 million per year.

In the face of this significant potential benefit, unconfirmed press reports that the Administration is considering dropping parts of agriculture from the FTAA negotiations are alarming. Despite the substantial competition that the FTAA might bring from dairy suppliers in Argentina, Uruguay and maybe Brazil, we strongly support the FTAA for its ability to finally bring the Canadian dairy industry into the North America market global system.

#### Australia FTA

The commencement of the Australia FTA negotiations has alarmed U.S. dairy producers, as well as a wide range of large and small proprietary dairy processors. Free trade agreements by definition are exceptions to the first and most fundamental article of the General Agreement on Tariffs and Trade – the principle that in its trade relations no country should treat one country more (or less) favorably than any other country. This is called the “most-favored nation” or MFN principle. An exception to that principle in the form of a bilateral or regional free trade agreement should be sought by the United States only when there is a clear and compelling argument that it is in our national economic interest. Such an argument is not evident in the case for an FTA with Australia, particularly in the sector of agriculture. Moreover, in the absence of any certainty on a favorable result on the U.S. Doha agenda, we have great apprehension that we will face a substantially unreformed global trade system while fully opening ourselves to a major competitor.

In 2001, the United States exported \$0.3 billion worth of agricultural products to Australia and imported \$1.8 billion from Australia. This six-fold difference in Australia's favor is likely to grow substantially, not decline, as a result of a free trade deal between the two countries. Virtually the same ratio of exports to imports applies in the dairy sector where Australia shipped \$62 million to the U.S. and the U.S. sold only \$6.8 million to Australia. In dairy, too, the ratio is for significant growth in Australia's favor under an FTA.

U.S. agricultural exports are limited in part by the size of the Australian market – with a population only 7 percent the size of the U.S. population (about 20 million), in part by the fact that Australia is a net exporter of many of the same farm products produced in the

U.S., and in part by the fact that Australia employs strict sanitary and phytosanitary barriers to prevent unwanted products from entering its market.

Eliminating U.S. dairy import tariff-rate quotas on imports from Australia, as a result of a U.S.-Australia FTA, without eliminating all global trade distortions in dairy, especially market access and export subsidies, would have a significant and negative impact on employment in the U.S. dairy industry. NMPF's economists have calculated that such an agreement would put at risk 1,170,000 jobs that are generated directly or indirectly by the milk production and dairy processing and manufacturing sectors of the U.S. dairy industry.

This employment figure represents employees directly involved in milk production and dairy product processing, the employment in industries supplying inputs to dairy farm operations and inputs in addition to milk to dairy processing and manufacturing establishments, and employment generated by dairy industry employee spending. Of the over 1 million jobs put at risk, NMPF calculates that by the ninth year of the agreement at least 13% of them, 150,000 jobs, would be lost due to displacement by Australian imports.

While the European Union continues to expand their Free Trade Agreements with developing countries (over 25 as of the beginning of this year), the United States is seeking an FTA with a country that is not only a large competitor of the U.S., but is also a direct competitor of most under-developed economies, as well. Farmers from developing nations have fought Australia's unfair trade practices in both the international and domestic markets. Making the Australia FTA a priority will hurt the poorest agricultural sectors in the world as well as the most vulnerable producers in the United States. By promoting the enrichment of the already rich nations such as Australia, the United States is doing a disservice to itself and to the advancement of the WTO Doha agenda.

In fact, a U.S.-Australia FTA that included dairy would likely undermine the eventual results of the Doha round negotiations by providing Australia with a substantial proportion of the gains in market access it could only hope to achieve through the far more complex and uncertain multilateral negotiations. Such an agreement with Australia would not only offer no net benefit to U.S. agriculture, it would also undermine the U.S. government's efforts to open markets around the world in a multilateral context. It would undoubtedly relieve much of the pressure on Australian negotiators to achieve a substantial result in the WTO, and thus leave the U.S. dairy market to be the sole outlet for Australia's expansion of milk and dairy product production. Throughout the United States, dairy producers are opposed to granting Australia more access to our markets, especially without first having acquired real offsetting export opportunities for the U.S. elsewhere.

**Chile, CAFTA and Other Bilateral Agreements**

With the above-mentioned exception of the U.S.-Australia Free Trade Agreement, the U.S. dairy industry supports all trade initiatives currently underway. We believe that such trade initiatives, particularly those within the western hemisphere, are clearly called for due to the potential economic benefit that would arise from greater trade links with the western hemisphere countries. That is why, in addition to supporting a Free Trade Area of the Americas that would include Canada, NMPF is a strong supporter of a clearly negotiated free trade agreement with Central America, as well as the recently-completed U.S.-Chile Free Trade Agreement.

To begin with, the U.S. dairy industry applauds the Administration on its completion of the U.S.-Chile and U.S.-Singapore FTAs, and encourages Congress to approve these mutually beneficial agreements. U.S. negotiators achieved a major victory when Chile agreed, as part of the Free Trade Agreement, to accept imported dairy products from dairy plants certified by the U.S. government. It took many years of effort by technical and regulatory officials at USDA to convince Chilean authorities of the thoroughness and integrity of U.S. government oversight. However, NMPF takes issue with the agreement's requirement that the Food and Drug Administration (FDA) create a separate list of companies approved to export to Chile.

We note that the procedures listed in the guidance document are quite similar to those implemented in 1997 by FDA to establish the list of approved European Union dairy exporters. In both instances, firms that seek inclusion on the FDA Federal Register Notice reference list must provide a collection of detailed information. Based on experience with the EU exporter list, the time required for the government to process this information has engendered delays of up to several months, preventing U.S. firms from being included on the reference list, and thereby stifling their export opportunities.

This requirement for the FDA to create a new list of approved exporters is needlessly burdensome on U.S. industry. Lists of approved exporters already exist and should be used for all free trade agreements the U.S. undertakes. Requiring U.S. companies to repeatedly register for the same opportunity creates unnecessary costs and barriers to trade.

As for agreements that remain under negotiation, we believe that a U.S.-Central America FTA (CAFTA) makes economic sense for the United States, as it would increase prosperity for these neighboring countries. Benefits to the U.S. dairy industry are clear, as Central America is a net importer of dairy products. In 2000, dairy imports to the five Central American countries from other countries amounted to \$145.5 million. Dairy exports from the five countries to external destinations were just \$3.7 million that year. In the year 2000, half of these imports were from North America, primarily the United States, 23 percent were from Oceania (New Zealand and Australia), and 16 percent were from the European Union. In the last three years, U.S. exports of milk powders and cheese to Costa Rica, El Salvador, Guatemala and Nicaragua grew steadily. We believe that even if the FTA brings a rise in domestic dairy production, we will help consumption

to increase at a faster rate, resulting in a clear benefit for both the Central American and the U.S. dairy industries.

Eliminating tariffs on Central American imports of dairy products from the United States may stimulate some additional U.S. dairy exports by overcoming the advantages of export subsidies for EU products and undercutting prices from New Zealand and Australian exports. Similarly, providing duty-free treatment for U.S. imports to dairy products from the five Central American countries is not likely to have a significant economic effect on industries in the United States producing like or directly competitive products; nor upon consumers, provided that the liberalized access to the U.S. dairy market provided by the FTA is restricted to dairy products produced from milk and dairy ingredients that truly originate from those five countries.

As desired in the FTAA and discussed above, imposing specific rules of origin in order to mandate that all milk and dairy ingredients for which access to the U.S. market is liberalized must be manufactured from milk produced by cows in the five Central American countries themselves is a vital component the CAFTA must possess. In the absence of such rules of origin, dairy products and dairy ingredients produced in third countries, particularly New Zealand, Australia and member countries of the European Union, could easily be transshipped through Central America to benefit from the large difference in tariff treatment afforded products that will qualify for liberalized access to the U.S. market under a bilateral agreement.

As discussed in relation to the FTAA, it is important that CAFTA rules of origin do not allow for accumulation between member countries. Due to the nearly insurmountable task of establishing adequate monitoring devices to ensure that accumulation does not inadvertently permit third-party products to enter the U.S. duty-free, NMPF feels the most logical and prudent decision is to prohibit accumulation across the Central American countries.

Our main concerns with other bilateral agreements such as Morocco and the South African Customs Union are the issues of rules of origin, the EU's export subsidies, and general reciprocal access. NMPF is supporting these agreements on the basis that the elements cited will be carefully considered during the negotiations.

The National Milk Producers Federation encourages the U.S. government to focus on the WTO negotiations. We understand Ambassador Zoellick's objective of "competition on liberalization." If the Administration's desire is to pursue more Preferential Trade Agreements (PTAs) with other nations, we believe that this committee should have an important say on which PTAs the U.S. should pursue. As indicated by Ambassador Zoellick on several occasions, the European Union has concluded numerous agreements without jeopardizing its competitive advantage in the global market. Further trade reform can only be achieved in a multilateral context. Free Trade Agreements (FTAs) with competitive developed nations will only erode the U.S. agricultural industry's efforts to further reform the world's distorted agricultural trade structure.

**Israel FTA**

We would like to remind the House Agricultural Committee that the United States and Israel have not concluded their negotiations on the agricultural section of their FTA. As we all know, the 1995 U.S.-Israel Free Trade Agreement did not apply to trade in all products between the two countries. In fact, the United States and Israel signed an unusual five-year agreement on agricultural products. This accord expired in December 2001 and was extended for one year. Negotiations continued at a slower pace and have yet to resume progressing.

The U.S. dairy industry would benefit from the inclusion of dairy products in this agreement, but in a manner that provides reciprocal meaningful access between the U.S. and Israel. It is imperative that flaws of the original U.S.-Israel FTA be corrected during the negotiations once they resume. Israel is a small, but wealthy nation with a relatively high consumption of dairy products.

Although Israel's market access offer on agricultural products, including dairy, is a positive move on the part of Israel, this offer falls significantly short of U.S. dairy industry expectations, particularly on the cheese side. As the negotiations progress, we hope that the U.S. government will not soften its negotiating position with respect to the most important dairy products.

Overall, it is imperative that Israel's TRQ administration be immediately reexamined and improved. Our exporters have encountered numerous problems in filling TRQs and/or in developing a market for their products in Israel. The main obstacle seems to be Israel's licensing procedures. It is our understanding that Israeli officials have acknowledged that serious problems exist with the manner in which TRQs and import licensing are administered.

NMPF respectfully recommends that this agreement should not be treated as a low priority among U.S. negotiators, or simply as a political accord. The achievement of short-term objectives outlined above will benefit U.S. dairy exporters, while benefiting Israeli consumers. At the same time, adoption of longer-term goals will ensure that the U.S. will have a competitive advantage over other exporters.

**Dairy Export Incentive Program (DEIP)**

On a milk equivalent basis, the EU accounts for fully 72 percent of the subsidy allowances agreed upon in the Uruguay Round; the U.S., which produces two-thirds as much milk as the EU, accounts for just three percent of these allowances. Such heavy export subsidies drive down international prices, making U.S. dairy exports uncompetitive. With a renewal of the DEIP program, U.S. suppliers have some ability to compete.

However, we must openly state that perhaps even more important than the DEIP's impact on leveling the playing field, is the leverage it provides in negotiating the next agricultural agreement in the WTO. The U.S. dairy industry has stated repeatedly that it is quite ready to accept elimination of the DEIP program as part of an elimination of all agricultural export subsidies worldwide.

Therefore, contradictory though it may sound, to destroy export subsidies, we must use them. In this instance, that means extending the DEIP program and using it to the fullest extent that domestic market conditions warrant.

Yet, without advance consultation, the Administration announced in the President's recent commencement address at the Coast Guard Academy that the U.S. would no longer subsidize farm products to developing countries in the hopes that the EU would do the same. While we certainly laud the intent of the initiative – we ardently seek to eliminate all export subsidies in the Doha Round – its entire weight falls onto our industry, since the U.S. currently uses export subsidies only for dairy.

Developing countries in Southeast Asia and elsewhere have long sought U.S. dairy products both for our quality and to offset a reliance on the EU and Oceania. Sudden delisting of these destinations calls into question our reliability as a supplier, creates substantial difficulty in fully utilizing our WTO allocations, and *unilaterally* disarms U.S. leverage in a key part of the WTO modalities debate. Since developing countries were a key destination for dairy exports, the only suitable remedy would be to restore DEIP eligibility for a large number of the more developed destinations, or to add *developed* countries, such as Japan and the EU as DEIP-eligible destinations.

I appreciate the opportunity to testify before you today and will be pleased to answer any questions you might have.

Thank you.

Tom Camerlo

Mr. Chairman and Members of the Committee:

I am Jon Caspers, President of the National Pork Producers Council (NPPC) and a pork producer from Swaledale, Iowa. I operate a nursery-to-finish operation, marketing 18,000 hogs per year.

Mr. Chairman, I greatly appreciate everything that you and other members of this Committee have done to advance U.S. agricultural exports. I strongly believe that the future of the U.S. pork industry, and the future livelihood of my family's operation, depend in large part on further trade agreements and continued trade expansion.

The National Pork Producers Council is a national association representing pork producers in 44 affiliated states that annually generate approximately \$11 billion in farm gate sales. The U.S. pork industry supports an estimated 600,000 domestic jobs and generates more than \$64 billion annually in total economic activity. With 10,988,850 litters being fed out annually, U.S. pork producers consume 1.065 billion bushels of corn valued at \$2.558 billion. Feed supplements and additives represent another \$2.522 billion of purchased inputs from U.S. suppliers which help support U.S. soybean prices, the U.S. soybean processing industry, local elevators and transportation services based in rural areas.

Pork is the world's meat of choice. Pork represents 47 percent of daily meat protein intake in the world. (Beef and poultry each represent less than 30 percent of daily global meat protein intake.) As the world moves from grain based diets to meat based diets, U.S. exports of safe, high-quality and affordable pork will increase because economic and environmental factors dictate that pork be produced largely in grain surplus areas and, for the most part, imported in grain deficit areas. However, the extent of the increase in global pork trade – and the lower consumer prices in importing nations and the higher quality products associated with such trade - will depend substantially on continued agricultural trade liberalization.

#### **Pork Producers are Benefiting from Trade**

In 2002, U.S. pork exports set another export record totaling 726,484 metric tons (MT) valued at \$1.504 billion. Exports to Japan, the largest market for U.S. pork exports, increased 5 percent to 271,129MT. Exports to Mexico, the second largest destination for U.S. pork, also continued to grow increasing by 7 percent from 2001 levels to 217,909MT.

Much of the growth in U.S. pork exports is directly attributable to new and expanded market access through recent trade agreements. However, as the benefits from the

Uruguay Round and the North American Free Trade Agreement (NAFTA) begin to diminish, the negotiation of new trade agreements becomes paramount to the continued growth and profitability of U.S. pork producers. For this reason, NPPC led a coalition of more than 80 U.S. agriculture organizations in working to get Trade Promotion Authority through the U.S. Congress last year. On behalf of U.S. pork producers, NPPC is now deeply involved in many trade initiatives, including the World Trade Organization (WTO) agriculture negotiations. The potential payoff to producers from a new WTO agriculture agreement is high. As good as the past trade agreement have been, global pork tariffs still average a whopping 77 percent.

Even in Japan - America's largest pork export market - U.S. pork exports are severely limited due to a gate price system and safeguards designed to protect Japanese producers. Moreover, the U.S. pork industry must compete globally with subsidized pork from the European Union and other countries.

In addition, NPPC continues to be active in bilateral and regional trade negotiations. While the WTO negotiations clearly offer the single largest opportunity to increase exports, the bilateral and regional negotiations also offer significant opportunity.

#### **I. Existing Trade Agreements Must be Enforced**

While U.S. pork producers and others in U.S. agriculture have benefited significantly from past trade agreements, we must all remain vigilant in protecting the gains made in past trade agreements. This is particularly the case when important large markets are at stake, such as Mexico, where U.S. agriculture has invested huge amounts of time and money to succeed. Pork producers and our colleagues in American agriculture simply cannot stomach having these markets snatched away and still believe that trade agreements are of any value. It is that simple. It is imperative that the United States act decisively to protect the gains made in past trade agreements in order to retain and shore up support in U.S. agriculture for new trade agreement initiatives.

##### **A. Mexico is Unilaterally Renegotiating the NAFTA**

The Mexican government is unilaterally withdrawing concessions that it made to the United States in the NAFTA. Mexico is illegally using legislative and regulatory means including, the abuse of its antidumping laws and the abuse of its sanitary/inspection practices at the border, to restrict U.S. agriculture exports. While Mexico has utilized these illegal practices for a number of years, the illegal activities have reached a crescendo in recent months. Mexico's illegal tactics are impacting not only pork producers but a broad swath of American agriculture that includes apple producers, beef producers, corn producers and refiners, dry bean producers, and rice producers.

Just as the NAFTA envisioned for industries on both sides of the border, Mexico became the number one or two export market and a critical component of sales for many sectors of U.S. agriculture. Much of U.S. agriculture is now dependent upon the NAFTA to provide significant sales and generate revenues. With amazing aggression, the market access in Mexico on which we have become so dependent, has been, is being, or is now being threatened to be stripped away by actions by the government of Mexico. As a result, pork producers and many of our colleagues in U.S. agriculture believe the Mexico situation is the single most important trade and market access issue for the export-oriented agriculture community. In fact, it is hurting us more than any other trade problem.

1. Mexico's Recent Actions Against U.S. Pork Jeopardize the Livelihoods of Thousands of U.S. Pork Producers

Effective May 26, 2003, Mexico terminated its antidumping duty order on U.S. live hogs. While this is a most welcome development, Mexico's most recent actions with respect to U.S. pork imperil the livelihoods of thousands of U.S. pork producers.

Mexico is principally using two illegal means to advance its protectionist agenda on pork. First, Mexico has illegally initiated an antidumping investigation against U.S. pork exports. Second, Mexico is illegally stopping U.S. pork exports at the border.

Mexico has been phasing-in its market access commitments on pork since the inception of the NAFTA. In January 2003 the implementation period for pork was scheduled to be completed. However, Mexican pork industry representatives have had success in lobbying the Mexican government for protection from U.S. pork exports. This is somewhat surprising given that there are only 4,475 commercial pork producers in Mexico.

As is widely known, beginning in the latter part of 2002, many of Mexico's agricultural organizations started to demand the renegotiation of the agricultural aspects of the NAFTA. At first, the Mexican government staunchly defended the NAFTA. However, the farm organizations threatened to hold massive demonstrations intended to close numerous border crossings and otherwise disrupt Mexican commerce. With the pressure in Mexico mounting, a top Mexican trade official announced at a January 5 conference organized by Mexico's National Farm Workers Federation **that aspects of the NAFTA that "need to be corrected, will be corrected." On January 7 Mexico then initiated an AD case against U.S. pork.**

While Mexico has resisted a comprehensive renegotiation of the agriculture chapter of the NAFTA, Mexican officials have made it clear that they will "armor-plate" Mexican agriculture by pro-actively using Mexico's trade laws and border practices to restrict pork and other U.S. agriculture exports to Mexico.

Like the U.S. and other countries, Mexico has a right to use its trade laws. However, Mexico does not have license to flaunt WTO rules and use its trade laws as a tool of

protectionism. The antidumping investigation that Mexico initiated against U.S. pork exports on January 7 is probably the greatest abuse ever of WTO antidumping rules. As underscored by USTR in its discussions with Mexico, **the case is illegally initiated and must be terminated.** A preliminary determination in the case is expected on or before July 16 at which time provisional duties on U.S. pork exports could be put into place.

A number of points with respect to the illegality of the pork antidumping case. First, the Mexican association that requested the investigation, the CMP, does not represent the Mexican pork industry, and therefore, did not have any legal right to make the request. The producers of pork in Mexico, the slaughterhouses and the packers, have stated that they do not want the investigation to proceed and have asked that it be terminated. We understand that the U.S. government has refused to begin antidumping investigations of Mexican products under similar circumstances, and we do not understand why the U.S. pork industry is not being given reciprocal treatment here. Second, the CMP created the appearance that U.S. exporters are dumping pork in Mexico by comparing apples and oranges. The CMP compared prices for our sales to Mexico of fresh hams to prices for our sales to Japan of pork loins. Although any consumer knows that fresh hams have a lower price than tenderloins, the CMP nevertheless concluded that this comparison was proof that we were dumping pork in Mexico. Third, the CMP claimed that it was threatened with harm by imports of pork from the United States, but did not provide any proof about the financial condition of Mexican producers. The World Trade Organization already has found in other cases that each of these errors, taken alone, is sufficient to negate the entire case.

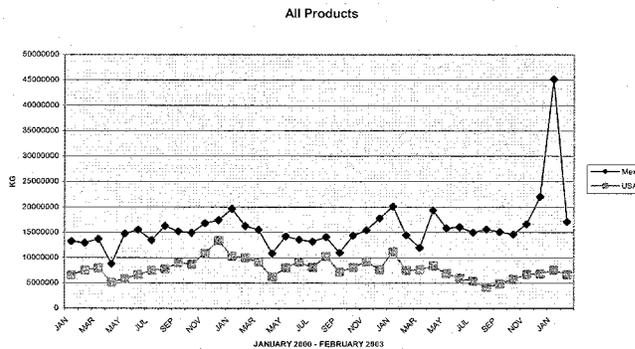
In addition to the fatal flaws I just mentioned, the dumping case is not based on present material injury but on a threat of future injury to the Mexican industry. This is extremely speculative. In fact, an injurious increase in exports of U.S. pork to Mexico is highly unlikely. The duty on U.S. pork last year was only 2%. The duty has steadily phased down over the past ten years and any future increase is expected to be incremental as in past years.

Moreover, the dumping case does not include Canada and Chile. In recent years these countries have increased their share of the Mexican pork market faster than the United States. Any restriction on U.S. pork exports will be offset by increased exports from Canada and Chile at the expense of Mexican producers.

To make matters even worse, Mexican producers and Members of the Mexican Congress are claiming, based on specious data, that U.S. pork exports to Mexico have increased in 2003. **The U.S. pork industry's defense is weakened by erroneous import statistics issued by Bancomext for January and February 2003.** (Bancomext is the entity responsible for issuing the official government trade statistics in Mexico). The inaccurate Bancomext statistics lend credibility to the claims made by the Mexican hog producers that U.S. pork exports to Mexico will increase rapidly. Indeed, the Bancomext statistics have been cited in recent weeks

by Mexican hog producers as demonstrating that antidumping duties must be imposed to protect them from a major increase in imports from the United States. For example, on May 12<sup>th</sup> a representative of the Mexican producers asserted in *El Norte* that imports from the United States in the first quarter of 2003 represented 50% of total imports in 2002, and requested that immediate action be taken in the antidumping investigation. In addition, many of the Mexican Senators raised this issue when they were in Washington in May.

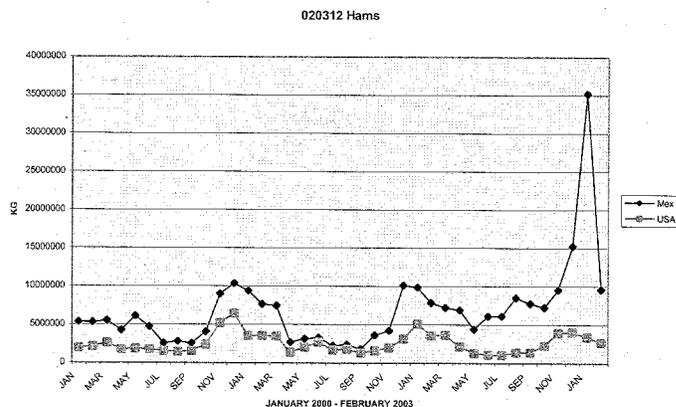
The following table compares Bancomext import statistics -- for all of the pork products which are subject to the antidumping investigation -- with the official U.S. export statistics prepared by the Department of Commerce. The table illustrates that the Bancomext numbers grossly exaggerate the volume of U.S. pork shipments in the first quarter of 2003. **The Bancomext statistics overstate U.S. exports by approximately 38 million kilos or 499% in January 2003, and by approximately 10 million kilos or 157% in February 2003.** This gap between U.S. and Mexican data is far outside the historical variance, and can only have been caused by incorrect data. In fact, U.S. exports of pork are decreasing. For example, U.S. pork exports fell by 6 million kilos or 22% in the first quarter of 2003 compared with the same period in 2002 (from 26,303,078 kilos in the first quarter of 2002 to 20,534,695 kilos in the first quarter of 2003).



As the second chart demonstrates, the problem in the Bancomext import statistics is being caused by the import data for fresh hams, which is the most important product under investigation in terms of the value and volume of exports.<sup>1</sup> Bancomext statistics overstate U.S. exports of fresh hams by approximately 32 million kilos or 928% in January 2003, and by approximately 7 million kilos or 256% in February

<sup>1</sup> Other products under investigation include fresh and frozen carcasses, frozen hams, and diverse fresh and frozen cuts of pork.

2003. In fact, U.S. exports to Mexico of hams fell by approximately 3.6 million kilos or 29% in the first quarter of 2003 compared with the first quarter of 2002 (falling from 12,347,014 kilos in the first quarter of 2002 to 8,780,796 kilos in the first quarter of 2003).



We understand that the statistics suffer from at least two systemic problems that are causing imports to be exaggerated. First, the Bancomext statistics include all *pedimentos de importación* (import requests) presented to the Mexican customs authorities, regardless of whether the importation was ever made and regardless of whether the *pedimento* was canceled. For example, we understand that there is one case where a *pedimento* was presented in January 2003 to import 20,000 tons of pork. That *pedimento* was canceled in April 2003. Despite the cancellation, the 20,000 tons of imports remain in the statistics for January 2003. Second, the statistics may contain double-counting errors. For example, we understand that there may be temporary imports of pork registered once and definitive imports of the same pork registered a second time.

It is imperative that the U.S. government convince the Mexican government to base its decision in the pork AD case on accurate import data. The preliminary determination in the antidumping investigation could be issued imminently. The possibility of an affirmative finding of injury by Mexico with the imposition of trade restricting antidumping duties is exacerbated by these suspect data.

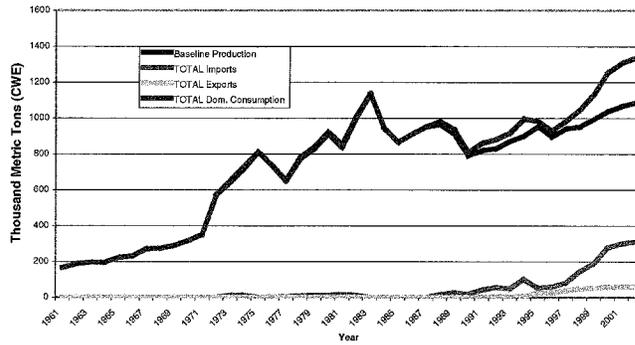
In addition to the illegal initiation of an antidumping case against U.S. pork, Mexico continues to illegally stop U.S. pork at the border for alleged sanitary concerns. In December 2002, large quantities of U.S. pork were rejected at the border for

unjustifiable sulfamethazine concerns costing the U.S. pork industry millions of dollars in losses. Earlier this year Mexico slowed U.S. pork exports by testing for copper and other metals. Most recently, Mexico has promulgated new regulations (NOM 6) which are clearly intended to restrict U.S. pork, beef, and poultry exports to Mexico.

The stakes in Mexico are very high for U.S. pork producers. Any interruption of our pork exports to Mexico, whether through a trade case or through legislative or regulatory means, would be catastrophic for the industry. Mexico is the second largest export market for the U.S. pork industry -- in 2002 the U.S. exported to Mexico 217,909 metric tons of pork valued at \$252 million. There is no good time to lose a major export market but U.S. pork producers are particularly vulnerable at the present time. **The average U.S. pork producer has endured 18 straight months of losses through April. If the Mexicans place dumping duties on U.S. pork or take other action to restrict U.S. pork exports, U.S. hog prices will remain low and thousands of producers will be forced out of business.**

The great irony here is that while the average U.S. pork producer has been losing money, the average Mexican pork producer has been very profitable. While pork production in the U.S. has been flat, pork production in Mexico has increased.

As detailed in the following chart, Mexican pork producers have captured about half of the increase in pork consumption in Mexico.



Source: USDA

Indeed, Mexican Pork Exports Have Doubled in Recent Years. While Mexican pork producers demand protection from free and open trade, they are a major beneficiary of such trade. As shown in the preceding chart, exports from Mexico of pork products have grown 1,100% since 1994. In response to pressure by the Mexican pork industry, the Fox Administration has made pork exports a centerpiece in the negotiation of a free trade agreement with Japan.

**U.S. pork producers urge the U.S. Government to use all available means to get Mexico to refrain from its illegal actions against U.S. pork and to keep the Mexican market open to U.S. pork exports.**

#### **B. Russian TRQ Violates U.S. – Russia Trade Agreement of 1992**

In 1992 the United States and the Russian Federation signed an agreement that included a number of commitments related to bilateral trade. This agreement, “The U.S.-Russia Trade Agreement of 1992”, was virtually identical in substance to a 1990 agreement between the United States and the Union of Soviet Socialist Republics. Article 1, Paragraph 1 of the U.S. – Russia Trade Agreement of 1992 recognizes the principle of Most Favored Nation (MFN) treatment, providing that the United States and Russia will afford each other “treatment no less favorable than that accorded to like products originating in or exported to any third country in all matters related to customs duties or charges of any kind imposed on or in connection with importation”. Article 1, Paragraph 2 of the Agreement goes on to recognize the principle of non-discrimination in trade between the United States and the Russian Federation as it relates to quantitative restrictions and import licensing.

Russian imports of pork increased in 2002. Political pressure grew within the Russian Federation to take action to restrict imports. In December 2002, the Ministry of Economic Development recommended that tariff rate quotas (TRQs) be established on pork and beef. On January 23, 2003 the Russian government announced that it intended to implement TRQs on pork and beef, as well as a safeguard action, in the form of an absolute quota, on poultry.

The Russian government implemented the pork TRQ through Russian Government Resolution No. 50, dated January 23, 2003. The Resolution entered into force on April 1, 2003, establishing a tariff rate quota for pork of 337,500 MT. This TRQ is prorated to reflect the fact that it will only be in place for the last nine months of calendar year 2003. According to a report issued by USDA’s Foreign Agricultural Service (FAS) office in Moscow, the tariff rate quota for pork in subsequent years will be set at 450,000 MT per year. The in-quota rate for the TRQ is 15 percent, with a minimum charge of .25 Euros per kilogram (kg). The out of quota rate is 80 percent, with a minimum charge of 1.06 Euros per kg. The pork TRQ covers all fresh, chilled and frozen pork falling within HTS 0203.11 through 0203.29.

FAS/Moscow also reports that the Russian government has indicated the TRQ for pork may remain in place until 2010. There is as of yet no legislative basis for applying the TRQs. The relevant amendments to the tax code and Customs tariffs are now under Duma consideration, and FAS/Moscow reports that the amendments should soon be approved by the Duma.

Common Wealth of Independent State countries will not be included under the TRQ, and will receive preferential access to the Russian market. The exclusion of the CIS countries from the TRQ arrangement could result in significant increases in Russian imports from the Ukraine, Kazakhstan, and other CIS members.

Russian Government Resolution No. 50 provides that ninety percent of the tariff rate quota volume will be allocated on a pro-rated basis to firms that have historically imported pork, based on imports over the previous three years. The remaining ten percent will be auctioned, with the most competitive bidders being allocated licenses. During the first month that the pork TRQ was open, import license administration was plagued with allocation problems which, if they continue, could diminish the opportunity for the U.S. to export pork under the TRQ.

1. Russian Health and Sanitary Requirements for Imported Pork Are Unreasonable

(a) *Trichinae*

The Russian Federation imposes very strict requirements on U.S. pork, ostensibly aimed at limiting risk to consumers of trichinellosis. In order for U.S. pork to be imported into Russia, it must undergo either 1) freezing requirements, or 2) testing requirements. The freezing requirement is aimed at killing any trichinae that may be present in the pork. The testing requirement is intended to ensure that there is no trichinae in the pork.

While trichinellosis is a significant problem in many countries, it is not in the United States. Recent surveys and tests have demonstrated an extremely low incidence of trichinae in U.S. pork.<sup>2</sup> It should also be noted that cooking pork at 140 degrees for one minute kills all trichinae. Only pork that is undercooked or consumed raw therefore presents any serious risk of trichinosis.

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<sup>2</sup> (A survey done by the National Animal Health Monitoring System in 1995 showed a trichinae infection rate of hogs in the United States of only .013. (i.e. only 13 out of every 100,000 hogs tested positive for trichinae. Moreover, most of the hogs that tested positive in this survey were not commercially produced hogs. In 1997, 220,000 hogs entering a U.S. packing plant under a pilot project were tested by USDA, and none tested positive for trichinae.)

Although it has been amply demonstrated over the years that trichinellosis is not a problem in the United States, the U.S. government together with the U.S. pork industry have taken the additional step of implementing an on-farm trichinae-free pilot project in order to provide absolute assurances to Russia and other foreign buyers that U.S. pork does not present a trichinae risk. The pilot project, operated by USDA's Animal Plant Health Inspection Service, in coordination with a number of other USDA agencies, is a model for on-farm assurances of product safety.

Acceptance of the on-farm pilot project by the Russian Federation as an effective mitigation of the risk of trichinellosis would significantly reduce the costs and administrative burdens associated with exporting U.S. pork to Russia, and would eliminate the need to freeze or test U.S. pork for trichinae.

*(b) Plant Approvals*

The Russian Federation refuses to provide a broad recognition of the U.S. meat inspection system, instead insisting on a costly and time-consuming review and approval of individual U.S. slaughter, processing and cold storage plants. The United States has the most comprehensive and effective food safety management system in the world. An integral part of the U.S. food safety management system is USDA's inspection and certification system for U.S. pork producing facilities. The vast majority of meat importing countries accept U.S. pork from any USDA approved production facility. The Russian Federation's current insistence on plant-by-plant inspection is not based on any legitimate scientific concerns, and substantially restricts U.S. pork export opportunities to Russia.

**C. China Must Abide by Its WTO Accession Commitments**

NPPC continues to be concerned about China's compliance with the terms of its WTO accession commitments. AQSIQ is using health certificates to restrict imports. The effect is a defacto quota on meat imports in violation of WTO commitments. China has zero tolerance levels for listeria and salmonella and is delisting plants when shipments fail tests. China does not appear to be recognizing veterinary equivalence. Approval for meat imports now routinely takes up to several weeks compared to two days before WTO accession.

**II. Chile FTA Negotiation Process Was a Great Success**

The Free Trade Agreement (FTA) that was recently signed with Chile will bring great opportunities to U.S. pork producers. We could not have had a better outcome. All tariffs on pork and pork products will immediately be eliminated upon the implementation of this agreement. Equally, if not more important, the sanitary issues that restricted U.S. pork exports to Chile were resolved. A Sanitary-

Phytosanitary (SPS) 'working group' of U.S. and Chilean SPS officials was established to handle the non-tariff issues. As a result of the work of the SPS group, Chile now recognizes USDA's meat inspection system as equivalent to its own and pork can be exported to Chile from any USDA-approved facility.

This important precedent, of taking great care to ensure that non-tariff measures are discussed and resolved alongside of tariff negotiations, is a precedent that I hope will be followed in all the other ongoing bilateral and regional trade negotiations.

Whether the issue is equivalence of the meat inspection system, or non-scientific claims about the transmission of animal disease through meat imports, or problems in the transparency of the import system, or any of a multitude of other measures, these non-tariff trade barriers can be just as stifling and restrictive as a high tariff. Put differently, a FTA that lowers tariffs to zero but that does not remove other non-tariff impediments to trade is of no use to U.S. producers. We need real market access and that is what we are getting in the Chile agreement.

In Chile, our two top global competitors (Canada and the European Union) already have agreements that provide them with preferential tariff rates on pork. Every day that goes by provides these countries another opportunity to export pork (and hundreds of other products) to Chile with the advantage of a reduced tariff. The sooner the U.S. Congress is able to approve this agreement the better.

### **III. The WTO Negotiations Present the Best Opportunity for Increased U.S. Pork Exports**

#### **A. Zero-for-Zero Negotiating Objective for Pork in the WTO**

The most important trade initiative now underway for U.S. pork producers is the negotiation of a new WTO agreement. This is because global pork tariffs average 77 percent. Even in Japan – America's largest pork export market – U.S. pork exports are severely limited due to a gate price system and safeguards designed to protect Japanese producers. Moreover, the U.S. pork industry – which is not eligible for export subsidies and receives virtually no domestic support -- must compete globally with subsidized pork from the European Union and other countries. These impediments must be overcome in any new WTO agreement on pork with safeguards abolished and global pork tariffs reduced to the levels prevailing on pork imported into the United States.

U.S. pork producers therefore are aggressively pursuing in the WTO agricultural negotiations a **"zero-for-zero" initiative**. Under this initiative, countries would totally eliminate, in the shortest possible time frame, all tariffs, all export subsidies and all trade-distorting domestic subsidies for pork and pork products. In late 1999 a bipartisan group of 29 U.S. Senators sent a letter to U.S. Trade Ambassador Charlene Barshefsky endorsing this initiative. In late 2002, another bipartisan group of 29 U.S. Senators once again endorsed the zero-for-zero initiative on pork. In

addition, the pork industries of the Canada, Chile, and Mexico also support this initiative. Producers in other countries are also interested in the initiative.

Pork producers support the Administration's proposal for agricultural trade in the WTO negotiations and the tariff cutting formula contained in that proposal. We are particularly pleased that an integral part of the U.S. proposal calls for sector-specific negotiations that will include "deeper tariff reductions" that "... go beyond the basic reductions that will apply for all products." This enables request/offer negotiations to achieve deeper-than-formula reductions for specific products. This segment of the negotiation will provide the opportunity to pursue the zero-for-zero initiative in the pork sector.

### **B. WTO Negotiating Objectives For The Agriculture Sector**

I want to make it clear that we in the pork industry do not view our zero for zero initiative in any way as a substitute for a comprehensive negotiation in agriculture. Fundamental liberalization in the pork industry can be most easily achieved in the context of an ambitious overall agreement. Therefore, I will outline our negotiating objectives for the agricultural sector as a whole.

#### **1. Tariff Reductions Must Be Accelerated**

One of the fundamental principles of the Uruguay Round Agreement on Agriculture is the requirement that non-tariff barriers such as quotas, variable levies, and import bans be eliminated and immediately replaced by either a tariff equivalent or a tariff rate quota (TRQ) through the process of "tariffication." The Agreement used a "formula" approach to reduce tariffs. It required tariff reductions of 36 percent on average for developed countries and 24 percent for developing countries over a six-year period on a simple average basis. (Tariff reductions as small as 15 percent were allowed for "sensitive items.") The Agreement also established minimum access levels at 3 percent of domestic consumption gradually expanding to 5 percent thereafter.

Notwithstanding the progress made in the Uruguay Round, tariffs on agricultural products remain very high. The accelerated reduction of tariffs should be the number one U.S. priority in the upcoming trade round. U.S. agricultural tariffs, are dwarfed by the agricultural tariffs of other nations. For some products, tariffs of over 200 percent remain in effect. Agricultural tariffs must be lowered from these high levels on an accelerated basis. A substantial reduction in the highest tariffs would help to end practices such as "price bands" in which high bound tariffs create a cushion that allows lower applied tariffs to be adjusted frequently in order to keep domestic prices within a specified range.

The best way to achieve such comprehensive liberalization is through the use of a tariff cutting formula that is applied to every product without exception. We prefer an approach like "harmonization" formula in the U.S. proposal which will result in

substantially larger cuts in higher tariffs and reduce the disparities in levels of protection. In addition, countries could engage in request/offer negotiations to achieve deeper-than-formula reductions for specific products. This segment of the negotiation would provide the opportunity to pursue the zero-for-zero objective in the pork sector.

## 2. The Administration of Tariff Rate Quotas Must Be Improved

In most instances, creating a TRQ satisfied the minimum access commitment for tariffed agricultural products in the Uruguay Round. Under this mechanism, the quantity of imports within the minimum access commitment is subject to a low duty (the "in-quota" tariff), while imports exceeding that quantity will be assessed the tariff established through tariffication (the "over-quota tariff").

Unfortunately, in some cases, the administration of TRQ's has been used as an instrument to thwart imports. For example, the Philippines tried to close off its market to pork imports by manipulating in various ways the terms governing its pork TRQ. These kinds of problems arise from the lack of clear, specific rules on import licensing and the administration of TRQ's. In the WTO agriculture negotiations, rules on TRQ administration must be clearly delineated. In addition, ceilings must be established for over-quota duty levels.

## 3. Export Subsidies Should Be Eliminated

Export subsidies are universally recognized as the most trade-distortive of government policies. Prior to the Uruguay Round, export subsidies for agricultural products were relatively undisciplined. Although earlier rounds of multilateral trade negotiations were successful in disciplining export subsidies for industrial products, only the most basic of these disciplines applied to agriculture. As a result of the Uruguay Round, subsidies on agricultural exports were reduced in both terms of quantity and government expenditures on a product-specific basis.

While significant progress was made in the Uruguay Round, export subsidies remain a major problem for U.S. pork producers. Export subsidies transfer market share away from efficient U.S. pork producers and give it to EU and other less efficient pork producers. The EU notified spending about 34 million euros on export subsidies for pork in 2000/01 (about \$40 million), but could have spent up to 117 million euros under WTO limits (about \$138 million) on up to 401,200 metric tons. The U.S. spends zero. Here is another way to look at the advantage that EU pork producers have. Current WTO export subsidy allowances for EU pork:

117 million euros & 401,200 tons  
Therefore, the EU could subsidize pork at:  
292 euros/metric ton, or  
\$343/metric ton, or  
\$.15/lb

Compare this to the unit value of U.S. pork exports of:

\$1.11/lb

A potential cost advantage to the EU of 13.5% in global markets.

#### 4. Trade-Distorting Domestic Support Should Be Further Disciplined

The 20 percent reduction in the Aggregate Measure of Support (AMS) achieved in the Uruguay Round did not go far enough. We need to see further significant reductions. Moreover, those reductions should be applied on a commodity-by-commodity basis, rather than a sector-wide basis, as was the case under the Uruguay Round agreement. For pork, all trade-distorting supports should be eliminated, and all tariffs and export subsidies abolished as part of the zero-for-zero initiative.

#### 5. The Peace Clause Should Not Be Extended

One of the most promising sources of meaningful leverage for the United States is Article 13 of the Uruguay Round Agreement on Agriculture – the so-called Peace Clause. Article 13, which was included in the Agreement at the insistence of the European Union, suspends until January 1, 2004, the application to agricultural products of certain WTO disciplines, the most significant of which are Articles 3, 5 and 6 of the Agreement on Subsidies and Countervailing Measures. With the expiration of Article 13, the EU would immediately be in breach of its obligations under Article 3 of the Subsidies Agreement, which prohibits export subsidies (Article 13(c)(ii)). At the same time, the U.S. would be in a position to begin dispute settlement proceedings under Article 6 against any domestic or export subsidies that are causing serious prejudice to U.S. exports in third-country markets (Article 13(b)(iii)). Obviously, these are powerful disciplines.

The Peace Clause expires automatically. The only way to extend it would be to negotiate a new agreement that includes similar protections. The EU, in particular, will have a strong incentive to achieve such an agreement and will presumably be ready to pay a high price for it. It should be much easier to achieve within three years an agreement that includes a phased elimination of export subsidies and meaningful disciplines on trade-distorting domestic subsidies if the EU is facing, in the absence of such an agreement, the immediate application of even stronger measures.

The United States should do everything possible to take advantage of the leverage offered by the Peace Clause. As a first step, the U.S. should publicly declare its willingness to allow the provision to expire. Then, if negotiations drag on unnecessarily, we should prepare to launch dispute settlement cases against the EU under the Subsidies Agreement on January 1, 2004.

#### 6. The U.S. Must be a Reliable Supplier of Agricultural Products

Trade liberalization is not a one-way street. If we expect food importing countries to open their markets to U.S. exports and rely more on world markets to provide the food they need, we should at the same time commit to being reliable suppliers. Current WTO rules permit exporting countries to tax exports whenever they choose (GATT Article XI.1), and to prohibit or otherwise restrict exports to relieve domestic shortages (GATT Articles XI.2(a) and XX(i) and (j)). These provisions should be eliminated in conjunction with the phasing out of import barriers. Such a move would not affect the ability of the United States to impose trade sanctions for reasons of national security; that right would be preserved under GATT Article XXI.

#### 7. The SPS Agreement Should Not Be Reopened

The Uruguay Round Agreement on Sanitary and Phytosanitary Measures requires import measures intended to protect public health or to control plant and animal disease to be based on science. Enforcement of the strict science-based trading rules established in the SPS Agreement is critical to ensure the continued expansion of U.S. pork exports. One measure of the soundness of the SPS Agreement is the fact that other countries, notably the EU, would like to see the disciplines in the agreement relaxed to allow countries to maintain measures that are not based on science. To avoid this outcome, the pork industry adamantly opposes opening the SPS Agreement for further negotiation.

### **IV. Priorities for the Free Trade Area of the Americas Negotiations**

The zero for zero initiative discussed above should be incorporated into the FTAA. The pork industries of the Canada, Chile, and Mexico support this initiative. Upon the creation of a Free Trade Area of the Americas, all tariffs on U.S. pork and pork products should immediately be zero. There should be no tariff-rate-quotas and no phase-in period for obligations. The complete and immediate liberalization of all trade in pork and pork products.

#### **A. THE OPPORTUNITIES AND BARRIERS TO PORK TRADE WITH SELECTED COUNTRIES IN THE AMERICAS ARE DISCUSSED BELOW.**

##### 1. Venezuela's Restrictive Import Policies Must Stop

Pork producers applaud the Administration for initiating WTO consultations with Venezuela. Venezuela's failure to issue import permits to U.S. exporters of pork has been a major barrier to trade. Venezuela's SASA issues licenses sporadically, if at all, for pork. We understand that Venezuelan authorities go so far as to consult

domestic pork producers prior to issuing these licenses. If WTO consultations are not successful in persuading the Venezuelans to drop their restrictive import practices, the Administration should seek the establishment of a WTO dispute settlement panel. It is important that this issue be resolved once and for all. Therefore, it might be useful to seek a dispute settlement panel even if Venezuela suddenly begins issuing these permits again. U.S. pork exporters, like all businesses, need a certain degree of predictability. The looming threat of import permit rejections could be enough to discourage U.S. pork exporters from conducting business.

Another WTO-inconsistent practice in Venezuela that has negatively affected U.S. pork producers is the implementation of the Andean Community's price band for 'sensitive' agricultural commodities such as pork. Although this concern would become irrelevant if all tariffs on pork are eliminated, the importance of allowing exporters to anticipate any tariffs that might remain should be emphasized. This is simply not possible with the current system in Venezuela, under which tariffs change frequently and are based on reference prices that are often artificially high. Chile recently lost a price band case at the WTO. The practice limits trade and must be halted.

The speedy resolution of these issues in Venezuela is a top priority for U.S. pork producers because of the great value of this market. Venezuelan processors are often undersupplied with pork products and would happily import the affordable quality pork that the U.S. can provide if only their government would make this feasible. This market easily could be worth tens of millions of dollars in U.S. pork exports.

## 2. Colombia Unfairly Restricts Pork Imports

Problems in Colombia are similar to those in Venezuela as detailed above. Whenever Colombia's Ministry of Agriculture determines that imports might hurt domestic producers, imports are prohibited for an indefinite period of time. Like Venezuela, the price band system causes severe problems in Colombia as well, with tariffs on pork sometimes spiking as high as 60%. These variations in tariffs prevent all but the largest of Colombian importers from being able to withstand the risk of importing substantial quantities of pork. The use of excessively high reference prices has been a significant problem for U.S. pork exporters as well.

Another prominent trade barrier in Colombia has been its use of disguised export subsidies for pork. Colombia has admitted to the WTO that a number of its domestic support programs actually constitute illegal export subsidies, but the Colombians have not yet confirmed that these subsidies have been eliminated.

### 3. The Countries Of Central America Must Recognize The U.S. Meat Inspection System And Eliminate Tariffs

Unlike virtually all the countries to which the U.S. exports pork, some of the Central American countries do not accept pork from all USDA-approved facilities. Rather, like the European Union, these countries insist on sending their own inspectors to U.S. pork plants. This practice is completely unacceptable. It operates as a non-tariff barrier to trade.

The United States has the most comprehensive and effective system of food safety management in the world. The wholesomeness of the U.S. food supply is second to none in the world. An integral part of the U.S. food safety system is USDA's inspection and certification of U.S. meat producing facilities. Each of the Central American nations must agree to accept pork from any USDA-approved facility.

At one point not long ago, China was reluctant to accept pork from all USDA-approved facilities. USTR and USDA persuaded China to change its position, which is memorialized in the Agreement on U.S.-China Agricultural Cooperation. The Central American countries must also be persuaded to accept pork from all USDA facilities.

#### (a) Costa Rica

There are two major barriers in Costa Rica that thwart U.S. pork exports. First, early in 2002 Costa Rica began to require individual inspections of U.S. pork plants in order to certify them for export to Costa Rica. This requirement had an immediate adverse impact on a market that was already extremely protected by the second major barrier; exorbitant tariffs on pork which range from 45 to 50 percent. The paltry stream of U.S. pork exports to Costa Rica came to a virtual halt upon implementation of the plant inspection requirement. U.S. pork exports to Costa Rica in 2001 were modest at 173 MT. These then decreased almost 50% 2002 from year earlier levels. The de facto ban on imports has created hardships for Costa Rica's domestic meat processing industry. Costa Rican processors can not get enough pork for their processing operations.

#### (b) El Salvador

Like Costa Rica, El Salvador also appears to be erecting barriers to U.S. pork exports in preparation for FTA negotiations with the United States. El Salvador has told USDA that it intends to require individual inspections of U.S. pork facilities. In addition, the tariff on pork was recently raised from 15% to 40%. To add insult to injury, El Salvador engages in blatant protection of its domestic pork industry by only granting import permits after domestic production is purchased at inflated prices,

then trying to continue control of the sector by only granting permits for the precise amount of product needed domestically. This creates extreme unpredictability for potential exporters. All three of these restrictions are entirely unacceptable and must be resolved. If tariffs are not immediately lowered to zero they should begin to phase down from the previously applied rate of 15%.

(c) Guatemala

Guatemala has a tariff rate quota (TRQ) that captures red meat imports. The in-quota duty of 15% on increases to a 30% out of quota duty once the red meat import quota of 1,595 MT is reached. It is especially difficult for one quota to be tied to all red meat, making it very hard for exporters to estimate when the quota might be filled. The tariff rate quota should be abolished and tariffs should be reduced to zero.

(d) Honduras

Honduras also has stated its intention to require inspections of individual U.S. pork plants. Despite an 18% tariff and frequently changing sanitary regulations without WTO notification, 67% of Honduran pork imports were from the United States in 2001. Some Honduran producers have become upset at the rapid increase in the amount of U.S. product in their market, but it is obvious that the quality and affordability of U.S. product is what Honduran importers desire. Even with ludicrous recent accusations in the press from Honduran producers that U.S. pork is possibly contaminated due merely to the amount of time it is frozen, this market continues to grow.

(e) Nicaragua

Like some of its Central American neighbors, Nicaragua also recently increased its barriers to U.S. pork exports as FTA negotiations approach. Nicaragua raised its tariff on pork from 10 to 15%.

(f) Panama

Panama's imports had been increasing significantly following WTO accession, but most of the advances in trade liberalization have since been reversed the past few years. Barriers that U.S. exporters of pork face now are myriad. Panama recently joined with many of its neighbors in requiring individual inspections of U.S. plants. This practice is utterly unacceptable. Moreover, tariffs on some pork products are as high as 81%, with the average tariff rate on pork is a staggering 43.3%. In addition, some U.S. exporters have been hampered by Panama failing to implement its stated policies. Panama has an official policy that a sanitary permit is presumed granted if it is not processed within 30 days. Yet in recent years this policy has often been ignored. This unpredictability costs exporters much time and money. Panama, along

with other Central American countries, should eliminate pork tariffs and their plant inspection requirements, and also make import requirements precise and clear.

#### 4. The Caribbean Nations Must Remove Illegitimate Barriers

The nations of the Caribbean should be a huge market for U.S. pork producers given the geographical proximity of these nations and the prohibitive expense of producing pork domestically (since nearly all feed grains must be imported). However, very little of this potential has materialized due to blatant protectionism. There are both prohibitive tariffs and technical/sanitary barriers in both the CARICOM countries as well as in other nations in the region. Two of the most significant potential markets in this region are Jamaica and the Dominican Republic. Some specific examples of the many barriers to U.S. pork exports in the region are listed below.

##### (a) Jamaica

Jamaica maintains an outright ban on imports of fresh pork from the U.S. This is due to non-science-based concerns about Pseudorabies Virus (PRV), which is also known as Aujeszky's disease. The U.S. is on the precipice of eradicating PRV. Regardless of the U.S. eradication program, there is no valid scientific reason for restricting pork exported from countries which have not yet eradicated PRV. The OIE Code chapter on Aujeszky's disease does not include pork in the list of commodities to be considered a risk. Virtually the whole world accepts U.S. pork without restriction.

There is also a 40% tariff on pork in Jamaica. This exorbitant tariff must be eliminated or reduced to single digit levels.

##### (b) Dominican Republic

Over the course of the past few years the level of protection afforded the domestic meat industry in the Dominican Republic has increased significantly. Specifically, a huge tariff of 25% on pork was implemented. But, more troubling, a de facto ban on pork imported from the U.S. was instituted by virtue of the government's failure to issue import licenses. These restrictive measures were supposedly short-term fixes intended to be eliminated within a year. However, more than two years later these barriers remain in place. U.S. pork exporters continue to have their applications for import permits rejected, with no clear explanation for the rejection provided.

#### 5. The Mercosur Countries Must Give U.S. Pork Equal Market Access

The members of the Common Market of South America (MERCOSUR) extend preferential tariff treatment to each other. This situation severely limits the inroads

that the U.S. pork industry can make in this region. The FTAA agreement should level the playing field and provide U.S. pork exporters with the same trade benefits that these nations provide to each other.

(a) Argentina

U.S. pork exports to Argentina no longer are banned due to a recent sanitary agreement. The current economic climate in Argentina has not been conducive to pork exports from the U.S. under the new sanitary protocol. However, Argentina's pork processing sector is reliant on imports. (Most pork in Argentina is consumed in processed form, not as chilled/frozen table meat.) Brazil, a key global competitor to the U.S. pork industry, supplies the vast majority of Argentina's pork imports. Brazil benefits from significant MERCOSUR tariff advantages on pork. The U.S. should obtain the same access as Brazil as part of a FTAA agreement.

(b) Brazil

Brazil does not currently recognize the U.S. plant inspection system, instead insisting on approving U.S. plants individually to be eligible to export to Brazil. This is unacceptable. As for Brazil's pork industry, in recent years both pork production and exports have increased dramatically. Brazil's pork exports increased more than 600% in the 5-year period from 1997-2002. The surge in exports has been aided by the depreciation of the real. About 80% of Brazilian pork exports are to Russia. Many in the international meat community question whether the currency devaluation and normal market conditions account for the increase in Brazilian pork exports. Brazil utilizes a number of localized subsidy programs for pork. It is difficult to determine the exact impact of these programs. However, the extremely low prices at which Brazil is selling pork to Russia suggest that subsidies may be impacting the market. In the process of FTAA negotiations this matter should be thoroughly investigated to ensure Brazil is meeting its WTO commitments.

Additionally, fresh and processed U.S. pork products are subject to duties of 11.5% and 7.5% respectively in Brazil. This is in contrast to MERCOSUR members who are able to ship pork duty free. Brazil's production and productivity indexes are comparable to those achieved in other pork exporting nations. The Brazilian pork industry is advanced, export-focused, and should not be shielded from competition in any way in the FTAA agreement.

(c) Paraguay

Paraguay currently has a tariff of 13% on pork from the U.S. while there is no tariff for their MERCOSUR neighbors. Brazil has certain advantages in shipping to this market given the geographical proximity. However, on a level playing field U.S. pork producers will be able to make export sales.

## (d) Uruguay

The situation for U.S. pork producers in Uruguay is almost identical to that in Paraguay. There is no tariff for MERCOSUR members and the tariff is 13% for the U.S.

**V. Bilateral Trade Negotiations****A. Australia Maintains Illegitimate Quarantine Restrictions on U.S. Pork**

Canada and Denmark, the two main international competitors to the U.S. in the exportation of pork, currently are shipping significant amounts of pork to Australia. The only difference in the porcine health status between the U.S. and these two competitors is that Canada and Denmark are free of Pseudorabies Virus (PRV), which is also known as Aujeszky's disease. The U.S. is on the precipice of eradicating PRV. But regardless of the U.S. eradication program, there is no valid scientific reason for restricting pork exported from countries which have not yet eradicated PRV. The OIE Code chapter on Aujeszky's disease does not include pork in the list of commodities to be considered a risk.

Australia has a similar, unscientific restriction on pork imported from Canada and Denmark. While these countries are free of PRV, like most countries in the world they have the Porcine Reproductive and Respiratory Syndrome (PRRS) virus. This virus, which is not even an OIE reportable disease, does not present any significant risk to domestic livestock when pork is imported from countries in which the virus is present. Yet, Australia unfairly restricts pork from Canada and Denmark to boneless pork and requires partial cooking of that pork because of non-science-based concerns that PRRS is transmitted to domestic livestock through imported meat. The amount of pork imported into Australia would be much greater in the absence of this restriction.

It is especially frustrating for efficient U.S. pork producers, who lost money for 18 straight months due to tough market conditions in the U.S., to see key global competitors, such as Canada, increasing pork exports to Australia while illegitimate barriers keep U.S. product out of the market.

## 1. All Tariffs on Pork Should Go to Zero Immediately

The fact that the U.S. technically can export virtually all pork and pork products to Australia duty-free is nothing but an interesting bit of trivia until Australia's unscientific animal health restrictions are removed. There are a couple of HTS provisions which are not yet duty free. These two tariff codes, HS 1601 and HS 1602,

which have a 5 percent tariff, immediately should be reduced to zero with no phase-in period under the terms of the FTA.

The U.S. pork industry would like to support the proposed Free Trade Agreement with Australia but the protectionist policies of the Australians are making such support difficult.

#### **B. Priorities for Negotiations with the Southern Africa Customs Union**

The opportunities and barriers to pork trade with Southern Africa are discussed below. The focus will be on the country of South Africa because that country constitutes a larger current and potential market for pork than the other four countries. And, because tariffs and other trade policies are highly standardized among the countries of the Southern Africa Customs Union, and so the country of South Africa is representative of all.

##### **1. Tariffs Should Immediately Be Reduced To Zero**

Under the U.S. – Southern Africa Free Trade Agreement, all tariffs on U.S. pork and pork products should immediately be zero. There should be no tariff-rate-quotas and no phase-in period for obligations.

##### **2. The Five Countries Of Southern Africa Must Recognize The U.S. Meat Inspection System**

Unlike virtually all the countries to which the U.S. exports pork, the countries of Southern African do not necessarily accept pork from all USDA-approved facilities. Rather, like the European Union and some of the countries of Central America that were mentioned, these countries insist on assessing individual U.S. pork plants. This practice is completely unacceptable. It operates as a non-tariff barrier to trade.

The United States has the most comprehensive and effective system of food safety management in the world. The wholesomeness of the U.S. food supply is second to none in the world. An integral part of the U.S. food safety system is USDA's inspection and certification of U.S. meat producing facilities. Each of the five Southern African nations must agree to accept pork from any USDA-approved facility.

At one point not long ago, China was reluctant to accept pork from all USDA-approved facilities. USTR and USDA persuaded China to change its position, which is memorialized in the Agreement on U.S.-China Agricultural Cooperation. The Southern African countries must also be persuaded to accept pork from all USDA facilities.

### 3. South Africa's Restrictive Disease Certification Requirements Should Be Lifted

For several years, South Africa has been requiring that U.S. pork be deboned and held in frozen storage at or below 18 degrees centigrade for 35 days. The long duration of this period makes it especially difficult for U.S. producers to export to South Africa. The requirement purportedly is intended to control the spread of pseudo rabies disease (PRV) -- also know as aujesky's disease. However, the risk of transmission of PRV through imported meat to domestic livestock is negligible. Indeed, for years the U.S. has exported pork to Canada, a PRV-free country, because, based on science, Canada recognizes that PRV is not transmissible to its domestic hogs by virtue of its pork imports from the United States. In sum, there is no valid scientific reason for this requirement and it should be abolished.

Mr. Chairman,

I thank you for the opportunity to present this statement.

## **Testimony of Robert W. Greene on behalf of the National Cotton Council of America**

**Before the Committee on Agriculture of the U.S. House of Representatives**

*Oversight of Agricultural Trade Negotiations*

**June 18, 2003**

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Mr. Chairman, thank you for having this hearing today. My name is Bobby Greene. I am a cotton ginner from Courtland, Alabama, and currently serve as the Chairman of the National Cotton Council of America.

### **Introduction**

The National Cotton Council is the central organization of the United States cotton industry. Its members include producers, ginners, oilseed crushers, merchants, cooperatives, warehousemen, and textile manufacturers. While a majority of the industry is concentrated in 17 cotton producing states, stretching from the Carolinas to California, the downstream manufacturers of cotton apparel and homefurnishings are located in virtually every state.

The industry and its suppliers, together with the cotton product manufacturers, account for one job of every thirteen in the U.S. Annual cotton production is valued at more than \$5 billion at the farm gate. In addition to the fiber, cottonseed products are used for livestock feed, and cottonseed oil is used for food products ranging from margarine to salad dressing. While cotton's farm gate value is significant, a more meaningful measure of cotton's value to the U.S. economy is its retail value. Taken collectively, the business revenue generated by cotton and its products in the U.S. economy is estimated to be in excess of \$120 billion annually. Cotton stands above all other crops in its creation of jobs and its contribution to the U.S. economy.

### **Trade and Cotton**

Any review of the impact of international trade policy on cotton must be undertaken with the understanding that cotton is a raw, industrial product with a food component (seed) that adds important value. The economics of cotton production are inextricably linked to textile policy and production, both in the United States and around the world.

The last two years have seen fundamental changes in the U.S. cotton industry. Domestic mill use of cotton has declined from 11.4 million bales annually to less than 7.5 million bales. The U.S. crop of approximately 18-19 million bales has increasingly looked to export markets as domestic textile manufacturers have been driven out of business by cheap textile imports, many of which enter our market illegally. As a result, the cotton industry needs to increase raw cotton exports significantly to help make up for the loss in domestic mill use. If this growth is not achieved, or if the U.S. textile industry cannot be revitalized, the U.S. cotton industry will shrink.

The U.S. cotton industry has a significant stake in WTO agreements on agriculture, textiles and apparel, phytosanitary rules, export subsidies and other areas, as well as virtually all the many free trade agreements being negotiated by the Administration. Carefully crafted trade agreements can be of significant benefit, but poor agreements can put our industry out of business. It is imperative that negotiations under the WTO ensure the US cotton industry greater market access and an enhanced ability to combat the unfair trade practices of competitors. It is also crucial that free trade

agreements contain workable and effective rules of origin, be based upon the fundamental principal of reciprocity and disallow benefits to third countries that are not parties to the agreements.

## **Doha Round of WTO Negotiations**

The Administration has proposed broad, far-reaching reforms in international trade. The proposals would require significant adjustments both around the world and in the United States. The U.S. proposal is fair and should be the focal point for the agricultural negotiations.

### ***WTO Objectives for the U.S. Cotton Industry***

The primary negotiating objectives of the National Cotton Council of America with respect to the Doha Round of Trade Negotiations are as follows:

1. Provide timely, effective and reciprocal access to foreign markets for U.S. cotton fiber, U.S. manufactured textiles, and U.S. cottonseed and products.
  - Bound rates of tariffs should be made equivalent with applied rates and then made comparable to US rates;
  - Non-tariff barriers, which are being increasingly erected to block imports, should be eliminated; and
  - U.S. textile and apparel exports should enjoy the same level of market access that textile exporting countries enjoy in the U.S. market.
2. Stop the erection of non-tariff trade barriers against agricultural biotechnology products.
  - The fundamental aspects of the Sanitary and Phytosanitary Agreement (SPS) should continue to apply to trade in agricultural biotechnology products.
3. Improve disciplines applicable to the state trading of agricultural commodities.
4. Maintain the provisions of the WTO Agreement on Textiles and Clothing, do not speed up the phase-out of textile quotas provided under that agreement, and do not reduce tariffs on textile imports into the United States.
5. Improve rules restricting the use of export subsidies, including rules with respect to downstream subsidization of agricultural products, use of export taxes to reduce prices of processed products, content requirements for exports and exemptions from taxes for exported products.
  - The refund of special value-added-taxes (VAT) on processed products that are exported is commonly used in many textile exporting countries to help subsidize textile and apparel exports. This activity should be classified as an export subsidy, and its use should be prohibited.
6. Reduce trade distorting agricultural subsidies worldwide, but preserve important U.S. domestic and export programs as long as necessary to compete with the treasuries of our competitors, including the export credit guarantee program.
  - The National Cotton Council supports the recently agreed-upon farm bill, urges its enactment, and believes the policies contained in that bill are consistent with U.S. WTO obligations.
7. Maintain strong U.S. rules to protect against unfair trade practices.

- The National Cotton Council is opposed to any weakening of U.S. countervailing duty and anti-dumping laws.
8. Maintain the ability of the United States to enter into beneficial regional trading arrangements.
  9. Improve the ability of the WTO to address managed and/or manipulated exchange rates.
  10. Ensure that developing countries that are competitive in international markets with respect to certain commodities or products are made to conform to trade disciplines that are equivalent to those adhered to by developed countries.

### ***Harbinson Proposal***

The agricultural negotiations came to a screeching halt when Chairman Harbinson introduced his draft modalities text in March. Suddenly, the significant differences that existed within the agricultural negotiating group were clearly exposed. No one has been able to find anything resembling a middle ground.

While the Chairman should be commended for his bold efforts to plot a meaningful course for the agricultural negotiations, the course reflected in the draft modalities text is, in many ways, misguided.

The Harbinson text is deficient in the area of market access. It offers little, if any, increase in market access for U.S. exports of cotton or cotton products. Unless tariff reductions are made from applied rates of duty, there is little chance a WTO agreement concerning tariffs will increase market access for U.S. cotton. Countries like Brazil that maintain a 55% bound duty on cotton fiber, but apply a rate of around 9%, would not have to provide any real increase in market access under the draft modalities text.

Further, the method chosen to provide for increases in tariff-rate quotas for cotton fiber would allow the People's Republic of China, the most significant cotton market and cotton producer in the world, to forego any increase its tariff-rate quota for cotton fiber. The Council believes increases in tariff-rate quotas should be made on a percentage basis starting from current access levels, with every country required to meet specified minimum access requirements.

Special and differential treatment offered to developing countries with respect to market access, domestic support and other areas covered by the agreement is excessive and will prove to be detrimental to the U.S. cotton industry. The provisions relaxing tariff reductions for developing countries exacerbate existing inequities and will result in no meaningful increase in market access for U.S. cotton or cotton products. The U.S. should oppose the creation of a category of strategic products, as contained in the draft modalities text, that would face virtually no tariff reduction.

While the cotton industry is pleased that the text continues the green box category of support for domestic programs, it must be noted that a reduction in amber box commitments from the current \$19 billion level to about \$7.6 billion will require significant adjustments in current farm programs.

This adjustment cannot be justified given that the modalities text leaves current inequities in spending between the EU and the U.S. in place. The Council strongly opposes the reduction in the *de minimis* category for developed countries, cannot support structuring an AMS ceiling for individual products, and again believes the special and differential treatment provided with respect to domestic measures is excessive.

The Harbinson text contained a 2-year delay for implementation by "newly acceded members." The Council strongly opposes any such delay. Those members would not accept a 2-year delay in

receiving benefits from other countries under the WTO. There is no justification for a 2-year reprieve from their corresponding commitments.

The modalities text contains an explicit set of rules that would discipline the use of export credit guarantee programs like the GSM 102 program. The U.S. should work to ensure:

- ♦ That the tenor for export credit guarantees for developing countries is not less than 30 months and that principal is to be repaid not more frequently than annually;
- ♦ That countries eligible for Special and Differential Treatment with respect to export credit programs include all countries that were considered developing countries in the Uruguay Round;
- ♦ That premiums required to be charged do not make the program cost-prohibitive to U.S. exporters and that premiums be allowed to be financed. The current level of premiums covers all of the commercial risks incurred by the GSM program and no increase is necessary to cover designated risks; and
- ♦ That the starting point for commercial export credit be the shipment date. The use of "not later than the date of arrival" as provided in the modalities draft may provide an opportunity for our competitors to circumvent the rules.
- ♦ That no advance cash payment be required for credits where risk is shared.

The Council urges the United States to continue to support the export credit guarantee program, which is minimally trade distorting and fully consistent with the principles of the WTO. NCC also urges continued support for programs such as the Market Access Program and Foreign Market Development program which help promote exports of U.S. agricultural products. Programs such as these are not trade distorting and fully comply with WTO principles.

The modalities text contains positive language with respect to tariff rate quota administration and takes a very positive approach to the reduction of export subsidies. Despite these commendable provisions, the tariff reduction proposals and the domestic support proposal either leave intact or aggravate current inequities. These inequities are not counterbalanced at all by increased market access for U.S. agricultural exports. Far from leveling the international playing field, several aspects of the modalities text would worsen the competitive situation faced by U.S. agriculture.

The United States faces a difficult negotiation if the March 18 modalities text is to be transformed into an agreement that is beneficial to the U.S. cotton industry and to U.S. agriculture in general.

#### ***Reciprocity – Market Access***

Turning back briefly to the subject of market access, the United States should make trade reciprocity within sectors its foremost priority in this negotiation. The lack of reciprocity within world textile trade has helped undermine the economic health of the U.S. textile sector.

As a result of the Textile Agreement concluded in the Uruguay Round, the United States will lift all quotas on textile imports from WTO member countries in 2005. The phase-out of these quotas has already begun in earnest. However, promised reciprocal increases in market access from our major textile competitors has not occurred. Many of the world's largest textile exporters have not provided timely, effective and reciprocal access to U.S. textile exports. The accession of China to the WTO has resulted in even greater increases in textile imports into the United States than could ever have been expected. This imbalance must be corrected.

The Doha Declaration contains language on market access for manufactured goods that suggests that developing countries will not have to make the same type of tariff concessions that the United States will be asked to deliver. Many of the world's developing countries continue to push for increased access to the U.S. textile market along with significant reductions in U.S. textile tariffs, while not providing timely, effective and reciprocal access to U.S. textiles. We urge our negotiators to require reciprocity in textile trade. The existing imbalance must be corrected – not exacerbated.

We urge our negotiators to work for an agreement that will maintain the provisions of the WTO Agreement on Textiles and Clothing and not reduce tariffs on textile imports into the United States. The strength of the U.S. dollar has made imported textiles and apparel extremely competitive in the United States, while pricing U.S. products out of domestic and world markets. This is especially true in the case of Chinese textiles because the Chinese Renimbi is undervalued by an estimated 40% and is pegged to the dollar at that level. Any reductions in U.S. textile tariffs would further weaken an already weak U.S. textile sector.

### ***Export Subsidies***

In clarifying policies that can act to circumvent export subsidy disciplines, the negotiations need to establish disciplines on the activities of state trading enterprises and end the use of export taxes. Our negotiators should also explore the link in certain economies between agricultural and processed product subsidization, including content requirements for exports and special exemptions from normal taxes for exported products. The Council supports better rules with respect to downstream subsidization of agricultural products, use of export taxes to reduce prices of processed products, content requirements for exports and exemptions from taxes for exported products.

### ***Agricultural Programs***

The Council also supports the efforts of the WTO to bring excessive spending on domestic agricultural policies under control, provided the reductions are reciprocal and fair.

The Doha Round began with most of agriculture worldwide in an economic quagmire. Abnormally low prices have many countries scrambling to shore up the fragile economic circumstances of their commodity production sector. The precipitous decline in prices has also called into question the effectiveness of the decoupled approach to farm policy -- it has been criticized as providing too much assistance when it is not needed, and not nearly enough help when it is needed.

After years of cutting agricultural spending far more than any of its competitors, the United States enacted a farm bill in 2002 that stopped spending cuts and instituted additional protections against falling prices. Most of the rest of the world cried foul. The United States was accused of renegeing on its WTO commitments.

The protests are not about the WTO. Their real goal is to convince the United States it should unilaterally concede part or all of certain economic sectors to the rest of the world. The protests are designed to divert attention from the central thrust of the United States proposal -- all participating countries should make real cuts in agricultural distortions, they should provide real improvements in market access, and these changes should be made in such a way that they significantly decrease existing inequities.

We should never let protestations by those who only want to take our markets cause us significant concern. The 2002 farm bill did not break any WTO commitment. Its expected spending levels are well within WTO ceilings.

Given that subsidies still exist and that many countries remain heavily involved in their agricultural sectors, the United States should preserve important U.S. domestic and export programs as long as they are necessary to compete with the treasuries of our competitors. Support should be as minimally trade distorting as possible, but must be sufficient to provide a meaningful economic safety net for the country's commodity production sector.

The United States has tabled the most ambitious set of agricultural subsidy reforms in history, with the support of the entire U.S. agricultural community, only to see those reform proposals watered down, littered with exceptions and rejected by the majority of the members of the World Trade Organization. Instead of joining with the United States to continue to move the world toward agricultural reform, some countries are choosing to turn the World Trade Organization into an organization that cannot reach workable, consensus decisions because the political objectives of too many countries prevent rational and equitable policies from being adopted.

The latest target for this strategy is the U.S. cotton industry. A few days ago, the head of state of an African country delivered an unprecedented personal plea to the WTO to end the U.S. cotton program. He stated that they might boycott the round if they do not get what they want.

I have three brief points. The first is that the perception being fostered by several self-serving international organizations, that U.S. agricultural policies drive the world agricultural economy, is simply ludicrous. The attempt to blame the ills of the world's developing countries on the U.S. cotton program is naive, at best. It is based on seriously flawed economics. It is misleading the leaders of many African countries.

Second, we must not be misled. If the bait were taken and another U.S. economic sector handed over in these negotiations, there would be no equivalent set of concessions. The United States has already proposed the most equivalent, fair, dramatic trade liberalization proposal the WTO has ever seen, yet I have missed the chorus of countries urging its acceptance. The problem is that the U.S. proposal requires concessions by all parties - not just the United States.

Third, I just implied that the U.S. had already handed over certain economic sectors through WTO negotiations - and it has. I have already alluded to the decimation of the U.S. textile industry by textile imports, with the lion's share of the most recent import surge attributable to China. Yet, China does not open its agricultural markets; China imposes unreasonable phytosanitary restrictions on U.S. agricultural imports; and China threatens the United States with new trade barriers should the U.S. implement textile safeguard provisions that China specifically and directly agreed to only a few short years ago.

Again, Mr. Chairman, I must sadly reiterate that trade negotiations and trade rhetoric are not about achieving fairness or some perfect worldwide free trade zone. These negotiations are about markets. If our competitors can convince the U.S. to give up industries unilaterally, then that is one less item they need to contend with during the real give-and-take of a negotiation.

The United States drove the Uruguay Round Agricultural Agreement reform process. It has steadily adhered to ambitious proposals for multilateral, broad-based reform in the Doha Round. We urge the United States to reject the policies of division being fomented by various countries and certain international organizations and continue to support meaningful, fair agricultural reform within the WTO.

## Compliance issues

Mr. Chairman, in addition to the Doha Round, the United States has embarked on an unprecedented number of trade negotiations. The FTAA itself is a monumental undertaking involving dozens of countries and thousands of individual issues and decisions. In order to be successful, the United States must devote adequate resources both to these negotiations and to compliance, once agreements are reached.

We are concerned, however, that the resources being devoted to ensuring compliance with already negotiated agreements is woefully inadequate. The U.S. cotton industry is facing the most comprehensive, wide-ranging WTO challenge ever faced by U.S. agriculture in a case brought by Brazil against our agricultural programs that clearly comply with the Uruguay Round rules. Yet, the U.S. cotton industry has tried for over a year to get the U.S. government to move forward in some forum to make China comply with the terms of the U.S. - China WTO accession agreement - to no avail. U.S. trade officials acknowledge a clear violation of that agreement and WTO rules in general by China in its implementation of tariff rate quotas on agricultural imports and they have been supportive of the cotton industry's position. We are hopeful that Ambassador Johnson's latest discussions with Chinese officials will bring about a change in their import policies. If not, then it would seem the U.S. needs to press this case in the WTO.

Likewise, it has taken repeated efforts by the textile industry to persuade the Administration to comply with the law and establish a safeguard mechanism for textiles being imported from China.

We applaud the long-anticipated decision by the Administration to move forward with a WTO case against the European Union's rules prohibiting importation of biotech agricultural commodities. But we are troubled that each of these decisions has been "long-anticipated." Every delay costs U.S. agriculture. If agriculture is to continue to support progressive trade policy as adopted by the Administration, we must be assured that our government will force our trading partners to adhere to their agreements.

## Free Trade Negotiations

Trade policy is of great importance to the U.S. cotton industry. In the last two years, U.S. cotton fiber exports have increased from an average of 7 million bales to 11 million bales annually. This increase occurred mainly due to a dramatic drop in domestic production of cotton textiles together with benefits of increased trade in the Western Hemisphere. Domestic annual mill use of cotton has dropped from almost 11.4 million bales in 1997 to less than 7.5 in 2003.

Mr. Chairman, the U.S. cotton industry believes that increased trade in the Western Hemisphere is one of the few options available to help combat the ever-rising tide of Asian apparel imports into the United States. In this vein, the National Cotton Council supported the North American Free Trade Agreement - and that agreement has been beneficial to our sector. We are supportive of the recently concluded Chile free trade agreement.

The cotton industry supports the negotiations for a Central America Free Trade Agreement and is working to gain a better appreciation of the economic impact it can expect from a Free Trade Agreement of the Americas.

Likewise, regional preferential trading arrangements with the Caribbean Basin countries and the Andean countries are beneficial to the U.S. cotton industry. These arrangements have also enhanced the ability of the U.S. textile industry to compete with imported Asian-produced textiles and increased demand in this hemisphere for U.S.-produced cotton fiber.

Without question, the economic impact of trade in the western hemisphere is far more significant to the United States than it was 20 years ago when so much of our focus was on Europe and on Asia.

I would like to quickly summarize the main areas of concern to the U.S. cotton industry and then explore some of these areas in greater detail.

- ♦ Future free trade agreements in the western hemisphere offer potential economic gains to the U.S. cotton and cotton textile industries, but any regional agreement must --
  - Contain a consistent, workable rule-of-origin for cotton fiber and textile and apparel products that is no less restrictive than NAFTA rules of origin for these products; and
  - Preserve important aspects of trade preferences already established with the Caribbean and Andean countries.
- ♦ Negotiations designed to place disciplines on domestic agricultural programs should not be undertaken within a free trade negotiation. Negotiations on agricultural support programs are properly within the purview of the agricultural negotiations being carried out in the World Trade Organization.
- ♦ The United States must develop effective approaches to dissuade countries from using phytosanitary rules to unfairly restrict imports of agricultural commodities.
- ♦ No trade agreement is worth the effort to achieve if the participating countries do not abide by its terms. With the tremendous range of negotiations currently being undertaken by the United States, we are very concerned that adequate resources are not being devoted to compliance issues.

I will discuss three of these points in general before turning to a more detailed discussion of our negotiating objectives.

#### ***Multilateral negotiations on agricultural programs***

Domestic agricultural policy should not be negotiated within the context of hemispheric free trade negotiations. The WTO negotiations are the correct and most effective forum in which to engage all countries of the world in agreements that improve disciplines governing world agricultural trade.

We are increasingly alarmed that several countries in South America and in Africa are using every forum and every media outlet available to attack the United States' agricultural programs. These attacks are unwarranted and misguided. The United States drove the Uruguay Round Agricultural Agreement reform process. It has steadily adhered to ambitious proposals for multilateral, broad-based reform in the Doha Round. The United States has fully complied with its Uruguay Round commitments, including those applicable to the U.S. cotton program.

The United States has again proposed far reaching, substantive reform for agricultural policy within the Doha Round trade negotiations. The WTO is the only proper forum for obtaining multilateral disciplines on agricultural programs. The United States will place its producers at an extreme disadvantage in world agricultural markets should it agree to changes in its domestic agricultural programs in order to secure free trade agreements.

#### ***Phytosanitary rules***

Increasingly, countries around the world appear to be using phytosanitary rules to restrict imports of agricultural commodities. The United States must address this tendency directly and with determination. It stretches the resources of individual commodity organizations to their limit and

greatly distorts trade when new phytosanitary barriers are constantly being erected without justification. In this hemisphere, we have most recently noticed Brazil changing phytosanitary requirements in an unpredictable fashion, threatening U.S. exports to that country. The EU's ban on biotech agriculture is finally being properly addressed. China has also shown a tendency to rely on phytosanitary concerns when it is convenient to do so.

Instead of having to respond to each new rule or edict individually, the United States should reserve the right within trade agreements to broadly withdraw trade concessions when its trading partners begin erecting barrier after barrier after barrier citing unfounded phytosanitary concerns.

### ***Goals for Western Hemisphere Free Trade Agreements***

Trading arrangements under NAFTA and CBTPA have created substantial two-way trade in textiles and apparel. The U.S. exports about 4 million bale-equivalents of cotton textiles to NAFTA and CBI. At the same time, the US imports more than 6 million bale-equivalents of cotton textile products from NAFTA and CBI countries. However, to date, trade between the US and South American countries is still relatively small. Future trade agreements should seek to expand trade in a manner that can be beneficial to the textile industries of signatory countries only.

Trade policy in the Western Hemisphere should be designed to enhance the ability of the textile industry to compete with the onslaught of textile products coming from Asia, in general, and China, in particular. Since 1999, the share of U.S. cotton textile imports supplied by Western Hemisphere countries has steadily declined while Asia's share has increased. The decline was quite pronounced in 2002 as imports from China surged.

For the United States cotton and textile industries, enhanced trade within this hemisphere provides the greatest opportunity to produce apparel products that are competitive with Asian imports.

The one-way trade preferences currently being provided to Caribbean and Andean countries have been constructed to increase the competitiveness of U.S. textiles. These preferences have led to increased consumption of U.S. cotton and U.S. cotton textiles.

In general, trade preference legislation breaks down textile and apparel preferences into the following categories:

1. Apparel that is sewn or otherwise assembled in one of the beneficiary countries from fabric that is wholly formed in the United States from U.S. yarns (U.S. fabric); and
2. Apparel that is sewn or otherwise assembled and cut in one or more of the beneficiary countries or the United States from fabric that was wholly formed in the United States or one or more beneficiary countries from U.S. or beneficiary country yarns (regional fabric<sup>1</sup>).

The legislation places ceilings on trade preferences for the so-called regional fabrics. Only a certain quantity of apparel articles that are regionally produced may take advantage of the preference in any particular year. That amount tends to increase over time. The Trade Act of 2002 clarified that dyeing and finishing of U.S. fabric qualifying for these preferences must be done in the U.S.

With the final revisions made to these preferential arrangements in the Trade Act of 2002, the U.S. cotton and textile industries are fully committed to developing more trade with the Caribbean and Andean countries. It would be detrimental to those economies if a free trade arrangement with Central America or South America undermined the preferences already in place in this hemisphere.

<sup>1</sup> The Caribbean trade preference legislation provides this second category of preferences only for regional knits.

The cotton industry, primarily through the efforts of Cotton Council International, has already sponsored several trade fairs in this hemisphere and aggressively promotes the sale of U.S. cotton and cotton products in the Caribbean, Central and South America.

### ***Central America Free Trade Agreement***

As noted above, the U.S. cotton industry must evaluate all possible trade agreements based on their likely impact on U.S. cotton producers and U.S. textile manufacturers. As this Committee evaluates the economic impact of a potential FTA with Central America, we urge you to be aware of the very strong economic link between the U.S. cotton production sector and the U.S. textile manufacturing sector.

Cotton production in the five countries of the Central American Economic Integration System (Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua) was approximately 19,000 bales in 2002, while imports of cotton were 265,000 bales and total mill use of cotton approximately 275,000 bales. Without question, a free trade agreement with Central America will provide opportunities for U.S. cotton fiber exports into the region as textile and apparel products produced in the region will be more competitive in the U.S. market.

However, that same opportunity could result in a negative impact on the U.S. textile sector unless effective rules-of-origin are in place. It is also important that a separate textile negotiating group be established with respect to the Central America FTA negotiation.

The NCC strongly urges that any FTA with Central America contain rules-of-origin applicable to textiles that are no less restrictive than those in the North American Free Trade Agreement. Anything less will open the U.S. cotton and textile industries to unfair, unbridled competition from countries that will transship textile products through Central America in order to take advantage of quota-free, duty-free access to the U.S. This would have a detrimental economic impact on the United States.

A rule-of-origin based on NAFTA-type rules ensures that workers and companies in the United States and Central America are the beneficiaries of the agreement, not entities in third countries. With an effective rule-of-origin, the increased trade that occurs as tariffs are reduced and trade barriers removed will mean increased opportunities for workers and consumers in each trading area.

Mr. Chairman, we also strongly urge that there be no free rides in free trade negotiations. There should not be any tariff preference levels (TPL's) and other exceptions that undermine the basic rule-of-origin. An effective rule-of-origin will also include a short supply mechanism similar to that contained in the Caribbean Basin Trade Preferences Act. Effective short-supply provisions eliminate the need for any special treatment for products that are not produced in the free trade region.

Any free trade agreement must offer reciprocal market access for both parties. Reductions in tariffs for textiles and agricultural products must be reciprocal and concurrent so that no country gains an unfair advantage as the agreement is implemented.

Imports of cotton fiber into the United States are subject to a tariff rate quota within the context of the World Trade Organization. The North American Free Trade Agreement phased out non-tariff barriers to cotton imports from Mexico into the United States over a period of years. The Chile agreement, which we support, phased out U.S. tariff-rate quotas over a period of 12 years. As long as the agreement contains effective rules of origin, the cotton industry will continue to support similar phase outs of the cotton fiber tariff-rate quota. It is, however, important that effective safeguard provisions be in place.

The NCC strongly urges that the textile and apparel customs enforcement measures in the NAFTA and AGOA agreements be included in a Central America Free Trade Agreement. These measures include the use of production verification teams and the ability for U.S. Customs to inspect factories without prior notice and the development of tracking systems, including a certificate of origin. In addition, the textile customs measures should require annual plant visits, records audits, and yearly certification requirements.

The U.S. Customs Service should also be required to file annual reports with the Congress and the President detailing its efforts in Central America to ensure that textile and apparel rules-of-origin are enforced.

While free trade agreements tend to contain provisions to bar companies that break the rules, they usually do not include provisions to bar countries that do not enforce the rules. The NCC therefore urges the U.S. to insist upon provisions in an FTA that allow the U.S., upon consultations, to remove textiles and apparel from trade preferences in the event that the foreign government repeatedly fails to enforce the textile rules in the agreement.

Mr. Chairman, we also are concerned that many countries do not do an adequate job of enforcing intellectual property rights. Free trade agreements should contain provisions that would establish effective rules to deal with intellectual property violations, including those relating to designs, copyrights, trademarks and patterns. The U.S. textile industry estimates that over \$100 million are lost each year due to the worldwide pirating of protected textile designs.

#### ***Free Trade Negotiations with South America***

Negotiations designed to lead to a Free Trade Agreement of the Americas would truly transform the economic structure of this hemisphere. Those negotiations offer growing markets in some areas and for some parts of our industry, but raise the prospect of significantly increased competition in others. The size and scope of the FTAA demand that each aspect of such an agreement be carefully considered. The National Cotton Council has requested that a separate negotiating group on textiles be established within the FTAA negotiations. We urgently renew that request. It is important to our industry that our negotiators consider the impact of textile negotiations in the FTAA on the overall U.S. cotton industry.

Given the size and scope of a free trade agreement with South America, the National Cotton Council is working with a consultant to develop a thorough economic analysis of the impact on the U.S. cotton industry of a Free Trade Agreement of the Americas (FTAA). That analysis is not complete but we will be happy to share it with the Committee when it is finalized.

#### **South American Cotton Potential**

Before I discuss specific negotiating objectives with respect to the FTAA, I would like to emphasize the dramatic difference between the South American cotton and textile sector and that sector in Mexico, the Caribbean, Central America and the Andean countries. Of all of these groups, only Mexico could compete on a size basis with the cotton economies of Brazil, Argentina and, at times, Paraguay. Brazil is of particular significance.

There have been significant shifts in Brazil's cotton production during the past decade. Land has moved out of cotton in the traditional areas of the south and northeast and into cotton in the state of Mato Grosso. The climate is very favorable for cotton production, and land availability does not appear to be an issue. In fact, it has been estimated that there are 160 million acres of virgin grasslands that are suitable for crop production. An added benefit for cotton is that it provides a very good rotational crop with soybeans.

The expansion of cotton acreage in Mato Grosso came in response to the strong prices of the mid 1990's. As I learned in a recent visit to Brazil, current prices do not provide strong incentives for additional production. However, if prices rise, Brazil has the potential to substantially increase cotton production.

I should add that increased production is not without its constraints and costs. Transportation infrastructure poses a considerable hindrance to future growth. New acres brought into crop production are further away from the source of demand and subsequently have greater transportation costs.

### ***FTA Negotiating Objectives***

The same principal issues discussed above concerning a Central America Free Trade agreement are no less applicable to negotiations with South America. Reciprocal market access, effective rules-of-origin, no tariff preference levels, strong Customs enforcement provisions and effective rules to protect intellectual property remain the cotton industry's priorities.

Effective rules-of-origin are even more important with respect to free trade negotiations with South America. The Council continues to support a consistent rule-of-origin for cotton, cotton textile and cotton apparel products that is consistent across all free trade agreements, namely that the rule-of-origin be no less restrictive than that applicable to NAFTA. As stated above, anything less would open the U.S. cotton and textile industries to unfair, unbridled competition from countries that will transship textile products in order to take advantage of quota-free, duty-free access to the U.S.

It is also very important that there be no tariff preference levels (TPL's) and other exceptions that undermine the basic rule-of-origin. These exceptions cost U.S. jobs and they are completely out of context when we are discussing free trade arrangements with literally dozens of countries at the same time. These wide-open exceptions to the NAFTA rules of origin came into place ostensibly in recognition of the relatively limited scope of the three textile markets involved in the NAFTA negotiations - although we would not agree that these markets are limited in any way. Nevertheless, that same rationale simply does not hold in the context of a Free Trade Agreement for the Americas. Further, any rationale that might exist for tariff preference levels is undermined by the inclusion of a reasonable, workable short-supply provision, which we strongly support.

### **Other Free Trade Negotiations**

The Administration is moving forward with several other free trade negotiations. Sometimes it is difficult to keep track. For the record, Mr. Chairman, the National Cotton Council supports the Chile FTA and has removed its objections to the Singapore agreement. The Singapore agreement contains exemplary provisions concerning Customs enforcement, which have tempered the concern of the cotton industry with that negotiation.

The Council continues to monitor the evolving Australia negotiation and the Moroccan negotiation. We have not yet completed our analysis of these two negotiations, but stress the same fundamentals that are outlined in this testimony - reciprocity and effective rules of origin.

### **Textile Crisis**

Mr. Chairman, the U.S. textile industry is facing an economic crisis, attributable in part to dramatic increases in imports of textiles from China. During the past 15 months, textile imports from China to the U.S. rose by 140 percent. Last year, in 8 cotton-containing textile categories, imports surged

a whopping 641 percent. From January 2001 through May 2003, the U.S. textile industry lost 267,700 jobs, and hundreds of factories shut their doors.

It has taken persistent efforts by the textile industry to persuade the Administration to publish rules for implementing a safeguard mechanism for this flood of Chinese imports. . Still no action has been taken to curb the flow.

Even though the long delay has permitted imports to grow in certain categories to levels where safeguard action will be far less meaningful, it is critical that it be done. Unless the administration demonstrates a willingness to use this safeguard tool established under law, our domestic textile industry will be decimated when all textile quotas are lifted on January 1, 2005.

### ***Credit and other issues***

Mr. Chairman, there are a few more general items I believe need to be discussed concerning cotton and textile trade. An inability of potential customers to obtain credit is hampering the growth of U.S. exports of yarn and fabric. We believe more needs to be done to ensure that competitive financing tools are available to U.S. exporters of yarn and fabric. Our industry supports -

- ♦ Broad financing initiatives for U.S. cotton and textiles that involve current, modified or new programs of the Export-Import Bank, Overseas Private Investment Corporation (OPIC) and similar institutions specifically to address export financing constraints faced by those products, including provisions for an asset-based revolving or open line of credit;
- ♦ A continuation, simplification (i.e., paperwork reduction) and strengthening of a GSM-102 program that includes U.S. origin cotton, cotton yarn and cotton fabric;
- ♦ An effective Supplier Credit Guarantee Program (SCGP) that includes U.S. cotton, cotton yarn and cotton fabrics, and that:
  - Provides for approval of a specific line of credit for customers;
  - Provides a minimum of 80 percent guarantee;
  - Extends the repayment term, where practicable, to 360 days; and
  - Liberalizes the grace period for payment before a customer is "blacklisted."

Without improvements in financing and credit, the intended objective of boosting trade between the U.S. and the countries of the western hemisphere may not be realized and the expected economic benefits for all parties will be constrained.

While we encourage the Administration to seek positive trade agreements, particularly within this hemisphere, the damage that can be done to the U.S. economy by poorly negotiated agreements is substantial. The recently implemented trade arrangement with Jordan, for example, contained a significant loophole in rules of origin for textiles that should have been avoided.

Further, the continued strength of the U.S. dollar has taken a significant toll on U.S. agricultural trade in general, and the U.S. textile sector in particular. All trade initiatives undertaken by the Administration should take this economic reality into account. The impact of currency valuations on trade should not be underestimated.

Mr. Chairman, thank you for the opportunity to provide this rather lengthy testimony on agricultural trade negotiations and trade issues. I would be happy to respond to any questions.



**STATEMENT BY RON HECK  
FIRST VICE PRESIDENT  
AMERICAN SOYBEAN ASSOCIATION**

**before the**

**COMMITTEE ON AGRICULTURE  
U.S. HOUSE OF REPRESENTATIVES**

**June 18, 2003**

Good morning, Mr. Chairman, and Members of the Committee. I am Ron Heck, a soybean and corn producer from Perry, Iowa, and First Vice President of the American Soybean Association. ASA represents 26,000 producer members on national issues of importance to all U.S. soybean farmers.

We appreciate your invitation to testify today on trade negotiations underway between the United States and other countries – both multilateral and bilateral. The results of these negotiations will be critical in shaping the competitive environment for U.S. agriculture for years to come. In addition, U.S. soybean producers are facing major challenges in international trade that make the success of current negotiations particularly vital. I will first provide some background on the importance of trade to our industry, then address the Doha WTO negotiations, the Free Trade of the Americas Agreement, and the various bilateral FTAs the Administration is currently working on.

**Background**

Trade has been essential to the growth of the U.S. soybean industry over the past 30 years. From 666 million bushels in 1972, exports of U.S. soybeans and equivalent in the form of soybean meal and soybean oil expanded to 1.4 billion bushels in 2002. Exports of pork and poultry products accounted for an additional 130 million bushels last year. Taken together, exports of soybeans and soy-based products represent fully 53 percent of annual U.S. soybean production.

As our industry has become increasingly dependent on exports, we have actively supported efforts to further open foreign markets through trade negotiations. ASA was a strong advocate for including agriculture for the first time in the Uruguay Round of multilateral negotiations. We endorsed tariffication of quotas and other non-tariff barriers in those talks, and urged sharp reductions in import duties to increase market

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access for soybeans and soy products. We have seen the benefits of tariff reductions under the Uruguay Round and NAFTA in the form of expanding foreign demand and exports in the years since these agreements were completed.

While the U.S. soybean and livestock industries have benefited greatly from the growth in foreign demand and imports, we have seen rising competition from other exporting countries. Our major competitors in the 1980's included the European Union and Canada and, to a lesser extent, Brazil and Argentina. In the 1990's, the untapped potential of South American countries – particularly Brazil – to produce and export soybeans and soy products began to be developed. The vast Cerrados region in Central West Brazil includes an estimated 338 million acres of uncleared land that is available to be brought into production of soybeans and other crops. This area is one and one-third times larger than total U.S. row crop acreage. Moreover, Brazil's soybean yields now average higher than U.S. yields, their protein content is higher, and land and labor costs are about ten percent of ours. Add the impact of the sharply devalued Brazilian Real, currently worth only 36 percent of its 1992 value, and it is clear that our industry – and U.S. agriculture in general – face an unprecedented challenge in the next several decades.

As we seek to develop strategies to address rising competition, ASA believes current trade negotiations offer several critical opportunities. First, we must substantially increase market access through aggressive reductions in tariffs and elimination or tariffication of non-tariff barriers on soybeans, soy-based products, poultry, pork, beef, and dairy. This is particularly important in populous developing countries in Asia where per capita consumption of animal protein and vegetable oil is low. As global production and exports of soybeans and soy-based products increase in coming years, we must make demand and imports grow as well. Second, we must maintain the availability and viability of our export credit and food aid programs as important marketing tools. Third, we must insist that world class competitors such as Brazil are subject to the same commitments and disciplines regarding domestic support that we are required to meet. Finally, we must maintain an adequate farm income safety net to protect our producers against cut-rate pricing resulting from hidden subsidies, devalued foreign currency exchange rates, and discriminatory trade practices.

I would now like to briefly discuss the Doha agriculture negotiations in terms of how they can address and attain these critical goals. ASA strongly endorsed and continues to support the U.S. proposal first advanced by the Clinton Administration in 1999 and reaffirmed by the current Administration last year. In the area of market access, we believe harmonizing high and low tariff levels using the so-called Swiss 25 formula is an effective way to open up potential demand for our products in key foreign markets. In contrast, the compromise advanced by the chairman of the agriculture negotiations, Stuart Harbinson, proposes much smaller percentage reductions in tariffs, and allows self-designated developing countries to exempt "special products" from any cuts. This approach falls well short of achieving ASA's goal to offset increasing global production of oilseeds and oilseed products through expanded market access for soy, poultry, pork, beef, and dairy.

In the area of export competition, ASA supports the Administration's proposal to phase out export subsidies over five years and to establish common rules for export credits and other government-backed financing programs used by all exporting countries. We also support continuing to determine foreign food assistance commitments through the Food Aid Convention rather than bringing these humanitarian efforts under WTO disciplines. Under the text advanced by Chairman Harbinson, the export subsidy phase-out would take place over seven years, and rules governing export credits are similar to the U.S. proposal. However, Harbinson would subject food aid programs to various disciplines, including replacing donations of agricultural commodities and food products with monetary contributions. This approach is not acceptable to ASA and other commodity organizations that view food assistance not only as an important market development tool, but as a means to help feed the poor in other countries that aren't able to feed themselves.

The U.S. proposal for disciplining domestic support is extremely aggressive – reducing trade-distorting “amber box” programs to five percent of the value of a country's gross agricultural output. In the case of the U.S., this provision would require a reduction from the current \$19.1 billion allowed under the Uruguay Round Agreement to an estimated \$9.6 billion over six years. Complying with such a sharp cut in current U.S. farm income supports would require a major redirection of resources through other programs that are considered non-trade distorting. However, applying the same requirement and reduction to the EU and Japan would result in much larger percentage reductions in current “amber box” support levels. The U.S. proposal would also maintain the so-called “de minimis” exemption which allows a country to exclude supports that are non-product specific from being counted as “amber box,” and eliminate the “blue box” exemption used by the EU to shelter supports that are tied to production limits.

In contrast to the U.S. approach, the Harbinson text would cut current “amber box” levels for all countries by 60 percent, reduce the “de minimis” exemption by 50 percent, and cap and cut “blue box” supports by 50 percent. It would also provide a blanket exemption for a large number of domestic support programs and activities by self-designated developing countries. ASA opposes continuing the Uruguay Round approach of equal percentage reductions in trade-distorting domestic support, which would preserve the significant advantage enjoyed by the EU. We also find Harbinson's proposal to allow developing countries, including Brazil, to fund major programs to develop and expand their agricultural production and transportation infrastructure without discipline while subjecting similar “developed country” programs to reductions to be totally unacceptable. We are already seeing rapid expansion of Brazil's potential and competitiveness. If the purpose of the Doha negotiations is to reduce trade-distorting practices, it should not require sharp reductions in support in developed countries while giving equally- competitive developing countries a blank check to expand similar programs.

ASA and other U.S. agricultural organizations are very concerned that implementation of an agreement that reflects the approaches included in the Harbinson proposal would seriously impair our competitiveness with other exporting countries. However, in the

absence of efforts to develop an alternative compromise proposal, it is expected that Harbinson will represent the only "middle ground" and become the negotiating document at the Cancun Ministerial in September. This situation occurred in the Uruguay Round negotiations, when the so-called Dunkel text, which U.S. agriculture groups opposed for similar reasons, was largely adopted in the final agreement. ASA has discussed this issue with staff for both the House and Senate agriculture committees, and we understand the Administration has agreed to provide a briefing on the consequences of implementing the Harbinson proposal for both the U.S. and global agricultural economies. We look forward to hearing the results of the Administration's analysis.

Our purpose for raising concerns is not to undermine support for reaching an agreement on agriculture in the Doha Round, but to build support for a successful agreement. If neither the U.S. nor the Harbinson proposals is acceptable, it is essential that we determine how one or both can be modified in order to achieve a critical level of political support. Absent this support, failure of the negotiations at Cancun is a distinct possibility. So it is important for the Administration to open a dialogue to assess alternative approaches and to develop a viable alternative to the unacceptable Harbinson proposal.

I also would like to briefly mention other trade negotiations and their impact on the soybean industry. Under NAFTA, U.S. soybean exports to Mexico have doubled. The free trade agreement with Chile that President Bush signed in early June will improve market access for U.S. soybeans. In that agreement, Chile eliminated price bands on soybean products and agreed to tighten piracy and counterfeit laws, which will create a more transparent trading environment.

The Free Trade Agreement of the Americas (FTAA) and Central American Free Trade Agreement (CAFTA) will also be beneficial to the U.S. soybean growers. Soybean product exports to FTAA countries totaled \$1.8 billion in FY-2002, despite restrictions on access to 30 percent of markets in the region. The Andean Community pact between key South American soybean producers and importers resulted in a 36 percent decline in U.S. soybean product exports. We also are experiencing adverse trade effects from Mercosur and the European Union trading blocs. The FTAA negotiations will have a critical impact on the future competitiveness of U.S. soybean farmers and our industry in Latin American markets. Specifically, both FTAA and CAFTA agreements need to eliminate tariffs, price bands, export subsidies and differential export taxes, and resolve outstanding SPS issues.

Australia, although an oilseed producer in its own right, is growing in importance to the U.S. soybean industry. Last year, we exported \$51 million in soybean products to Australia. The free trade agreement can further expand market access by resolving remaining SPS issues in the livestock and fruit industries.

The Southern Africa Customs Union free trade agreement can be of some benefit to both commercial and humanitarian use of soybean products in that region. Currently, several SACU countries have 15 to 20 percent duties on soy products. Elimination of those tariffs

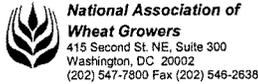
can improve trade in soy flour, meal and oil. Furthermore, the U.S. soybean industry would benefit from provisions on humanitarian assistance and HIV/AIDS relief, if they are included in the agreement. ASA works in southern Africa to improve human nutrition and increase soy protein consumption by malnourished and AIDS-affected populations. We have strongly urged our negotiators to work out a humanitarian assistance provision in the agreement that will allocate funds for nutritional support and nutrition programs in Africa.

Intellectual property issues need to be addressed in all trade negotiations. U.S. soybean producers frequently come across intellectual property rights violations that give unfair advantage to farmers in other countries. For example, it is estimated that Brazilian farmers will receive \$160 to \$180 million in unfair benefits this year from illegal plantings of RoundUp Ready soybeans. The inability or unwillingness of foreign governments to enforce intellectual property rights needs to be addressed in all FTAs, followed by agreements on stricter laws and violation penalties.

With regard to regional or bilateral free trade agreements, ASA believes that future negotiations should be with countries that offer significant opportunities for U.S. agriculture. We are concerned that some of the most recent agreement (e.g., Singapore, Jordan, Chile) as well as current FTA negotiations offer only very modest export opportunities for our industry and U.S. agriculture in general due to population sizes, GDP, and per-capita income levels. We urge the Administration and Congress to more strategically identify potential FTA candidates to ensure that the candidate country or countries offer significant export volume and growth opportunities for U.S. agriculture.

Finally, while ASA supports regional or bilateral FTA negotiations as a means to improve export opportunities, we urge the Administration and Congress to focus efforts on achieving a meaningful WTO outcome. A successful WTO agreement offers the best prospects for achieving worldwide market access gains and global income growth so critical to U.S. agriculture. Once a meaningful WTO agreement is reached, bilateral or regional agreements to go beyond WTO commitments and completely eliminate market access barriers can be negotiated under a "WTO-plus" approach.

That concludes my statement, Mr. Chairman. I will be glad to respond to questions.



**Testimony of Alan Lee on behalf of the  
Wheat Export Trade Education Committee,  
U.S. Wheat Associates  
And  
National Association of Wheat Growers**

**To the Committee on Agriculture  
U.S. House of Representatives**

**“Status of Trade Negotiations on Agriculture”**

**June 18, 2003**

Good morning. I am Alan Lee. I grow wheat, barley, canola, crambe and flax on my third generation farm in Berthold, North Dakota. I currently serve as Vice-Chairman of the Wheat Export Trade Education Committee and U.S. Wheat Associates. Today I am also speaking on behalf of the National Association of Wheat Growers.

Agriculture is the leading revenue-producing industry in North Dakota, accounting for about one-third of the state's economic base. Tourism, energy, and manufacturing follow. Wheat is North Dakota's chief agricultural commodity. U.S. wheat producers depend on the export market for between 40 and 50 percent of our wheat production. In North Dakota that percentage is much higher. As a trade-dependent commodity, therefore, our success or failure hinges on our ability to expand U.S. wheat export markets.

The U.S. wheat industry strongly supports an aggressive approach in all trade negotiations to removing trade barriers worldwide. Multilaterally through the World Trade Organization (WTO), the Hemispheric Free Trade Area of the Americas and current and future bilateral Free Trade Agreements provide global opportunities to solve trade problems. With these opportunities come responsibility. Each of us, and the organizations we represent, must find ways to cooperate and bring workable solutions to the table.

I wish to first discuss the WTO Doha negotiations. The U.S. wheat industry identified a clear set of goals for these negotiations. We recognize the two drafts submitted by Agriculture Negotiations Chairman Harbinson as dedicated efforts toward moving the discussions in a useful direction. However, there are a number of issues of specific concern to the wheat industry. They include:

***Tariffs***

We are disappointed at the direction taken which uses a modified version of the Uruguay Round to reduce tariffs by a simple average. Tariffs must not be seen as simple in any structure. Wheat continues to support harmonization of tariffs as defined in the U.S.

position. There must be a clearer understanding that the differential maintained by simple average reductions is not progressive.

The wheat industry recognizes that it is necessary to provide Special and Differential treatment for developing countries. While high tariffs may provide increased funds for developing country treasuries, the maintenance of tariffs does nothing to improve their competitiveness and only serves to continue to disadvantage their consumers. *The wheat industry seeks your help in continuing efforts to seek greater tariff reductions around the world*

#### ***Tariff Rate Quotas***

While the tariff quota administration proposals should go a long way toward alleviating existing problems, the proposal fails to reduce quotas to the point of elimination. *It is important that any expansion in tariff quota volumes or values be governed by sound rules to prevent countries from noncompliance with their commitments.* There is no benefit from expanded quotas if countries implement procedures that are not transparent or are impossible to meet.

#### ***Export Subsidies***

The wheat industry is pleased that all export subsidies, both from developed and developing countries, will be reduced to zero. However, the time frame for elimination is much too long. *The wheat industry has urged our negotiators to seek faster reductions in Export Subsidies than those proposed by the Draft Modalities texts.*

#### ***Export Credits***

The wheat industry is very concerned about the proposed requirements for use of export credit programs. The wheat industry supports stronger rules to govern export credit activities that clearly define permissible practices that enhance transparency but do not alter the effectiveness of these important programs. We believe it is important to underscore those elements of the U.S. proposal that are critical to maintaining the viability of U.S. export credit programs, specifically:

- **Repayment Term:** The maximum repayment term of 30 months for all developing countries is essential, as is the requirement that principal be repaid not more frequently than annually.
- **Special & Differential Treatment For Export Credit Programs:** In order to ensure that meaningful credit terms are available to countries that hold the greatest potential for U.S. agricultural exports, it is crucial that countries eligible for Special and Differential Treatment with respect to export credit programs, include all countries that were considered developing countries in the Uruguay Round.
- **Cash Payments:** The competitiveness of U.S. export credit programs would be severely damaged by any new requirements for cash down payments given that the consuming establishments who benefit from the credits would be subject to additional costs required by their financing banks.
- **Premiums:** Language that would commit the U.S. to major increases in premiums would severely compromise the viability of our export credit programs. We also

recommend that premiums be allowed to be financed. Further, the current level of premiums covers all of the commercial risks incurred by the GSM program and no increase is necessary to cover designated risks.

- **Starting Point of Credit:** We recommend that the starting point for commercial export credit be the date the contract terms are met and no later than actual delivery. The use of “not later than the date of arrival” may still provide an opportunity for our competitors to circumvent the rules.

**Our export credit programs are a necessary transition tool for developing countries that lack liquidity from domestic commercial resources but are attempting to become self-reliant. These programs offer a reliable source of food security and can be a major tool in moving away from direct food aid.**

#### *Food Aid*

Food aid has been an important part of U.S. foreign policy since WWII. While food donations from Europe lag far behind those of the U.S., the European trade representatives target the U.S. in seeking to (a) restrict donations of foodstuffs to ‘grant only’ contributions and (b) calling food aid from the U.S. a trade distorting export subsidy.

We believe that current food aid language in the WTO is sufficient and continues to work well. The wheat industry supports maintaining the current structure whereby the WTO requires food aid to be consistent with guidelines of legitimate food aid organizations and monitored by the food aid convention of the United Nations.

**Wheat producer organizations agree with the U.S. Government position of opposing negotiating food aid in the WTO, Doha Development Round. U.S. wheat producer organizations strongly urge you to join with us in opposing the proposal in the Harbinson text that would provide food aid “exclusively in fully grant form” except in emergencies. We would also urge you to oppose any attempt to change the food aid convention to require “money or grant only” donations.**

While the second draft of the modalities text made minor changes to the food aid proposal it did not go far enough. *The wheat industry encourages the United States Congress to oppose any agreement that demands such drastic changes in our humanitarian programs.*

#### *State Trading Export Enterprises*

While there are many concerns with the modalities, the wheat industry would like to congratulate our negotiators for the excellent U.S. text on State Trading Export Enterprises. This language, which was largely the basis for the Doha draft, should end the monopoly practices of our trading partners and allow for more fair competition in wheat markets worldwide. However the wheat industry is concerned that monopolies and export state trading entities such as the Canadian Wheat Board (CWB) will find ways to circumvent these proposals.

Some years ago the U.S. lost a case to the CWB when the panel judged that the initial payment was the acquisition price even though it was assumed that there would be a further payment. The Harbinson text language in Attachment 7, 5 (b) (i) could invite exports by the CWB at less than full value if the monopoly were not phased out. To deal with the problem, the wheat industry urges inclusion of the following language in any negotiations:

Attachment 7, 5 (b) (i)

*(i) to ensure that exports of a product by a government export enterprise do not take place at a price which is less than the full commercial value of the product at the time of acquisition. Producers shall receive full value compensation for the product at the time of the sale of the commodity to the governmental export enterprise.*

Monopoly practices are a huge problem of the wheat industry.

#### ***Domestic Support***

Wheat producers across the nation are in full agreement in their opposition to the proposal for domestic support reductions. The approach taken in the modalities paper is totally inadequate as it does very little to eliminate the existing disparities between allowed levels of domestic support for developed countries. In particular the European Union would continue to maintain a disproportionate advantage in the level of domestic support it would be allowed to use. We urge support for the elimination of the Blue Box but can see no advantage in allowing language that reduces the *de minimis* level of support by fifty percent. ***The wheat industry strongly opposes the proposed domestic support proposal. The U.S. must seek to eliminate the cut in the de minimis support level and must demand that there be a balance / equalization in the levels of allowed domestic support.***

#### ***Special and Differential Treatment***

We see an extreme effort in the proposal to provide developing country exemptions, which will not facilitate the development of their markets and would appear to continue to support practices that disadvantage their consumers. We urge that efforts be made to include mechanisms that will move these economies forward. They must be encouraged to develop economically sound trade practices, which do not create new trade barriers, while allowing them to function without exemptions in a competitive market place.

***The wheat industry supports the establishment of criteria for eligibility under S&DT provisions.***

***Please see the Attachment (A) from the Food and Agricultural Policy Research Institute (FAPRI) analysis of the Proposed Doha Round Modalities on Impacts on Food Crops: Wheat.***

*A successful FTAA offers market opportunities for wheat.*

The WTO process is critical for liberalizing world wheat trade, and the U.S. wheat industry has a clear set of goals in this round of negotiations. However, just as the North American Free Trade Agreement provided great market opportunities -- and clear successes for wheat -- the FTAA can extend liberalization beyond the level envisioned in the WTO, and holds tremendous market growth potential for U.S. wheat producers.

As an added benefit, alliances gained in the FTAA can carry over to the WTO negotiations where there are some extremely contentious differences. We believe that a strong commitment in the hemisphere can be a very positive force against the European Union's protectionist positions.

The U.S. -- including our industry -- is on the brink of major opportunities offered by the FTAA. First, however, several important issues must be addressed in negotiations: market access, state-trading enterprises, monopoly practices, export subsidies, and sanitary/and phytosanitary issues. Resolutions of these issues must result in freer and fairer trade among the countries of the Americas.

Before I move to a discussion of those issues and their effects on the wheat market, let me make an important point on what we should NOT be negotiating. The U.S. must continue to refrain from negotiating on domestic supports within the context of the FTAA. It would be unwise to unilaterally disarm within the hemisphere while leaving the EU to continue subsidizing their producers at high levels. We concur with the U.S. position encouraging the countries within the hemisphere to "work together in the WTO to substantially reduce and more tightly discipline trade-distorting domestic support."

The benefits of free trade can clearly be seen in the dramatic increase in wheat exports following the North American Free Trade Agreement. U.S. wheat exports to Mexico have soared 48% over the last five years, and this year's record exports to Mexico will reach over two and a half million tons, making Mexico our second largest customer in the world.

U.S. wheat exports are also doing well in Central America and the Caribbean. During the last five years, U.S. wheat market share in the Caribbean has averaged 75-80%. We are posting significant gains in Central America, where we currently have a 70% market share, and the situation is looking particularly bright in Guatemala and Costa Rica.

While Mexico, the Caribbean and the Central American region are marked by success, the South American region is marked by a tougher struggle for market access and market share. U.S. wheat exports to South America have been about 2 million metric tons (MMT) for the past ten years. Conversely, Argentina's exports within the region have gone from 1.6 MMT to 8.2 MMT. The total value of wheat exports to the region is \$1.6 billion, with the total value of U.S. exports amounting to just \$220 million.

It is expected that South America will experience a five- percent growth rate in wheat imports, and we look to the FTAA to give U.S. wheat a more level playing field on which to compete.

Recently, Brazil has imported almost eight million tons of wheat each year. Despite an U.S. logistical advantage to northern Brazil, the country has basically been a captive of Argentine wheat because of the MERCOSUR arrangement that puts the U.S. at an unfair disadvantage due to a tariff differential.

The U.S. wheat industry also faces difficulties in Guatemala, Peru, Columbia and Venezuela as a result of the monopolistic trading practices of the Canadian Wheat Board (CWB), an anachronistic state trading enterprise. When it has ample stocks, the CWB intentionally undercuts U.S. wheat prices in these markets (and others), and is able to do so not because of a legitimate competitive advantage, but due to unfair trading practice.

The FTAA must be negotiated so that we have duty-free access to Brazil, along with all other markets in Central and Latin America. The negotiations must give the U.S. access on a par with Argentina and Canada to the entire hemisphere and the growing economies of 800 million people.

***Export competition must be on a level playing field***

The U.S. wheat industry vigorously agrees with the U.S. government position that calls for the elimination of all trade-distorting export subsidies within the hemisphere and the establishment of a mechanism that would prohibit “agricultural products from being exported to the FTAA by non-FTAA countries with the aid of export subsidies.”

We are also very encouraged by the U.S. position opposing state trading enterprises within the hemisphere. CUSTA and NAFTA left unresolved issues between the U.S. and Canada, and we must not allow these unresolved issues to be carried into the FTAA.

The CWB’s state-supported export monopoly controls virtually every aspect of wheat production in the western Canadian provinces, including varietal control, day-to-day execution of sales contracts and long-term market development. It is the largest single grain marketing board in the world, with monopoly control of about 20 percent of world wheat and barley trade. To put it into perspective, recall the Cargill acquisition of Continental’s grain business. Together, the two merged companies control roughly 20 percent of U.S. wheat exports, or about 228 million bushels, based on a five-year average. In contrast, the CWB controls annual average wheat exports of 680 million bushels, or about three and half times as much as Cargill and Continental combined.

As a government-supported grain monopoly, the CWB uses discounted price offers, bonus deliveries, supplemental cleaning, delayed payments, indirect transportation subsidies, and other favorable contract terms to often undercut U.S. grain prices. Canadian producers have little say in marketing their crop, and they receive only about 80 percent of its value when turned over to the CWB. No private company that faces

commercial risk and stockholder oversight has such control, nor can any truly commercial entity offer wheat at whatever price it chooses.

While we are very optimistic about market growth in the Western Hemisphere, U.S. wheat producers have had numerous problems with specific provisions of previous trade agreements in the hemisphere. The Canada-U.S. Free Trade Agreement of 1988, CUSTA, resulted in memorializing trade inequities between U.S. and Canadian farmers. Regrettably, CUSTA talks to open the CWB marketing system to competition were unsuccessful and, even worse, CUSTA actually gave the CWB an advantage over U.S. wheat producers in the U.S. market. Without getting too technical, the two sides agreed (very mistakenly) that the CWB's cost of acquisition was equivalent to the CWB's initial price. (The CWB provides the "initial price" to its growers when they deliver wheat to the pool.) In truth, according to CWB documents, the initial price amounts to about 80 percent of the final price farmers in Canada receive for their wheat after all pool accounts are completed.

We believe that the inequities established in the CUSTA have encouraged the injurious surge of wheat exports from Canada to the United States. Over the last decade, this issue has been one of the single biggest sources of contention along the U.S.-Canada border and one that continues today. Despite the urging of the wheat industry, NAFTA provided no resolution of the Canadian trade issues.

In 2001 the North Dakota Wheat Commission filed a Section 301 petition with the Office of the U.S. Trade Representative. USTR initiated its investigation of the CWB under section 301 at the urging of the Wheat Export Trade Education Committee, the National Association of Wheat Growers, U.S. Wheat Associates, the American Farm Bureau Federation, the National Farmers Union and every state wheat commission.

In February 2002, after a review of the investigation, USTR released an "affirmative finding" that detailed the CWB's monopolistic characteristics. The USTR found "that the acts, policies and practices of the Government of Canada and the CWB are unreasonable and burden or restrict U.S. commerce. Based on the findings, the USTR concluded that "the CWB's subsidies, protected domestic market, special benefits and privileges disadvantage U.S. wheat farmers and infringe on the integrity of a competitive trading system."

With the affirmative finding, U.S. Trade Representative Robert B. Zoellick also announced "that the United States will pursue multiple avenues to seek relief for U.S. wheat farmers from the trading practices of the Canadian Wheat Board (CWB), a government monopoly trading enterprise." This included taking a dispute settlement case against the Board in the WTO, working with the U.S. industry on possibly filing U.S. countervailing duty and antidumping petitions, and working towards market access for U.S. wheat exports to Canada.

The U.S. industry has made specific, realistic suggestions for addressing the underlying problems with the CWB. Our particular focus has been to end the state-mandated

monopoly, subjecting the CWB to market discipline. The proactive approach taken by the NDWC and the U.S. wheat industry is intended to work in conjunction with multilateral and regional negotiations on export state trading entities, and any final agreement must provide effective discipline over the CWB's activities.

The national wheat organizations are very pleased at the progress that has been made on this long-standing issue. We are especially pleased that the Department of Commerce has confirmed that the Canadian Wheat Board is dumping into the U.S. market. The Department of Commerce has announced an 8.15 percent duty on Durum wheat and a 6.12 percent duty on Hard Red Spring Wheat. This will only help support the dispute settlement actions under the WTO.

The U.S. wheat industry has proven its case and we must not allow monopoly actions to be legalized in the FTAA or any future trade agreements.

***Market access - tariffs, price bands, and TRQ's***

U.S. wheat producers agree with the U.S. FTAA negotiating position that the tariff methods and modalities agreed to must be "fair and reasonable" to "ensure the benefits of free trade are broadly distributed." Since the average U.S. tariff on agricultural imports is about twelve percent, while the rest of the world exceeds sixty percent; reducing high tariffs must be a priority in the FTAA discussions.

We also agree with the U.S. proposal to use the lower of either a product's "most favored nation" applied rate in effect during the negotiations or the WTO bound rate at the end of the negotiating process. This will ensure that the reduction will substantially open markets to U.S. products. Whichever rate is used, it should become a bound rate to add stability in the region.

In addition to negotiations on tariffs, action must be taken to address problems in tariff rate quota administration and price band systems. We are very pleased with the provisions of the Chile Free Trade Agreement that eliminate the use of price bands and we hope this sets a guideline for the FTAA negotiations. We are pleased that the Chile FTA will eliminate the existing price band mechanisms for wheat and flour, to be replaced by a system of tariffs that will be phased out. The tariffs should be reasonable and should not constitute new trade barriers. We compliment Chile, the principal user of the price band system for wheat, for looking at ways to remove the bands in accordance with World Trade Organization findings that price bands are illegal.

Those countries that administer TRQ'S do so in a variety of ways, from auctioning to allocation of licenses to producer groups, which clearly hinder U.S. exports. The duties outside the quotas must be targeted for reduction. Additionally, the fill-rate of tariff quotas appears to be very low among some countries, resulting in part from bad TRQ administration. To correct this problem, the U.S. may want to consider an incentive-based system to encourage increased imports where fill rates are low.

We concur with the U.S. market access “Tariffs and Non-Tariff Measures Text.” This proposes a level playing field by requiring all FTAA countries to grant “national treatment” to products from other FTAA countries, the elimination of import and export restrictions and increasing transparency resulting in reductions in the cost of doing business in the Hemisphere.

***Risk assessment is needed for sanitary and phytosanitary (SPS) issues.***

The proliferation of sanitary/phytosanitary issues has resulted in the slowing or -- in some especially egregious cases -- the cessation of trade with some countries. We must build upon the Uruguay Round Agreement on Agriculture with respect to plant, health and safety. In particular, negotiations to expand NAFTA into a hemispheric agreement must establish a risk assessment framework, as well as the creation of an accepted and expedited procedure for addressing sanitary/phytosanitary disputes when they arise among signatories to the FTAA. We also believe that trade in new technologies is adequately addressed in the SPS/TBT agreements of the World Trade Organization and should not be revisited in these negotiations.

***Labor and environmental standards should be addressed in other forums.***

The importance of environmental protection and labor standards is without question. However, these concerns may be more appropriately addressed in other forums and by other methods than through FTAA negotiations. The U.S. wheat industry is concerned that an effort to link environmental and labor concerns to trade may hinder negotiating leverage or impinge on the goals of trade liberalizing negotiations.

We are especially concerned about any proposal to use trade as an enforcement mechanism, through the imposition of sanctions, in pursuing goals in these or other areas, however desirable the goals may be. We believe that ultimately the most successful resolutions to these concerns can only happen if our trading partners are assured that the U.S. does not intend to use sanctions to “bully” them into relinquishing their sovereignty with respect to environmental and labor standards.

***MEAs should not disrupt trade***

The wheat industry is very concerned that the many Multilateral Environmental Agreements (MEAs) may disrupt trade around the world. There has been insufficient discussion on how these agreements work with -- or conflict with -- WTO rules. Of immediate concern is the Cartagena Protocol on Biosafety, adopted by the Conference of the Parties to the United Nations Convention on Biodiversity in Montreal on January 29, 2000.

The Protocol is designed to contribute “to the safe transfer, handling and use of living modified organisms” resulting from modern biotechnology, “that may have adverse effects on the conservation of sustainable use of biological diversity, taking also into account risks to human health, and specifically focusing on trans boundary movements.”

On June 13, 2003, 103 countries had signed and the 50<sup>th</sup> countries needed for implementation had ratified the Protocol. The Biosafety Protocol is slated to come into

effect on September 11, 2003. The Biosafety Protocol has created many unknowns for traders around the world, the most basic of which is the undefined relationship to WTO agreements.

Our markets are at risk of intended and unintended consequences from the growing number of MEAs, and particularly those dealing with use of new technologies. Our negotiators must use all available negotiating opportunities, with the FTAA and elsewhere, to ensure that the WTO is paramount and that sound science prevails in disputes that may arise from use of biotechnology and other new technologies and from MEAs.

***Trade sanctions are bad trade policy.***

Finally, to take full advantage of trading opportunities, we need access to all markets which means prohibiting the use of sanctions as trade policy. Congress should remove the remaining Cuban sanctions. While no one condones recent human rights violations by Fidel Castro, we strongly believe that opening travel, trade and dialogue creates the best opportunities for the Cuban people.

***Free Trade Agreements (FTAs)***

Currently the Administration is negotiating trade agreements with at least 14 countries. These should be seen as critical stepping stones to free and fair trade on a worldwide scale. While not all hold the same importance for agricultural trade all should be watched closely to ensure that they address the concerns that are being debated in both the WTO and the FTAA. These negotiations must move trade liberalization further than what we expect can be achieved multilaterally. Many of the same issues are on the agenda for each of the negotiations. Two of these negotiations, while for very different reasons, are very important to the wheat industry – the Chilean and Australian FTAs.

The wheat industry stands strongly behind the recently signed Chile FTA and urges Congress to move quickly to approval. This agreement immediately upon ratification will level the playing field for wheat growers in North Dakota by eliminating the tariff differential that Canada negotiated with Chile in their FTA. The Canada Chile agreement virtually eliminated U.S. wheat producers from the Chile market by creating a tariff differential. The U.S. agreement guarantees that our wheat growers will never again have to compete with third country trade agreements that offer greater market access than that negotiated by the U.S.

The wheat industry understands the SPS concerns of some of our sister commodities as we also face numerous SPS issues around the world. In this case we support the strong efforts of our science based agencies to resolve these differences by addressing the technical issues while the negotiated policy is allowed to be put into action. Scientific issues should never be resolved politically but on the basis of solid risk assessment and scientific reason. Policy negotiations must provide sound structures for addressing SPS issues but we do not support holding up the negotiated agreements until every single scientific issue is resolved.

The Australian FTA poses a different dilemma for negotiators from wheat's perspective than from other agriculture groups. Ours is not a market access issue but the unfair monopoly practices that distort trade in third country markets. We believe that the monopoly structure of the AWB should not be allowed to continue in a Free Trade Agreement. Our trade partners must be subject to commercial practices if we are to compete fairly in the market place.

***Funding for USTR***

The Office of the U.S. Trade Representative plays a critical role in the U.S. effort to maintain and expand our agricultural exports. However, USTR resources have recently been stretched thin by the rapidly expanding number of trade policy concerns. The current World Trade Organization "Doha Round" trade negotiations are already demanding a significant expenditure of resources at USTR and will require even more if the Cancun Ministerial is successful. Perhaps even more important, there has been a dramatic increase in the number of free trade agreements USTR is negotiating. In 1998, USTR was involved in only one FTA negotiation involving, the Free Trade Agreement of the Americas. USTR is now involved in eight FTA negotiations. The agency is also engaged in negotiations with foreign governments on over 100 bilateral trade policy disputes, either formally in the WTO, or informally through bilateral discussions.

Ambassador Zoellick and his staff have, to this point, done an outstanding job of pursuing trade policy issues of concern to the U.S. agricultural community. However, it will be impossible for USTR to give adequate attention to all of the trade policy issues now confronting U.S. agriculture, particularly with respect to the enforcement of existing trade laws, with current resources. It is vitally important that USTR be given the resources needed to aggressively address issues of concern to the U.S. agricultural community, both through informal bilateral discussions and formal WTO dispute settlement.

Congress is considering a budget of \$38 million for USTR for FY04. That figure is a remarkably small amount for such a valuable and essential agency and represents a six-percent increase over FY03, barely covering increases in normal operating costs. The proposed budget is entirely inadequate to meet the growing number of trade policy challenges faced by USTR. In order to give USTR the resources it needs to vigorously defend U.S. trade policy interests, we urge you to help provide increased funding for USTR by an additional 20 percent in FY04. We hope that a good proportion of that increase would be provided to USTR's Agricultural Office and the Office of the General Counsel in order to pursue U.S. agricultural trade policy interests.

**Conclusion**

The wheat industry is very pleased by the U.S. Position on Agriculture for the Doha Round of the WTO, in the FTAA negotiations and especially about the negotiated agreement with Chile. We believe that U.S. trade policy is headed in the right direction.

To recap, our positions are:

- The unfair advantages given to state trading entities and monopolies must be ended in all markets.
- Reducing high tariffs must be a priority.
- Eliminating trade distorting domestic subsidies must be addressed in the WTO negotiations.
- Existing price band mechanisms for wheat and flour must be eliminated, replaced by a system of tariffs, which would be phased out.
- A risk assessment framework, including an expedited process, should be established to address sanitary/phytosanitary disputes.
- Environmental and labor issues should not unnecessarily hinder trade opportunities.
- The final agreement must ensure that sound science and WTO rules prevail, especially in regards to biotechnology.
- The existing barriers to trade and travel to Cuba should be removed. Sanctions are inappropriate for trade policy.
- We urge you to support a 20 percent increase in appropriations for USTR.

The U.S. wheat industry has worked for over 50 years to expand export markets, and we are committed to doing all we can to secure fair and open trading practices around the world. We stand ready to work with you towards a successful outcome of these negotiations in order to realize the market potential around the world.

Thank you for this opportunity to speak on behalf of the U.S. wheat industry.

## Impacts on Food Crops: Wheat

### Market Access

#### *Tariff*

Table 5 gives the summary tariff information for the food and feed crops. Based on bound tariff rates, wheat has a high protection rate of 65% on average. If countries' relative shares of imports are taken into consideration, the weighted average is around 84.2% due to the high protection in some major importers. Applied rates are much smaller, at an average of 8.9% for all countries. The weighted average of applied rates is a bit higher, at 11.5%. Under the revised Doha modalities, the weighted bound rates decline by 36.2 percentage points to 48% for wheat. Although this reduction may seem high, it is not expected to increase the trade volume, as applied rates are still lower than the new Doha modalities tariff rates.

When the bound tariff rates are compared with respect to the status of the countries, we see that developed countries impose the highest bound tariff rates, at a weighted average of 155%. For least-developed countries, the weighted average is 113.5%, whereas for developing countries this rate is only 59.2%. However, the applied rates that actually affect the trade flows show a different picture. The weighted average for wheat in developed countries is 7%, whereas the developing countries actually impose an average of 13.7% and least-developed countries impose an average of 5.7%.

If countries are grouped according to regions, Western Hemisphere countries impose the highest weighted applied tariff rate at 16.9%, followed closely by European countries at 13.6%. Industrialized countries impose a nearly 0% applied rate for wheat. Doha modalities are not expected to cause a significant increase in wheat trade, as the countries that would reduce bound tariff rates the most are already imposing very low applied tariffs.

#### *Tariff Rate Quota*

Out of 131 countries, only 17 have TRQ commitments for wheat. Of these 17, only 12 have imported more than or equal to their TRQ commitment levels. TRQ commitments for wheat expand significantly at an average of 1,850% under the Doha modalities. This high

rate is because of the high increase in Morocco, which is an outlier. Without Morocco, the average is around 179%. However, based on 1999–2001 data, the total change in TRQ levels represents only 1.9% of all world wheat trade. The trade expansion potential of the Doha proposal on TRQ commitments represents roughly 1.17% of world wheat trade. If these countries, China, for instance, increase their imports in line with the increase in TRQ levels, then a considerable expansion in world wheat trade might be possible.

#### *In-Quota Tariff*

For wheat, the average in-quota tariff rate is around 52.1%. The reduction under the Doha modalities is very minimal for wheat—less than 1%. As applied tariff rates are much smaller than the new in-quota rates, Doha modalities reductions in in-quota tariff rates are not expected to bring about much change in wheat trade.

#### **Export Competition**

Eleven countries use export subsidies for wheat. For some of these countries, export subsidies were allocated to grain crops. In the analysis, these export subsidies are allocated to specific commodities, such as wheat, according to the relative export share of these commodities. For wheat, the proportion of the subsidized export limit to the total volume of trade is around 37.4%. The Doha modalities suggest elimination of export subsidies. This change benefits countries that export without reliance on export subsidies, because of their competitive edge, and impedes the exports of countries that rely only on export subsidies, because they cannot provide a competitive price or better quality. Some of the countries that declare an export subsidy in fact do not export, so elimination of export subsidies would not change these countries' export levels.

#### **Major Players in Wheat**

##### *Canada*

Canada could subsidize 8.85 mmt of wheat, which is roughly 50% of Canada's total wheat exports (but no subsidized exports were reported in 1999). Under the Doha modalities, this quantity is eliminated and thus may decrease Canadian exports.

*European Union*

The European Union has an option to subsidize up to 13.43 mmt of wheat exports but used only 70% of this option in 2000. Elimination of the export subsidy may decrease EU exports, as the export subsidy quantity is nearly 91% of total EU wheat exports.

*United States*

The United States could subsidize up to 14.52 mmt of wheat exports, which is about 50% of total wheat exports. However, the U.S. has not used this option in 2000. This quantity is eliminated under the Doha modalities, thus possibly decreasing exports.

*China*

China has a high bound rate of 65%, which decreases under Doha to 42.2%. The reported applied rate is the rate before China's accession to the WTO in 2000. China's TRQ commitments expand under Doha, and the in-quota rate decreases from 1% to 0.75%. The decrease in in-quota rates could increase China's wheat imports.

*Japan*

The bound tariff rate is high at 375.5%, and it decreases under Doha to 150.2%. But, the applied rate in Japan is low at 6.4%. As imports are higher than the TRQ commitment and the in-quota rate is 0%, no change is expected in Japan's import level.

*Mexico*

The bound tariff rate and applied tariff rate is 67%. Under the Doha modalities the bound rate decreases to 43.5%. This is not expected to lead to an increase in Mexico's imports, as Mexico imports wheat mostly from the United States and Canada at a 0% tariff rate through the NAFTA agreement.

Mr. Chairman and members of the Committee, I am Andy LaVigne, Executive Vice President and CEO of Florida Citrus Mutual. I am pleased to present testimony today on the very critical issue of agricultural trade negotiations under the Free Trade Area of the Americas (FTAA) and the World Trade Organization (WTO). FCM is a voluntary cooperative association whose active membership consists of more than 11,000 Florida growers of citrus for processing and fresh consumption. FCM's membership accounts for more than 90 percent of Florida's citrus growers and as much as 80 percent of all oranges grown in the United States for processing into juice and other citrus products.

Late last week, U.S., Brazilian, and other FTAA negotiators began discussing how the scope of the FTAA might be limited in order to reduce political friction, address serious national economic interests of all the participants, and reenergize the negotiations to reach a constructive outcome. We believe that this is a step in the right direction. An FTAA that includes tariff reductions on all products is not in the best economic interests of our Hemisphere, it is not required under the current WTO definition of a "trade union," and it is not politically feasible. The Florida citrus industry does not object to the improvement of U.S. ties throughout the world via stronger trading relationships, and we have supported many such agreements programs over the years, such as the CBI. However, our industry and global market are highly unique and import sensitive – not because we lack competitiveness, but because of the structure, dynamics and history of the Brazilian-dominated global orange juice industry. We look forward to the future expansion of world markets and Florida's vigorous participation in those markets. Florida orange growers are the most efficient in the world in terms of production yield per acre. Yet, for reasons well beyond Florida growers' control, we cannot expect to benefit from global trade liberalization under the current conditions of concentration of power in the hands of a few Brazilian producers. Until this concentration is diminished, fair trade is established, and consumer purchasing power is increased around the world.

the US and Western Europe will remain the targeted markets for orange juice, and our economic survival is contingent on the existence of the U.S. orange juice tariff on Brazilian juice. ANY reduction in the current tariff on orange juice under the FTAA, the WTO or any other agreement to which Brazil is a party would prove catastrophic for our industry, and very damaging to the State of Florida and not in the best interests of consumers.

The U.S. orange juice tariff offers the most efficient Florida orange growers the opportunity to exist as the sole large volume competitor in a global industry dominated by five huge producers in Brazil. The tariff does not ensure survival, as many bankrupt Florida growers can attest, but it counteracts some of the extreme pricing pressure inflicted by frequent devaluation of Brazil's currency, the predatory pricing behavior of the Brazilian orange juice oligopoly, and the sheer market power of a highly concentrated industry selling globally a dollar-denominated commodity made with progressively devalued local inputs. Furthermore, the tariff gives Florida growers a fighting chance to make a living in a country that properly places tremendous value on costly worker rights and environmental integrity, in the face of competition from a country that does not.

The global orange juice industry is highly unique. World orange juice consumption is concentrated chiefly among only 2 regions: the United States and the European Union. Aside from the United States and, to a lesser extent, Canada,<sup>1</sup> there are no other significant orange juice consuming countries in the Western Hemisphere. Thus, the U.S. orange juice industry is not in a position to benefit from FTAA trade liberalization.

Global orange juice production is also concentrated chiefly among only 2 countries: Brazil and the United States. Brazil's production is controlled by 5 very large processors,<sup>2</sup> which control roughly 80 percent of Brazil's FCOJ production. Given that

<sup>1</sup> The United States already enjoys duty free access to the Canadian orange juice market.

<sup>2</sup> These dominant Brazilian processors are Cargill Citrus Ltda., Citrosuco Paulista S.A., Citrovita Agro Industrial Ltda., LouisDreyfus Citrus S.A., and Sucocitrico Cutrale Ltda.

they also operate and control Brazil's tank ship distribution system, these companies indirectly control nearly all of Brazil's FCOJ exports. The large Brazilian processors benefit from advantages brought by past subsidization and dumping, lax environmental protection, weak and largely unenforced labor laws, frequent national currency devaluation (which reduces the relative cost of production inputs and provides false incentives to overproduce), and oligopoly price manipulation.

Florida orange growers are not the only U.S. agricultural industry pitted against the unfair advantages of Brazil's agricultural exports; however, they are one of the few industries that the U.S. FTAA proposal threatens with demise. U.S. soybean farmers claim that on account of Brazil's currency devaluation, they were receiving 40 percent less for their soybeans in 2002 than in 1997, while Brazilian farmers were receiving over 36 percent more.<sup>3</sup> Brazil is the world's second largest soybean producer after the United States, so this is very significant. However, soybeans are consumed throughout the world and new export markets are highly sought after by the U.S. industry. So, it makes sense that the US soybean industry contends with the unfair advantages of Brazil's devaluation chiefly via domestic subsidies. While subsidies are used to help level the playing field for agricultural industries whose top markets are abroad, tariffs are used to level the field for industries, like orange juice, whose top markets are in the United States. The U.S. industry that grows oranges for processing is unique among U.S. agricultural industries in that it does not receive any production or trade distorting (WTO-designated "amber box") domestic subsidies. Its only offsetting tools are the tariff and enforcement of the unfair trade laws.

FCM believes that the Administration's FTAA proposal on agriculture is lopsided to the extent that it puts all U.S. agricultural tariffs on the table, while leaving all

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<sup>3</sup> "ASA Emphasizes Importance of Maintaining \$5.26 Soybean Loan Rate to Help Offset Effects of Currency Devaluations in Argentina & Brazil," American Soybean Association, January 7, 2002 (<http://www.soygrowers.com/newsroom/releases/2002%20releases/r010702.htm>).

domestic subsidies off the table. In so doing, the Administration's proposal effectively, if unwittingly, singles out agricultural industries for demise based exclusively on the location of their markets, without consideration of the effect on the U.S. economy. Not only is this an unsound approach to trade policy, it is also guaranteed not to meet any of the stated objectives of trade liberalization: foreign industrial growth and competition, lower prices to consumers, and increasing living standards.

FCM asserts that any reduction in the U.S. orange juice tariff applying to Brazil would devastate the U.S. industry that grows oranges for processing. Furthermore, any tariff reduction would critically damage the entire Florida citrus industry, the economic impact of which has recently been estimated at \$9.13 billion in industry output, \$4.18 billion in value-added activity, and 89,700 jobs.<sup>4</sup> Perhaps even most damaging to the U.S. economy is the fact that, since this Florida industry is Brazil's only competitor of global significance, its demise would not bring cheaper orange juice to the U.S. breakfast table, but would eventually unleash the Brazilian oligopoly to raise U.S. orange juice prices. For all of these reasons, FCM strongly opposes any reduction in U.S. orange juice tariffs under the FTAA or any trade agreement to which Brazil is a party.

U.S. orange juice markets, particularly those throughout the EU, have also been increasingly plagued with Brazilian orange juice prices that frequently appear to be below their cost of production. The long-term annual average trend in the price of Brazilian orange juice exports has been downward during the past decade and a half. Such constant downward price pressure in foreign markets makes the exporting of U.S. orange juice nearly impossible. The modest growth in U.S. orange juice exports that occurred during the late-1990s, was more a function of the export incentives provided by the

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<sup>4</sup> Alan Hodges, et al, "Economic Impact of Florida's Citrus Industry, 1999-2000," *Economic Information Report*, EIR 01-2, University of Florida, Institute of Food and Agricultural Sciences, Food and Resource Economics Department, July 2001, p. 3.

import duty drawback program, than of the ability of U.S. producers to earn a fair price in export markets.

U.S. processors of Florida orange juice are eager to expand juice exports overseas, and they fully support the elimination of foreign orange juice tariffs. However, they are not naïve enough to believe that foreign tariff liberalization will bring them instant success abroad. Commercially processed orange juice is not a bulk basic commodity like wheat or milk powder, which are universally consumed throughout the world. Commercially processed orange juice, while an extremely healthy component of a balanced diet, is not considered an essential basic commodity for all levels of economic development, and is consumed primarily in high-income, developed countries. Not only that, but even if lucrative orange juice markets existed outside of the EU, Japan, Canada and a handful of wealthy cities, and even if orange juice tariffs were liberalized in these markets, the unsubsidized U.S. orange juice industry would stand little chance of competing with Brazil's extremely low price levels.

The University of Florida recently calculated comparative cost of production estimates for processed oranges in Florida and São Paulo, Brazil. They estimate that in crop year 2000/01 labor costs (including wages, salaries and social taxes) were 45¢/box in Florida and only 17¢/box in São Paulo.<sup>5</sup> A substantial portion of this wide discrepancy is due to the many currency devaluations Brazil has experienced during the last few decades.

Brazil's orange juice export sales to all markets are denominated in U.S. dollars. When the Real is devalued, the cost of labor and other domestic production inputs, which

are denominated in Real, become cheaper relative to the price paid for the orange juice. The cost of grove labor as a percentage of the export price of Brazilian orange juice shrinks each time the Brazilian Real loses value against the U.S. dollar, thus, increasing the profit margin obtained by the Brazilian processor. The increase in profits then sends false market signals throughout the Brazilian citrus industry causing it to overplant and overproduce. The overproduction gives way to lowered international orange juice prices, which reduce the value of Florida's processing oranges and diminish growers' profits. However, further devaluation prevents the Brazilian industry from feeling the squeeze of lower international prices, and the cycle continues. In this way, the highly developed Brazilian orange juice oligopoly is able to benefit from residing in a country with an underdeveloped and inflationary economy.

In an ideal free market world economy where basic and equivalent labor, environmental, and health/safety laws exist and are enforced, where world production and prices are not controlled by a single oligopolistic industry, and where currency devaluations do not tip the scales dramatically in favor of the foreign exporters, the law of natural advantages might outweigh arguments for tariff protection. However, Brazil's advantages are not "natural" and the playing field is grossly skewed. The tariff is the only offset on which this unsubsidized U.S. industry can rely to counter these "unnatural" advantages.

If U.S. orange juice tariffs are reduced or eliminated, the price of U.S. imports of bulk FCOJ from Brazil, as well as the futures contract prices of FCOJ and the U.S. wholesale price of orange juice, would fall rapidly. At the same time, the volume of U.S.

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<sup>5</sup> "Cost for Processed Oranges: A Comparison of Florida and São Paulo," Ronald P. Muraro and Thomas H. Spreen, IFAS, The University of Florida, presented at the Florida Citrus Industry Economics Meeting,

FCOJ imports from Brazil would increase significantly. The supply of U.S. juice oranges and orange juice, however, would remain constant in the short term, as they are not responsive to price.

It is important to understand that the U.S. supply of juice oranges is highly inelastic, because they are a natural, perishable product whose supplies are primarily dictated by the number of productive citrus trees in the United States, air temperature, amount of rainfall, and citrus tree diseases. Capacity utilization in citrus groves is always near 100 percent, because all wholesome citrus fruit is picked. Since it takes at least 4-5 years for an orange tree to begin bearing fruit and 25 years for it to stop bearing fruit, supplies cannot be manipulated in the short-run in response to price. Thus, given the inability of orange supplies to respond to juice prices, the U.S. on-tree price of juice oranges would immediately plummet and, in turn, cause grower rates of return to fall well below the break-even point, resulting in widespread grove closures.

The grove closures would leave unemployed over 42,000 citrus grove workers in Florida alone, and jeopardize the existence of all U.S. juice extractors and processors that depend on domestic citrus. It would also have grave consequences for the following upstream suppliers of the U.S. juice orange industry:

- nurseries that supply replacement trees to citrus groves,
- suppliers of fertilizer, fungicide, herbicide and insecticide to citrus groves,
- suppliers of irrigation and spraying systems, mechanical harvesters and farm implements,
- financial institutions, especially merchant banks that have citrus exposure,
- insurance companies that serve the citrus industry, and
- freight companies that haul citrus to processing plants and orange juice through the distribution system.

Since the land on which processing oranges are grown consists of very sandy soil with little agricultural value outside of citrus production, and the volume of all other fruit juices extracted in the United States combined pales in comparison to orange juice, the above upstream industries could not exist if orange juice production were no longer viable. In addition, because the production of about 75 percent of all processing oranges is concentrated in Central and South Florida, entire counties in these regions would be ravaged and their real estate values would tumble as thousands of groves would be abandoned, with no practical alternative land utilization.

#### **ECONOMIC EFFECTS ON THE CONSUMER**

Aside from the impact of unrestrained orange juice imports on the U.S. orange growing industry, the most highly touted benefit of free trade agreements -- lower prices to consumers -- would not be realized in the case of orange juice. Increasingly, the price of retail orange juice has not tracked the declines in processing orange prices nor the declines in wholesale and futures prices of FCOJ. On the contrary, retail prices have skyrocketed while processing orange and FCOJ prices have collapsed. What has happened is that orange juice retailers are charging the final consumer what the market will bear, which is apparently higher and higher each year, while the processors, reprocessors, and blenders, who buy their raw materials (FCOJ from Brazil or processing oranges from Florida growers) at plunging prices, all share in pocketing the significant juice mark-up. This pricing situation benefits the oligopolistic Brazilian processors two-fold because 1) they now own some of the processors in the United States that are benefiting from the mark-up, and 2) their low-priced FCOJ exports to the United States

depress the prices received by U.S. growers thus forcing many of them out of business and expanding the Brazilian processors' control over world orange juice supplies and prices.

Should U.S. tariffs on orange juice from Brazil be reduced or eliminated, this situation would be exacerbated, as the U.S. processors, reprocessors and blenders -- the first consumers of imported orange juice -- would reap the benefits of tariff reduction, while Florida growers of processing oranges would take a heavy hit. The final consumers of the imported orange juice would never see the price break supposedly derived from the tariff reduction. However, as the Brazilian processors amass greater and greater global market power, U.S. final consumers would eventually suffer the consequences of unrestrained orange juice prices.

In order to get a glimpse of the likely impact of tariff reductions in the market, one need only look at the record of bulk juice prices, returns to growers, and prices to consumers over the past ten years. As the U.S. tariff decline of 15% was forced on the market under the Uruguay Round Agreements, the global bulk juice price and average return to Florida growers declined steadily over that time, while the price of the finished product to consumers rose, seemingly disconnected from those underlying factors. The reason is that a dramatically concentrated global industry with almost limitless cheap resources will take full advantage of any declining constraint on its power represented by tariff cuts, to minimize its competition and maximize its profits, at the expense of consumers.

It must be understood that the U.S. citrus tariff is the only form of "assistance" U.S. orange growers receive, and it costs U.S. taxpayers nothing. Furthermore, because most duties paid on U.S. orange juice imports from Brazil are subject to duty drawback, the Brazilian processors effectively pay only about \$1.5 million, or 2.3 percent ad

valorem, in orange juice duties.<sup>6</sup> At the same time, non-citrus U.S. agriculture is now receiving over \$20 billion annually in direct government payments.<sup>7</sup>

It is by no means true that the United States has the highest agricultural tariffs in the hemisphere. According the FTAA Hemispheric Database, the following figures represent the percentages of tariff lines in each country's tariff schedule that have duties equivalent to 10 percent ad valorem or above:<sup>8</sup>

Brazil	68%
Argentina	67%
Venezuela	66%
Colombia	63%
United States	11%

#### CONCLUSION

The U.S. market is by far the most significant market we have. Unlike dairy and crop commodities, which are consumed throughout the world, orange juice is consumed primarily in the highly developed market economies of the United States and Europe. With Brazilian juice firmly entrenched in Europe at rock bottom prices, it only makes sense for Florida producers to concentrate on sales at home. Our growth in exports of specialty products, such as NFC, must necessarily be incremental and secondary to the

<sup>6</sup> Estimated by FCM based on the assumption that duties are drawn back on an amount of FCOJ imports from Brazil equal to 90 percent of U.S. FCOJ exports. In 2002, U.S. domestic exports of bulk FCOJ (2009.11.0060) were 441,664,083 liters. If we assume that 90 percent of these exports resulted in drawback, then import duties were drawn back on 397,497,675 liters of imports. In 2002, the import duty was 7.85¢/liter. Since 99 percent of import duties are drawn back, the amount of duties drawn back on 397,497,675 liters of imports would have been \$30,891,532. In 2002, 411,577,471 liters (valued at \$61,658,753) of bulk FCOJ were imported from Brazil, and \$32,308,827 in duties were collected on these imports. So, post-drawback, U.S. Customs netted only about \$1,417,295 (\$32,308,827 - \$30,891,532) in duties on Brazilian bulk FCOJ during 2002. This means that the tariff really only cost U.S. importers .34¢/liter (\$1,417,295/411,577,471 liters), which equals only 2.3% ad valorem (\$1,417,295/\$61,658,753) in 2002.

<sup>7</sup> "Farm Income and Costs, Direct Government Payments, ERS, USDA ([http://www.ers.usda.gov/briefing/farmincome/data/GP\\_T7.htm](http://www.ers.usda.gov/briefing/farmincome/data/GP_T7.htm)).

domestic market for FCOJ. While the Florida industry will continue to seek out new export markets, both for fresh and processed products, it is myopic to think that we are likely to be as large a factor in foreign markets as Brazil. We simply do not have the domestic subsidies we would need to compete with the Brazilians and Europeans in Europe. Furthermore, we cannot be there to develop those new foreign markets slowly over the many years it will take them to achieve higher disposable incomes, if the Florida industry is forced out of existence by the elimination of the tariff. We want to serve the U.S. market and we can do so without the huge government payments that other agricultural sectors receive. However, the U.S. orange juice tariff is necessary to offset the unfair or artificial advantages that lower the price of Brazilian juice.

Florida Citrus Mutual understands that free trade in many industries, including many agricultural industries, leads to increased competition, eventual price benefits to consumers, and overall global economic growth. Unfortunately, free trade cannot deliver these rewards to such a concentrated and polarized global industry, especially one in which the developing country's industry is, in fact, already the most highly developed in the world. Florida Citrus Mutual appreciates the opportunity to explain to the Committee the unique global structure of the orange juice industry and the negative economic effects that would occur as a result of U.S. tariff reduction or elimination.

I will be pleased to answer any questions.

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<sup>8</sup> FTAA Hemispheric Database online at <http://198.186.239.122/chooser.asp?Idioma=Ing>.



UNITED STATES HOUSE OF REPRESENTATIVES  
COMMITTEE ON AGRICULTURE

WRITTEN STATEMENT OF DENNIS McDONALD  
OPEN SPEAR RANCH, MELVILLE, MONTANA

INTERNATIONAL MARKETS COMMITTEE CHAIRMAN, RANCHER-CATTLEMEN ACTION LEGAL  
FUND, UNITED STOCKGROWERS OF AMERICA (R-CALF USA)

Chairman Goodlatte, members of the Committee, I am Dennis McDonald. Together with my wife, Sharon, we own the Open Spear Ranch in Melville, Montana. I am also proud to serve as Trade Committee Chairman of Ranchers-Cattlemen Action Legal Fund – United Stockgrowers of America (R-CALF USA). Our organization has worked tirelessly on behalf of the American cattle and livestock producer. Our focus has been on protecting and promoting the interests of independent livestock producers, and it is from that perspective that I come before you today. I appreciate the opportunity to provide these comments about issues that are very important to the cow-calf operators, backgrounders and independent ranchers who constitute the heart of this country's cattle and beef industry.

R-CALF USA supports many of USTR's efforts to reform trading conditions and rules in agriculture, including:

- elimination of export subsidies in place in countries such as Argentina, Brazil and the European Union, which lead to depressed prices for beef around the world;
- elimination of domestic support programs in the cattle and beef sector which have trade-distorting effects;

- action to reform State Trading Enterprises, like the Canadian Wheat Board, which also distort trade in cattle and beef by artificially controlling prices for barley, a widely-used feed for cattle in feed lots; and
- efforts to open up foreign markets to exports of beef, lamb and pork as a way to increase revenue to U.S. livestock producers by seeking the reduction of high tariffs and removal of other non-tariff barriers.

These are all important elements of our country's trade policy and agenda for agriculture, and R-CALF USA strongly supports USTR's efforts. There are, however, some other equally important elements that are currently missing. One element in particular is the need for special rules to address distinct issues associated with perishable, seasonal and cyclical agricultural products. That is what I would like to focus my comments on.

As a cattle producer, I can sell my cattle at different stages in their growth. I might sell my calves to backgrounders, or my feeders to feed lots, or my fed cattle to slaughter houses. Regardless of when I sell them all cattle prices depend upon prices for fed cattle that are ready to be sold for slaughter. When cattle are ready to be sold for slaughter, producers like me have only a very brief window of time of a few days to a week when the animals are at their peak. Once that window closes, I start to get penalized by the packing houses for the extra fat that the cattle are putting on in the feed lot. I obviously can't stop feeding them or hold them back waiting for better prices. Cattle prices are notoriously sensitive to even small changes in the volume of cattle and beef in the market. A surge in supply in imports of either can have a devastating effect on prices. If a surge occurs at the time that my fed cattle are ready to be sold for slaughter, I have the "choice" of selling them at a loss because of depressed prices caused by the surge or getting penalized for holding them too long while waiting out the effects of the surge. Where import surges may be the result of dumping or subsidization, trade remedies such as the

antidumping and countervailing duty laws, which can take a year or more to complete, do not operate quickly enough to address the immediate harm.

When Congress passed the Trade Act of 2002 (P.L. 107-210), Congress specifically addressed the problems faced by perishable, seasonal and cyclical producers as a principal negotiating objective for USTR in future trade agreements. Furthermore, Congress also specifically recognized cattle as a perishable, seasonal and cyclical agricultural product. Incorporating changes to the WTO that recognize the special needs of perishable, seasonal and cyclical products is critical to the health of our cattle and beef industry as well as the welfare of other perishable, seasonal, and cyclical agriculture producers.

In March of this year, USTR tabled a paper in the Doha Round Rules negotiations urging that the WTO members clarify and improve the rules for antidumping and countervailing duty investigations to take into account the unique challenges faced by producers of perishable, seasonal and cyclical agriculture. This was an important first step toward carrying out Congress' instructions and R-CALF USA looks forward to making the United States' proposals more specific and concrete as we approach the Cancun Ministerial. However, more needs to be done.

Although modifications to the antidumping and countervailing duty rules may make them more responsive to the special needs of perishable, seasonal and cyclical products, such modifications will not by themselves address the panoply of challenges faced by our nation's cattle industry when they are adversely affected by import surges. Under the Trade Act of 2002 the USTR was given a broader mandate by Congress to seek fundamental change at the WTO, not only with regard to the Rules negotiation but also as part of the Agricultural negotiations. As we move forward with liberalization this broader mandate must be pursued.

Neither the GATT nor the WTO has ever examined whether international trading rules, designed for industrial goods, should be applied on equal terms to perishable, seasonal and

cyclical agricultural products. Perishable, seasonal and cyclical products, like cattle, cannot be stored like industrial goods or non-perishable agricultural products such as grain or cotton.

When perishable, seasonal and cyclical products are ready for sale they must be sold; international trading rules designed for industrial goods do not currently take this into account. As Congress pointed out in the Trade Act of 2002, they should.

When faced with a surge of imports industrial good makers can ride out the surge by stocking inventory for a time, unfortunately this strategy is not available to a perishable producer like me. Likewise methods to address trade imbalances within the WTO are designed to impact product sales over a period of months and years; they are simply incapable of being applied effectively to perishable, seasonal and cyclical products. Trade remedies in perishable, seasonal and cyclical products need to kick in immediately when the problem was present. Those remedies should also be short in duration and terminate when the problem has eased. As an example, remedies could include a snap back provision to limit imports while price stabilization is realized.

A review of the draft agricultural modalities paper presented by Chairman Harbinson in Geneva does not discuss the special problems faced by perishable, seasonal and cyclical producers. USTR has been given a broad mandate by the Trade Act to engage the WTO in a discussion over the special problems faced by perishable, seasonal and cyclical producers. Since passage of the Trade Promotion Act last year, however, USTR has not changed the agricultural proposals of the United States to include issues relating to perishable, seasonal and cyclical products. USTR should act so that these special problems are addressed before the modalities are finalized.

While not the only approach to alleviate the special problems faced by perishable agricultural producers, one example of a simple fix to the problem is to modify the existing

special safeguard provisions contained in Art. 5 of the Agreement on Agriculture to tailor them to apply only to perishable, seasonal and cyclical agricultural products. Regardless of what the final solution to the problem might be the critical point, however, is that the needs of perishable producers are currently not being discussed at the WTO; indeed, it is not even on the agenda. USTR must act now to address these concerns.

Absent something that addresses these concerns, livestock producers face the worst of all possible worlds given the current draft on modalities being discussed. Under the current draft, developing countries would be given special and differential treatment and could maintain import prohibitions on import sensitive agricultural sectors while developed countries could not. Under this scenario a large number of major livestock producing countries could maintain restrictions on imports of cattle and beef products from the United States while we would have no ability to likewise discipline our imports. Indeed, USTR has proposed elimination of all tariff-rate quotas and special safeguards on agricultural products. Thus, U.S. cattle producers would be left without any remedy in the event of an import surge of beef from developing countries, which would be accompanied by collapsing prices throughout the supply chain, and no meaningfully improved access to their markets.

Rather than unilaterally removing existing restrictions, the United States should be exploring ways in which to best address the problems of perishable and cyclical agricultural producers. If we cannot achieve agreement on special measures to address perishable and cyclical agricultural products, then USTR should seek parity of tariffs among our trading partners and ourselves on beef and, in the interim, we should maintain current existing TRQs and Special Safeguards on beef imports.

Let me close with a few words about the proposed free trade agreement with Australia and the Free Trade Area of the Americas. As I've indicated, R-CALF USA supports

reciprocally-based fair trade and as such requests that the tariffs of live cattle within a FTAA or in a FTA with Australia be reduced to zero at an expedited rate.

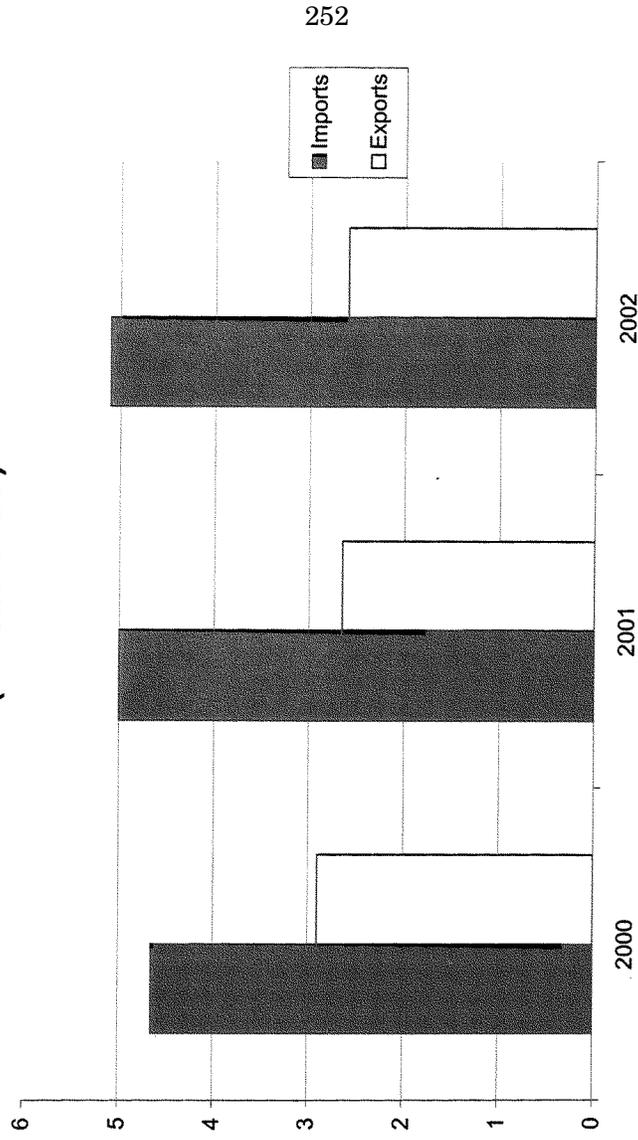
Further, as indicated above, the elimination of TRQs as such is not a concern for us unless such elimination is not accompanied by recognition of the special nature of perishable, seasonal and cyclical agriculture in the Doha Round and special rules to address import surges in an expeditious and effective manner. If these issues are not addressed in the WTO agriculture negotiations, then the United States must maintain TRQs on beef as part of the Doha Round and those TRQs should remain in place as part of the FTAA or any future FTA including the one with Australia.

In conclusion, the United States currently faces a large and growing trade deficit in terms of our total imports of beef/veal and cattle versus our total exports of beef/veal and cattle. Since 2000 total beef/veal and cattle exports, as converted to pounds has fallen from 2.9 billion pounds to 2.6 billion pounds while beef/veal and cattle imports have risen from 4.65 billion pounds in 2000 to 5.1 billion pounds last year. See Exhibit. While we applaud the Administration's efforts to expand U.S. exports and reduce subsidies, we believe that this deficit also illustrates the need to develop comprehensive solutions to the problems faced by perishable, seasonal and cyclical agriculture in the Doha Round. In absence of such comprehensive solutions we believe the United States should not agree to eliminating our own beef TRQ while providing special and preferential protections to developing countries.

Thank you,

Dennis McDonald

### U.S. Trade Deficit in Cattle & Beef (billions of lbs.)



252

Cattle converted to carcass weight  
Source: Montana State Univ. - Bozeman  
USDA-ERS

**Testimony of  
Jack Roney  
Director of Economic and Policy Analysis  
American Sugar Alliance**

*Hearing on Agricultural Trade Negotiations*

**Committee on Agriculture  
U.S. House of Representatives  
Washington, D.C.  
June 18, 2003**

Thank you, for the opportunity to testify on behalf of the American Sugar Alliance. The ASA is the national coalition of growers, processors, and refiners of sugarbeets, sugarcane, and corn for sweetener.

We would like to present the U.S. sugar industry's views on the World Trade Organization (WTO) and bilateral and regional free trade agreement (FTA) negotiations, with some focus on the "Harbinson text" that is the current basis of WTO negotiations.

**SUMMARY**

The U.S. sugar industry is competitive, and supports the goal of genuine global free trade in sugar. We are prepared to compete in a global environment free of government distortions. But we insist that the only way to achieve this goal is through carefully structured, comprehensive, and effective reforms in the WTO, and not in FTAs. In the WTO context, care must be taken to ensure that reforms are comprehensive and effective, but the Harbinson approach will not achieve this.

We must not allow ourselves to be rushed into flawed agreements – in the WTO or in FTAs – that could have disastrous results for our industry and the rest of U.S. agriculture.

**Support for WTO Negotiations and Free Trade in Sugar.** American sugar producers are competitive and efficient, with costs of production below the world average. We would welcome the opportunity to compete on a level playing field, free of all government intervention. For this reason, we have long endorsed the goal of genuine global free trade in sugar.

Unfortunately, the world sugar market is highly distorted by a vast array of government subsidies and practices – so distorted that the so-called world market price for sugar has averaged barely half the world average cost of producing sugar for the past two decades.

The only way to achieve the goal of free trade in sugar is to address all these practices, in all countries, through comprehensive, multilateral, sector-specific negotiations in the WTO.

**Dangers of FTA Approach to Trade Liberalization.** The distorted world sugar market can *not* be corrected through bilateral or regional free trade agreements:

- FTAs leave distortions in the rest of the world untouched.
- FTAs leave the free trade area vulnerable to the harmful effects of subsidies outside the region.
- FTAs undercut our efforts to remove such policies in the WTO.

The Administration has recognized some of these dangers and wisely decided *not* to address domestic price supports in FTAs, but rather to reserve price-support negotiations for the WTO.

To our dismay, however, the Administration has decided to treat sugar differently.

U.S. sugar policy, alone among U.S. price-support programs, is based upon import tariffs. It is a no-cost policy, with no price or income supports paid to American sugar producers.

But the Administration is proposing FTAs that would eliminate U.S. sugar import tariffs and undermine the U.S. sugar price-support system, without addressing sugar-price supports and other subsidy programs in the other countries.

How foolish it would be for us to reduce our import tariffs while foreign exporters are still subsidizing – and put efficient American sugar producers out of business.

Globally, there is ample precedent for excluding sugar market-access disciplines from FTAs. Sugar has been excluded from:

- The U.S.-Canada FTA;
- The Mercosur FTA, among Brazil, Argentina, Paraguay and Uruguay;

- Mexico's FTAs with other Latin American countries;
- The European Union's FTAs with Mexico and with South Africa.

There is one exception. The only major FTA in which sugar market-access provisions *were* included is the U.S.-Mexico portion of the NAFTA. The controversy surrounding the sugar and corn sweetener provisions of the NAFTA has been enormous, and a severe strain on U.S.-Mexico relations.

This, and compliance issues on other commodities, have left many American farmers questioning the value of FTAs in which the only concessions that appear to be enforced are the concessions made by the United States.

The United States is already one of the world's largest sugar importers. All this sugar, from 41 countries, enters at the U.S. price, not the world dump market price, and virtually all duty free.

Forcing the United States to import more sugar than it needs – as the FTAs would do – would over-supply our market. These countries export over 27 million tons of sugar per year (*Figure 1*) – that's nearly triple U.S. sugar consumption.

The results would be disastrous for domestic producers and for foreign suppliers:

1. Prices would fall, driving more American sugar farmers out of business. Nearly a third of all U.S. sugarbeet and sugarcane mills have closed just since 1996, primarily because of low prices.
2. Low prices would also cause forfeitures of sugar loans to the government, and substantial government costs, contrary to the law Congress just passed in the 2002 Farm Bill. Congress instructed USDA to operate U.S. sugar policy at no cost to taxpayers by avoiding sugar loan forfeitures, making sugar the only no-cost commodity program.
3. Low U.S. sugar prices would harm the economies of the countries that normally export to the U.S. All but two of the 41 quotalholding countries are developing countries. Many of these countries have been dependent on their guaranteed share of the U.S. sugar market, at U.S. prices rather than at world dump market prices – their only sugar export market where they can hope to recover their costs of production and generate foreign exchange revenues.

Clearly, the only way to address the world of trade-distorting practices in sugar is comprehensively and globally, with all-inclusive sector-specific negotiations in the WTO, not piecemeal and regionally in FTAs.

**Concerns Regarding Harbinson Text.** But even in the WTO, we must be cautious. The Harbinson text falls dreadfully short of providing global sugar reform. Its major shortcomings:

- Harbinson does too little on domestic supports. Failure to harmonize will lock in, rather than narrow, vast differences in price support levels.
- Harbinson does too little on export subsidies – too long a phase out period – much longer than that provided for import tariff cuts.
- Harbinson does far too much for developing countries, virtually excluding them from any serious disciplines. This is an enormous concern for sugar. Developing countries account for three-quarters of world sugar production and trade. Exclude these countries, and you have no real reform, no real chance the world dump market price for sugar could rise to reflect the actual cost of producing sugar.

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The following provides some background on the unique characteristics of the U.S. and world sugar market and policies and additional detail regarding our views on the WTO and FTAs.

#### **BACKGROUND ON U.S. AND WORLD SUGAR MARKETS, POLICIES**

**Size and Competitiveness.** Sugar is grown and processed in 16 states and 372,000 American jobs, in 42 states, are dependent, directly or indirectly, on the production of sugar and corn sweeteners. The industry generates an estimated \$21.1 billion in economic activity annually.<sup>1</sup> A little more than half of domestic sugar production is from sugarbeets, the remainder from sugarcane. More than half our caloric sweetener consumption is in the form of corn sweeteners.

The United States is the world's fourth largest sugar-producing country, trailing only Brazil, India, and China. The European Union (EU), taken collectively, is second only to Brazil.

Despite large U.S. production, the United States' sugar market is one of the most open. The U.S. is consistently among the world's three or four largest sugar importers.

The Uruguay Round Agreement on Agriculture in 1995 required imports of only 3-5 percent of consumption. But the United States bound its sugar imports at a level several-fold higher – a minimum of 1.256 million short tons, or nearly 15 percent of consumption, essentially duty-free. The U.S. actually imported nearly twice the minimum in 1996 and 1997, and has imported at least the minimum each year since.

Moreover, the NAFTA requires the United States to import up to 276,000 additional short tons of Mexico's surplus production. Under both agreements, the U.S. must import this sugar whether the domestic market requires it or not.

All but two of the 41 countries supplying sugar to the United States are developing countries, many with fragile economies and democracies. These countries depend heavily on sales to the United States, at prevailing U.S. prices, to cover their costs of production and generate foreign exchange revenues. More than half of these 41 countries produce sugar at a higher cost than U.S. beet and cane sugar producers.

Despite some of the world's highest government-imposed costs for labor and environmental protections, U.S. sugar producers are among the world's most efficient. According to a study by LMC International, of England, and covering the 5-year period ending in 1998/99, American sugar producers rank 28th lowest in cost of production among 102 producing countries, most of which are developing countries.<sup>2</sup> According to LMC, more than half the world's sugar is produced at a higher cost per pound than in the United States.

U.S. beet producers are the second lowest cost beet sugar producers in the world. U.S. cane sugar producers are 26<sup>th</sup> lowest cost of 63 cane producing countries, virtually all of which are developing countries with dramatically lower labor and environmental costs. American corn sweetener producers are the world's lowest cost producers of corn sweetener.

LMC pointed out that the U.S. competitiveness ranking is all the more impressive for two reasons: First, most sugar-producing countries are developing-country cane producers, with much lower government-imposed labor and environmental protection costs than the United States'. Second, the strong value of the dollar. LMC noted, in its 2000 study, that the dollar had soared about two-thirds in the previous 20 years against the currencies of most other cane-producing countries.

**World Dump Market.** More than 120 countries produce sugar and the governments of all these countries intervene in their sugar markets and industries in some way, the result of which is artificially low world sugar prices. Examples abound. Brazil, the world biggest producer and exporter, built its sugar industry on two decades of fuel alcohol subsidies, which became sugar subsidies, whether the Brazilian cane was used for alcohol or sugar. Sugar markets in India and China, the second and third biggest producing countries, are carefully controlled by the government, and the market in Australia, the world's third leading sugar exporter, is managed by a state trading enterprise (STE).<sup>3</sup>

A recent study by LMC International focused on the trade distorting practices among 14 countries or regions that are among the world's top sugar producers and consumers. LMC documented that these practices are not only numerous, but that many do not fall within the traditional WTO disciplines for domestic supports, import tariffs and export subsidies. Many are indirect, or less transparent, subsidies and practices that are just as distorting, but have not heretofore been addressed in trade negotiations. (*Figure 2 summarizes LMC's most recent findings on direct and indirect subsidies in 14 countries/regions.*<sup>4</sup>)

World trade in sugar has always been riddled with unfair trading practices. These distortions have led to a disconnect between the cost of production and the prices on the world sugar market, more aptly called a "dump market." Indeed, for the 16-year period of 1983/84 through 1998/99, the most recent period for which cost of production data are available, the world average cost of producing sugar was 16.3 cents, while the world dump market price averaged little more *half* that – just 9.5 cents per pound raw value<sup>2</sup>.

Furthermore, its dump nature makes sugar the world's most volatile commodity market. In the past 2-1/2 decades, world sugar prices have soared above 60 cents per pound and plummeted below 3 cents per pound. Because it is a relatively thinly traded market, small shifts in supply or demand can cause huge changes in price.

Suggestions by industrial sugar users and some foreign governments that world sugar trade should be opened ignore this pattern of almost universal market distortion. Even the trade laws of the United States were never meant to cope with such widespread unfairness in trade.

In its study of foreign sugar subsidies, LMC International found that, in virtually every sugar-producing country, domestic wholesale refined sugar prices – the prices producers receive for their sugar – are well above world dump market prices – on average, about double. In developed countries, the average wholesale-refined sugar price is more than triple the world dump market price. This explains why producers

around the world can continue to produce sugar, year after year, though the world price is so depressed. (Figure 3 summarizes LMC wholesale price findings.<sup>4</sup>)

**Sugar Unique among Agricultural Commodities.** In addition to the highly residual and volatile nature of the world sugar price, there are a number of other factors that set sugar apart from other program commodities. These unique characteristics must be taken into account when considering domestic and trade policy options for sugar.

- *Grower/processor interdependence.* Grain, oilseed, and most other field-crop farmers harvest a product that can be sold for commercial use or stored. Sugarbeet and sugarcane farmers harvest a product that is highly perishable and of no commercial value until the sugar has been extracted. Farmers cannot, therefore, grow beets or cane unless they either own, or have contracted with, a processing plant. Likewise, processors cannot function economically unless they have an optimal supply of beets or cane. This interdependence leaves the sugar industry far less flexible in responding to changes in the price of sugar or of competing crops.
- *Multi-year investment.* The multimillion-dollar cost of constructing a beet or cane processing plant (approximately \$300 million), the need for planting, cultivating, and harvesting machinery that is unique to sugar, and the practice of extracting several harvests from one planting of sugarcane, make beet or cane planting an expensive, multiyear investment. These huge, long-term investments further reduce the sugar industry's ability to make short-term adjustments to sudden economic changes in the marketplace.
- *High-value product.* While the *gross* returns per acre of beets or cane tend to be significantly higher than for other crops, critics often ignore the large investment associated with growing these crops. Compared with growing wheat, for example, USDA statistics reveal the *total economic cost* of growing cane is nearly seven times higher, and beet is more than five times higher. With the additional cost for processing the beets and cane, sugar is really more a high-value product than a field crop.
- *Inability to hedge.* Program changes dating back to the 1996 Freedom to Farm Bill made American farmers more vulnerable to market swings and far more dependent on the marketplace. Growers of grains, oilseeds, cotton, and rice can reduce their vulnerability to market swings by hedging or forward contracting on a variety of futures markets for their commodities. There is *no* futures market for beets or cane. Farmers do not market their crop and cannot make or take delivery of beet or cane sugar. The hedging or forward

contracting opportunities exist only for the processors – the sellers of the sugar derived from the beets and cane. These marketing limitations make beet and cane farmers more vulnerable than other farmers to price swings.

- *Lack of concentration.* World grain markets are overwhelmingly dominated by a small number of developed countries, but sugar exports are far more dispersed, and dominated by developing countries. This makes the playing field among major grain exporters comparatively level and trade policy reform relatively less complicated than for sugar.
- The world wheat and corn markets, for example, are heavily dominated by a handful of developed-country exporters – the United States, the European Union, Australia, and Canada are four of the top five exporters of each. The top five account for 96% of global corn exports and 91% of wheat exports.
- The top five sugar exporting countries, on the other hand, account for only two-thirds of global exports and three of these are developing countries. Even the top 19 sugar exporters account for only 85% of the market, and 16 of these are developing countries.
- *Developing-country dominance.* Developing countries account for about three quarters of world's sugar production, exports, and imports. Developing countries were, however, not required to make any significant reforms in the Uruguay Round, were given an additional four years to make even those modest changes, and are demanding special treatment again in the Doha Round of the WTO.

#### **U.S. SUGAR INDUSTRY'S FREE TRADE POSITION**

Because of our competitiveness, the U.S. sugar industry endorses the goal of genuine, multilateral free trade in sugar. We have endorsed this goal since the onset of the Uruguay Round of the GATT in 1986. We are ready, willing, and able to compete with foreign farmers on a level playing field, free from all forms of government intervention in the marketplace.

In our view, when all governmental policy distortions have been removed, the world sugar price will finally rise to reflect the actual cost of producing sugar. Since our costs of production are below the world average, we will be able to compete, without the need for a U.S. sugar policy.

We cannot endorse free trade at any cost, nor do we endorse unilateral disarmament of U.S. agricultural policies. Progress toward free trade must be made on a fair,

genuine, and comprehensive basis, through sector-specific negotiations. A comprehensive agreement needs to address the market distortions of all the producers and be implemented in a well coordinated and timely manner.

As long as foreign subsidies drive prices on the world market well below the global cost of production, the United States must retain some border control. U.S. sugar policy is a necessary response to the foreign predatory pricing practices that threaten the more efficient American sugar farmers.

Genuine liberalization of trade in sugar must address all market distortions and circumvention, not just import barriers. This will take some doing – the varieties of trade distortions are so widespread, so numerous, and so ingrained. Bilateral and regional trade agreements are able to address only a fraction of these policies, and, thus, cannot be an effective vehicle for reform of the world sugar market. Only a comprehensive, sector-specific approach can be effective.

Such a sector-specific approach would involve the following elements:

- Timely elimination of export subsidies;
- Inclusion of all trade-distorting governmental policies and practices, including indirect or non-transparent policies, affecting sugar in the negotiations;
- Negotiation of commitments to curb or eliminate such policies and practices, in particular those that facilitate and encourage dumping onto the world market;
- Agreement on a well-coordinated implementation schedule for these commitments, encompassing developing countries (which account for three-quarters of world sugar production and trade), aimed at maximizing the positive impact on the world market; and
- Careful attention to the importance of existing preferential TRQ arrangements to many of the smaller, economically fragile developing countries, and to the impact of WTO reform on these countries.

#### **CONCERNS REGARDING THE HARBINSON TEXT OF THE WTO**

Though American sugar producers strongly endorse comprehensive WTO negotiations as the only effective way to address the vast distortions in the world

sugar market, we cannot endorse the approach outlined by WTO Agriculture Committee Chairman Harbinson.

The Harbinson proposal would fail to remove major distortions in the world sugar markets and would particularly harm developed-country sugar producers – even those, like the United States’, who already have relatively open sugar markets and who are relatively efficient producers.

We have a number of serious concerns with the Harbinson approach, most of which we share with the Administration and the rest of American agriculture.

1. **Special and Differential Treatment for Developing Countries.** Developing countries account for 75 percent of world sugar production and trade. Many of these are large producing and exporting developing countries, with highly sophisticated industries. But the Harbinson text creates more exceptions and loopholes for developing countries, and provides much longer transition periods than for developed countries. Furthermore, Harbinson removes critical import safeguards for developed countries, but expands them for developing countries.

*WTO reform in sugar can only be fair and effective if it imposes the same level of commitment and the same transition schedule on all significant producing, exporting, and importing countries.*

2. **Export Competition.** The Harbinson text fails to address sugar’s biggest problem – pervasive dumping onto the world market. The Harbinson proposal:
  - Provides an excessively long phase-out period for export subsidies—twice that for tariff cuts;
  - Fails to address export monopolies (State Trading Enterprises – STEs) adequately;
  - Fails to address many indirect, non-transparent policies that cause dumping or otherwise distort the world market; and,
  - Fails to address currency devaluations.

*Instead, direct and indirect export subsidies and other policies that cause dumping must be eliminated in a short transition period.*

3. **Domestic Supports.** Massive reductions from current support levels would put U.S. producers out of business, because the Harbinson approach would not

restore health to the world sugar market and because it does not harmonize widely varying support levels, leaving farmers in the EU and Japan, for example, with significant advantages.

Furthermore, Harbinson fails to address labor and environmental standards and enforcement – a particularly important element in the world sugar market, given the dominance of developing-country producers.

*Strong commitments to eliminate export subsidies, and other trade-distorting practices that cause dumping, would raise world sugar prices to levels reflecting average world costs of production, and are the key to closing the gap between domestic support levels and world prices.*

4. **Market Access.** The Harbinson text proposes huge reductions in import tariffs without effectively addressing foreign dumping, export subsidies, and domestic supports, and many other trade-distorting practices. This would destroy the U.S. sugar industry, since import tariffs are the only remaining defense against unfair predatory trade practices.

*Instead, the WTO must condition import tariff reductions on timely reforms in export competition, covering all policies that significantly distort trade, and must ensure that effective, timely safeguards must be available.*

5. **Timing.** The Harbinson text fails to recognize the critical importance of sequencing the reforms in the sugar sector.

*Instead, the WTO must carefully sequence the implementation of commitments, with coordination and timing aimed at restoring health to the world sugar market, without endangering efficient, unsubsidized producers.*

#### **U.S. SUGAR INDUSTRY POSITION ON BILATERAL AND REGIONAL FREE TRADE AGREEMENTS**

The U.S. sugar industry recommends that, within the framework of the many bilateral and regional FTAs the United States is negotiating, sugar be reserved for much needed, and more far reaching, disciplines in the multilateral, WTO context.

We understand, from contact with the sugar industries of some Latin American countries, that a number of these countries are requesting that sugar not be included in the regional negotiations.

The following are the major reasons for, and advantages of, reserving sugar for WTO disciplines:

1. **The U.S. would be overrun with subsidized FTA sugar.** The United States is pursuing bilateral or regional FTAs with 44 countries, 28 of which produce and/or export significant amounts of sugar. All provide some type of government support for their sugar producers. Combined, these countries produce nearly 53 million metric tons of sugar per year and export over 27 million (*Figure 1*). That's nearly triple annual U.S. sugar consumption of less than 10 million tons.

The United States is required to import as much as 1.5 million tons per year under previous WTO and NAFTA concessions, whether we need that sugar or not. Recently, we have not required that much foreign sugar, but U.S. producers have accepted limits on their domestic sugar sales in order to accommodate our import commitments.

In this context, it is clear that even one of the FTA's the U.S. is pursuing could overwhelm the U.S. sugar market. Looking, for example, at just the two FTAs the Administration is attempting to complete this year – with Central America (CAFTA) and with Australia: The CAFTA countries export 2 million tons of sugar per year and Australia nearly 4 million. The 6 million tons of exports from these two regions alone would be quadruple our recent import levels and nearly equal to U.S. sugar production, which totals about 8 million tons.

*The Brazil threat to all FTAA countries.* The largest FTA the United States is undertaking is the Free Trade Area of the Americas (FTAA), encompassing 34 Western Hemisphere countries, 24 of which are significant sugar exporters. Inclusion of sugar in this FTA would have disastrous consequences not just for the United States, but every sugar-producing country in the Americas, except one -- Brazil.

During the latter half of the 1990's, a period when the world sugar price was dropping from 14 cents per pound to just 4 cents, Brazil doubled its sugar production and tripled its exports. It became, by far, the world's leading producer and exporter of sugar.

Brazil's sugar exports have skyrocketed in one decade from less than 2 million tons per year to 14.2 million tons this year. No country has done more than Brazil to depress world sugar prices, harm sugar-exporting countries, and cause severe economic stress to developing countries dependent on sugar exports. No other country comes even close.

Brazil's sudden expansion had nothing to do with world sugar demand or prices. Brazil's sugar explosion, instead, was the result of decisions by the Brazilian government to reduce subsidies and prices for fuel alcohol (ethanol) produced from Brazilian sugarcane. Brazilian cane processors tend to base their decision on whether to produce ethanol or sugar mainly on ethanol price and subsidy levels. Less than half of Brazilian sugarcane is used to produce sugar. Roughly 60 percent of Brazilian cane goes to ethanol production.

Brazil's "Proalcool" program, established in 1975, subsidized the modification or construction of a massive network of cane mill/distilleries to produce ethanol and reduce Brazil's dependence on foreign oil. Consumer prices for ethanol were subsidized to encourage use. As a result, Brazilian sugarcane production shot up from less than 70 million tons in 1975 to more than 370 million tons in recent years. Studies have estimated the value of Brazil's ethanol subsidy at more than \$3 billion per year.<sup>5</sup>

The existence of an enormous infrastructure of mills/distilleries, built with government subsidy, enables Brazil to switch easily between ethanol and sugar production, depending on oil prices and government decisions on how much ethanol to produce. The leap in Brazilian sugar production in the latter half of the 1990's, as world sugar prices were plummeting, was the direct result of government decisions to reduce ethanol subsidies and prices.

The ability to co-produce sugar within the government-subsidized infrastructure built for cane ethanol provides a tremendous savings to the Brazilian sugar industry. LMC International estimates cost savings from co-production – from factors such as sugar house configuration (producing ethanol or sugar from the same mill), molasses by-product credits, extended milling seasons, and economies of scale – at "almost US\$1 billion" per year.<sup>4</sup>

Brazil's sugar-export explosion in the late 1990's was also aided by a government decision during that period to reduce the value of the Brazilian currency by nearly 50 percent, artificially keeping Brazilian exports competitive.

Furthermore, Brazil's sugar producers have benefited, directly or indirectly, from other government assistance, including:

- Debt reductions or cancellations for sugar/ethanol companies.
- Freight and other infrastructural subsidies for sugar, ethanol, and other products.

- Direct subsidies to growers in the Northeast region.
- Labor and environmental practices that are extremely low by most world standards.
  - The U.S. Department of Labor and others have documented the widespread and deplorable use of child labor in the Brazilian sugarcane industry, despite Brazilian laws forbidding such practices.<sup>6,7,8,9,10</sup>

2. **Danger to no-cost operation of U.S. sugar policy.** The U.S. sugar market does not require additional foreign sugar, through the FTAs or any other trade negotiation. Oversupply depressed U.S. prices to 22-year lows during much of 1999-2001 and contributed to the closure of almost a third of all U.S. beet and cane mills during 1996-2002.

The 2002 Farm Bill restored stability to the domestic market by retaining limits on imports of foreign sugar and by reinstating the USDA's authority to impose domestic marketing allotments. The sugar title of that Bill instructed USDA to operate U.S. sugar policy at no cost to U.S. taxpayers, by maintaining stable producer prices and avoiding sugar loan forfeitures. Without import constraints, however, market balance and price stability would be unachievable.

The Administration has wisely decided *not* to address domestic price supports in FTAs, but rather to reserve price-support negotiations for the WTO. The Administration has, however, decided to treat sugar differently.

U.S. sugar policy, alone among U.S. price-support programs, is based upon import tariffs. It is a no-cost policy, with no price or income supports paid to American sugar producers. But the Administration is proposing FTAs that would eliminate U.S. sugar import tariffs and undermine the U.S. sugar price-support system, without addressing sugar-price supports and other subsidy programs in the other countries. The Administration apparently is willing to reduce our import tariffs while foreign exporters are still subsidizing – and put efficient American sugar producers out of business.

Excessive imports would have either of the following consequences:

- Marketing allotments could be triggered off, negating USDA's ability to manage supplies, defend prices, and avoid loan forfeitures and substantial costs to the government.

- USDA would reduce U.S. producers' marketing allotments to the point where they would lose economies of scale, face higher unit costs, and would likely go out of business.

Neither outcome is acceptable. In either, or both, instances, the U.S. government faces high costs and American sugar farmers risk being put out of business to accommodate subsidized foreign producers.

3. **Sugar is *not* included in most bilateral and regional agreements.** Because of the uniquely distorted nature of the world dump market for sugar and because of a wide range of border control issues, sugar has overwhelmingly been excluded from bilateral and regional free trade agreements. The Food and Agriculture Organization of the United Nations has noted: "There are 124 regional trade agreements worldwide at this time, most of which substantially exclude sugar."<sup>11</sup>

Some examples, as noted briefly in the Summary of this testimony:

- Sugar is excluded from the Mercosur agreement among major producers Argentina and Brazil, with Uruguay and Paraguay.
- Though Mexico reportedly has more bilateral and regional trade agreements than any other country, it has excluded sugar from virtually every one, including its recent agreement with the European Union, the world's second largest exporter of sugar. In agreements where sugar is included, Mexico has committed only to import sugar from that country when Mexico needs the sugar.
- Sugar is excluded from the U.S.-Canada portion of the NAFTA, which defers to WTO disciplines instead.
- Sugar is excluded from the EU's free trade agreement with South Africa, also a major sugar exporter.

*NAFTA controversy.* Sugar is included in the U.S.-Mexico portion of the North American Free Trade Agreement (NAFTA), but the sweetener provisions are embroiled in controversy. Mexico is blocking imports of U.S.-made corn sweeteners that compete with sugar in Mexico, and Mexico insists on accelerating the NAFTA schedule of its sugar access to the U.S.

In addition, we have experienced import leakage – of blended product from Canada and above-quota sugar from Mexico.

Our experience with Mexico in the NAFTA has left American sugar producers highly skeptical of the value and credibility of trade agreements, and more cautious about moving forward in bilateral, regional, or multilateral contexts.

*“Substantially all” precedent.* WTO rules provide that free trade agreements should cover not all, but rather “substantially all,” trade between participant countries. This provision has been invoked by the EU, Mexico, and other countries in the free trade agreements mentioned above that exclude sugar, or, in some cases, most agricultural products.

4. **FTA countries already dominate U.S. sugar imports.** With regard to granting FTA countries preferential access to the U.S. sugar market: We are already there. Twenty-seven of the 44 countries with which the United States is engaging in FTA negotiations are significant raw sugar exporters. The United States already provides guaranteed access to the U.S. market, at the U.S. price, *to all 27 countries*. This access is duty free for all but two (Brazil and Australia, non-GSP countries, pay a nominal first-tier duty). Taken as a whole, these FTA countries already account for 77 percent of the U.S. raw sugar import quota (*Figure 1*).

Furthermore, according to LMC statistics many of the FTA countries produce sugar at a higher cost per pound than the United States.<sup>2</sup> American sugar producers feel strongly that their market is already more open than necessary to producers who are predominantly no more efficient, but are most probably subsidized in some significant manner.

5. **Increased potential for import-quota circumvention.** In a world market so rife with government distortions of markets, the incentive to evade measures for limiting the harmful impact of such unfair trade practices is very high. Many of these evasive schemes depend on exporting dump market sugar to countries that do not produce much or any sugar, where processors blend this dump market sugar with other products that are not subject to the measures that restrain unfair trade.

Bilateral and regional free trade agreements can make this problem worse, by multiplying the number of such “blending platforms” to include virtually all the countries in the agreement. This is especially a problem in the Americas, where so many developing partners are sugar producers. These import-quota circumvention problems can be avoided by negotiating comprehensively, in the WTO. Or, the Executive Branch can try to address circumvention practices in regional and bilateral agreements, by explicitly preventing such schemes to avoid U.S. law.

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Figure 1

**Potential U.S. Free Trade Agreement (FTA) Countries/Regions:  
Sugar Production and Exports, 2001/02 - 2003/04 Average, and  
Share of U.S. Raw Sugar Import Quota, 2002/03**

<u>Country</u>	<u>Production</u>	<u>Exports</u>	<u>U.S. TRQ Allocation</u>
		-Metric Tons-	
<u>North America</u>			
Mexico	5,135,000	182,000	7,258
Canada	50,000	14,000	---
<u>Caribbean<sup>1</sup></u>			
Barbados	47,000	41,000	7,371
Dominican Republic	465,000	185,000	185,335
Haiti	10,000	0	7,258
Jamaica	175,000	138,000	11,583
St. Kitts & Nevis	24,000	18,000	7,258
Trinidad & Tobago	102,000	68,000	7,371
<u>Central America</u>			
Costa Rica	385,000	155,000	15,796
El Salvador	476,000	255,000	27,379
Guatemala	1,821,000	1,327,000	50,546
Honduras	332,000	78,000	10,530
Nicaragua	361,000	179,000	22,114
<b>CAFTA Total</b>	<b>3,375,000</b>	<b>1,994,000</b>	<b>126,365</b>
Belize	120,000	102,000	11,583
Panama	165,000	55,000	30,538
<b>North America Total<sup>2</sup></b>	<b>9,668,000</b>	<b>2,797,000</b>	<b>401,920</b>
<u>South America</u>			
Argentina	1,633,000	206,000	45,281
Bolivia	368,000	116,000	8,424
Brazil	22,187,000	12,750,000	152,691
Colombia	2,458,000	1,103,000	25,273
Ecuador	492,000	52,000	11,583
Guyana	294,000	261,000	12,636
Paraguay	110,000	21,000	7,258
Peru	960,000	41,000	43,175
Uruguay	140,000	21,000	7,258
<b>South America Total</b>	<b>28,642,000</b>	<b>14,571,000</b>	<b>313,579</b>
<b>FTAA Total<sup>2</sup></b>	<b>38,310,000</b>	<b>17,368,000</b>	<b>715,499</b>
<b>% of U.S. TRQ</b>			<b>64.0%</b>
South Africa	2,709,000	1,395,000	24,221
Swaziland	542,000	516,000	16,850
<b>SACU Total</b>	<b>3,251,000</b>	<b>1,911,000</b>	<b>41,071</b>
<b>Australia</b>	<b>4,971,000</b>	<b>3,913,000</b>	<b>87,402</b>
<b>Thailand</b>	<b>6,030,000</b>	<b>4,085,000</b>	<b>14,743</b>
<b>FTA Total</b>	<b>52,562,000</b>	<b>27,277,000</b>	<b>858,715</b>
<b>% of U.S. TRQ</b>			<b>76.9%</b>

1) Excludes Cuba.

2) Excludes United States.

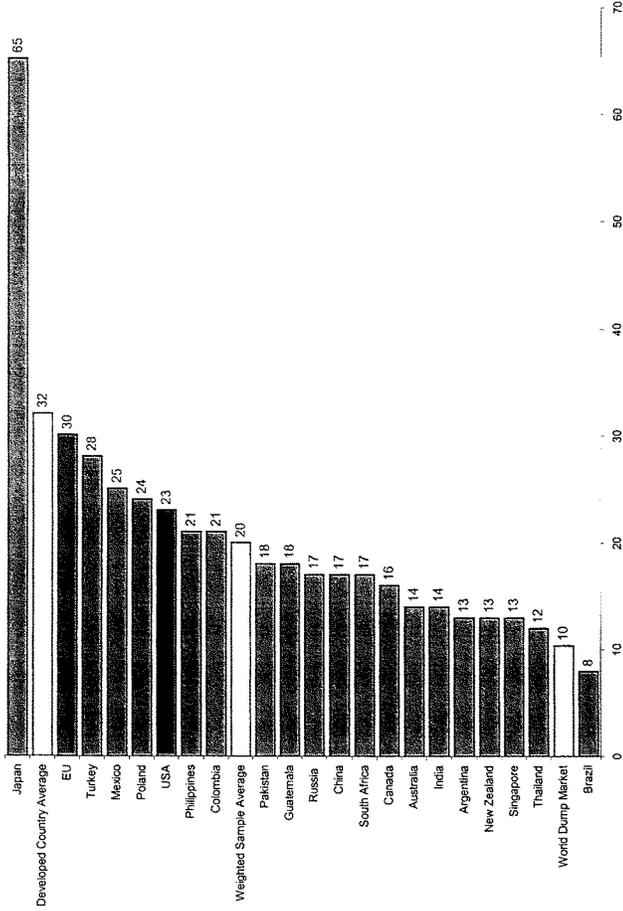
Data Source: USDA/FAS, May 2003.

Figure 2  
Summary of Support for Sugar Industry in Selected Countries, 2002

	Australia	Brazil <sup>1</sup>	China <sup>4,5</sup>	Colombia	Cuba	EU <sup>6</sup>	Guatemala	India <sup>8</sup>	Japan	Mexico	Russia <sup>12</sup>	S. Africa	Thailand	Turkey
<b>TRANSPARENT SUPPORT</b>														
Domestic Market Controls														
Production Quotas														
Guaranteed Support Prices														
Supply Controls														
Market Sharing/Sales Quotas														
Import Controls														
Import Quota														
Import Tariff														
Import Licenses														
Quota Restrictions														
Export Support														
Export Subsidies														
Single Desk Selling														
<b>NON-TRANSPARENT SUPPORT</b>														
Direct Financial Aid														
State Ownership														
Income Support														
Debt Financing														
Input Subsidies <sup>9</sup>														
Indirect Long Term Support														
R&D Subsidies														
Efficiency Programs														
Enhanced Programs/Subsidies														
Consumer Demand Support														
Average Production Support (mmt, raw value)	4.9	19.3	7.9	2.3	3.8	18.0	1.8	19.9	0.8	5.1	1.7	2.7	5.8	2.3
Raw Sugarcane Production (mmt, raw value)	4.9	19.3	7.9	2.3	3.8	18.0	1.8	19.9	0.8	5.1	1.7	2.7	5.8	2.3
Raw Sugar Production (mmt, raw value)	4.5	9.5	0.4	0.9	3.0	5.7	1.2	0.1	2.4	0.7	0.1	1.1	1.1	0.6
Average Exports (mmt, raw value)	3	1	15	8	4	2	6	42	-	9	33	7	5	13
Rank Among World Exporters	13.5	8.1	16.9	21.1	0.1	30.4	18.0	12.7	65.4	25.6	16.5	17.3	11.8	27.9
Domestic Wholesale Sugar Price (cents/lb) <sup>10</sup>	0%	18%	75%	20%	10%	164%	20%	68%	71%	172%	50%	46%	96%	138%
Import Tariff Level (refined, a.v. or equivalent) <sup>11</sup>														

Notes:  
 1. Includes crop pre-financing, irrigation provision, land maintenance and inventory financing.  
 2. Includes crop pre-financing, irrigation provision, land maintenance and inventory financing.  
 3. Includes crop pre-financing, irrigation provision, land maintenance and inventory financing.  
 4. Chinese cane and beet prices are controlled at the provincial level.  
 5. State trading companies account for 70% of domestic sales in China.  
 6. The EU provides an income support subsidy to refiners of cane sugar.  
 7. The EU provides an income support subsidy to refiners of beet sugar.  
 8. India provides a transport subsidy for exporters.  
 9. Includes fertilizer, fuel, and other inputs used, though these are not binding.  
 10. Japan is an importer of sugar only. It is the world's fourth largest importer of sugar, importing 1.6 million metric tons per annum on average between 2000 and 2002.  
 11. The Cuba wholesale price represents the heavily subsidized import entitlement. All prices are for refined sugar. The EU also applies a safeguard duty in addition to the specific tariff.  
 12. The import tariff level quoted for Russia is the out-of-quota tariff for the period July-Dec 2002.

Figure 3  
**Actual Wholesale Refined Sugar Prices Average Double the World Dump Market Price;  
 United States: 28% Below Developed-Country Average (Cents/lb, 2000-2002 Avg.)**



Data Source: World refined price, London futures contract #6, USDA; all others, LMC International, April 2003. Countries shown represent 77% of global sugar production, 75% of exports, and 70% of consumption.

Good morning, Mr. Chairman and members of the Committee. My name is Sarah Thorn and I am the Director for International Trade at the Grocery Manufacturers of America (GMA). It is a pleasure to be here today to offer our views on the status of multilateral and bilateral free trade negotiations. GMA strongly supports these negotiations and believes they will offer significant benefits to the US food and beverage industry. Following please find our goals for these negotiations and our perspective on the status of the numerous agreements that USTR is currently negotiating.

GMA is the world's largest association of food, beverage and consumer product companies. With US sales of more than \$500 billion, GMA members employ more than 2.5 million workers in all 50 states. The organization applies legal, scientific and political expertise from its member companies to vital food, nutrition and public policy issues affecting the industry. Led by a board of 42 Chief Executive Officers, GMA speaks for food and consumer product manufacturers at the state, federal and international levels on legislative and regulatory issues. The association also leads efforts to increase productivity, efficiency and growth in the food, beverage and consumer products industry.

#### **Overview of Processed Foods and Agricultural Exports**

The processed food industry remains a significant and increasingly important component of the agricultural sector. In fact, as the attached charts demonstrate, consumer food exports now account for a higher percentage of US agricultural exports than bulk commodities making them a key export gateway for many farm products. Moreover, exports of processed food products deliver greater related economic benefits to rural communities than the export of commodities alone. For example, each dollar in exports of processed food products generates an additional \$1.57 in domestic economic activity as compared to \$0.81 for commodities. Similarly, every \$1 billion of exports of processed food products supports 16,700 jobs, whereas the same dollar value of exports of commodities supports 12,700 jobs.

Unfortunately, tariffs on processed food products remain among the highest in the agricultural sector. Although Uruguay Round commitments required countries to cut tariffs by an average of 36 percent, the high tariffs facing the processed food sector were left relatively unchanged. There are several reasons for this result. First, since countries were only required to make simple average tariff cuts, they naturally chose to take the largest cuts on already low tariffs (for example, reducing a 4 percent tariff by 50 percent) and only the minimum cut (15 percent or 10 percent) on higher tariffs. Additionally tariffs on agricultural products often increase with the level of processing<sup>1</sup>. Finally, the Uruguay Round tariffication process created a tariff-rate quota (TRQ) system for many sensitive products (for example, sugar, dairy, peanuts) that are the key ingredients in many processed food products. As a result, processed food products often face complex

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<sup>1</sup> As in Taiwan, where the average tariff on bulk corn is 1%, whereas the tariff on corn flakes is 25%.

and prohibitively high tariff structures that not only assess a duty on the product itself but on its ingredients by weight and composition as well.<sup>2</sup>

In addition to these tariff barriers, the processed food sector also faces numerous non-tariff barriers that hamper exports globally. Examples of these types of barriers are unjustified mandatory labeling policies, burdensome export requirements and dissimilar standards for packaging and labeling. These barriers are proliferating most notably in the European Union and are often exported from the EU to other countries around the world, as in the case of mandatory labeling for agricultural biotechnology.

Given the complexity of issues facing our industry and the importance of international trade agreements in addressing these issues, GMA is extremely pleased that USDA this year created a new Agricultural Technical Advisory Committee (ATAC) for Processed Foods. This committee was formed at a critical time in light of the numerous and diverse trade negotiations currently underway and envisioned. We believe that this new ATAC will provide GMA and the food industry with access to vital information and regular points of contact with the Administration on important trade issues, including scientific and regulatory issues that impact the food industry.

#### **GMA Views on the WTO Agriculture Negotiations**

Of all the negotiations in which the United States is engaged, the WTO negotiations are clearly the most significant for the food and agriculture community. Not only will the benefits of global reductions in tariffs be greater in the WTO, but we believe that a WTO agreement is a necessary element for the success of current regional and bilateral negotiations. In fact, it is difficult to envision the completion of the Free Trade Area of the Americas (FTAA) or other regional agreements in the absence of a WTO agreement. For example, many FTAA countries are insisting upon a direct linkage between reductions in domestic support and market access commitments. Similarly, countries have committed to the elimination of export subsidies in the Hemisphere, without a clear consensus on how to deal with subsidized exports from third country markets. It is doubtful that these issues can be effectively resolved in regional or bilateral negotiations. Rather, they must be addressed in a multilateral context to achieve similar commitments from all trading partners.

#### *Goals for the WTO Negotiations*

GMA's primary objective in the WTO is to improve market access for processed food products and primary agricultural products through commercially meaningful reductions in tariffs and the elimination or further liberalization of tariff-rate quotas. Tariff elimination is increasingly necessary to meet the demands of global retailers for whom price is a driving factor in purchases globally. GMA also believes that export subsidies on food and agricultural products should be eliminated. We firmly believe that discussions of non-trade concerns should be limited, and should not compromise the

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<sup>2</sup> For example, in the EU, the duty assessed on all bulk chocolate and chocolate confectionary is 8.9%, to which the agricultural component charges are added up to a maximum of 20%. Additional sugar duties are also assessed on chocolate confectionary, bringing the effective rate up to an average of 25%.

integrity of the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) or the Agreement on Technical Barriers to Trade.

In order to achieve any meaningful liberalization in agriculture, we believe that protected industries and products must not be excluded from the negotiations. Tariff reductions and liberalized quotas on sugar, peanuts and dairy products will benefit US food producers and consumers while at the same time promote US exports. US negotiators will have a much stronger position to pursue our goals for agriculture as a whole once they are able to demonstrate serious resolve to open all domestic markets.

For these reasons, GMA strongly supports the USTR proposal on market access in the WTO agriculture negotiations. We believe that the US proposed formula cut for tariffs is the most effective method to address the tariff escalation and tariff peaks that hinder trade in processed food and beverage products. The US proposed tariff reduction formula will also best address the disparity between relatively low US and high global tariffs on food and agriculture products. In addition, we support the US proposal for substantial reductions in trade distorting domestic support, the elimination of export subsidies and the expansion of tariff-rate quotas.

*GMA Perspective on the Harbinson Text*

GMA, like many US agricultural groups, is disappointed by the lack of ambition in the Harbinson text on tariffs and export subsidies, and the lack of equity in the proposed reductions of domestic support. We are also quite concerned about the extremely generous special and differential treatment provisions within the text, and object to the concept of "special products" for developing countries, especially given the lack of clarity on the criteria for designating a developing country in the WTO. The inclusion of a special product concept could actually undermine existing market access commitments for key ingredients for food manufacturing globally, and would essentially create two different sets of rules for developed and developing countries in the WTO.

We believe, however, that even with these significant flaws, the Harbinson text may be an appropriate basis upon which to continue the WTO agriculture negotiations. For example, the text does include a harmonizing formula for tariffs and does call for the elimination of export subsidies, albeit in nine years. The Harbinson draft also directly addresses the issue of tariff escalation on processed food products. The second draft text contains specific language that states that the tariff reduction on processed products will, at a minimum, be 30 percent greater than the tariff reduction on the product in its primary form. This will be an important tool for harmonizing the tariff level on ingredients and finished products, especially in the EU where they apply specific tariffs on each ingredient (e.g.; sugar, butter, wheat) as well as the final product. For these reasons, we believe that negotiators should work towards an agreement in Cancun that sets the Harbinson text as a baseline from which to pursue greater reductions in tariffs and domestic support, and a more expeditious elimination of export subsidies.

*Non-Trade Concerns*

GMA also believes that the Harbinson text wisely ignored many of the EU's demands on non-trade concerns such as precaution, labeling and geographical indications (GIs). GMA is concerned about the EU's posture that no substantive reforms should take place in agriculture unless so called non-trade concerns are addressed first. These non-trade concerns, upon examination, are a direct attempt to undermine existing commitments in the SPS, TBT and TRIPS Agreements. The EU demands represent an expansion of the Doha mandate that was agreed to by all countries last November in Qatar. GMA strongly opposes the inclusion of these issues, as negotiations in these areas could undermine the gains we believe we will realize in the market access areas of the negotiations.

*Geographical Indications*

In the agriculture negotiations, the EU is demanding "absolute protection" for geographical indications regardless of whether these products are generic (e.g.; cheddar, parmesan, Dijon mustard, etc.) or whether there is an existing trademark on the product. The EU would like to have the exclusive right to make, market and distribute products, and are keen to "claw back" rights to generic products, despite the fact that they never made any attempt to protect or make distinct these products in the past. The EU alleges that they need this type of protection so that smaller producers' products can be adequately protected and so that they can "bring back something" in agriculture to offset any cuts in tariffs or subsidies.

GMA is adamantly opposed to new negotiations on the extension of enhanced protections for geographical indications to products other than wine and spirits. We believe that sufficient rules already exist to guarantee that GIs are protected and that new commitments in this area are not needed. New rules may only serve to confuse consumers and represent a direct threat to trademarks and brands that are essential to the future growth of the food industry.

The EU proposals to "claw back" protections for generic products in the WTO agriculture negotiations represent a particularly egregious over-reach and a galling example of protectionist behavior that is wholly inappropriate in a trade liberalizing round. Although the EU alleges that they only wish to protect a small list of products, even the loss of one name (e.g., parmesan) could represent hundreds of millions of dollars to GMA member companies. Companies would be forced to repackage products and, more importantly, re-educate consumers through re-branding campaigns. GMA is concerned that the very companies that created the value in many goods may be forced to renounce their claim on these products. The products in question are no longer source identifiers since they have become known as a type or style of product whether it is a cheese or mustard. We also do not believe the EU will be satisfied with a small list of products and will work to increase the number of products protected through subsequent negotiations and through new types of protections such as "traditional expressions" (e.g.; cream, tawny, ruby) as they have done in the wine sector.

In the TRIPS Council, we remain opposed to extending the enhanced protections for geographic indications for wines to other products. In particular, we are concerned that the true intention of the EU is to undermine existing trademarks for food products as well

as current exceptions for generic goods. The challenge of Anheuser-Busch's trademark registrations for Budweiser™ within the EU because of GI claims leads us to believe that the EU wishes to negotiate commitments making GI's superior in right to trademarks regardless of when they were created or protected. Given the plethora of food products available that were derived from other cultures, we are also concerned that a prohibition of the terms "kind", "type" "style," "imitation" would have the effect of severely restricting trade and denying trademark rights to branded companies.

Recently, the EU has escalated their call for progress on GIs in return for movement on agricultural modalities in Cancun. They have become so strident on the issue that the Director General of the WTO agreed to hold separate consultations on GIs outside of the normal Agriculture or TRIPS sessions. GMA is strongly opposed to concessions in this area. We believe it is self-defeating to give such fundamental concessions in the area of intellectual property rights just to get the EU to the negotiating table on agriculture, especially since the EU already agreed to substantial liberalization in agriculture in Doha. Concessions on GIs will likely have enormous negative consequences not just for agriculture, but for a wide variety of industries that rely on strong intellectual property protections to market their products globally.

#### *Precaution*

GMA is also concerned about EU demands to amend the WTO SPS Agreement to include the right of countries to invoke the "precautionary principle" in the absence of scientific certainty on plant and animal health issues. Article 5.7 of the SPS Agreement clearly addresses the issue of precaution in a manner that relies on objective standards and science-based risk assessments. Any attempt to re-negotiate the SPS Agreement could only lead to a weakening of its provisions, which would represent a significant step backwards in eliminating unwarranted restrictions on trade.

#### *Labeling Requirements*

The EU has also proposed negotiations on new rules that would make explicitly legal mandatory non-product related processed based labeling (PPM) regimes. This is a clear attempt to make their own trade restrictive regimes like those for the labeling of agricultural biotechnology immune from challenge under WTO rules. Although the Agreement on Technical Barriers to Trade (TBT) encourages members, where appropriate, to base technical regulations on product performance rather than design or descriptive characteristics, we note that countries are increasingly choosing the latter method to inform consumers about product characteristics unrelated to the product form or function. Examples of these non-product PPMs are eco-labels and eco-seals, mandatory labeling of eggs based on hen farming practices and mandatory biotechnology labeling regimes for reasons other than health and safety. Such mandatory systems have led to market fragmentation globally and discrimination among like products, and are inconsistent with WTO goals for increased trade and harmonization among members.

#### **GMA Views on Bilateral and Regional Negotiations**

GMA strongly supports the numerous bilateral and regional initiatives that USTR is currently negotiating. We are actively involved in the Free Trade Area of the Americas (FTAA), US-Australia Free Trade Agreement, Central American Free Trade Agreement,

and the South African Customs Union negotiations and have submitted comprehensive testimony to the International Trade Commission and the USTR on our goals for these agreements. We believe that in many ways the US-Chile FTA is an appropriate model to follow for these negotiations.

*Goals for Regional and Bilateral Negotiations*

GMA goals for the regional and bilateral negotiations are largely consistent with those for multilateral negotiations. That is, we believe that the negotiations must be comprehensive and that all products must be subject to meaningful liberalization. Exempting sectors, even politically sensitive sectors, will not only hurt US manufacturers and consumers who rely on imports, but will disadvantage the export opportunities of many competitive sectors in the United States. Removing products or sectors will lead to a Swiss cheese-style agreement that will undermine the ultimate value of the agreement to all exporting sectors.

For agreements to be truly comprehensive all tariffs and quotas must be eliminated and rules of origin or other such limiting rules should not be used to undermine market access provisions. For example, GMA was extremely disappointed that although the Chile agreement covers all sectors, it only provides token liberalization in sugar. Specifically, the US-Chile FTA sets an extremely small quota for sugar and sugar containing products and delays the reductions in over-quota tariffs until the last five years of the agreement. Most troubling, the FTA includes parallel provisions that require either country to record a sugar "trade surplus" before it can benefit from preferential tariffs established under the agreement. No other agricultural or non-agricultural product is subject to this unusual requirement. Ironically, the FTA will create a situation where United States and Chilean sugar producers will face tougher restrictions in attempting to gain access to each other's markets than they do without an FTA. The terms of the agreement also create another perverse outcome in that all other countries will have better access to Chile's sugar market than the US, essentially granting "least favored nation" trade status to US sugar. The sugar provisions of the US-Chile FTA are designed to guarantee, and do guarantee, that there never will be any commercially significant trade in sugar or sugar containing products between the US and Chile. In light of this outcome, we strongly believe that the treatment of sugar in the US-Chile FTA should not be a model for future bilateral, regional, or multilateral trade agreements.

GMA believes it is necessary and appropriate to utilize bilateral and regional free trade agreements to build upon existing WTO rules and to strengthen commitments in the area of intellectual property rights, sanitary and phytosanitary rules, and non-tariff barriers to trade. For example, we believe that regional and bilateral trade agreements should work to enhance existing WTO obligations on trademark protections. GMA member companies rely on adequate trademark protection to ensure brand integrity globally. In many ways, trademark protection is one of the most meaningful trade commitments for branded food products. However, as noted above, multilateral and bilateral efforts to enhance protections for geographical indications threaten to undermine these protections. In the US-Chile agreement negotiators codified the principle of "first in time, first in right" or exclusivity of trademarks as part of the intellectual property chapter. We

believe that the US-Chile agreement sets an important precedent that GMA hopes will be replicated regionally and globally as the preferred option for addressing the GI issue.

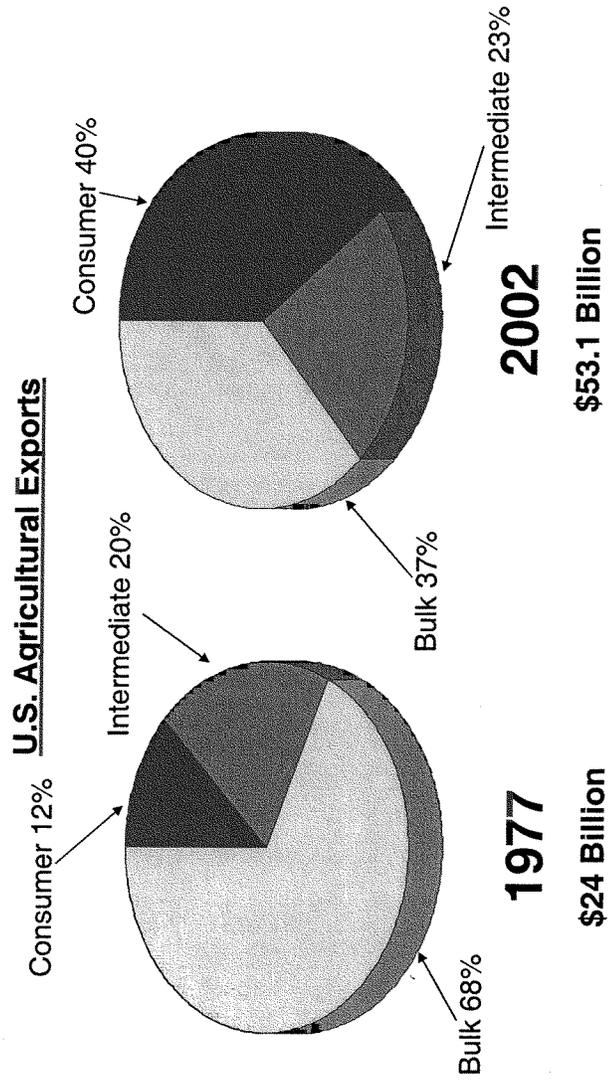
As noted above, GMA member companies often face numerous non-tariff barriers to trade that effectively nullify market access gains from international trade agreements. For these reasons, GMA is pleased that the TBT chapter of the US-Chile FTA builds on the existing WTO TBT agreement and requires increased transparency and participation in the development of standards in each FTA party. We also support the creation of the new Committee on Technical Barriers within the US-Chile FTA, which we hope will act as a clearinghouse for addressing issues related to the adoption and enforcement of technical regulations and standards. GMA believes that the TBT Committee staff should work towards mutual recognition agreements and the harmonization for food labeling standards to facilitate trade in these products.

GMA believes negotiators should build on the US-Chile FTA chapter in future free trade agreements to strengthen commitments within the technical barriers to trade chapter. For example, we recently submitted a proposal to USTR to require increased justification for technical regulations and to address the issue of mandatory non-product related process and production method labeling within the context of the US-Australia FTA.

#### **Conclusion**

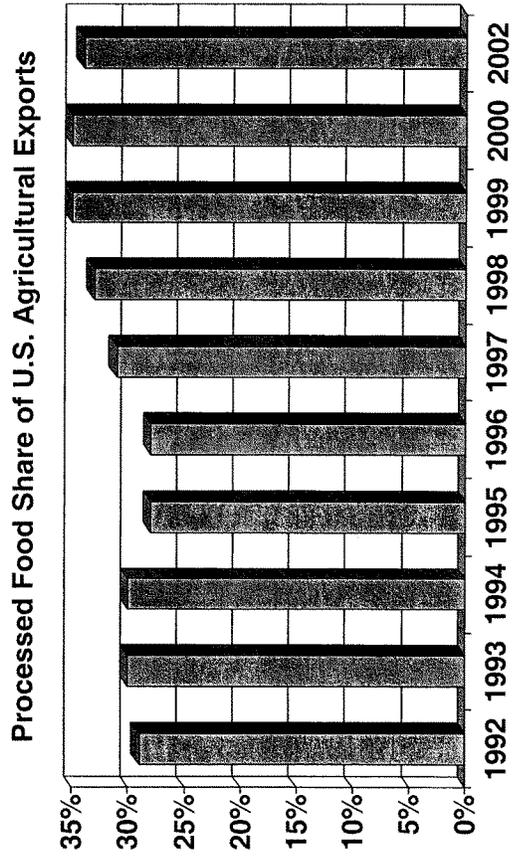
Thank you for this opportunity to present our views before this committee. GMA believes that it is of critical importance to farmers and manufacturers alike to continue to expand market access through reduced tariffs the elimination of barriers to trade for food and agricultural products. Achieving the objectives discussed above will benefit consumers globally through a more reliable, diverse, safe and affordable food supply. We look forward to working with you and the Administration to achieve these goals.

# Composition of Exports Diversifies Consumer Foods Grow to Largest Share of Export Pie



Source: Department of Commerce, U.S. Census Bureau, Foreign Trade Statistics

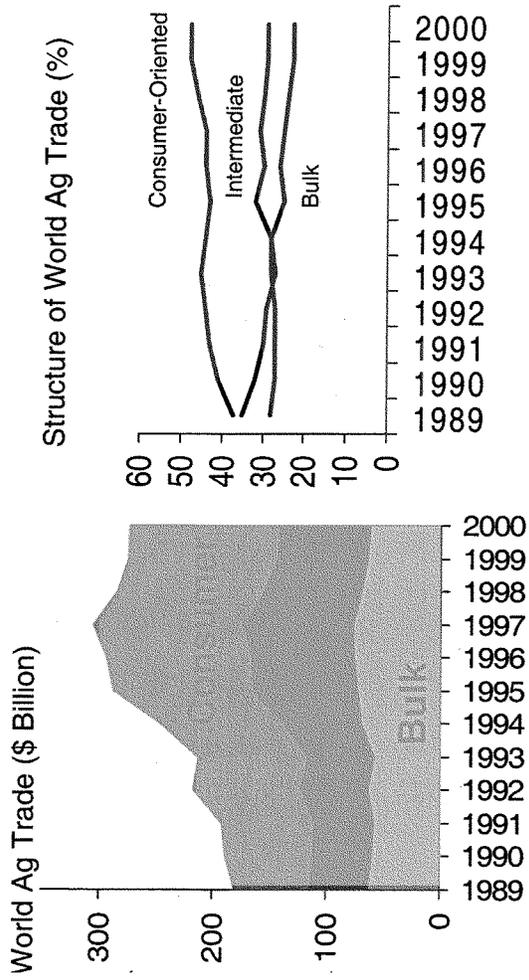
# Processed Food Rises to One Third of U.S. Agricultural Exports



Source: Dept. of Commerce, U.S. Census Bureau, Foreign Trade Statistics, Preliminary Estimates

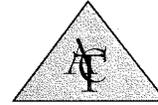
## High-value Products Dominate Global Ag Trade

The structure of world ag trade has shifted in favor of high-value products since the mid-80s. Rising consumer food & beverage trade among the developed nations is the driving force.



Source: United Nations Statistical Division

# *Agricultural Coalition On Trade*



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The Agricultural Coalition on Trade (ACT) is pleased to provide the following comments to the House Committee on Agriculture and requests that our statement be made a part of the official hearing record on the on-going multilateral agricultural trade negotiations.

## **Doha Development Round**

Since ACT represents a number of fruit, vegetable and nut organizations in California and Arizona, our comments and suggestions will be based on the impact of further agricultural liberalization on U.S. specialty crops. These crops have a farmgate value of \$28 billion, which exceeds all other U. S. individual agricultural sectors.

ACT supports free trade policies in principle. However, past trade agreements have provided only marginal opportunities for U.S. specialty crop exports, primarily because of continuing high trade-distorting domestic subsidies in the European Union, struggles with Japan and other countries over delays in resolving phytosanitary issues (which are particularly damaging to perishable commodities), and extraordinarily high tariffs in developing countries.

With regard to imports, the picture is very different. Since 1995, specialty crop imports have increased 60% in value while U.S. exports have increased by just 7% in value.

Going into the Doha Round, our industry strongly urged our U.S. trade policy officials to propose total elimination of agricultural trade-distorting domestic subsidies. However, while the U.S. proposal calls for elimination of export subsidies, it falls far short in the domestic support area by calling for reductions in lieu of elimination, although the U.S. proposal does seek harmonization in domestic support levels. In the following comments, ACT discusses some of the effects of the recent trade agreements on U.S. specialty crops and provides suggestions to our trade policy officials on negotiating positions which it believes will assist the specialty crop industry and will garner support for the Doha Round.

**Market Access**

ACT appreciates the comments of our trade policy advisors and negotiators who tout more liberalization of agricultural trade. However, over the years we have noted that the benefits of the various trade agreements, at least for specialty crops, have been more beneficial to U.S. importers than to U.S. exporters. Recent trade agreements have left our industry facing continued high tariffs in many countries and substantial foreign subsidies, while our competitors export their product to the U.S. with relative ease because of our low tariffs.

ACT supports the U.S. position in the Doha Round on tariff reductions, i.e., a Swiss formula which reduces from an applied rate all agricultural tariffs with high tariffs being reduced more than low tariffs, and which ensures no individual tariff exceeds 25% after a five-year period. This approach will bring the tariff levels of the various WTO countries more in line with each other and leads towards elimination of tariffs in the future. ACT strongly supports the U.S. proposal to totally eliminate all agricultural tariffs by a specific date.

ACT believes that this formula approach is particularly necessary in order get the tariff levels of the developing countries to acceptable levels. Many of these countries, with some of the world's highest tariffs, grow specialty crops. While their products can already enter the U.S. because of our low tariffs, the developing countries appear to be in opposition to any lowering of their tariffs until the U.S., the EU, Japan and others first drop significantly their trade-distorting domestic and export subsidies. The U.S. specialty crop industry is sympathetic to this principle because like the developing countries that grow specialty crops, neither their industry nor ours receives subsidies.

ACT applauds the recent U.S. expression of support for some form of safeguards for the developing countries in turn for their support of significant tariff reductions.

**Domestic Support**

ACT believes that in order for U.S. specialty crops to receive any benefits from the Doha Round, this sector of agriculture cannot be negotiated in the same manner as our other agricultural commodities that are currently receiving governmental assistance. For example, if the method of reductions in the Doha Round follow those of the Uruguay Round (i.e., a specific percentage reduction of say 55-60%), this means that while the European trade-distorting domestic subsidies will be lowered somewhat, the European specialty crop industry will still be provided billions of dollars in subsidies, while the U.S. industry has zero dollars.

ACT was pleased with the statement made by Secretary of Agriculture Ann Veneman when she and U.S. Trade Representative Robert B. Zoellick recently appeared before this

Committee that “there must be an ambitious harmonizing formula to address this (domestic support) disparity.” However, ACT understands that the U.S. proposal calls for reductions in domestic support in the aggregate. Because the U.S. specialty crop sector has no subsidy to reduce, ACT believes that in the negotiations this sector must be specifically targeted for reduction. Otherwise, we fear that the EU will be allowed to support its specialty crop industry to the tune of \$5-10 billion annually. This continues to place our industry at a tremendous disadvantage.

It is ACT’s belief that a number of trade-distorting programs have been placed in the Green Box, and we support the U.S. proposal for a full reevaluation of all programs which heretofore have been placed in the Green Box with no questions asked. In fact, ACT supports elimination of the Green Box (along with the Blue Box) in favor of a detailed list of programs which would be exempt and non-exempt from reductions.

For example, ACT believes that agricultural research and extension programs should be exempt from reductions. Programs which we recommend not be exempt are: any programs that encourage production; capital improvements; assistance in disadvantaged areas of a developed country; and support in a developing country where a crop has reached a competitive stage economically.

#### Transparency

ACT is disappointed that the U.S. proposal does not seek transparency in trade. While ACT supports open meetings of the WTO, more timely release of reports, etc., we believe that all subsidy documentation submitted to the WTO should be fully transparent, i.e., a full explanation of how the assistance is provided to each sector and in what amount. After all, the subsidies are what impacts trade. Further, such information (provided in the WTO notifications) should be submitted more timely. ACT notes that the latest domestic notification of the EU is for the marketing year 1999-2000 and that the U.S. latest notification is for the marketing year 1999.

While it is our understanding that not all of the aggregate measurement of support (AMS) listed in the notifications are direct governmental funding, it is difficult to ascertain how the AMS is calculated. In other words, the notifications are lacking sufficient information on the type of programs and/or policies provided. This data is essential in order to understand the direct benefits to the grower or processor. For example, ACT is aware of two U.S. government-sponsored attempts to obtain full information on EU producer organizations, and neither attempt was fully successful. Further, there have been efforts by individual U.S. specialty crop industries to learn more about the EU producer organizations, but access to

needed information was denied. This matter must be addressed in the negotiations. Our negotiators must insist on greater transparency of the Amber Box trade-distorting programs.

#### Peace Clause

ACT believes that WTO countries have differing interpretations regarding certain limitations of the Peace Clause. The Peace Clause places the U.S. fruit and vegetable industry at a disadvantage because the industry is facing trade-distorting domestic support competition in the EU and it is unclear if the industry can file a countervailing duty petition against the subsidized industry.

ACT strongly urges elimination of the Peace Clause.

#### **Export Subsidies**

ACT supports the U.S. proposal calling for elimination of all agricultural export subsidies in the Doha Round. However, in general, specialty crops are not being impacted by other countries' export subsidies.

#### **Other Areas of Interest**

##### European Union Entry Price System

ACT supports elimination of the European Union entry price system. In the Uruguay Round the EU's reference price system was tariffed, but changes made to this system, now called the entry price, still provide Europe protection of its fruit and vegetable industry. This system imposes additional tariffs on imports of like product to ensure that there is no price injury to the domestic product that is currently in production.

The U.S. has no mechanism like the entry price system with which to protect our fruit and vegetable industry. It is blatantly unfair to allow the EU to continue to have this trade advantage over the U.S., and this inequity must end.

##### Multifunctionality

This term is not yet clearly defined but its ramifications could be disastrous for the specialty crop industry. It is our understanding that the funds the U.S. currently provides to some crops could be placed in a "multifunctionality" category exempt from reductions. This means that the current \$19 billion provided annually to the federal program crops could be allocated to these crops for programs such as land improvement, conservation, etc. The

specialty crop industry does not believe that these funds, even if they are being used for these types of programs, would be shared with the fruit and vegetable industry. Such action would result in tremendous advantages to certain agricultural crops over that of the specialty crops.

#### Limitation on filing Countervailing Duty Petitions

Through private studies, ACT has found that a number of programs which the European Union implements provide trade-distorting assistance to its farmers. However, if these programs provide funds to all growers in a region (versus funds to growers of one particular crop), these programs are not countervailable. For example, EU funding for capital improvements or for building facilities provides the Europeans an advantage which is not available to U.S. growers.

Growers of U.S. specialty crops are “free traders” because they do not receive any governmental support. If subsidies are allowed to continue, what then is available to this industry to help in providing relief against imported subsidized product?

ACT believes that our industry should be able to receive countervailing duty benefits against any industry in a WTO country that is receiving a trade-distorting domestic subsidy. Further, ACT believes if the Doha Round allows continuation of subsidies, then we should eliminate the injury test, which was not required until 1979. If a grower has to spend millions of dollars to show injury from a foreign subsidy, it will be too late for the domestic industry because it will be out of business.

#### Geographical Indications

As the Committee is no doubt aware, there is not agreement as yet in the Doha Round as to the resolution of geographical indications (GIs) in the TRIPS negotiating group. The protection of U.S. agricultural trademarks is extremely important in our trade in foreign markets, and ACT strongly urges the House Committee on Agriculture to schedule a hearing to thoroughly discuss how U.S. trademarks will be protected internationally.

#### Harmonization of Country of Origin Labeling

While labeling is more appropriately addressed in the Agreement on Technical Barriers to Trade (TBT), ACT nonetheless wants to highlight the need to harmonize country of origin labeling. We are aware that not all WTO countries require country of origin labeling and we are not requesting that they do so. However, the convenience and savings to U.S. businesses of harmonized labeling would be extremely beneficial.

ACT has produced a number of documents which the Committee may find helpful in its discussions with U.S. and foreign trade policy officials during the Doha Round negotiations, and the following documents are attached herewith:

- Attachment 1 - Comparison of Harbinson, U.S. and EU Doha Agricultural Proposals
- Attachment 2 - Fruit and Vegetable Farmgate Benefit to U.S. Economy
- Attachment 3 - AMS for the European Union for 1999-2000
- Attachment 4 - U.S. Import/Export Trade in Fruits and Vegetables.

ACT greatly appreciates this opportunity to provide comments to the Committee regarding the Doha Development Round.

# Agricultural Coalition On Trade

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Attachment 1

## Comparison of Harbinson,<sup>1</sup> U.S. and EU Agriculture Proposals

### Market Access:

- Harbinson** - Tariff reductions of 40 - 60% in equal annual installments over five years (Developing Countries - 27-40% annual reductions). Reductions to be taken from bound tariff rates
- U.S.** - Harmonizing formula calling for greater reductions of high tariff than low tariffs over a five-year period and no tariff over 25%. Reductions to be taken from applied rates on January 1, 2000 or final bound levels, whichever is lower
- EU** - Uruguay Round approach with 36% overall average reduction and a minimum reduction of 15% per tariff line.

**U.S. specialty crops** support the U.S. position on market access because it brings tariff levels more into harmonization. The Harbinson proposal would still allow some countries to maintain high tariffs.

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<sup>1</sup>WTO Agriculture Negotiating Committee Chairman Stuart Harbinson first draft (and revised first draft) proposal on negotiations for further reductions in agricultural subsidies, February 17, 2003.

Domestic Support:

- Harbinson** -
- Amber Box - Bound total Aggregate Measurement of Support (AMS) to be reduced by 60% in equal annual installments over a period of five years
  - Blue Box - Payments are to be capped and bound at average levels notified for the years 1999-2001. Payments, to be calculated in the AMS, are to be reduced by 50% and implemented in equal annual installments over five years.
  - Green Box - Maintained subject to certain amendments
  - De minimis levels to be reduced by 0.5% over five years
- U.S.** -
- Amber Box - Limit support to 5% of the total value of agricultural production with reductions from current caps over a five-year period.
  - Blue Box - To be included in non-exempt domestic support
  - Green Box - Maintain. U.S. recommends only two boxes, exempt and non-exempt
  - De minimis levels (5%) to remain  
(Result: U.S., \$10 billion; EU, \$12.5 billion)
- EU** -
- Amber Box - Uruguay Round approach with straight 55% percentage reduction
  - Blue Box - Maintain
  - Green Box - Have expressed interest in expanding to include animal welfare
  - De minimis levels - Reduce for developed countries  
(Result: U.S., \$8.6 billion; EU, \$30 billion)

The Harbinson draft does not address the disparity that currently exists in domestic support. **U.S. specialty crops** believe that HTS Chapters 7 and 8 (fresh vegetables, fruits and nuts) must be negotiated separately from other crops which receive domestic support and that the goal for these sectors is total elimination of domestic support. A reduction in domestic support still leaves the European Union (EU) with a trade advantage over the U.S. specialty crop sector. For example, under the Harbinson proposal, a reduction of 60% of the current \$11.7 billion AMS for fruits and vegetables would still leave the EU with nearly \$5 billion in AMS versus 0 for the U.S.

**U.S. specialty crops** support elimination of the Blue Box and review of the types of support which can be placed in the Green Box.

**U.S. specialty crops** support the U.S. Sectoral Initiative although with no domestic support to give up it is doubtful that the EU, with the largest AMS for Chapters 7 and 8, would agree to any reductions other than those required under the domestic support pillar.

Special Safeguard:

**Harbinson** - Terminates the agricultural safeguard (Article V of the Agreement on Agriculture) at end of implementation period or shortly thereafter. For developing countries allows flexibility to apply safeguard

**U.S.** - Proposes elimination of safeguard provision

**EU** - Maintain special safeguard and expand to developing countries

**U.S. specialty crops** support U.S. provision.

Special Safeguard for Seasonal and Perishable Products:

**Harbinson** - The first draft issued by Mr. Harbinson on February 17, 2003, does not include a special safeguard for seasonal and perishable products. However, such a safeguard was mentioned in his December 18, 2002 overview paper in the WTO Committee on Agriculture.

**U.S.** - The July 25, 2002 proposal does not include any safeguard language regarding seasonal and perishable products

**EU** - No provision

**U.S. specialty crops** note that the Trade U.S. specialty crops of 2002 (which provided the President with Trade Promotion Authority) (Public Law 107-210) included directives from the Congress specifically dealing with specialty crops. These provisions are:

- (A) (ix) eliminating practices that adversely affect trade in perishable or cyclical products, and improve import relief mechanisms to recognize the unique characteristics of perishable and cyclical agriculture;
- (x) Before commencing negotiations with respect to agriculture, the United States Trade Representative, in consultation with the Congress, shall seek to develop a position on the treatment of seasonal and perishable agricultural products to be employed in the negotiations in order to develop an international consensus on the treatment of seasonal or perishable agricultural products in investigations relating to dumping and safeguards and in any other relevant area.

**U.S. specialty crops** urge the Congress to request the Administration to address these Congressional directives in our multilateral and bilateral trade negotiations.

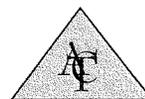
Peace Clause

- Harbinson* - No mention
- U.S.* - No clear position specified
- EU* - Maintain

**U.S. specialty crops** do not support extension of the Peace Clause. U.S. specialty crops receive no governmental funding, and **U.S. specialty crops** believe that the specialty crop industry should be able to file countervailing duty petitions against its competitors who do receive governmental support. In such cases, there should be no requirement to show injury.

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Attachment 2

# Farmgate Benefit to U.S. Economy by Sector - 2002F

- **Fruits & Vegetables - \$28.0 billion**
- Feed Crops - \$23.9 billion
- Oil Crops - \$14.8 billion
- Food Grains - \$6.7 billion
- Cotton - \$4.0 billion
- Tobacco - \$1.8 billion
  
- All other crops - \$18.5 billion

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Attachment 3

## Domestic Support for Fruits and Vegetables - Marketing Years 1999/2000

Commodity	Type of Support	European Union Domestic Support	United States Domestic Support
		Total AMS† (Million Dollars)	
		1999-2000	1999-2000
Apples	Price Support	2,240.9	0.0
Apricots	Price Support	157.9	0.0
Artichokes	Price Support	111.3	0.0
Cauliflower/Aubergines	Compensatory Payment	17.4	0.0
Cherries	Price Support	142.5	0.0
Chick-peas, lentils and vetches	Hectare Aid	70.3	0.0
Citrus Fruit for Processing	Production Aid	180.6	0.0
Clementines	Price Support	237.9	0.0
Courgettes (zucchini)	Price Support	170.1	0.0
Cucumbers	Price Support	588.1	0.0
Figs for Processing	Minimum Price	6.7	0.0
Grapes for Processing	Production Aid	0.0	0.0
Table Grapes	Price Support	223.9	0.0
Hops	Hectare Aid	12.9	0.0
Lemons	Price Support	430.3	0.0
Lemons for Processing	Production Aid	38.9	0.0
Mandarins	Price Support	41.4	0.0
Olive Oil	Price Support	2,116.3	0.0
Oranges	Price Support	439.7	0.0
Peaches/Nectarines	Price Support	600.1	0.0
Peaches for Processing	Minimum Price	80.1	0.0
Pears	Price Support	616.6	0.0
Pears for Processing	Minimum Price	24.7	0.0
Potatoes for Processing	Compensatory Payment	0.0	0.0
Plums	Price Support	72.9	0.0
Plums for Processing	Minimum Price	22.6	0.0
Satsumas	Price Support	37.7	0.0
Seed for Sowing	Production Aid	112.0	0.0
Tomatoes	Price Support	2,573.3	0.0
Tomatoes for Processing	Minimum Price	352.8	0.0
<b>Total</b>		<b>11,719.9</b>	<b>0.0</b>

†Aggregate Measurement of Support

Prepared by Schramm, Williams &amp; Associates, Inc. using data from E.U. WTO Notifications for 1999-2000.

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Attachment 4

## U.S. Trade in Fresh Fruits, Vegetables and Nuts

Commodities	Source	U.S. Imports							% Change from 1995 to 2002	
		1995	1996	1997	1998	1999	2000	2001		2002
- in 1,000 dollars -										
Vegetables*	EU	129,405	140,580	156,387	194,632	182,036	168,056	182,409	185,565	43.40%
	All Countries	1,791,079	2,056,161	2,095,710	2,576,599	2,523,969	2,674,272	2,959,963	3,113,460	73.83%
Fruits and Nuts**	EU	36,542	53,116	82,057	73,448	141,846	134,212	115,864	100,725	175.64%
	All Countries	2,755,862	3,047,331	3,181,303	3,406,332	4,004,206	3,917,679	3,890,102	4,144,566	50.39%
Fruits, Vegetables and Nuts	EU	165,947	193,696	238,444	268,080	323,882	302,268	298,273	301,217	81.51%
	All Countries	4,546,941	5,103,492	5,277,013	5,982,951	6,528,175	6,564,951	6,850,065	7,258,026	59.62%

Commodities	Destination	U.S. Exports							% Change from 1995 to 2002	
		1995	1996	1997	1998	1999	2000	2001		2002
- in 1,000 dollars -										
Vegetables*	EU	185,223	194,779	221,562	198,116	175,118	140,233	145,368	130,302	-29.65%
	All Countries	1,611,972	1,559,365	1,699,912	1,769,934	1,699,160	1,784,727	1,742,173	1,790,624	11.08%
Fruits and Nuts**	EU	969,026	1,105,201	919,902	937,154	788,984	783,049	785,593	842,117	-15.07%
	All Countries	3,543,411	3,711,763	3,662,953	3,389,158	3,217,576	3,528,758	3,587,989	3,743,030	5.63%
Fruits, Vegetables and Nuts	EU	1,154,249	1,299,980	1,141,464	1,135,270	964,102	923,282	930,961	972,419	-15.75%
	All Countries	5,155,383	5,271,128	5,362,865	5,159,092	4,916,736	5,313,485	5,330,162	5,533,644	7.34%

\*Includes all of Chapter 7 of the U.S. Harmonized Tariff Schedule.

\*\*Includes all of Chapter 8 of the U.S. Harmonized Tariff Schedule.

Source: U.S. Department of Commerce

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## U.S. Trade in Fresh Fruits, Vegetables and Nuts

Commodities	Source	U.S. Imports							% Change from 1995 to 2002		
		1995	1996	1997	1998	1999	2000	2001		2002	
Vegetables*											
	EU	64,719	72,361	88,263	103,637	97,136	94,796	100,732	99,952	99,952	54.44%
	All Countries	2,808,161	3,270,510	3,251,054	3,667,784	3,662,310	3,566,563	3,803,893	4,157,814	4,157,814	48.06%
Fruits and Nuts**											
	EU	25,834	37,195	59,256	60,398	121,632	117,885	88,693	61,970	61,970	139.88%
	All Countries	5,952,160	6,323,339	6,570,068	6,912,230	7,686,484	7,559,700	7,334,313	7,559,464	7,559,464	27.00%
Fruits, Vegetables and Nuts											
	EU	90,553	109,556	147,519	164,035	218,768	212,681	189,425	161,922	161,922	78.81%
	All Countries	8,760,321	9,593,849	9,821,122	10,580,014	11,348,794	11,126,993	11,143,206	11,717,278	11,717,278	33.75%

Commodities	Destination	U.S. Exports							% Change from 1995 to 2002		
		1995	1996	1997	1998	1999	2000	2001		2002	
Vegetables*											
	EU	228,376	214,561	232,622	243,791	219,580	184,307	204,562	171,220	171,220	-25.03%
	All Countries	2,535,640	2,523,153	2,674,375	2,797,300	2,758,124	2,872,006	2,827,568	2,840,422	2,840,422	12.02%
Fruits and Nuts**											
	EU	558,590	568,285	497,907	515,757	469,181	473,258	502,244	486,839	486,839	-12.85%
	All Countries	3,325,063	3,288,539	3,457,814	3,190,773	2,959,964	3,461,057	3,529,760	3,393,178	3,393,178	2.05%
Fruits, Vegetables and Nuts											
	EU	786,996	782,846	730,529	759,548	688,761	657,565	706,806	658,059	658,059	-16.38%
	All Countries	5,860,703	5,811,692	6,132,189	5,988,073	5,718,088	6,333,064	6,357,328	6,233,600	6,233,600	6.36%

\*Includes all of Chapter 7 of the U.S. Harmonized Tariff Schedule.

\*\*Includes all of Chapter 8 of the U.S. Harmonized Tariff Schedule.

Source: U.S. Department of Commerce



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**U.S. Trade in Fresh Fruits, Vegetables and Nuts**

**U.S. Import Percentage Changes from Base Year 1995**

Commodities Source	1995	1996	1997	1998	1999	2000	2001	2002
- in terms of 1,000 dollars -								
<b>Vegetables*</b>								
EU	0.00%	8.64%	20.85%	50.41%	40.67%	29.87%	40.96%	43.40%
All Countries	0.00%	14.80%	17.01%	43.86%	40.92%	49.31%	65.26%	73.83%
<b>Fruits and Nuts**</b>								
EU	0.00%	45.36%	124.56%	101.00%	288.17%	267.28%	217.07%	175.64%
All Countries	0.00%	10.58%	15.44%	23.60%	45.30%	42.16%	41.16%	50.39%
<b>Fruits, Vegetables and Nuts</b>								
EU	0.00%	16.72%	43.69%	61.55%	95.17%	82.15%	79.74%	81.51%
All Countries	0.00%	12.24%	16.06%	31.58%	43.57%	44.38%	50.65%	59.62%

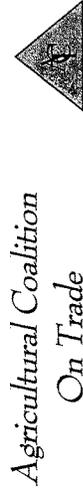
**U.S. Export Percentage Changes from Base Year 1995**

Commodities Destination	1995	1996	1997	1998	1999	2000	2001	2002
- in terms of 1,000 dollars -								
<b>Vegetables*</b>								
EU	0.00%	5.16%	19.62%	6.96%	-5.46%	-24.29%	-21.52%	-29.65%
All Countries	0.00%	-3.26%	5.46%	9.80%	5.41%	10.72%	8.08%	11.08%
<b>Fruits and Nuts**</b>								
EU	0.00%	14.05%	-5.07%	-3.29%	-18.58%	-19.19%	-18.93%	-13.10%
All Countries	0.00%	4.75%	3.37%	-4.35%	-9.20%	-0.41%	1.26%	5.63%
<b>Fruits, Vegetables and Nuts</b>								
EU	0.00%	12.63%	-1.11%	-1.64%	-16.47%	-20.01%	-19.34%	-15.75%
All Countries	0.00%	2.25%	4.02%	0.07%	-4.63%	3.07%	3.39%	7.34%

\*Includes all of Chapter 7 of the U.S. Harmonized Tariff Schedule.

\*\*Includes all of Chapter 8 of the U.S. Harmonized Tariff Schedule.

Prepared by The Agricultural Coalition On Trade using data from the U.S. Department of Commerce



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**U.S. Trade in Fresh Fruits, Vegetables and Nuts**

**U.S. Import Percentage Changes from Base Year 1995**

Commodities Source	1995	1996	1997	1998	1999	2000	2001	2002
- in terms of metric tons -								
Vegetables*								
EU	0.00%	11.81%	36.38%	60.13%	50.09%	46.47%	55.65%	54.44%
All Countries	0.00%	16.46%	15.77%	30.61%	30.42%	27.01%	35.46%	48.06%
Fruits and Nuts**								
EU	0.00%	43.98%	129.37%	133.79%	370.82%	356.32%	243.32%	139.88%
All Countries	0.00%	6.24%	10.38%	16.13%	29.14%	27.01%	23.22%	27.00%
Fruits, Vegetables and Nuts								
EU	0.00%	20.99%	62.91%	81.15%	141.59%	134.87%	109.19%	78.81%
All Countries	0.00%	9.51%	12.11%	20.77%	29.55%	27.02%	27.20%	33.75%

**U.S. Export Percentage Changes from Base Year 1995**

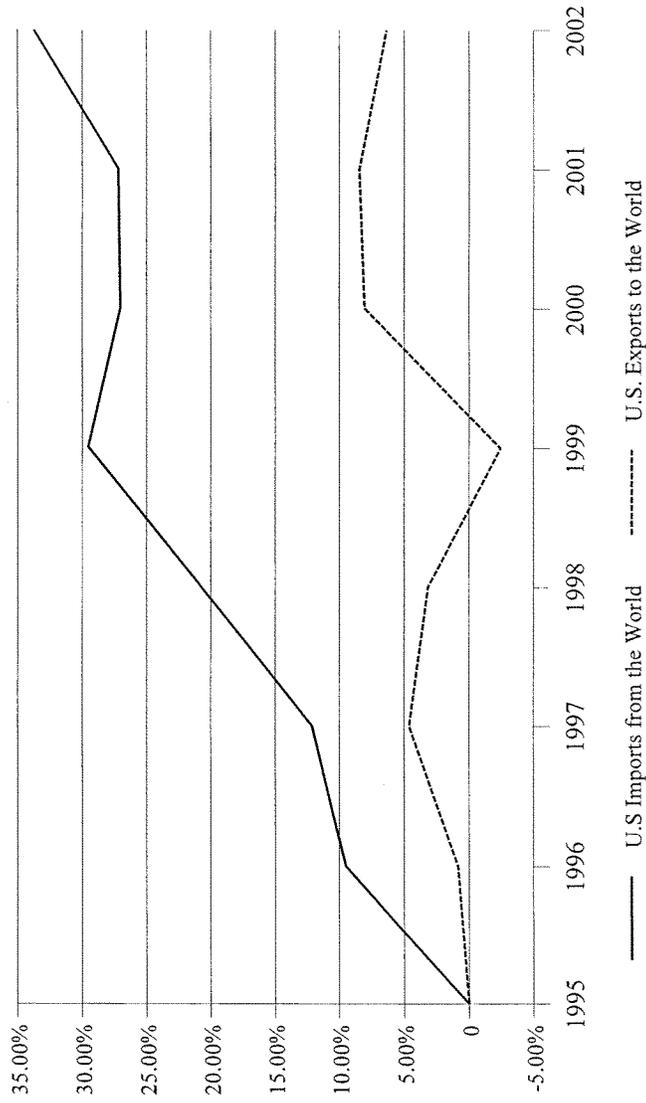
Commodities Destination	1995	1996	1997	1998	1999	2000	2001	2002
- in terms of metric tons -								
Vegetables*								
EU	0.00%	-6.05%	1.86%	6.75%	-3.85%	-19.30%	-10.43%	-25.03%
All Countries	0.00%	-0.49%	5.47%	10.32%	8.77%	13.27%	11.51%	12.02%
Fruits and Nuts**								
EU	0.00%	1.74%	-10.86%	-7.67%	-16.01%	-15.28%	-10.09%	-12.85%
All Countries	0.00%	-1.10%	3.99%	-4.04%	-10.98%	4.09%	6.16%	2.05%
Fruits, Vegetables and Nuts								
EU	0.00%	-0.53%	-7.18%	-3.49%	-12.48%	-16.45%	-10.19%	-16.38%
All Countries	0.00%	-0.84%	4.63%	2.17%	-2.43%	8.06%	8.47%	6.36%

\*Includes all of Chapter 7 of the U.S. Harmonized Tariff Schedule.

\*\*Includes all of Chapter 8 of the U.S. Harmonized Tariff Schedule.

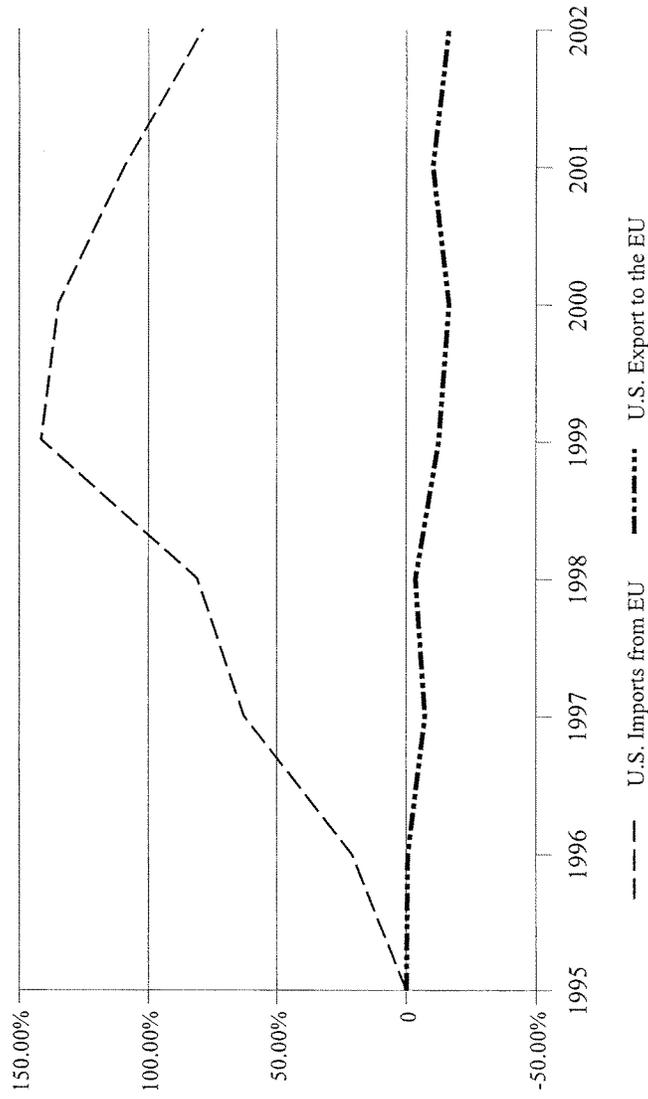
Prepared by The Agricultural Coalition On Trade using data from the U.S. Department of Commerce

### U.S. - World Trade of Fresh Fruits, Vegetables and Nuts



Note: Chart depicts the annual percentage change in trade. Imports and Exports of fresh fruit, vegetables and nuts denotes all commodities in chapters 7 and 8 of the U.S. Harmonized Tariff Schedule in terms of volume. World data includes EU.  
 Prepared by The Agricultural Coalition On Trade using data from the U.S. Department of Commerce.

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 Prepared by The Agricultural Coalition On Trade using data from the U.S. Department of Commerce.

## **GEOGRAPHICAL INDICATIONS IN THE WORLD TRADE ORGANIZATION NEGOTIATIONS**

**TUESDAY, JULY 22, 2003**

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON AGRICULTURE,  
*Washington, DC.*

The committee met, pursuant to call, at 10:05 a.m., in room 1300 of the Longworth House Office Building, Hon. Bob Goodlatte (chairman of the committee) presiding.

Present: Representatives: Pombo, Smith, Moran, Jenkins, Gutknecht, Ose, Hayes, Osborne, Rehberg, Burns, Rogers, Musgrave, Nunes, Stenholm, Peterson, Dooley, Etheridge, Alexander, Ballance, Scott, Pomeroy, Boswell, Lucas, and Thompson.

Staff present: Lynn Gallagher, Jason Vaillancourt, Callista Gingrich, clerk; Kellie Rogers, Elyse Bauer, Ryan Weston, Andy Baker, and John Riley.

### **OPENING STATEMENT OF HON. BOB GOODLATTE, A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF VIRGINIA**

The CHAIRMAN. Good morning. This hearing of the House Committee on Agriculture to review geographical indications in the World Trade Organization negotiations will come to order.

The purpose of our hearing is to receive testimony concerning the issue of geographical indications and the potential effect of proposals by countries in the World Trade Organization agricultural negotiations on United States agriculture and food exports.

Geographical indications are a means by which producers of a product, including an agricultural product, can identify such a product as originating from a particular region and a product's quality or characteristic is attributed to that region. Many countries, including the United States, offer protection for geographical indications. However, proposals before the WTO in the agricultural negotiations could have the result of altering current systems of protection to the disadvantage of U.S. producers.

The committee will be interested in hearing from our witnesses concerning the ramifications of changes or expansions to the system of protection of geographical indications.

Currently, the United States provides protection for geographical indications through our trademark system, a rules-based method that is open and includes fair treatment and enforcement mechanisms. For example, European Union products that are protected include Parma, for ham from Italy; Roquefort, for cheese from

France; and Swiss, for chocolate from Switzerland. Other geographical indications include Florida citrus and Idaho potatoes.

The U.S. system is one that works, and in fact, other countries also have trademark-like systems in place. Conversely, the EU wants to change this system to one in which a country could arbitrarily select a geographical indication and claim it for its own and thereby deny a long-time user of such names the ability to market and sell its products.

Some of these generic terms could include parmesan cheese, balsamic vinegar, edam cheese and salami. Some would consider this all to be just bologna, but that, too, is one of the generic terms that the EU may want to claim for its own exclusive use.

This is a very important matter, especially in light of the EU's various proposals for geographic indications in the context of the WTO negotiations. The EU wants to set up a system of lists of names of products that cannot be used by outsiders, as opposed to a system of rules that protect producers and manufacturers of such products.

The agriculture negotiations in the WTO are very difficult and the various proposals are diverse, but for the most part do address the three major elements of the Doha Declaration, that is, market access, export subsidies and domestic support. However, the EU has taken its position on agriculture negotiations to a place in which it will deny access to products from around the world that it deems to belong to Europe. That is wrong.

The agricultural negotiations must continue with vigorous debate and should not be sidetracked. An important event is coming up in September, when the WTO 5th Ministerial will take place in Mexico. Several members of the committee will be joining Mr. Stenholm and me when we go to Mexico for this event. It will be important for the countries participating in the WTO negotiations to show progress and not regression through adoption of artificial trade barriers.

This hearing will provide a full opportunity for the committee to hear from witnesses on this subject.

And at this time, it is my pleasure to recognize the gentleman from Texas, the ranking member, Mr. Stenholm.

**OPENING STATEMENT OF HON. CHARLES W. STENHOLM, A  
REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS**

Mr. STENHOLM. Thank you, Mr. Chairman, and thank you for holding this hearing today. It is very important for the United States agriculture community to fully understand the implications of Europe's attempts to enhance protections for geographical indication.

It is equally important for Europe to understand that we do not intend to allow the issue to distract us from the real work of the WTO agricultural negotiations, export competition, domestic support and market access. Europe's attempt to create enhanced WTO protections for products such as parmesan cheese are simply not included in the Doha round mandate for agricultural negotiations. In point of fact, Europe has failed to produce a serious negotiating proposal on the issues that are included in the Doha mandate.

Under these circumstances, it seems premature to begin discussions on what we can offer Europe that will make agriculture reform more palatable to the Europeans. With that, Mr. Chairman, let me simply say I look forward to hearing from our witnesses and to working with you on this issue and the issues covered by the Doha mandate for agriculture.

The CHAIRMAN. I thank the gentleman. The committee will make a part of the record any other opening statements that Members might have.

PREPARED STATEMENT OF HON. NICK SMITH, A REPRESENTATIVE IN CONGRESS FROM  
THE STATE OF MICHIGAN

Thank you Chairman Goodlatte and Ranking Member Stenholm for holding this hearing to review the World Trade Organization negotiations on geographical indications. Also, I would like to thank the witnesses for providing this Committee with their input and concerns on this important issue.

When regulated and applied properly, geographical indications are an asset for both consumers and producers. For consumers, they offer protection from deceptive labeling as well as more information on which to base their choice of products. For producers geographical indications are commercially valuable as they protect the uniqueness of their products in the market. I believe that the U.S. should continue to protect geographical indications in a fair and reasonable manner, as we have through our trademark laws. The fact that the U.S. system for recognizing geographical indications applies equally to both domestic and foreign products demonstrates the U.S.'s willingness to protect geographic indications in a fair and flexible manner.

Unfortunately, the EU's demands for tougher restrictions on the use of geographic indications are unreasonable and are merely another example of leverage to their willingness to deal with the agricultural negotiating issues of domestic support, export subsidies, and market access.

The EU's lack of substantial CAP reform, the various hurdles they are creating for genetically-modified products, and now their demands for expanded protection of geographic indications, demonstrate their reluctance to open markets and support more free and fair trade. During the current round of multilateral trade negotiations, I believe that in regard to geographical indications the U.S. and other countries should stand firm that the existing levels of protection for geographical indications are fair, flexible, and adequate.

PREPARED STATEMENT OF HON. ROBIN HAYES, A REPRESENTATIVE IN CONGRESS  
FROM THE STATE OF NORTH CAROLINA

Thank you all for being here today to discuss the very important issue of geographical indicators. This important type of intellectual property must be preserved as we move forward in WTO trade negotiations.

Like many of you here today, I am extremely concerned with the European Union's push to "claw back" generic terms like "FETA" and "Gorgonzola" for cheese and "port" and "sherry" for wine. My understanding is that this is a key agenda item for the EU to call for termination of most generic terms to describe food and wine products unless those specific products come from the region or location specified. This could have a disastrous effect on our producers and consumers.

I am also very concerned with the EU holding agriculture negotiations hostage until the issue of geographical indicators is revisited. This begins to remind me very much of the way the EU has unfairly treated our GMO products.

Again, I look forward to hearing from all of you on this delicate issue, and I can assure you that I will continue to monitor this situation as we continue to move forward with WTO negotiations.

The CHAIRMAN. And at this time, we are pleased to welcome and invite to the witness table our first panel, Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the U.S. Patent and Trademark Office, Mr. Jon Dudas.

I am especially pleased to welcome Mr. Dudas, who is a former staff member of the House Judiciary Committee, on which I also

serve and which has a great deal of interest in the subject matter as well.

Under Secretary Dudas, welcome, we are delighted to have you with us today.

**STATEMENT OF JON W. DUDAS, DEPUTY UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND DEPUTY DIRECTOR OF THE U.S. PATENT AND TRADEMARK OFFICE**

Mr. DUDAS. Thanks very much, Mr. Chairman.

Before I begin testifying, I want to acknowledge as well, I spent about 6 years on the Judiciary Committee and a year in the Speaker's office, and the first bill I ever worked on that was signed into law was a bill that you sponsored, a trademark bill; and as I was reminiscing about my time as a staffer on Capitol Hill, I remember I had gotten a reputation sometimes of slipping notes to Members for particularly aggressive or tough questions, and I want to acknowledge publicly the error in my ways that sitting here now, alone, that was the wrong thing to do and commend those Members and staff that told me at the time.

But on a more serious note, I do thank you, Chairman Goodlatte, Ranking Member Stenholm, members of the committee and staff. I thank you for this opportunity to testify today on an important but little-known type of intellectual property known as geographical indications.

While the phrase geographical indication is hardly a household term, its real-life incarnations, such as Florida for citrus, Idaho for potatoes and Wisconsin for cheese are a common presence in millions of American households, restaurants and stores every day. They play a key role in promoting U.S. trade and consumer identification and awareness. Today's hearing is especially timely, because the United States' equitable and time-tested system for protecting geographical indications has been threatened. In fact, some of our trading partners are even going so far as to take a position that would deprive U.S. trademark owners, producers and U.S. consumers of commonly-known food terms such as feta, parmesan, champagne and believe it or not, bologna, as you mentioned.

Mr. Chairman, if these proposals are adopted, they will take away from Americans our right to make a champagne toast with Virginia or California wine, or enjoy the champagne of beers, as is shown in this popular trademark in the United States.

The United States has a successful, systematic approach that provides robust protections for geographical indications whether domestic or of foreign origin, and that is an important note. The United States system for geographical indications provides protection whether you are a domestic entity or a foreign entity.

We have provided today just a few examples of the hundreds of foreign GIs protected right now in the U.S. via our GI certification mark system, including Colombian for coffee, Parma for ham from Italy, Darjeeling for tea from India and Roquefort for cheese from France. These two displays will show you some of the foreign geographical indications protected in the United States.

While the United States provides a level playing field for GI registrants, the United States is not afforded similar protection in re-

turn. In fact, as you can see from our other poster, not a single American GI, not Napa, not Sonoma for wine, not Vidalia for onions, not Florida for oranges, nor Wisconsin for cheese, is currently protected in the European Union. To add insult to injury, the EU is demanding in the WTO GI discussions that its producers be given exclusive worldwide rights to certain common food terms such as feta, parmesan, burgundy, chablis and bologna. They claim that these common food terms used by Americans are owned by European producers. This so-called "claw back" agenda is being advanced by the EU and other likeminded countries as a serious negotiating item within the WTO at the TRIPS Council meetings and at the WTO Agriculture Committee meetings. If the EU is successful, U.S. producers would have to rename, relabel and repackage their products. U.S. trademark owners would lose the use of their trademarks that contain these terms and U.S. consumers would no longer be able to buy familiar products with the names that they have grown used to for decades or scores of years.

In various fora, the EU has emphasized that it has prepared a list of 40 terms, the majority of which we understand to be wine terms, for which it will seek absolute exclusive worldwide protection. If burgundy, chablis, champagne and sherry and similar wine terms are on this list, the EU will have effectively bypassed our ongoing bilateral negotiations between the United States and the EU. If accepted by WTO members in September at the WTO Ministerial in Cancun, this would provide EU producers with absolute protection, exclusive protection for generic wine terms, while offering no compensation in the form of fair market access for U.S. wines.

Make no mistake, what the EU is asking for is not fair treatment, it is preferential treatment. It is nothing less than the subsidy of European agricultural interests through claw back of generic terms. If adopted, the EU's demands could undermine the world's systematic approach to intellectual property protections, and not just for GIs. If the EU insists that we must protect exclusively and in perpetuity a specific list of its so-called geographical indications, what will come next? Will it be another list of 40 geographical indications and terms? Will it be 40 of their most popular trademarks or patents?

Unless there is a systematic approach to protection of intellectual property and respect for the rule of law that supports it, the world will quickly understand the negative aspects of these so-called positive lists.

Mr. Chairman, Ranking Member Stenholm and members of the committee, the United States is deeply concerned by the efforts of the EU and others to substantially restructure the standards for protecting geographical indications. If adopted, these proposals will harm U.S. domestic and international commerce in food and wine, and at the very least, result in great confusion among consumers.

I am hopeful that today's hearing will shed much-needed light on these ill-conceived proposals and help preserve strong and equitable protection for geographical indications and trademarks throughout the world and certainly in the United States.

Thank you for this opportunity.

[The prepared statement of Mr. Dudas appears at the conclusion of the hearing.]

The CHAIRMAN. Thank you, Secretary Dudas. Can you describe to us how the current status of trade negotiations interacts with the procedure that we have in the United States through the U.S. Patent and Trademark Office for protecting geographical indicators through trademarks, and what effect these trade negotiations are having on that?

Mr. DUDAS. Absolutely. In the TRIPS Agreement, there is protection for geographical indications, something that took more than 8 years of negotiations, give and take, among nations, so there is protection for geographical indications, and the way that we have handled that in the United States is by effectively mirroring our trademark system.

We handle over 250,000 trademark applications a year, and a geographical indication is very much like a trademark. It has certain—it indicates a certain reputation for a good. The United States has a systematic approach that it has employed because of TRIPS. It is an approach that, again, allows for geographical indications of foreign nations.

Under the current regime, there are certain trading partners, including the European Union, that would like to extend protection for geographical indications, which is troubling for a number of reasons. One is that the European Union right now does not protect, as this chart shows, there is not a single U.S. geographical indication that is protected under the current TRIPS Agreement. The way it is integrating and working with the trade environment right now, is it is an issue that is being raised both in WTO TRIPS Council, it is an issue that has been raised in the Agriculture Committee at WTO and certainly in bilateral negotiations, and my understanding, I am not a part of the Trade Representative's office, but my understanding is that the Agriculture Committee is being held up because of these issues, that a number of major agricultural issues are being held up because of the geographical indications issue.

The CHAIRMAN. Now, how does this interact with the general rules regarding the trademarking of a name that becomes generic in its use? We have many examples of that through U.S. history, where companies have essentially lost the trademark on their name because they did not protect it. For example, there are things right now in the marketplace that seem to be on the Europeans' list of things they would like to have a geographic indicator agreement on. For example, parmesan cheese. Virtually every American has a canister of parmesan cheese in their refrigerator, and I would venture a guess that it has become quite generic in its use, and people do not associate it with it now, if they ever did, with Parma, Italy. Would that be something that could be trademarked, or would under our trademark laws, it be struck down?

Mr. DUDAS. Parmesan would not in and of itself likely be trademarked, because it is considered generic in the United States, but it is certainly incorporated within trademarks of other—for example, mozzarella, there is a trademark for Grande Mozzarella in the United States. Mozzarella is considered a generic term, but Grande Mozzarella is one that could be trademarked, and has been trademarked in the United States.

Your point is well taken. For people who understand our intellectual property system, terms like linoleum and escalator were once trademarked. Because they became generic, those terms were lost, but terms like parmesan and feta, et cetera, are terms that have been used in the United States for scores of years and in some cases, hundreds of years, and they are at this point in the United States generic.

Under the EU proposals, there would be an effort to claw back these terms that have been become generic in the United States and in many ways, have become popular because of their generic status in the United States, to take back these terms, give them a proprietary value and deprive U.S. trademark owners from using those terms within their trademarks, and perhaps more importantly, deprive consumers from buying a can of parmesan cheese, as you mentioned, with that term.

The CHAIRMAN. In fact, the real value of that term has not come from anything that has been done by the citizens of Parma, Italy, but rather, the millions of dollars spent by cheese processors in the United States, Kraft obviously being the leading one with the issue of parmesan. But there are many other companies that also produce parmesan cheese and put that on the label of the canisters that they produce. They have spent millions of dollars creating a value, which if the European Union were successful in these negotiations in their claw back, that is a very accurate description, they would be clawing back the benefit of those many, many tens or hundreds of millions of dollars that have been used to create the public awareness and support for those particular names of products that are not trademarked but are identified by the public as something that they prefer and something they use.

Mr. DUDAS. And that is absolutely correct. On the way up, we tried to decide what the jingle, "My bologna has a first name. . ." What would we call it, "My 'circular pink meat' has a first name, it's O-s-c-a-r. . ." so absolutely, and that is an argument the United States has made very effectively throughout the world is that many of these terms were brought over long before there was a geographical indications regime in Europe and elsewhere. These were terms that were brought to America, they were used throughout America, and in fact, the value of those terms are because of the marketing and because of the use in America and throughout the world.

The CHAIRMAN. And if a country or a community does take steps in a timely fashion to trademark a name before it gains this kind of wide, generic acceptance, they can do that right now through the Patent and Trademark Office.

Mr. DUDAS. Absolutely.

The CHAIRMAN. Am I correct that there are many examples of that? For example, when I was a kid, my father loved putting Roquefort cheese on his salad and other things, and today, Roquefort cheese, because it is a trademarked name, is protected, and you can buy Roquefort cheese. It is generally viewed as being a higher end bleu cheese, but the generic term, that is more widely used, is bleu cheese, spelled b-l-e-u, until the French get a hold of that through generic indications, is that not correct?

Mr. DUDAS. Right.

The CHAIRMAN. All right.

Mr. DUDAS. And I note, Roquefort cheese has been registered and protected in the United States since 1953, registered and certainly could have been protected under common law before that, and you point out parmesan cheese is generic in the United States, but Parmigiano-Reggiano is a protected geographical indication.

The CHAIRMAN. Is that a brand of parmesan cheese?

Mr. DUDAS. It is a type of parmesan cheese that comes from a region in Italy, and that is protected. In fact, they have recently settled a case with folks who used a variation of the term Parmigiano-Reggiano, was Parma Reggiano, so there is robust protection in the United States for geographical indications that are not generic.

The CHAIRMAN. Thank you very much. The gentleman from Texas.

Mr. STENHOLM. The EU has already negotiated agreements with Canada and Australia to limit the use of generic terms such as burgundy and port. What are the potential effects of these agreements on U.S. wine sales in Australia and Canada and what are our rights under the WTO?

If Canada decides to enforce elimination of generic terms on imports from countries that are not part of a bilateral agreement with Europe, could the United States enforce its right to sell a wine described as burgundy to Canada?

Mr. DUDAS. The practical effects of the Australia and EU wine agreement and the recently initialed Canada/EU Wine Agreement, as I understand them, I don't have the language with me, but as I understand them, is that terms like burgundy and chablis are to be used only exclusively in those nations that made the agreements, Australia and Canada, by EU producers, and in fact, I even understand that if you use a term that is in those lists, like burgundy or chablis, even a trademarked term that is not associated with the wine term, we showed earlier, the champagne of beers for Miller, a situation like that that would also be excluded.

I am not certain of what the practical effects to the wine industry would be, and maybe folks who are testifying later would be able to talk about what the markets are, but from a practical and legal effect, I think what it means for U.S. wine producers presumably is that they can no longer use the term burgundy or chablis when they export to Australia and when they export to Canada, and in fact, if the EU continues, the net effect of the current proposals under the EU would be that those terms would not be able to be used in any nation, including in the United States.

It is important to note that for all the industries involved, there was a misnomer at one point that this only affected exports for U.S. businesses and industries, but if the EU is able to get their positions across, it will mean that these terms will no longer be available to U.S. producers and consumers within the United States.

Mr. STENHOLM. I realize some of the questions I am asking should be more probably directed to the U.S. Trade Representative's Office, so I would appreciate their helping you give the answers for the record to those that I will submit in writing, as well as those that I am asking.

What specific reference was made in the Doha Ministerial Declaration to expanding the debate on geographical indications beyond wine and spirits? Was there any implicit or explicit agreement to negotiate GIs for agricultural products?

Mr. DUDAS. I am going to get the specific language. The short answer is no. Let me find the specific language before I quote. Yes. Paragraph 18 of the Doha Ministerial Declaration states that:

Issues related to the extension of the protection of geographical indications provided for in article 23 to products other than wines and spirits will be addressed in the Council for TRIPS, pursuant to paragraph 12 of this Declaration.

Further, paragraph 12 talks about addressing, the TRIPS Council should address the extension issue “as a matter of priority” and report to the Trade Negotiations Committee by the end of 2002 for “appropriate action.”

What that all means is debate and discussion about geographical indications is one thing. It is not a mandate for negotiation. So we are not aware at the USPTO of any implicit or explicit mandate for negotiation, either from Doha or at any other place. The U.S. Government, the USTR, has made repeated and adamant interventions in the TRIPS Councils to make this point that there is no mandate for negotiations on geographical indications, and I thank you for—I will convey your questions as well to colleagues at USTR who are on this issue.

Mr. STENHOLM. Would you go a little further in discussing why the Trade-Related aspects of Intellectual Property Rights Agreement, or better known as TRIPS is the most appropriate forum within the WTO to discuss GIs?

Mr. DUDAS. Absolutely. As the Deputy Under Secretary for Intellectual Property, it is important for me to note that TRIPS treats geographical indications as a form of intellectual property protection, and so that 8 years of negotiations occurred at TRIPS prior to the recent discussions, the geographical indications, where there were substantive experts on intellectual property.

Just as it is unfair to ask intellectual property experts to explain terms like green box and blue box and amber box, which are terms I couldn't explain to you right now, but understand to be important agricultural terms, it is equally unfair to ask substantive agricultural international experts to try to pore through intellectual property terms that are technical and that they are not used to, so the TRIPS Council is where geographical indications was negotiated for 8 years. It is where people understood what the compromises were, and it is where it is best suited to have that discussion.

Thank you.

The CHAIRMAN. I thank the gentleman. The gentleman from Montana, Mr. Rehberg.

Mr. REHBERG. Thank you, Mr. Chairman. Just a real quick question as far as enforcement. First of all, thanks, Mr. Chairman for the committee hearing. This is something that is important to me, because we got sued a number of years ago using the name Montana Knits, come to find out that a gentleman by the name of Claude Montana, who said he owned the name Montana. It turned out he did. We lost, but he went bankrupt, and we were happy for that, but the question I have to ask is if this occurs, who will enforce it? Will the Federal Government step forward and help people

like myself, who are up against a fellow in France who says he owns the name Montana? The State of Montana said that they didn't have the money to defend a case like that. Who ends up defending American business who are up against the EU saying that they own Idaho and Wyoming and North Dakota?

Mr. DUDAS. Well, in the instance of an international event along the type that you are talking, if another nation claims something, then certainly, the United States Trade Representative is the place to go where they can bring a case, they can bring an international case. They can have consultations or formal negotiations, or they can bring a dispute settlement.

In addition to that, under the United States system, we have a very tried and true and well established system for protection of intellectual property, whereby the owner of the mark, whether it is a GI certification mark or a trademark has the ability to determine how can they go about doing this, taking care of it in the courts, we have a very expansive, tried and true, again, systematic approach to protecting intellectual property through the courts, through appeals processes, et cetera.

Mr. REHBERG. OK, so then, based upon the expected number of items on the list, have you been able to put any kind of a cost value to what it is going to cost you to try and defend American business against all the various potential violations there would be?

Mr. DUDAS. We haven't put together that estimate. I think folks from the industry might be able to better tell you how much value they have in their trademarks, how much value they have, et cetera. We think in terms of cost to the government, taking a European Union system approach, where the government only is allowed to enforce the rights and there isn't the ability for the owner of the trademark or the geographical indication to take it, we don't have an estimate for how much it will cost, but basically, we will have to establish an entirely new system to check all goods that come through the border, relabeling and repackaging requirements that don't exist for agriculture products.

Mr. REHBERG. I would think that based upon the potential, the economic impact on our free enterprise system in America would be phenomenal.

Mr. DUDAS. Yes.

Mr. REHBERG. I might point out, Mr. Chairman, he was pretty slick in the way we did it, we have a Made in Montana brand, and he had Made in Montana with a little Claude before Montana on all of his knit products coming into America, so he was fully taking advantage of our marketing of Made in Montana products. Thank you, Mr. Chairman.

Mr. DUDAS. Seeing as he went bankrupt, I don't want to take over a trademark, and I apologize to the ranking member, but I guess it is "Don't Mess With Montana" as well.

Mr. REHBERG. We now have the trademark, but he is back in business.

The CHAIRMAN. The gentleman from Minnesota, Mr. Peterson.

Mr. PETERSON. Thank you, Mr. Chairman. I have to admit I didn't know much about this TRIPS Council, but apparently, it only applies to wine and spirits, is that the deal?

Mr. DUDAS. Well, there is a requirement under article 23.4 under TRIPS that there needs to be a voluntary registration and notification system put in place for wine and spirits. The EU has argued that that needs to go beyond that and into agricultural goods, and they are promoting extending protection for geographical indications beyond that.

Mr. PETERSON. Right. Well, what I was wondering is you have been meeting for 8 years, you said?

Mr. DUDAS. There were 8 years of meetings prior to TRIPS.

Mr. PETERSON. OK.

Mr. DUDAS. And that was back in 1995.

Mr. PETERSON. Well, that sheet there where there is no, apparently you haven't gotten very far with the Europeans in terms of getting the U.S. interests.

Mr. DUDAS. That is right.

Mr. PETERSON. Right. Can you tell me what the—I know you are not from the Trade Office, but do you know what the status of the discussions in the WTO about this are? Are our people rejecting this?

Mr. DUDAS. Well, the status of negotiations are they are lively, they are ongoing and they are polarized, but the position of the U.S. Government has been to avoid this type of claw back. Certainly on timing and strategic decisions, I would have to refer that to colleagues at USTR, and certainly would, but my understanding is that both—I am not as familiar with the WTO Agriculture Committee, but in following that, it is clear that it is an issue that has held up a number of very important agricultural issues. Certainly at TRIPS Council, it is a big issue, and what we are coming up to in Cancun, this will be an important issue.

The United States has—we have offered substantive and technical expertise, and certainly offered our opinion politically about what should be done, but there has been strong resistance from the United States to the attempts by the EU to without any form of compensation whatsoever try to claw back these terms.

Mr. PETERSON. Well, apparently, the chairman of the WTO agriculture negotiations, Stuart Harbinson, has asked the WTO member countries if, I quote: "Agriculture modalities should contain provisions for a limited number of geographical indications." So is our position we are against that, do you know?

Mr. DUDAS. I think again, offering my expertise from an intellectual property point of view, it is our responsibility to make sure everyone in the administration understands the negative aspects to these positive lists. In an intellectual property system, you have to consider a number of things before you propose a new system, such as terms that are already available, what rights exist right now, the public's right to use common terms. There has been resistance in the past to this from the United States. As far as what strategic decisions are being made right now, I would have to refer to USTR, but certainly, the United States has been resisting this claw back and the idea of having a positive list.

Mr. PETERSON. Well, it seems to me the Europeans don't want to deal with their underlying issues and they are kind of trying to change the subject here.

The other thing, we have had on the floor and in this committee, we have had hearing on this, and we had an action on the floor on this country of origin labeling issue. I mean, it seems like what we are talking about here has got some of the same issues that we have in that, in terms of us labeling in this country, U.S. origin beef or whatever.

Are you familiar at all with that, and are the Europeans and others looking at that kind of the same way we are looking at this? Do you have any—

Mr. DUDAS. I am not as familiar with the labeling requirements here, but I can talk a little bit about what we think kinds of labeling requirements would occur. Certainly, with wines and spirits, one of the advantages, and one of the reasons during the TRIPS negotiations that the United States was amenable to discussing different protections for wine and spirits is because we have ATF or now TTB who handles certain labeling requirements. One of the big issues that will occur, if these generic terms are taken back, is how will we—and the burden is put again—our trademark system puts both the motivation and the responsibility and ability on the owner of the trademark or the geographical indication, the person who is in the best position to decide whether or not to litigate or how to enforce the rights, if this burden is placed entirely on the government, we will have to reconsider how we handle labeling, within Customs, how we handle labeling at the border, and what government agency has the ability to—

Mr. PETERSON. Just one last thing, like for example, Angus beef has got a big promotion. Is that protected under your trademark or not, or are they just doing that, you know?

Mr. DUDAS. I am not certain if Angus beef—let me ask some of my colleagues who are more familiar with some of the registrations. I don't know, we certainly can get back to you about Angus beef.

Mr. PETERSON. I would be interested in whether they have taken the step to protect this under your jurisdiction or not.

Mr. DUDAS. Absolutely.

Mr. PETERSON. Thank you. Thank you, Mr. Chairman.

Mr. DUDAS. Thank you.

The CHAIRMAN. The gentleman from North Carolina, Mr. Hayes.

Mr. HAYES. Thank you, Mr. Chairman. I have no questions at this time, but would like to submit a statement for the record.

The CHAIRMAN. Without objection.

[The information appears at the conclusion of the hearing:]

The CHAIRMAN. The gentleman from Tennessee, Mr. Jenkins.

Mr. JENKINS. Thank you, Mr. Chairman. I am sorry I missed the gentleman's testimony, but I know that it sounds as though we are going to get out of the realm of agriculture and back into the legal realm with respect to many of these negotiations, and I will simply say that with Mr. Dudas having part in that, I hope he is representing us in it, because he is a very able, capable young man, and I feel very confident to be under his representation as we go through this—what apparently is going to be an unbelievable process that we never anticipated, perhaps, when we got into this. Thank you, Mr. Chairman.

The CHAIRMAN. I thank the gentleman. And the gentleman from California, Mr. Dooley.

Mr. DOOLEY. Thank you, Mr. Chairman. I just want to perhaps clarify, Secretary Dudas, on the position of the administration, which you are not obviously in the USTR, but from the U.S. Patent and Trademark Office, you have communicated the opinion that the proposal by the EU that would deal with the claw back as well the positive listing would create significant challenges and problems with your operations.

Mr. DUDAS. From the perspective, an intellectual property perspective, we see a number of policy and substantive problems with a positive list. Our system is based on individual rights and market principles.

Mr. DOOLEY. Now, has your office gone as far as to issue an opinion about whether or not the administration should be in any way receptive to the inclusion of these issues as one of the modalities in the Doha Round?

Mr. DUDAS. I don't think we have issued anything along those lines. We have certainly had conversations within the administration in giving advice on those issues.

Mr. DOOLEY. Now, is that something that is—would not be consistent with precedent and past practices, or is your office—would consider issuing a very strong statement that based on existing law and practices in the United States, that it would be inappropriate to accept as one of the modalities, the EU proposal.

Mr. DUDAS. That would probably be somewhat inconsistent with the role of our office as far as a participant in the administration. Certainly, commenting on policy, et cetera, is something that is perfectly consistent with what our office does, but making the ultimate decision from a trade representative perspective or on behalf of the United States would come out of the USTR and those conversations are ongoing and certainly, even in testimony today we have commented about how the policies are problematic from an intellectual property perspective.

Mr. DOOLEY. Now, from an EU or even a U.S. perspective, in terms of when you made the distinction between the part of the parmesan that is from a specific area, if somebody in the United States took it upon themselves to register a product that had a geographic identifier in order to try to carve out a little bit of a market niche, your office quite likely would do an analysis and would not approve that if you determined that this was, in fact a unique product from a specific region.

Mr. DUDAS. That is correct.

Mr. DOOLEY. So you make value judgments in how you approach this in terms of whether or not a product has become identified as, or perceived as being a generic product, versus something that is unique to a specific region?

Mr. DUDAS. Absolutely. That is correct, and we have about 258,000 applications a year, about 164,000 registrations occur, and this is in trademarks and includes geographical indications, but you can see that a number of attempted registrations never make it, because they are either confusing or generic, or they have already been trademark, so that is exactly why our system in the United States works so well. We already handle volume like that,

and can handle that, and the value judgments are made by our roughly 250 examiners.

Mr. DOOLEY. Now, I might be mistaken, but I thought I read, too, where in Canada, there was an attempt to register Parma ham as a trademark. That obviously created some concerns with some of our friends in the EU. Do you know, did that in fact happen, and how would that have happened if that was attempted to be registered in the United States?

Mr. DUDAS. I am not certain if that happened. That is apparently—it has happened in Canada, and that is an ongoing case in Canada, and of course, it is country by country, but in the United States, if someone tried to get a trademark for Parma ham, our examiner would presumably find out that there already exists a mark, a geographical indication owned by the Council, or from Italy, and would reject on that basis.

Mr. DOOLEY. Now, under the TRIPS, would Canada, could they be subject to a dispute resolution with the—if they did trademark or patent the Parma ham?

Mr. DUDAS. If the Italian government wanted to raise a case with Canada, they could.

Mr. DOOLEY. But they would have to raise a case.

Mr. DUDAS. Right. Thank you.

The CHAIRMAN. Thank you. The gentleman from California, Mr. Ose.

Mr. OSE. Thank you, Mr. Chairman. I want to follow up on something here. In 1999, we asked for consultations with the EU over regulations for geographical indications for wines, spirits and agricultural products, and then we revised that request in April of this year.

Have any consultations taken place, and if not, what is the problem? Why are they taking so long to occur?

Mr. DUDAS. I think certainly, we have been trying to understand in the United States the geographical indication system in Europe, and it has been fairly difficult to understand, how the protection occurs and what their system is. In part, as I mentioned, we can show very clearly how the United States system works. As we look at the European system, we view what we see as a problem, that there are no American geographical indications there.

The European Union revised their own regulation, 2081/92 in April of this year. The United States asked for formal consultations, USTR asked for formal consultations, which were concluded in May 2003 and at this point, we have much more information about their system, and beyond that, I certainly would need to ask USTR or consult with them about what their latest plan or strategy is.

Mr. OSE. Well, that does beg the question. If the consultations with the EU took place in May, that is your testimony, what is the action that you are proposing or that anybody is proposing?

Are we just sitting here in abeyance until it rains or something? I don't know.

Mr. DUDAS. Well, I think the next procedural step would be to seek formal dispute resolution, which would be a decision that could be made by USTR, or certainly at every procedural step and following every procedural step, there are often bilateral negotia-

tions and discussions. So for instance, after formal consultations and gaining more understanding, it may be that right now, USTR and the United States and the EU are discussion if there isn't some answer to the problem, but the next formal step would be a formal dispute resolution.

Mr. OSE. Ambassador Zoellick makes that determination.

Mr. DUDAS. Yes.

Mr. OSE. All right. And is there any timeline that has been laid out for either what I would call a drop dead date on that determination?

Mr. DUDAS. Not that I am aware of.

Mr. OSE. Thank you.

Mr. DUDAS. Thank you.

The CHAIRMAN. I thank the gentleman. The gentleman from Iowa, Mr. Boswell.

Mr. BOSWELL. Thank you, Mr. Chairman. Just briefly, I apologize for not being in on the whole brief, so if this has been covered, I will stop, but I continue to be concerned about the complications we have with Europe on our genetically modified, if you will, as this gets into the science and the running argument we have started with them. I think Mr. Stenholm and some of the rest of us, we went out to the Seattle WTO, we got into that discussion with our friends from Europe that time. You might remember that, Charlie, and they didn't have much of a story to tell. It was pretty weak. In fact, it didn't amount to anything. It was just an excuse or a ruse, and we managed to point that out, and I just wondered if that has adjusted any, or what could you say about it, and maybe it is not germane, Mr. Chairman, to this discussion, but it is a concern that a lot of us have felt, and I got lots more I could say about it, but I will just stop there. Could you comment on where we are at in that part of—

Mr. DUDAS. I can acknowledge that I think it is certainly germane to the discussion, because it looks at the agricultural issues overall. Unfortunately, I have a dramatic lack of understand of that particular issue, so while it is, I think, germane to the issue of—it is something outside the expertise I have from an intellectual property perspective.

Mr. BOSWELL. Thank you for saying that, because we learned while we were out in Seattle, what was it, 3 years ago, whatever it ways, population hit 6 billion a year ahead of time in the forecast, which 20 years ago, they said that is not going to happen, they kind of pooh-poohed it. Now, they tell us it is going to double that in the next 20, 30 years, and we have got to develop the science, and of course, a lot of that goes on in my State, at Iowa State University, as at other places across the country, and we are pretty proud of it, and we do it pretty openly, it is kind of under glass, and we made that comment to the person that I engaged with across the table in that little powwow, if there is something wrong with our science, tell us. We want to know, too. Well, meanwhile, just because you have got a mountain of whatever agriculture product and you don't want us to compete with you, don't make up a story, and I just—I would hope that somebody down there in your area could pursue that and report back to us, because I think it continues to be a concern.

Mr. DUDAS. I will share that with the colleagues that know the——

Mr. BOSWELL. Thank you, Mr. Chairman.

The CHAIRMAN. I thank the gentleman. The gentleman from Nebraska, Mr. Osborne

Mr. OSBORNE. Thank you, Mr. Chairman. I have one rather brief question here. It seems that many developing countries are supporting the EU proposal of extending geographical indications to other products, such as cheese, meats, teas and coffees. Why is this? Do you have any comment on that?

Mr. DUDAS. I do. In fact, I think it is probably a lack of education on the issue, and perhaps, who approached them first.

I can tell you, we had sponsored a symposium along with the World Intellectual Property Organization a few weeks ago dealing with geographical indications, and I had the opportunity, along with several members of the staff from PTO, to talk with leading folks in governments from developing nations, who came from the perspective of we need to begin bilateral negotiations to discuss how we can protect the one geographical indication we have for wine or water in our country.

These are developing nations from Asia and South America, and it was very interesting when I said the first step you need is not a bilateral negotiation, but just register your mark with the Patent and Trademark Office, and you had talked to some of your colleagues from India and others that are here that have done so, and find out what kind of protection they have had, and they were heartened by that, so we have really—the United States has worked with a number of nations, developing and other, to come together with a consensus and we now have several South American nations, Japan, Australia and Canada, working together to inform other nations as well, so I think it is an issue of education. The more developing nations see how our process and system works in the United States, how it is fair to their country, that they will understand more why it is an important issue and why that is the better system to adopt.

Mr. OSBORNE. Thank you, and I yield back.

Mr. DUDAS. Thank you.

The CHAIRMAN. I thank the gentleman. The gentleman from Georgia, Mr. Burns.

Mr. BURNS. I have no questions. Thank you.

The CHAIRMAN. Thank you. I believe the gentleman from Texas has an additional question he wanted to ask.

Mr. STENHOLM. Part of the answer that you just gave to Mr. Osborne there, but let me phrase it again. The EU has proposed a multilateral notification registration for GIs associated with wines and spirits. What are the implications of expanding this system to all products, and then how would individuals protect their valid, existing trademarks from being undermined under the new system, and then the following question is do WTO member countries, or how many WTO countries have systems in place to review new registration proposals?

Mr. DUDAS. Thanks for the question.

The ramifications of extending the protection beyond wines and spirits would be dramatic, in that especially when you look at the

proposals that are out there right now. Again, we talked about TRIPS being something that was negotiated and agreed upon several years ago, and it was negotiated 8 years before that, but what we find most troubling is that again, if you look at our chart here, the European Union does not already enforce the existing geographical indications regime to protect foreign geographical indications, so the implications are potentially dramatic.

They may lead to—right now, under one European Union proposal, would suggest that you list out geographical indications that you think should be protected. If they are not challenged, or successfully challenged, not challenged within 18 months and not ultimately successfully challenged, then those geographical indications go into protection, exclusive protection forever. So your question about how would individuals protect their trademarks, if they had a trademark, an individual, and we talked a little bit about that earlier, wouldn't have the ability under the European Union system. They would have to rely on the government, in this case the U.S. Government for our industry, would have to rely on the government to look at hundreds if not thousands of geographical indications to determine which ones are worthy of going further, or which ones they should take on to discussions and bilateral negotiations, literally sitting down country and country and going over hundreds or thousands of geographical indications and determining which ones should be disputed.

You have to rely on the government to do that. You don't have the ability, again, after you have spent hundreds of thousands or millions of dollars, to find relief yourself through the courts, et cetera. That is especially problematic, I think you alluded to, for developing nations, who—we have had conversations with some developing nations that understand the value of intellectual property, but don't have the funds or resources to even establish an office that can inspect and register intellectual property. So the EU has not given a lot of guidance about how you would set up a system such as that. They do have the Lisbon Agreement, looking at appellations of origin in the EU. France has over 400 different geographical indications they want to look at right there, so that, for us, it is very problematic, and again, it is inconsistent with the system in the United States, whereby you place the ability and the responsibility in the hands of the person who has developed the trademark or the geographical indication, and you use market principles to determine how you will enforce it.

Mr. STENHOLM. Thank you. Chairman.

The CHAIRMAN. If I might, I want to follow up on that myself. In fact, they are being quite inconsistent within Europe, are they not? Because cheddar cheese, from Cheddar, England, or swiss cheese from Switzerland is not on their list of geographic indications, and the reason is that cheddar cheese isn't just manufactured in the region around Cheddar, England, and swiss cheese isn't just manufactured in Switzerland in Europe. It is manufactured all across Europe, and they have decided not to tackle the difficulty of taking away the right to use that name for all kinds of cheese processors all over Europe for those indications. They have been quite selective in selecting brands that they think there is the greatest trade benefit to clawing back into Europe, like par-

mesan cheese, which has been promoted very widely by U.S. cheese processors. Is that not an accurate assessment of the European inconsistency on this whole issue and why this should be relegated to the realm of intellectual property and patent and trademark offices around the world and not to trade negotiations?

Mr. DUDAS. Yes, I would agree with that point. It is something that has confused us as we look at it from an intellectual property perspective, and again, we have a systematic approach. When you come to the United States, what you are facing, you have a legal regime, exactly what is expected, what the process is, what your remedies are, and in Europe, we have been confused by the issues you have just raised. Also, the fact that waters will be removed from the geographical indications regulation. There is a number of different potential reasons why water may have been removed, two leading possible reasons. One is that there are too many waters, different waters that might get geographical indication protection that the system couldn't handle it. Our system handles over 250,000 applications a year of trademarks and GIs included in that. The second reason could well be along the same lines that you talked about, that maybe some European producers are worried that they have a valid trademark throughout the world for a particular water, and they don't want to see other producers producing it.

The CHAIRMAN. You wouldn't be referring to that wonderful French water, Perrier, would you, which comes from Perrier, France, but is trademarked by one French company, so that other companies in the region of Perrier would not be able to use that name as a geographical indication? Is that not correct?

Mr. DUDAS. That is correct, and that is an example.

The CHAIRMAN. There is a great deal of hypocrisy here. The gentleman from Minnesota had an additional question.

Mr. PETERSON. Well, I am still a little confused. This discussion they had about taking these issues to a dispute mechanism in the WTO, I thought we hadn't actually agreed to anything here, so how—I mean, have we given this issue standing by saying that we think this is a valid issue? I didn't think we had gotten to that point yet.

Mr. DUDAS. Well, the current issue is about the extension of geographical indications protection. There is currently in the TRIPS Agreement protection for geographical indications that the United States negotiated and is in the TRIPS Agreement.

Mr. PETERSON. But that is only on wine and spirits.

Mr. DUDAS. Well, it actually includes the protection for geographical indications is for any geographical indication. There is a separate discussion ongoing, so there is already a layer of protection in TRIPS that the United States has agreed to and supports for geographical indications of all types.

Mr. PETERSON. So that is what puts it on the table, with the WTO?

Mr. DUDAS. That is what puts in the table, for instance, that there is a discussion right now, and that there was a request for formal consultation with the EU for the question of why are U.S. geographical indications not being protected in Europe.

Mr. PETERSON. Well, I understand that, but because we agreed to this TRIPS thing, that gives the Europeans the standing to bring up all these other issues.

The CHAIRMAN. No. Would the gentleman yield on that point? What the TRIPS Agreement agreed to was a formal protocol that goes through our U.S. Patent and Trademark Office to recognize geographic indications as a trademarkable, under certain circumstances, product. Is that not correct?

Mr. DUDAS. Yes, the current system talks about protection for geographical indications generally, and the U.S. system handles that by going through the registration system.

The CHAIRMAN. What is currently being discussed is simply put on the table in a trade agreement the ability to agree in that trade agreement that certain indications are to be protected.

Mr. PETERSON. But my question is, and I don't know who can answer this is, is that we haven't agreed to that yet, and so how can that be brought to a dispute mechanism if we haven't agreed to it?

Mr. DUDAS. That couldn't be. If there is something we haven't agreed to, it can't be brought to a dispute mechanism. We do have certain—the U.S. in engaging the European Union in dispute resolution under the existing TRIPS Agreement, and then there we are talking sometimes in terms of hypotheticals of what kind of dispute resolution would there be under the EU proposal.

The CHAIRMAN. The new proposal is taking it a whole new realm.

Mr. PETERSON. Yes, right.

The CHAIRMAN. Out of the realm of intellectual property law and into simply we will trade you this for this.

Mr. PETERSON. But we haven't agreed to that.

The CHAIRMAN. We have not for specific geographical indications. We hope that that certainly will not be the case because it will be very costly for the United States and a great many products made by very many companies. Are there any other questions of this witness?

Well, Mr. Dudas, we thank you very much.

Mr. DUDAS. Thank you.

The CHAIRMAN. This has been very enlightening, I am sure, to a great many Members, and it is a very important issue, and an important element of our trade discussions that is not getting the kind of attention in the United States that it is in Europe, so we thank you for the focus that the PTO has placed on this.

And we again thank you for your testimony.

Mr. DUDAS. Thanks, Mr. Chairman.

The CHAIRMAN. We would now like to invite our second panel to the witness table. Mr. Patrick J. Kole, vice president of legal and government affairs, Idaho Potato Commission; Mr. Tom Suber, president, U.S. Dairy Export Council; Ms. Sarah Thorn, director of international trade, the Grocery Manufacturers Association; Mr. Michael Pellegrino, vice president of marketing and strategy, Kraft Cheese Division; Mr. James B. Clawson, on behalf of the Wine Institute; and Mr. Frank Hellwig, senior associate, general counsel, Anheuser-Busch Companies.

I would like to welcome all of the witnesses today, and point out to them that their full written statement will be made a part of the record and ask that each of them limit their testimony to 5 min-

utes, and we will start with you, Mr. Kole. We are very pleased to have you with us.

**STATEMENT OF PATRICK J. KOLE, VICE PRESIDENT, LEGAL AND GOVERNMENT AFFAIRS, IDAHO POTATO COMMISSION**

Mr. KOLE. Thank you very much, Mr. Chairman, members of the committee. I appreciate the opportunity to testify here this morning. My name is Patrick Kole. I am assistant to the executive director and vice president for legal and government affairs for the Idaho Potato Commission. The Commission is a self-governing State agency of the government of the State of Idaho. It was created in 1937. It is funded by a tax on potatoes. Those taxes over the last several years have generated over \$100 million that have been used to promote consumer awareness and consumer recognition of the term Idaho potatoes.

Similar programs are in existence in Florida, where they have spent even a larger amount of money than has been spent in Idaho, in Georgia, in Wisconsin, in California. Many people recognize the term California raisins or Virginia ham. These are examples of a successful utilization of the U.S. trademark system to create recognition through certification marks. More importantly, certification marks, besides creating consumer awareness, operate to create consumer protection and to prevent fraud. This is a very important part of preventing deceptive trade practices.

The heart of the matter that I am testifying about here is the inherent unfairness that exists between the open, transparent and rule of law based system present in the United States as opposed to that which is presented in the European Union. In the European Union, there is no protection to holders of certification marks like Idaho potatoes or Florida citrus. We are simply shut out. We cannot register and will not be able to register unless our government is willing to cave in, and by cave in, what the Europeans are demanding from us is that, under the principle that they call reciprocity, that we agree to create in our system a parallel system to theirs, and this, we believe, violates the national treatment principle that was negotiated and agreed to by the EU as part of the TRIPS Agreement.

Their failure to act in good faith to allow our registrations has produced a corresponding problem for us, and that problem is simply this. We are now aware of at least nine different registrations for the term Idaho in the European Union. There is nothing that we can do to prevent these registrations. We are powerless to stop them. We have spent several thousands of dollars retaining attorneys in France and in England and in Germany, asking them if there are any steps we could take to stop the use of the term Idaho by these other companies in Europe. The answer has uniformly come back no. There is nothing you can do, because in the EU, membership has its privileges.

Now, I would like to turn to the second point in my testimony very briefly. This principle of membership having its privileges also extends to the approach the European Union uses in phytosanitary matters. For several years, we were able to ship Idaho potatoes to our commissaries and our military facilities, but when the EU re-wrote their regulations in the year 1999/2000, our ability to do so

stopped. We cannot, under the United States Government or any interested party, cannot initiate a review of those phytosanitary trade barriers. The only person who can do it is a plant health director for an EU member State. Thus, what was once a lucrative trading opportunity for exports in Idaho potatoes to our military facilities has come to a halt.

In conclusion, Mr. Chairman, members of the committee, we are here because we have asked the USTR to move forward with this dispute resolution on the national treatment principle. We hope that this committee will also urge the USTR to move forward, because the EU should now, at this time, unconditionally and without hesitation, allow the registration of certification marks within the EU system.

Thank you very much, Mr. Chairman.

[The prepared statement of Mr. Kole appears at the conclusion of the hearing.]

The CHAIRMAN. I thank you, Mr. Kole. Mr. Suber.

**STATEMENT OF THOMAS M. SUBER, PRESIDENT, U.S. DAIRY EXPORT COUNCIL**

Mr. SUBER. Mr. Chairman, members of the committee.

Thank you for an opportunity to offer my views on the impact of the proposals regarding geographical indications tabled by the EU in the World Trade Organization talks.

My name is Tom Suber, and I am president of the U.S. Dairy Export Council, which represents the export trade interests of U.S. milk producers, dairy cooperatives, proprietary processors and export traders. Today, I am also speaking on behalf of the National Milk Producers Federation, which represents a vast majority of the milk producers in the United States.

America's dairy industry is the country's second largest agricultural sector, providing a livelihood for 80,000 dairy farmers in every State of the Union. Dairy's impact on the economy is substantially compounded by our processors, who turn our milk into cheese, butter, ice cream and milk powder.

I am here today because our members avidly support substantial trade reform during the Doha Round along the lines tabled by the U.S. Government. We would gain much from reforms that create a harmonized outcome for the so-called three pillars of agricultural trade. Conversely, U.S. dairy processors and farmers would suffer greatly from a poor outcome that keeps the present inequities in world dairy trade. Therefore, we strongly believe that efforts by the EU to expand the rules pertaining to registering geographic indications for wines and spirits, or protecting existing generic names under claw back provisions would either collapse the Doha Round or undermine any benefits that reform of three pillars would bring.

We think the committee should find it especially worrisome that negotiators are spending any time on this issue, since the subject lacks a mandate from the Ministerial Declaration that launched the round.

Mr. Chairman, my written testimony outlines the definition of GIs, the current role that they have within the WTO, how the EU proposes to expand WTO member obligations in this area during the current Doha Round.

In my oral comments, I will focus on the damage that EU mischief in this area would bring to the U.S. dairy industry. The dairy industry in the United States clearly had its origins in Europe. When the citizens of England, Italy, the Netherlands, Greece and elsewhere in Europe left their native land to become citizens of the United States, many brought an expertise in their local foods to their new country. In dairy products, they used the same methods as in the old country, to produce cheddar, feta, parmesan, mozzarella, gouda, swiss and some of the other cheeses noted on this table. These were not imitations of the originals. These were faithful renditions by skillful cheese makers. Over time, over many generations, through steady promotion and adherence to quality, Americans grew into enthusiastic and loyal consumers of these cheeses which now represent generic categories of cheese.

In fact, U.S. companies so successfully created consumer that Americans now consume more cheese than any other country in the world. American consumers understand the nuanced differences that exist within generic cheese varieties made by different suppliers, whether these suppliers are domestic or foreign. Therefore, for European negotiators to insist that only their strict interpretations of GIs can save the consumer from confusion is simply disingenuous. In fact, adopting the EU proposal would itself lead to substantial consumer confusion, as they would no longer be able to recognize the cheeses they have eaten for decades due to the requirement for new descriptors. The result would be less consumption of a healthful and tasty product. Less consumption would mean substantial losses for the cheese manufacturers of those disenfranchised varieties and the many dairy farmers who supply the milk.

A quick survey of small and medium U.S. manufacturing plants shows that 22 make parmesan and feta. Another 20 or so make swiss cheese. The effects of disenfranchisement would be substantial in, of course, Wisconsin, but also California, Idaho, Ohio, Illinois, South Dakota, Utah, Iowa and Pennsylvania, just for these cheese varieties.

My American colleagues and I have frequently asked our counterparts in Europe exactly which cheese varieties they believe require such extraordinary protection. Our motive is to determine if any common ground exists to seek an agreement. Their lack of specificity by knowledgeable industry or government leaders leads us to conclude that their goals are very far-reaching, so far-reaching into cheese products that are so clearly generic that the motive can only be to force a collapse of the Round, thus leaving Europe in possession of massive export subsidies and high supports and access barriers, or to create monopolies for their domestic industry that undermine any trade reform.

When I speak to U.S. industry groups about this EU gambit, it seems so ridiculous and outlandish that they have trouble believing the reality of the threat. Mr. Chairman, I hope this committee and your colleagues do not assume the same. The reality is underscored by the recent actions of Director-General Supachai, who has created and taken personal leadership of a taskforce to study and provide recommendations on this issue to WTO members. It is possible and desirable that the Director-General's action will allow this

issue to be properly handled under WTO precedents while still allowing movement on key agricultural issues. However, it is also very possible that EU will remain intransigent on agriculture, where many nations have required fundamental reforms before they negotiate on non-ag issues. The Director-General then facing the prospective collapse of the entire Round, may succumb to the tremendous pressure and surrender to the European Union.

Mr. Chairman, I respectfully urge this committee to recognize the substantial damage that would be that result and not let our U.S. negotiators accept such a decision.

Thank you once again for the opportunity to express my views. I would be pleased to answer any questions you might have.

[The prepared statement of Mr. Suber appears at the conclusion of the hearing.]

The CHAIRMAN. Thank you, Mr. Suber. Ms. Thorn, we are pleased to have you with us today.

**STATEMENT OF SARAH F. THORN, DIRECTOR OF INTERNATIONAL TRADE, GROCERY MANUFACTURERS OF AMERICA**

Ms. THORN. Good morning, Mr. Chairman and members of the committee. My name is Sarah Thorn, and i am the director for international trade for the Grocery Manufacturers of America. It is a pleasure to be here today to offer our views on the impact of EU proposals in the WTO to increase protections for geographical indications. We are extremely pleased that the committee is investigating this issue since, if realized, these proposals could seriously harm food manufacturers by forcing us to rename and relabel many famous brands and could lead to the corruption of trademark protections that are essential to the continued growth of the U.S. food industry.

GMA is the world's largest association of food, beverage and consumer product companies. We represented branded food companies who rely on trademarks to protect their product names. In many ways, the brand is the most valuable asset our companies possess. Brands inspire consumer loyalty because they tell the consumer something about the product's quality and consistency. Companies stake their reputations on the integrity of their brands and invest heavily to promote and protect their names. Any infringement on a branded product represents a direct threat to a company's survival in the marketplace. For these reasons, we are extremely alarmed by the European Union proposals to repatriate or claw back many common food names. The products you see displayed are only a rough sample of the many products that might have to be relabeled and remarketed to consumers should the EU prevail.

The cost to our industry of this type of undertaking are staggering. For example, the national launch of a new cereal brand in the United States can run as high as \$160 million. Now consider that the EU proposal would allow 146 countries to protect upwards of 40 names. We would have to multiply the costs on a global basis and add the expense of educating consumers around the globe about our new brands. This proposal is nothing short of the expropriation of private rights and must not be allowed to go forward.

It is important to realize that our concerns go well beyond the loss of commonly known names. We are equally alarmed if the EU proposals could lead to the weakening of trademark protections that are so vital to our companies. Under EU proposals, trade negotiators would be given the ability to pick and choose arbitrarily which products would be granted globally enforcing naming rights. Moreover, under the EU's proposals, preexisting trademarks could be canceled outright with no legal redress for the trademark holder. We firmly believe that consumer demand in the marketplace should assign value to products, not political whim.

Any system for the protection of geographical indications must explicitly protect the fundamental principles of priority and exclusivity of trademark rights. Another basic reason for our resistance to the EU proposals is that we simply do not trust the Europeans to play fair on this issue. In the Uruguay Round, the EU held up the final deal until they were granted higher protections for wines and spirits. Now, they deem those protections insufficient and are demanding not only a global registry of all GIs but a list of protected generic products in the agriculture negotiations. We have to wonder where their demands will end. Will the EU continue to demand greater and greater protections for their products, their production methods, their bottle shapes, their labelers and even their adjectives on a global scale? Given their limitless ambitions on GIs, we believe that any concessions towards the EU proposals could lead to the ultimate fortress Europe for food products.

Mr. Chairman, we are deeply concerned that the EU proposals on GIs could undermine the benefits we hope to realize from a successful completion of the WTO agriculture negotiations. We believe that these proposals are a danger not only to food manufacturers, but to all industries that rely on adequate intellectual property protections to market their products globally. They are also a danger to many agricultural producers, whose products' names may originate outside the United States, since many countries wish to protect not only food names but plant varieties, like basmati and jasmine for rice. For these reasons, we believe that the EU proposals must be firmly rejected at the next Ministerial meeting in Cancun.

WTO agricultural negotiations are too important to be held hostage for the EU's protectionist agenda. These negotiations should facilitate trade and increase choice for consumers. The current EU proposals will do neither.

Finally, we caution that concessions on GIs will only embolden the EU to again delay progress in the agriculture negotiations until they achieve all their so-called non-trade concerns, such as precaution and non-science-based labeling, both of which can unravel fundamental WTO commitments.

Thank you for the opportunity to present our views on this important subject. I would be happy to answer any questions.

[The prepared statement of Ms. Thorn appears at the conclusion of the hearing.]

The CHAIRMAN. Thank you, Ms. Thorn. Mr. Pellegrino, we are pleased to have you with us.

**STATEMENT OF MICHAEL P. PELLEGRINO, VICE PRESIDENT  
OF MARKETING AND STRATEGY, KRAFT CHEESE DIVISION,  
KRAFT FOODS NORTH AMERICA**

Mr. PELLEGRINO. Mr. Chairman, members of the committee. Thank you very much for this opportunity to appear before you today to discuss the issue of geographic indications. I am Michael Pellegrino, vice president of marketing and strategy for the Kraft Cheese Division. With me today is Ms. Jacqueline Leimer, chief trademark counsel for Kraft Foods.

Kraft is one of the world's largest producers of parmesan cheese. Our ability to continue to sell parmesan cheese and other Kraft products is jeopardized by initiatives being aggressively advanced by the European Union in the ongoing Doha Round. Although the EU promises that its list of protected products will be short, it has yet to identify the specific foods for which it would propose to extend GI protection that now apply to only wines and spirits. Cheeses and meats invariably are mentioned as two of the food classes likely to contribute the most candidates. Within the cheese category, most consider parmesan cheese a prime target. This year, Kraft will manufacture and market about 60 million pounds of parmesan cheese under the Kraft and DiGiorno brands, absorbing nearly 1 billion pounds of U.S. produced milk. We also produce and market Athenos feta cheese and Grey Poupon dijon mustard. Both of these products could also fall victim. Throughout the U.S. food industry and across the food industries of the entire Western Hemisphere, scores of food names are vulnerable. If the EU achieves its stated objective, and if the three products I just mentioned are among those designated by the EU for GI protection, Kraft would no longer be permitted to sell parmesan, or feta cheese, or dijon mustard, using the terms that the U.S. Patent and Trademark Office considers generic in the United States and therefore ineligible for trademark protection. Parmesan is even a recognized standard of identity under FDA regulations. WTO rules would supercede national rules and the right to market these products would be reserved to producers in Parma, Italy for parmesan cheese, Greece for feta cheese and Dijon, France for dijon mustard.

Kraft has been selling parmesan cheese for nearly 60 years. We have been producing and marketing feta cheese for two decades and Grey Poupon dijon mustard has been a well-known product in the United States for well over two decades. Denied use of these names, Kraft would have to convince each of our consumers that the Kraft grated cheese being sold under an unfamiliar name is the same high quality cheese they have been serving for decades as Kraft parmesan cheese. Ditto for our Athenos feta cheese and Grey Poupon dijon mustard. Retooling would likely require millions of dollars in packaging costs and an extensive multimillion dollar marketing campaign just to preserve existing sales, funds we would prefer to use to grow demand for our products.

These marketing challenges would not be unique to just Kraft. Even with major investments in maintaining the parmesan category, there would be significant risk of consumer alienation, either because they do not hear or do not believe that we are still selling the same products they have come to trust. Lost sales for Kraft and others in the industry are likely to be high. The economic loss

would inevitably ripple through the supply chain and seriously impact manufacturing facilities and dairy farms and the people who depend on them for their livelihood.

We regard the threat to our business and to those of other food processors and producers as real, substantial and immediate. After reaching agreement on the fundamental reforms in the CAP, EU officials are now insisting on equivalent concessions from other countries, specifically the United States and Cairns Group's countries before they will agree to lock these reforms into any WTO agreement on agriculture.

EU officials have made clear that their list of must-haves includes geographic indications for foods. This is not a Kraft issue nor just a cheese issue, nor just a food processor issue. Any shrinkage in demand due to consumer confusion or erosion of confidence will inevitably impact producers. In our case, every pound of lost sales of parmesan cheese means that 15 pounds of U.S. milk must find another use, and if the EU succeeds in establishing GI protection for foods, in the future, there could be even larger efforts to expand that protection to categories much bigger than parmesan, like cheddar or mozzarella cheese, with even more dramatic consequences for the entire dairy industry.

As a substantial buyer of raw agricultural products and major processor and marketer of consumer food products, Kraft's business is heavily influenced by changes in agricultural and trade policies. We benefit from the 1995 Uruguay Round of agreements and we favor continued worldwide reductions in agricultural support and protection. Kraft strongly endorses efforts to achieve that objective in the ongoing Doha Round. However, new GI protections for foods will devalue any progress made in the Doha Round in reducing levels of farm support and protection. The Doha Round should be about expanding trade opportunities and broadening consumer choice. The negotiations should not be used to internationalize policies that impede trade and narrow consumer choice.

On behalf of Kraft Foods, I urge the committee to give this critical matter its full attention. At the upcoming Cancun WTO Ministerial Conference, the United States should firmly reject EU efforts to extend GI protections.

Thank you for the opportunity to speak today.

[The prepared statement of Mr. Pellegrino appears at the conclusion of the hearing.]

The CHAIRMAN. Thank you, Mr. Pellegrino. Mr. Clawson, we are pleased to have you with us from the Wine Institute.

#### **STATEMENT OF JAMES B. CLAWSON, ON BEHALF OF WINE INSTITUTE**

Mr. CLAWSON. Thank you, Mr. Chairman and members of the committee. My name is Jim Clawson. I am CEO of JBC International and have been the international trade counsel to Wine Institute for about 20 years, and as one of those products that has been subject to geographic indication regulation over the years, I want to ask that my written testimony be included in the record and that I will just speak here briefly, asking the committee a couple of important points.

First and foremost, I would ask you to join with all of those that you hear hearing on the panel today in encouraging USTR and the administration to oppose, and I mean not just waiting until Cancun, tell them now, because I think they are trying to cut deals before they get there. I know that Mr. Zoellick and Mr. Lamy have been meeting on this issue because the Europeans, as you have heard, have said this is the single issue that they have to have as a precondition to negotiating agriculture.

They need to be told now that that is not good. We cannot have that. We oppose it, for all of the reasons that are in the written testimonies and that we will go into here, we need to tell the administration now that they must oppose this proposal by the EU, and the second one we need to do is to encourage them to not feel that there can be a deal made somehow where you can do half a loaf. You can give them part of this and not others, because our experience with wine for the past 50 years with the European Union on geographic indications is that whenever you give them something, it is never enough, and that they then want more and will go further, and the thing that we find most amusing, and I have to be careful, I guess, choice of words here, because I am told about how you say things and how you refer to them, the most recent is they have protected the term aged 5 years for the use of the Portuguese only, and this is a traditional term that is related to the geographic indication for port, so while we talked for years, going back and my days in the Treasury Department in the early 1970's about the semi-generic terms for wine, like champagne, burgundy, chablis, as a type and class for wine, and there have been ongoing negotiations since the early 1980's with the Europeans on that issue, when in reality they don't want just the use of those geographic terms. They want everything related to it in a marketing sense. Trademarks, point of sale materials, any kind of type or class or like, anything related to it they want protected, so this becomes a competition policy issue in many respects.

We don't look it at that way as in agriculture, but we ought to, because basically what they are asking to do is to create monopolies, exclusive use for not only GIs but everything related to marketing to a small group of producers in exchange for the elimination of the subsidies that they have received for the past 30, 40 years in their market. They know they are going to have to reduce those subsidies, but in order to do that, they have to give them something, and as we are told by the Europeans themselves in their internal documents, and what we want to give you is market access to the rest of the world for the exclusive use of your products, be they cheese, meats, wines, spirits, whatever, and so I think what we are facing here is a very smart, on their part, and a very calculated plan to substitute one set of subsidies for another, and that it will not give us greater market access, as the South Africans and the Canadians and others have found when they enter into these bilateral agreements and then find that the other terms that they had planned to use for port, they can't use tawny or ruby, because they are restricting those as well, so they have no way to describe the product. Even if you could, as my colleagues have said here, go through a big campaign to further describe the product,

they are going to stop that as well, because they really don't want your product sold, in the bottom line.

So my message really to the committee today, and I think to others, is that from the history of wine and the experiences we have been through going back even to the International Intellectual Property Organization Conventions, the Madrid, the Lisbon, the Berne, all of those that they have had and TRIPS, which give them the kind of protection that they deserved, if you will, in an intellectual property sense, it is never enough. They do want to not pay for the invalidation of trademarks that are owned. There is an estimate that has been done in the United States for our semi-generic terms alone, and that is their 13 terms that are used on wine, it is about a \$20 billion cost to the industry.

Now if, in fact, you invalidated any of the trademarks that may have those terms, it is almost incalculable. I mean, we are talking about the billions of dollars in wine that we are talking about, that we are looking at, that could result from their proposal in agriculture, when in essence, would mandate the protection for all of these terms, regardless of whether or not you owned an intellectual property right in it.

So, in summing up, I would encourage this committee to take the position strongly opposing the proposals in agriculture for the WTO, and I thank you for this opportunity.

[The prepared statement of Mr. Clawson appears at the conclusion of the hearing.]

The CHAIRMAN. I thank you, Mr. Clawson. Mr. Hellwig, welcome.

**STATEMENT OF FRANK Z. HELLWIG, SENIOR ASSOCIATE  
GENERAL COUNSEL, ANHEUSER-BUSCH COMPANIES, INC.**

Mr. HELLWIG. Good morning. Mr. Chairman and members of the committee, I thank you for the opportunity to testify on this very important subject.

I am Frank Hellwig, senior associate general counsel for Anheuser-Busch. I am charged with the protection of the intellectual property rights of Anheuser-Busch, including the world-famous Budweiser trademark. I am an industry advisor to the U.S. Government and an adjunct professor of intellectual property law at Washington University in St. Louis.

I am here today to describe to you a threat that arises from the clear preference the European Union gives to geographic indications over trademarks and their efforts to impose their system on the United States and other countries through the WTO negotiations. If they succeed, they will have changed the core principles of our intellectual property system and expropriated the trademarked property of U.S. companies.

We have no problem with the concept of GIs. They are a legitimate form of intellectual property that should be protected like all other forms of intellectual property. Our problem is that under the EU proposals, and indeed, under the current regulations, GIs are treated as superior to other intellectual property rights.

The U.S. trademark protection system is built on the principles of priority and exclusivity. Priority means that a sign, such as a trademark or GI that is protected first takes precedence over a later attempt to protect the same or similar sign. The prior right

is the superior right. By obtaining priority, the right holder is then given the right to exclude all third parties from using similar designations. This is the principle of exclusivity, and it is exclusivity that gives any property right meaning. As Justice Scalia said in speaking about trademark rights: "The hallmark of a protected property interest is the right to exclude others." That is one of the most essential sticks in the bundle of rights that are commonly characterized as property.

Exclusivity encourages investment in reputation and quality by allowing only the trademark owner to enjoy the fruits of his or her labor. Exclusivity is equally important to consumers by ensuring that they are not confused about the source of a product bearing that designation. U.S. law treats trademarks and GIs equally. The principles of priority and exclusivity apply to both. We believe that is only fair.

Under the current EU regulations on GIs, by contrast, a GI can be registered in spite of the fact that it conflicts with an earlier protected trademark. This later protected GI is then allowed to co-exist in the marketplace alongside the same or similar earlier protected trademark, compromising the trademark owner's right to exclude others from using the same or similar designation. We believe that this regulation violates the WTO TRIPS Agreement and the USTR has initiated a challenge against this regulation 4 years ago, which challenge is ongoing today.

This EU regulation is a matter of particular concern to us. We anticipate that a particular company located in the Czech Republic will avail itself of this regulation in an effort to protect and use Budweiser as a GI, even in those EU countries where he, Anheuser-Busch, currently own a registration and where we currently maintain exclusivity with respect to the Budweiser trademark. The EU support for coexistence means that despite what is guaranteed in the TRIPS Agreement, the EU may endorse the Czech company's efforts to put a beer on the shelf next to ours, both labeled with Budweiser. This will not be good for Anheuser-Busch, this will not be good for the consumers, who will undoubtedly be confused.

The Uruguay Round raised the protection for all intellectual property rights to unprecedented levels. The EU proposals are a retreat from those achievements in that they are seeking to increase protection for one form of intellectual property, GIs, at the expense of another, trademarks, which would necessarily result in an expropriation of property rights.

Please understand that any WTO agreement that does not include the concepts of priority and exclusivity means compromising core principles of our legal and economic system. Expediency at the expense of property should not be tolerated. To do otherwise would reverse over a century of progress that has made the trademark property right one of the pillars of a thriving free trade economy.

In conclusion, we urge the committee to take the following actions. Do not bow to the proposals made by the European Union to subvert the core principles of priority and exclusivity, which would be tantamount to endorsing the expropriation of U.S. trademark property rights, and encourage the administration to insist that the European Union bring its regulations into conformity with

these principles of priority and exclusivity as required by international law.

Thank you.

[The prepared statement of Mr. Hellwig appears at the conclusion of the hearing.]

The CHAIRMAN. Thank you, Mr. Hellwig. I found recently an article about geographic indications in the Virginia Lawyer magazine, which indicates the Czech Republic has successfully cancelled Anheuser-Busch's trademark registrations for Budweiser and Bud in several European countries, including Austria, France, Germany and Greece. If the EU position regarding geographic indications prevails in the WTO negotiations, would the U.S. trademark you now have be worth anything?

Mr. HELLWIG. Let me begin by saying that as to the United States and the rest of North America, our rights are secure, and we are not particularly concerned about losing any rights here in the United States or in North America, but yes, the trademark would be worth something, but the value of the brand would be diminished. What we risk is being on the shelf next to an identically identified product, such as these two products right here. Any time your trademark appears next to another product labeled the same way, it is going to lead to confusion in the marketplace. The consumer approaching these two products on the shelves will not know which one to pick if they are trying to choose the one produced by Anheuser-Busch.

That, of course, will diminish the value of the trademark, and it would be determined on a country by country basis where we will be forced to coexist, but it would be a huge blow to the trademark that would be forced to coexist in such a fashion. The trademark would be worth something, but it certainly would be diminished.

The CHAIRMAN. Are both of those other beers or one of those yours?

Mr. HELLWIG. This one is ours.

The CHAIRMAN. OK, got you. I was going to say, because even from this distance, that one looked remarkably like your standard label. Now, if geographic indications were allowed to be recognized, what the European Union is asking for is recognition of those geographic indications worldwide, and if the town in the Czech Republic from which this name emanates were to be successful in getting that name on such a list worldwide, which obviously, you would battle and I assume the United States would battle, too, but if we were to go down that path, wouldn't there be the ultimate risk that you could lose the right to use the name altogether?

Mr. HELLWIG. We have two safeguards in that respect, the first of which is we have a contract with the Czech company. The Czech company is Budejovicke Budvar from 1939, where they agree not to use the Budweiser trademark in North America. The second safeguard is we believe that under U.S. laws, if our trademark was taken away in any fashion through such an agreement, that it would be an expropriation of our property and would be against the U.S. laws and Constitution.

The CHAIRMAN. But you are hanging on by a few legal arguments, not the value of a name that you have built up and the protections of the existing U.S. system, and what you thought was the

existing European system. What kind of business does Budweiser do in France and Germany and Greece and Austria, the countries that you just referred to?

Mr. HELLWIG. In those countries, we don't do a huge amount of business. We do sell in Greece under the Bud trademark. We do sell in France under the Bud trademark. In Austria, we have been prohibited from selling under Bud or Budweiser. In Europe as a whole, however, we have been fairly successful, and we sell about 2½ million barrels of beer every year. This should be compared to the Czech company's total exports of about 400,000 barrels. So it is about 400,000 barrels of export from the Czech Republic, that is causing us this problem in Europe.

The CHAIRMAN. Thank you very much. Mr. Clawson, I think you correctly hit the nail on the head with your testimony. The USTR has indicated, quote its willingness to negotiate on the issue of phasing out semi-generic names on non-EU wines, like burgundy, chablis, champagne, within the U.S. regulatory framework. Does the Wine Institute share this view?

Mr. CLAWSON. Well, we have been in those negotiations since 1998, and the answer is yes, but what we have been seeking is compensation, as you would in any intellectual property discussion. We would want compensation from the Europeans for the phase-out of those terms as type and class. To date, there has been no successful result.

We believe part of the reason for the proposal in the agriculture is because they are not able to give us the compensation we would demand, therefore, they want to end-run those negotiations and put them in agriculture, where they can just make the whole bilateral negotiation over our use of those terms moot, because it would be, then, a matter of government to government agreeing to eliminate them, regardless of any compensation to the winemakers who are producing it.

The CHAIRMAN. Thank you very much. We have a series of votes pending. We are going to stand in recess, and we will resume the hearing as soon as these series of votes are over.

[Recess]

The CHAIRMAN. The committee will reconvene. Since I am the only one here, I am going to proceed with some questions. Mr. Kole, in your view, are U.S. trademark laws adequate to provide protection from misleading or deceptive uses of the Idaho potato certifications?

Mr. KOLE. Mr. Chairman, the statutory format of the Lanham Act is adequate. There are very few court cases that have interpreted the laws relative to certification marks, and so that is always an open issue as to what the courts will do with what Congress has done, but the laws as it is written and the statutory framework is very good.

The CHAIRMAN. Compared to the circumstances you find yourself in Europe, where the Europeans are apparently not even honoring the TRIPS Agreement regarding setting up a mechanism for you to proceed there, what kind of experience have you encountered in the United States with the U.S. system?

Mr. KOLE. Generally, it has been very positive, Mr. Chairman. The laws are clear, they are transparent and they are rule-based,

and that provides a marked contrast to the European system, where you can't even get in the door.

The CHAIRMAN. Thank you very much. The gentleman from Texas is with us and we will recognize him.

Mr. STENHOLM. In the United States, legitimate GIs are fully protected under trademark law, which you have testified each of you have. There seems to be a lack of consistency worldwide in having the kind of laws that we enforce here and the agreements that we have agreed to, so I guess my question, are U.S. trademark laws adequate to provide protection from misleading or deceptive use of the trademarks and brand names owned by the companies or producers you represent, and then, how well protected is your intellectual property in other countries? Any of you that want to chime in on that one.

Mr. HELLWIG. The U.S. laws, I think, are extraordinary in terms of granting us the protection we need to protect the Budweiser trademark. In terms of other jurisdictions, our trademarks are protected very well in those jurisdictions that appropriately recognize the principles of priority and exclusivity with respect to trademarks versus geographic indications. In those jurisdictions where those principles are not understood or adopted, our trademark rights are in peril, for example, the European Union does not recognize that principle in its GI regulation. Consequently, there are risks to our trademarks there.

Mr. STENHOLM. Anyone else?

Mr. CLAWSON. Yes, I think very similar is that certainly for the wine folks, the trademarks in the United States and even GIs in the United States are very well protected and do very well, and I think it depends—it is spotty, it goes from country to country as to how well it, and the kind of regime that they have. Some of them very well, some of them not, and as you saw, we have no GIs protected for wine in Europe, but we do have trademarks that are registered and protected in Europe, and that is one of the concerns is because those trademarks are at peril as a result of this proposal in agriculture, because should we agree, the EU will then turn around and invalidate all of those existing U.S. wine trademarks that are in Europe that have been, many of them, for many years, from the Mondavis and Kendall-Jacksons, and Wentes and all those other folks could easily be invalidated if they had something in their trademark that could be confusingly similar to a GI. Thank you.

Mr. STENHOLM. For each of you, what is the single most offensive element of the proposals? Mr. Kole.

Mr. KOLE. Mr. Stenholm, I would say that the effort made to renegotiate what has already been a done deal is the single most offensive part of these proposals that are under consideration.

Mr. SUBER. I would venture that the single most offensive aspect is trying to claw back generic categories that have existed in this country for generations and that U.S. companies have created considerable demand for both here and worldwide.

Mr. PELLEGRINO. Kraft's point of view is it is definitely the claw back proposal. As I stated in my testimony, we have been marketing parmesan, for example, for over 60 years, and to have to change the generic name, which you can see clearly is very promi-

ment on these packages, and come up with a new name and take our valuable resources and our suppliers' valuable resources to educate consumers, we feel is not consistent with what we like to do in the category, and that is to create innovation and grow demand. This would be to merely protect all of the existing sales that we have, and again, this product alone represents 1 billion pounds of U.S. produced milk, and despite what would be a very aggressive attempt to maintain our current user base, the risk of consumer alienation on any name change is likely to be great, and that would ripple through not only our manufacturing facilities, but to the dairy producers as well. Thank you.

Mr. CLAWSON. It is the claw back and the continual request for more and more and more. If I can be so bold as to remember your story about the duck and the sarsaparilla, the wine folks are the bartender in this case, and the Europeans are the duck that keeps coming in and asking if we have sarsaparilla, and they are just really getting to us, and we would nail their feet to the floor if we could get away with it, because we are just tired of them coming back, it is just over and over and over again, that they want more.

Mr. HELLWIG. The most offensive portions of the proposals are those that would give geographic indications prior over existing trademark property rights, which would result in an expropriation of those trademark rights. Thank you.

Ms. THORN. If I could just clean up. We are in the middle. We are offended by the proposal to claw back generics. We are extremely alarmed about the precedent this could set for intellectual property protections and trademark rights, and I think it is extremely alarming that this is outside the mandate of the Doha Declaration. This is not the subject that was agreed to be negotiated, and the reason you have a mandate is to limit the agenda so you can have meaningful reform, and this is just incremental creep and I am really afraid that if we give on this issue, it is just going to be one more thing that we are not going to be able to complete the Round for.

The CHAIRMAN. The gentleman from California, Mr. Dooley.

Mr. DOOLEY. Thank you, Mr. Chairman. Mr. Clawson, I would be interested in understanding better with the bilateral that the EU negotiated with Canada, I guess it was on wines and geographical indicators there. Has that been in place long enough so that we are understanding what the implications are for California products going into Canada?

Mr. CLAWSON. It has not. It is new, and this is another of a series of similar bilaterals that the EU has negotiated with Australia, Chile, South Africa, now Canada, and they are not all the same. They vary a bit. Some of them are done in the context of a free trade agreement. Some of them are strictly wine negotiations, and this is a wine agreement with Canada. A pure reading of the text when it goes into effect, it has been initialed and it has to now be ratified by both parties, but when it goes into effect, in 10 years, would eliminate both for type and class, which is the description of the wine, and in trademarks, the use of any of their geographic terms, they being the Europeans, in the Canadian market.

What is unclear, and there has been some discussions and we have asked these questions directly of the Canadian government

authorities and they have not been able to answer, does that only apply to Canadian producers or does it apply to all third country imports as well, which would be from the United States, and they are currently being very vague on that point, because I think they know that they are certainly under the U.S./Canada Free Trade Agreement, which is part of NAFTA now, there may be some risk to them that if they cut off our sales of those products that that would be a violation of that agreement, so they are being very vague, and of course, we won't know until the 10th year if they decide they are going to cut it off or not, so we can continue to sell there for 10 years, and so this is sort of a disconcerting agreement in the sense that we would like our government and others, and they are working on it, this is early days yet, but it has not yet gone into effect, and the ramifications are not clear, Mr. Dooley.

Mr. DOOLEY. And is the scope of this agreement, for the EU/Canadian agreement, in terms of the geographical indicators as it pertains to wine, I mean, is it, from your assessment, again, is it something that would cause us great difficulty?

Mr. CLAWSON. Yes, and it is, and to me—

Mr. DOOLEY. Give me an example. Like, are they going as far as a particular varietal of wine that they are—

Mr. CLAWSON. No, it is not varietal. This is all geographic and traditional terms related to those geographic indication, and that is where we are saying as a model, don't be fooled by this list that they are talking about that would be their only list in the agricultural talks, because they will come back, for instance, in the traditional expressions, the Canadian agreement says that you can't call it port, but you also can't use the word tawny or ruby on your label, because those are traditional expressions that relate to port, so if you are doing champagne, you can't call it brut or other—I mean, they want to take away whatever other descriptors you may have for the product, and I think therein is the great concern, is that, and that is why I was using the duck analogy, is that they don't stop at just their first list. The creep and the continue just keeps going.

Mr. DOOLEY. What is the motivation for the Canadians to negotiate this agreement?

Mr. CLAWSON. Well, we have wondered about that, since we have been in discussions with them and they are part of a wine trade group that we run. Their answer is that they got some market access for their ice wine which they could not get in Europe and is a product that they think that they can sell in Europe in a significant manner, so that is why they did it.

Mr. DOOLEY. Now, with the negotiations going on with other major wine-producing countries, Australia and Chile, certainly they have similar concerns as we would have in the United States, in terms of how far you go.

Mr. CLAWSON. Oh, they do, and for instance, in the Chilean agreement, the Chileans have specifically said it only applies to Chile, the United States could continue to sell product in Chile. We don't sell a lot in those countries, but we would continue to sell with the geographic terms that we currently are using, so they would not restrict third party imports. They only agreed with the Europeans that they would stop doing it. That is the same with

Australia. South Africa, they don't allow in third parties. They are like the Canadian.

Mr. DOOLEY. Mr. Kole, on the certificate of origin program, such as Idaho potatoes, would you be precluded or a retailer be precluded from marketing a product, or potatoes, that Idaho potatoes. I didn't quite understand just in terms of what the practical impacts.

Mr. KOLE. A producer is not precluded from doing anything other than telling the truth, which is it is a genuine Idaho potato means that it was grown in Idaho, and if it is labeled as such, that would be correct.

Mr. DOOLEY. And you could still, though, market that in the EU under those provisions.

Mr. KOLE. If we could gain access to the market, yes, but we are currently locked out of the market.

Mr. DOOLEY. And that is for, I mean, is that a market access issue, related to tariffs, quotas, sanitary?

Mr. KOLE. It is twofold, phytosanitary and because we are not a member state, we cannot petition to put in place mitigation measures to meet their phytosanitary requirements, and then second, we would be very reluctant in a civil-based system like the EU, where you could not create a common law certification mark, to market the product there naked and unprotected.

The CHAIRMAN. To follow up on that, Mr. Kole, and right now, there are other producers in Europe that are producing under the name Idaho potato, is that not correct?

Mr. KOLE. We understand that there is a registration for processed potatoes that does include the word Idaho, correct.

The CHAIRMAN. Do you have any questions, the gentleman from Nebraska? All right, I have a couple more I would like to ask. Mr. Pellegrino, you referred to equivalent concessions that the EU is demanding in return for its reform of the EU Common Agriculture Policy. Do you believe these equivalent concessions include allowing rules on geographical indications to be applied to agricultural products such as cheeses and meats?

Mr. PELLEGRINO. Yes, and that is our major concern about the expansion of GIs. As everybody has indicated, the current U.S. Patent and Trademark Office process for GIs, we feel, is a very, very good process, and to have that as part of the equivalent concessions, we think, would be very bad for the dairy industry as a whole.

The CHAIRMAN. And I would like to ask both you and Mr. Suber if you agree with Mr. Clawson's assessment that basically, what is going on here is that the Europeans are simply trying to trade one protectionist scheme that they currently have in place, and then get another protectionist scheme in its place so that we really haven't made any real progress in terms of what we in the United States consider to be free trade and open markets, which is our number one complaint with the Europeans today?

Mr. SUBER. I would in fact agree with that, and it goes farther, because more than simply limiting our export opportunities, it in fact would radically change our domestic market in a way that the existing domestic suppliers would be much more damaged without even the import of more product. They simply would be

disenfranchised from product descriptors that they can currently use.

The CHAIRMAN. That is a good point, that really what is behind this is the very vast U.S. market and if this agreement were to take hold, not only would we be talking about barriers to the European market, but we would be radically changing our own market for a whole host of products in which companies have invested a great deal in the use of various names. Mr. Pellegrino, did you want to add to that?

Mr. PELLEGRINO. I agree with Mr. Suber. Thank you.

The CHAIRMAN. Ms. Thorn, the EU currently has a system in place that protects EU geographical indications within the EU. Can you describe that system, and is there any protection provided to non-EU products in the EU presently?

Ms. THORN. The EU system is sort of a list-based or a statist approach. They have a list of protected geographical indications. It is actually interesting how that list was put together, because it was really put together in a very political way. There is no place in the EU, for example, called Feta, yet somehow, feta managed to get on the list through the normal EU political process. We are not allowed, as has been discussed, to register geographical indications under that system. This is the point that Mr. Kole is being made, because we don't have an equivalent system to the EU, or deemed equivalent system. And I think the point that should be made is it is governments that protect geographical indications in the EU, as opposed to under our trademark system, where private actors have those as private rights and protect those as private actors.

The CHAIRMAN. Thank you very much. I have a closing statement. Does the gentleman from Texas have anything to add?

First of all, I want to thank all of our witnesses who appeared before the committee today. Your contribution has been very valuable. I would like to include for the record a letter to Ambassador Zoellick signed by 25 agricultural organizations concerned about the European Union's position on geographical indications in the WTO.

I would also like to include a Washington Post article, which I don't have in my possession right at the moment, but we will make that a part of the record as soon as we can find it.

I would also like to express my deep concern, in fact. All right, here it is, it is an article dated May 21, 2003, entitled "Naming Rights: Is America the Home of the Free but not of the Brie," and it talks about this from the perspective of a very small dairy producer who produces a number of different types of cheeses on her farm in Virginia, and the impact that it would have on her ability to market a wide array of different types of products, very high quality products, I might add, but which she simply could not use the traditional names that have become in generic use here in the United States.

This is of grave concern to me, both from the protectionist standpoint that the European Union is obviously taking with this tactic, but also from the broader standpoint of the grave damage it will do to the great success that the United States has had in promoting the protection of intellectual property and from promoting a rules-based system of protecting intellectual property around the

world. This is a dagger at the heart of that system because instead of following a rules-based system, the Europeans simply want to put these various names and phrases on the trading block and say, we want to protect these various items. They are worth millions, hundreds of millions, perhaps billions of dollars to us, and we want to seize them away, claw them back from the United States, from other countries around the world, and we might trade you something else from our protectionist system in exchange for that, but we want to continue protectionism, and the price for that isn't just the protectionism. The price is also the rule of law, the importance of having a rules-based system that should be recognized worldwide that should allow geographic indications, which are a legitimate concern, for companies and communities around the world to avail themselves of, where it is appropriate, but not where it is inappropriate, not where the name has become so generic that it can't be clawed back.

The only protection against that is a rules-based system, which our U.S. Patent and Trademark Office recognizes. This concludes the committee's series of three trade hearings we had in preparation for the committee's trip to the WTO Ministerial in Cancun, Mexico in September.

We heard from USTR Ambassador Bob Zoellick and Secretary of Agriculture Ann Veneman, and we heard from many U.S. agriculture producer and processor organizations about agricultural trade issues in the WTO.

Additionally, the committee met in executive session three times for full discussions on agricultural trade matters with Secretary Veneman, Ambassador Zoellick, Secretary Evans, and USTR Agriculture Ambassador Allen Johnson.

The committee also recently met with WTO Agriculture Chairman Stuart Harbinson. The committee takes these issues very seriously, and we look forward to a positive agricultural agreement in Cancun. As I have said many times, the committee will travel to the Cancun Ministerial to be certain that U.S. agriculture is well represented.

Without objection, the record of today's hearing will remain open for 10 days to receive additional material and supplementary written responses from witnesses to any question posed by a member of the panel, and this hearing of the House Committee on Agriculture will stand adjourned.

[Whereupon, at 12:28 p.m., the committee was adjourned.]

[Material submitted for inclusion in the record follows:]

#### STATEMENT OF FRANK Z. HELLWIG

Mr. Chairman and members of the committee:

Thank you for providing me with the opportunity to express my views on the effect that proposals by the European Union and other countries in the current round of World Trade Organization (WTO) negotiations would have on U.S. companies that hold valuable trademarks on their products around the world.

I am Senior Associate General Counsel of Anheuser-Busch Companies, Inc. Within our General Counsel's office, I am responsible for Anheuser-Busch's entire intellectual property portfolio, which includes responsibility for world-wide protection for the BUDWEISER and other Anheuser-Busch trademarks. I have served in a number of positions in the Government and the private sector that have given me broad exposure to trademark law, practice and policy. Before joining Anheuser-Busch, I was a trademark examining attorney in the U.S. Patent and Trademark Office. I

now serve as a representative on IFAC-3 the U.S. Government's Industry Functional Advisory Committee on Intellectual Property Rights for Trade Policy Matters. IFAC have a voice in U.S. trade policy formulation through the Industry Consultations Program, which emerged from the 1974 Trade Act as a way to ensure that trade negotiators were coordinating with the private sector during trade negotiations. In addition to my duties with Anheuser-Busch and IFAC-3, I am an adjunct professor of intellectual property at the Washington University School of Law in St. Louis. Anheuser-Busch is the proud producer of BUDWEISER, the number one selling beer in the world. We employ 24,000 people throughout the United States, and have invested literally hundreds of millions of dollars to protect the BUDWEISER trademark and to develop it into one of the most valuable intellectual properties in the world. If you watch the World Cup, the World Series, the Super Bowl or a myriad of other sporting and entertainment events held world-wide, you know our brand and its association with Anheuser-Busch. Our trademarks function as they were intended—they provide a clear link between our company, our products and our customers.

#### Summary of Position

Geographical indications are used to identify a good as originating in a particular place where the quality, reputation or other characteristic of the good is essentially attributable to that place. Under the WTO's intellectual property rules, WTO Members must provide legal means for interested parties to prevent use of a geographical indication that misleads consumers about the origin of a good.

In the new round of multilateral trade negotiations taking place at the WTO in Geneva, the European Union has made three proposals that will aggrandize the protection afforded geographical indications under WTO rules at the expense of established trademark rights. Under WTO rules, trademarks are signs capable of distinguishing a good or service of one undertaking from goods or services of other undertakings, and trademark owners are granted the exclusive right to prevent any other person from using an identical or similar sign in a way that is likely to confuse consumers about the identity of the manufacturer of a good or service.

The first proposal tabled by the European Union calls for the extension to all products of the absolute protection currently provided by WTO rules to geographical indications associated with wines and spirits. As a result of E.U. pressure in the last round of WTO negotiations, WTO rules regarding wine and spirit geographical indications are particularly strict. Those rules prohibit a company located outside the geographic area from labeling its product with, for example, a trademark similar to the geographical indication, even if it is without dispute that the trademark would not mislead consumers about the origin of the company's product. The second proposal calls for a global system for the registration of geographical indications that, once registered, would enjoy absolute protection world-wide, without regard to territorial limits. The third proposal seeks to claw back from the public domain those names that have for many years been declared generic, and are no longer subject to intellectual property protection at all, as well as those names that have been previously protected as trademarks.

Mr. Chairman, let me be absolutely clear that in my view and the views of my company, geographical indications are a legitimate form of intellectual property right due the level of protection provided in the WTO rules. Consistent with those rules, U.S. law provides rigorous protection for geographical indications, prohibiting the use, including in a trademark, of a name that misleads the public about the origin of the good bearing that name. What the European Union seeks, however, is a virtually boundless extension of the current rules. The European Union's proposals amount to the export of E.U. domestic law, which recognizes the superiority of geographical indications over trademarks, and which grants absolute, unqualified protection to geographical indications at the expense of all other forms of intellectual property, including trademarks. Given a number of inconsistencies with the WTO rules, the U.S. Trade Representative has in fact for some time been pursuing formal WTO dispute settlement proceedings against the E.U. regime for the protection of geographical indications. Consultations have not resulted in any settlement acceptable to U.S. interests, and we are hopeful that USTR will soon request the establishment of a WTO dispute settlement panel to confirm the incompatibility of the E.U. regime with the TRIPS Agreement.

The E.U. proposals, and its domestic law, are diametrically opposed to the core principle of U.S. trademark law embodied in WTO rules—the principle of exclusivity for earlier established rights. This principle, if properly implemented, assures a property owner—in this case a trademark owner “quiet, exclusive enjoyment of its property. If accepted in the WTO negotiations, the E.U. proposals would lead to anything but quiet title. The E.U. proposals would, if accepted in full, lead to the effective confiscation of U.S. companies' intellectual property rights—particularly those trademarks owned by U.S. food and beverage companies. If the European Union

succeeds with its proposals, U.S. food and beverage companies will find their products excluded from markets worldwide under names they have long used and legitimately protected under trademark law, but that are successfully registered by European producers as geographical indications.

Mr. Chairman, I would like to ask you and the other Members of this Committee to help ensure that this theft does not occur. I ask that you and the committee urge the U.S. Trade Representative to seek a consensus in the negotiations in Geneva that will not sacrifice core principles of private property law, and the core principles of priority and exclusivity embodied in the U.S. trademark system and WTO law in the pursuit of a negotiating advantage or a concession in another area.

#### EXCLUSIVITY OF PRIOR RIGHTS AS THE FUNDAMENTAL PRINCIPLE OF TRADEMARK PROTECTION

Along with ensuring holders of intellectual property rights non-discriminatory treatment via national treatment and most-favored-nation clauses, the WTO's landmark Agreement on Trade-Related Aspects of Intellectual Property Rights—the TRIPS Agreement—sets minimum standards for the protection of intellectual property rights in all WTO Member countries. The TRIPS Agreement was negotiated in the last round of multilateral trade negotiations—the Uruguay Round—and took effect for most WTO Members on January 1, 1996.

With respect to trademark law, the TRIPS Agreement largely exported to other WTO Members what had already been U.S. law for nearly a century. This important accomplishment means that U.S. companies are now entitled to the same treatment for their non-U.S. trademarks that they and foreign companies have long enjoyed for their U.S. trademarks. U.S. trademark law, like the TRIPS Agreement, is built on the fundamental pillars of priority and exclusivity.

Under Article 16.1 of the TRIPS Agreement, [t]he owner of a registered trademark shall have the exclusive right to prevent all third parties not having the owner's consent from using in the course of trade identical or similar signs for goods or services which are identical with or similar to those in respect of which the trademark is registered where such use would result in a likelihood of confusion. The core feature of a trademark, therefore, like that of private property rights generally, is the right of the owner to prevent all third parties from using the protected property. In trademark law, the prohibited use is defined as the use of any confusingly similar sign in the course of trade for identical or similar goods or services.

As Justice Scalia has stated:

The hallmark of a protected property interest is the right to exclude others. That is one of the most essential sticks in the bundle of rights that are commonly characterized as property . . . interests notably, its provisions dealing with infringement of trademarks, which are the property of the owner because he can exclude others from using them.

In short, the value of the right to use is the attendant right to exclude. It should be noted that the hostility to trademark rights reflected in the European Union's proposals for the WTO negotiations put forward by the European Commission is not the uniform view in Europe from either a legal or a policy perspective. Advocate General Jacobs, arguing before the European Court of Justice in 1990, reinforced the importance of exclusivity to trademark rights in stating that:

[a] trademark can only fulfil that role if it is exclusive. Once the proprietor is forced to share the mark with the competitor, he loses control over the goodwill associated with the mark. The reputation of his own goods will be harmed if the competitor sells inferior goods. From the consumers point of view, equally undesirable consequences will ensue, because the clarity of the signal transmitted by the trademark will be impaired. The consumer will be confused and misled.

Clearly, as will be more fully explained below, the European Commission is not pursuing the proper and orderly development of intellectual property law. Rather, they are pursuing additional barriers to trade to protect their own domestic producers in the agricultural sector.

The rights of priority and exclusivity granted to a trademark owner are not only indispensable for the proper functioning of a trademark system; it is also an expression of the fundamental right to private property embodied in the U.S. Constitution and other nations' constitutional systems. The intellectual property right in a trademark is just as exclusive as any tangible property right would be. This is no less so in the European Union than it is in the United States. Article 17(2) of the 2000 European Charter of Fundamental Rights states, quite simply, that "Intellectual Property shall be protected." The very essence of a private property right is that it grants the legal possibility to exclude others from its use.

## PROTECTION OF GEOGRAPHICAL INDICATIONS

More than any other type of intellectual property, the protection of geographical indications has been improved exceptionally by virtue of the TRIPS Agreement. While the principles of trademark law I discussed earlier pre-date the TRIPS Agreement by over a century, a comprehensive, global system encompassing minimum standards of protection for geographical indications did not exist until the 1996 effective date of the TRIPS Agreement. Both the Paris Convention and the 1891 Madrid Agreement on False Designations of Origin deal with the protection of geographical indications, but only in a limited sense. While the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration offers a broader scope of protection than the TRIPS Agreement, it suffers from limited membership. Protection for geographical indications was similarly limited on the national level. Geographical indications were protected through a patchwork of bilateral agreements, *sui generis* registration systems, certification or collective trademark protection, unfair competition laws, labelling laws and the like.

The TRIPS Agreement dramatically altered the landscape. Article 22.1 of the TRIPS Agreement defines geographical indications as indications which identify a good as originating in the territory of a member or region or locality in that territory where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin. Under Article 22.3, geographical indications that meet this definition are protected against misleading use. The provision reads as follows:

A Member shall, *ex officio*, if its legislation so permits or at the request of an interested party, refuse or invalidate the registration of a trademark which contains or consists of a geographical indication with respect to goods not originating in the territory indicated, if use of the indications in the trademark for such goods in that Member is of such a nature as to mislead the public as to the true place of origin.

While this protection is broad, it is restricted by the concept of territoriality. Under Article 22.3, whether a competing use is misleading must be separately assessed in each country in which it is alleged that consumers are misled by the use of a designation similar or identical to the geographical indication at issue. While a particular designation may qualify as a geographical indication in its country of origin, it may well be a generic term in another country. If consumers perceive the designation as generic, they will not see it as an indication of the geographical origin of the product at issue. As a result, they will not be misled about the origin of the product. Likewise, if the designation is protected and perceived by consumers as a trademark, it will be seen as a reference to the manufacturer and not to the geographical origin of the product.

The United States protects geographical indications and trademarks in the same manner. A geographical indication can be registered with the U.S. Patent and Trademark Office in the form of a collective or certification trademark. Certification marks specifically include those to certify that goods or services originate in a specific geographic region. As a result of intense lobbying by the European Union during the Uruguay Round, the TRIPS Agreement provides special, heightened protection for geographical indications for wines and spirits. Under Article 23.1 of the TRIPS Agreement, geographical indications for wines and spirits are not only protected against misleading use, but are also secured against any use for products not originating in the place indicated by the geographical indication, even if the true origin of the goods is indicated, the geographical indication is used in translation, or is accompanied by expressions such as kind, type, style or indication. The registration of a trademark for wines or spirits that contains or consists of a geographical indication must be refused or invalidated unless the wines or spirits bearing that trademark originate in the place indicated by the geographical indication. In practical terms, this protection is absolute.

## CONFLICTS BETWEEN TRADEMARKS AND GEOGRAPHICAL INDICATIONS

The TRIPS Agreement specifically addressed one of the issues that had stood in the way of the further development of protection for geographical indications; namely, how to treat conflicts between geographical indications and other intellectual property rights, particularly trademarks. As the first multilateral agreement tackling both kinds of intellectual property rights at the same time, the TRIPS Agreement struck a delicately calibrated balance between geographical indications and trademarks, granting priority and exclusivity to the earlier of the two rights on a country-by-country basis.

With respect to geographical indications not related to wine and spirits, this balance is recorded in Articles 22.3 and 24.5 of the TRIPS Agreement. You will recall my earlier description of Article 22.3, which provides for the invalidation of (or re-

fusal to register) a trademark that contains or consists of a geographical indication, and is misleading with respect to the origin of the product. Determining whether consumers will be misled is necessarily a country-by-country inquiry. For wine and spirit geographical indications, protection is absolute a trademark for wines or spirits that contains or consists of a geographical indication must be refused or invalidated unless the wines or spirits bearing that trademark originate in the place indicated by the geographical indication, even if the true origin of the goods is indicated and consumers are not misled.

Article 24.5 of the TRIPS Agreement provides grounds on which to restrict the scope of protection for geographical indications otherwise granted by the TRIPS Agreement. Under Article 24.5, a law adopted by a WTO Member to implement the geographical indications section of the TRIPS Agreement may not prejudice eligibility for or the validity of the registration of a trademark, or the right to use a trademark, on the basis that such trademark is identical with or similar to a geographical indication. This protection applies as long as the trademark was acquired in good faith either before the effective date of the TRIPS Agreement, or before the geographical indication at issue was protected in its country of origin. This so-called grandfather clause prevents a WTO Member from prejudicing trademark rights in all situations in which a trademark is identical with or similar to a geographical indication, whether or not the trademark is misleading as to geographical origin.

As I discussed earlier, under U.S. law, trademarks and geographical indications are protected in the same manner, which makes dealing with conflicts between two individual rights quite straightforward. Under the principle of priority and exclusivity, an earlier-filed trademark or geographical indication gives those who own the trademark or have the right to use the geographical indication the right to prevent others from registering or using a similar or identical sign. This principle applies for all geographical indications, whether or not related to wines and spirits.

The situation in the European Union is very different, and raises particular concern for trademark holders like Anheuser-Busch. The European Union's system explicitly makes rights associated with geographical indications superior to trademark rights. For example, under the E.U. wine regulation, a trademark can be invalidated if it is found to be confusingly similar with a geographical indication, even if the geographical indication is not first-in-time. In other words, the trademark would have to be expunged from the register and its use would be enjoined despite the fact that it had been validly registered, in good faith, before the geographical indication. Mr. Chairman, this is nothing short of expropriation, and the E.U. regulation does not provide for any compensation. The European Union has exported this concept, forcing it on its trading partners in bilateral trade agreements.

Under the E.U. regulation regarding geographical indications for agricultural products and foodstuffs, trademark rights are also compromised. Under this regulation, earlier-filed trademarks are forced to co-exist with geographical indications that are later-filed and later-registered.

This is a matter of particular concern to Anheuser-Busch. Based on the protocol setting out the terms for accession by the Czech Republic to the European Union in March 2004, we understand that a Czech brewery from the Czech city of Ceske Budejovice will once the Czech Republic accedes to the European Union and has at its disposal the E.U.'s geographical indications regime likely try to avail itself of the Regulation and begin using Budweiser even in those jurisdictions where Anheuser-Busch currently enjoys exclusivity with respect to the Budweiser trademark. Although Anheuser-Busch has pre-existing, exclusive trademark rights in many E.U. member states covering this terms, the E.U. regulation would force our trademarks to co-exist with the Czech geographical indication. This means that despite what is guaranteed in the TRIPS Agreement, Anheuser-Busch would not be able to halt the Czech brewery from putting its product on the shelf next to our own, both bearing the words "Budweiser." This is not "co-existence" but "non-existence" from the perspective of the trademark owner as the exclusive right to exclude use that gives rise to a likelihood of confusion would be lost.

This situation is intolerable, as it undermines the value of our trademarks, and the fundamental principles of priority and exclusivity. It allows the Czech company to free ride on the reputation of our brand, and to mislead consumers about the identity and the qualities of the product it brings to market. This amounts to confiscation of the rights hard fought in the Uruguay Round and guaranteed by the TRIPS Agreement.

We have tried to resolve this matter for a number of years, both directly, in negotiations with the European Commission, and with the assistance of the U.S. Government, through USTR and the Patent and Trademark Office. What we are seeking is very simple. We want to maintain the existing trademark rights we have in Europe and any other WTO Member and a fair chance to obtain more, and to prevent

a situation in which our trademarks will be forced to “co-exist” with rights that are later acquired by the Czech brewery.

As simple, straight forward and fair as this concept is, I am unable to report to you that any progress has been made. The U.S. Trade Representative has been pursuing formal WTO dispute settlement proceedings against the E.U. regime, given this and other inconsistencies of the E.U. regulation with the TRIPS Agreement. Consultations have not resulted in any settlement on acceptable terms, and we are now at a crossroads. We are hopeful that USTR will soon request the establishment of a WTO dispute settlement panel to confirm the incompatibility of the E.U. regime with the TRIPS Agreement. Taking this step should be a central part of the United States’ strategy to undermine the European Union’s bullying tactics on geographical indications in the WTO negotiations.

#### THE EUROPEAN UNION’S FLAWED PROPOSALS

As this WTO dispute demonstrates, when it comes to bringing its domestic geographical indications regime into conformity with obligations currently imposed by the TRIPS Agreement, the European Union does not have its own house in order. Nonetheless, the European Union has the audacity to demand from its trading partners new concessions on the geographical indications front, launching an aggressive campaign to further aggrandize geographical indications at the expense of the core principles of trademark rights—priority and exclusivity—that I addressed earlier in my statement.

Extension. The European Union’s first proposal calls for the extension to all products of the absolute protection currently provided by WTO rules to geographical indications associated with wines and spirits. You will recall that under Article 23 of the TRIPS Agreement, the rules regarding wine and spirit geographical indications are particularly strict, as a direct result of E.U. demands made during the Uruguay Round. Article 23 prohibits a company located outside the geographic area from labeling its product with, for example, a trademark similar to the geographical indication, even if it is without dispute that the trademark would not mislead consumers about the origin of the company’s product. The European Union’s so-called extension proposal calls for this same treatment to be extended to all products.

The impact on trademark holders and users of generic terms is potentially enormous. Owners of earlier-in-time trademarks registered or established in good faith could face outright confiscation of their property rights, laying waste to the principle of exclusivity addressed earlier in my statement. Long-time users of generic names the examples most often used involve names for cheeses could find their products excluded from markets under those names.

Apart from these costs are costs to consumer welfare. Although the European Union justifies its extension proposal as necessary to ensure that consumers know the true origin of the product they are buying, its proposal will in fact harm consumer welfare. Extending the heightened geographical indication protection associated with wines and spirits to all products will restrict the ability of trademark owners and users of generic terms to sell their products under names that they have developed into well known brands or that they have long used as the common name for such goods, which will ultimately limit consumer choice and create additional barriers to trade.

All of these costs, and for what benefit? While the E.U. proposal heralds the benefits to consumer welfare, under the current protection afforded geographical indications not associated with wines and spirits, trademarks that are misleading with respect to origin must be refused registration or invalidated. As long as consumers are protected against misleading indications of origin for a product, what added benefit do they achieve from protection against indications that are not misleading with respect to the origin of a product?

Unlike the multilateral system for wine and spirit geographical indications, which I will discuss momentarily, there is no mandate from the WTO Membership whatsoever to negotiate on the extension issue. At the last meeting of WTO Ministerial meeting in November, 2001 in Doha, Qatar, trade ministers agreed to submit the extension question to discussion in the WTO’s TRIPS Council. The European Union has recently parlayed these discussions into open-ended consultations facilitated by WTO Director General Supachai. Unlike other issues such as trade and investment that linger in WTO working groups for years or decades before securing a negotiating mandate, the European Union is doing its best to bully WTO Members into accepting a mandate to negotiation extension immediately following the upcoming WTO ministerial meeting scheduled for September 10–14 in Cancun.

In the weeks that remain before the ministerial meeting, and at the meeting itself, we need the U.S. Government to remain vigilant, and to prevent trade min-

isters, looking for ways to salvage the negotiations and emerge from Cancun with some success, from reaching an unacceptable compromise that will sacrifice the ability of U.S. food and beverage companies to continue to use names that they have long used and legitimately protected under trademark law or used as the common or generic term for goods.

Multilateral system. The European Union's second proposal concerns the establishment of a multilateral notification and registration system for geographical indications associated with wine and spirits. Establishment of a multilateral system is called for by Article 23.4 of the TRIPS Agreement, and is legitimately the subject of a negotiating mandate, currently being carried out by WTO Members in a special session of the WTO's TRIPS Council. While the negotiations are limited to a system for wine and spirit geographical indications, the reality is that if the European Union succeeds in securing the extension to other products of the heightened protection currently associated with wine and spirit geographical indications, whatever system is established will in future also apply to products other than wine and spirits. The stakes, therefore, are very high.

Three main proposals have emerged. On one end of the spectrum is the U.S.-led proposal, which suggests the establishment of a non-binding system to which WTO Members can elect to notify their geographical indications. The WTO would collect and maintain the multilateral system, basically as a source of information for WTO Members. The U.S.-led proposal would encourage WTO Members to refer to the database when taking a decision on the registrability or validity of a trademark or the enforcement of the geographical indication. The advantage of the U.S.-led proposal is that it would leave enforcement to each WTO Member and its court system. Under this proposal, U.S. trademark owners, for example, would retain the right to argue before a U.S. court that a geographical indication contained in the WTO database does not meet the requirements for protection, is generic, or conflicts with a prior trademark.

On the other end of the spectrum is the E.U.-led proposal. The E.U. proposal essentially holds out its domestic geographical indication regulation as a model for the WTO, and calls for a full multilateral registration system that would result in indefinite protection for registered geographical indications. Under the E.U. proposal, when a WTO Member notifies a geographical indication to the WTO, other Members will have 18 months to challenge and oppose registration for four reasons: (i) that the term does not meet the definition of geographical indication included in Article 22.1 of the TRIPS Agreement; (ii) that the indication is not protected as a geographical indication in its country of origin; (iii) that the indication is generic; or (iv) that use of the geographical indication would be misleading with respect to origin.

The E.U. proposal suffers from three major flaws. First, registration of a notified geographical indication cannot be opposed on grounds that it is identical or similar to an earlier-established trademark. In this respect, the E.U. proposal undermines altogether the core principle of trademark law addressed earlier in my statement exclusivity.

Second, oppositions can only be made by WTO Members, and not by individual users of generic terms or prior trademarks. This necessarily limits recourse to such oppositions to those individuals and organizations that have the wherewithal and resources to work through the U.S. Government to initiate and maintain such an opposition proceeding. Such oppositions should be left to the affected parties individuals or organizations to pursue directly rather than through the intermediary of a government agency.

Third, the E.U. proposal affords no opportunity to challenge registration in national courts under national laws that memorialize WTO Members' sovereign rights to set their own specific requirements with respect to eligibility, validity and enforcement of intellectual property rights. To put it simply, the European Union would require a WTO Member to accept and protect any geographical indication entered in a global registry, even if consumers in that Member's territory make absolutely no connection between a particular product and its place of origin.

The third proposal was recently submitted by Hong Kong. While this proposal would accord geographical indications registered at the WTO a presumption of validity, it would permit rebuttal of that presumption in proceedings before a WTO Member's national courts. This aspect of the proposal is an important feature that is absent from the E.U. proposal, since it leaves to national courts and national laws the decision whether a geographical indication is misleading, or constitutes a generic term.

A major flaw in Hong Kong's proposal, however, and one reason that it is simply not an acceptable compromise, is its failure to state whether a prior trademark enjoys the exclusivity guaranteed by Article 16.1 of the TRIPS Agreement, or instead

could be forced to co-exist a later-in-time geographical indication at the national level. Without a clear rejection of co-existence, this proposal cannot be accepted by U.S. negotiators.

For all of these reasons, I ask the committee to help us ensure that the negotiations taking place in Geneva go no further than the U.S. proposal for a non-binding system that leaves judgments regarding the validity of trademarks and the generic status of particular names to individual WTO Members and their courts. The U.S. proposal acknowledges the benefits of a multilateral system, but preserves the balance between trademarks, geographical indications and generic terms set out in the TRIPS Agreement.

Claw back. In its third and final proposal, the European Union seeks to claw back for use by its own agricultural producers certain geographical indication names that it considers have been usurped by producers that have been using those names for products not originating in the places indicated by the geographical indication. The E.U. proposal would claw back these names even where they are currently considered generic, or are the subject of trademark protection. More specifically, the European Union proposes, in the context of the WTO agriculture negotiations, to establish a list of geographical indications that would be exclusively reserved to the agricultural products originating in the place indicated by the geographical indication in question. According to the European Union, this proposal is complementary to the proposals it has made in the TRIPS negotiations, and is intended to guarantee fair market access opportunities to those wines, spirits and other agricultural and foodstuff products whose quality, reputation or other characteristics are essentially attributable to their geographical origin and traditional know-how.

Once again, this proposal undermines the principles of priority and exclusivity of trademark protection that I introduced earlier in my statement. The proposal undermines the principles of priority and exclusivity by effecting the ultimate breach invalidating otherwise valid trademarks altogether. There is no clearer example of a taking of property without compensation prohibited by the U.S. Constitution. Moreover, the E.U. proposal replaces a WTO Member's judgment about the validity of a trademark right with the judgment of a market access negotiator sitting at a table in Geneva. This is not acceptable.

Mr. Chairman, I cannot overstate how inappropriate it is for a discussion regarding the confiscation of established private property rights to proceed as a market access issue in the WTO agriculture negotiations. Any attempt to negotiate market access rights to the use of a specific designation that involves invalidating a prior third party trademark right must, at the very least, involve negotiations with the trademark owner. It should also involve a more careful consideration of the implications to intellectual property norms and constitutional protections of property rights in the U.S. and around the world. Were the implications of the E.U. proposal not so serious, I would be tempted to disregard the proposal itself as foolhardy. But the implications are very serious indeed, Mr. Chairman, and I ask that you and the administration act with force and resolve to defeat yet one more attempt by the European Union to effect confiscations of U.S. companies private intellectual property rights.

The European Union has tabled three bold proposals that will, if accepted in the WTO negotiations, upset the carefully calibrated balance between trademarks and geographical indications achieved in the TRIPS Agreement, and in so doing lead to the wholesale confiscation of U.S. companies private property rights. To bully its trading partners into accepting these proposals, E.U. officials have expressly hinged concessions in other areas of the WTO negotiations (namely, rules regarding trade in agriculture) to success on the European Union's geographical indications agenda.

The European Union is, therefore, calling for a compromise. Please understand that this compromise is nothing short of a surrender of the fundamental property rights that are at the heart of our Constitution, laws, and economic system. The Uruguay Round achieved unprecedented levels of protection for private property rights on a global scale. The E.U. proposals call for a retreat from those achievements. As importantly, they are an assault on our legal system, the result of which would be no less than a confiscation of property rights. Let us not unknowingly make that sacrifice.

The Committee's interest in and concern about these developments in the WTO negotiations is encouraging. As we move toward the September 10-14 meeting of WTO Members' trade ministers in Cancun, we are entering an important period in the negotiations. Any guidance this Committee is able to offer the Office of the U.S. Trade Representative as it confronts E.U. demands regarding geographical indications will be critical to U.S. companies, like Anheuser-Busch, with global trademark interests.

Mr. Chairman and members of the committee, thank you for the opportunity to express my views. I would be pleased to answer any questions you have.

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#### STATEMENT OF SARAH THORN

Good morning, Mr. Chairman and members of the committee. My name is Sarah Thorn and I am the Director for International Trade at the Grocery Manufacturers of America (GMA). It is a pleasure to be here today to offer our views on the implications of EU proposals in the World Trade Organization (WTO) to enhance the protections for geographical indications (GI). New negotiations on geographical indications have the potential to undermine potential gains in the WTO agriculture negotiations and could have far reaching negative economic implications for farmers and food manufacturers alike. As such, GMA would like to thank the committee for convening this very timely hearing, given that the GI issue is likely to be heavily debated at the upcoming WTO Ministerial in Cancun.

GMA is the world's largest association of food, beverage and consumer product companies. With U.S. sales of more than \$500 billion, GMA members employ more than 2.5 million workers in all 50 states. The organization applies legal, scientific and political expertise from its member companies to vital food, nutrition and public policy issues affecting the industry. Led by a board of 42 Chief Executive Officers, GMA speaks for food and consumer product manufacturers at the state, Federal and international levels on legislative and regulatory issues. The association also leads efforts to increase productivity, efficiency and growth in the food, beverage and consumer products industry.

Overview of GMA Position on Geographical Indications. GMA is opposed to any new negotiations on enhanced protections for geographical indications. We are alarmed by European Union (EU) proposals to enhance protections in the Trade Related Aspects of Intellectual Property Rights (TRIPS) Council and to repatriate names of commonly used generic products in the WTO Agriculture Negotiations. We believe that these proposals, if accepted, will undermine trademark protections and lead to the expropriation of brand name products with no commensurate compensation. Furthermore, EU proposals represent an attempt to overhaul intellectual property rights and obligations, and will have far reaching consequences on all sectors that rely on adequate intellectual property protections to market their products globally.

Importance of Brands to the Food Industry. In many ways, brand names are the most valuable assets that food manufacturers possess. Brand names are a critical marketing tool for companies since they inspire consumer loyalty by conveying the quality, consistency and reputation of a product. As such, consumers will pay a premium for branded products and companies continually make significant investments to build and protect their brands. Manufacturers rely on trademarks to protect these brands against copies or confusingly similar names that may diminish the value of these brands. These trademarks are clearly a private right of companies who are responsible for defending their rights against any abuse or fraud. In fact, many GMA members that are now large multinational companies owe a significant part of their success and growth to the adequate protection of their trademarked brands around the world.

Globalization of the Food Industry. It is important to recognize that food is, and has always been, a product of multicultural influences. For example, the first American immigrants brought with them the technical knowledge of how to make many of the foods they enjoyed in their home countries. Naturally, they named these products and the land around them after familiar names and places. Over time these products have evolved and have become part of our cultural fabric and, not surprisingly, many brands have been developed around these foods. Today, our industry is still evolving and changing to meet the needs of increasingly diverse consumers and a global marketplace. U.S. demographics have changed significantly in the last century with many Hispanic and other ethnic groups growing in size and economic purchasing power. The food industry has responded to this demand and has tailored new products to the diverse tastes of the new American consumer. For example, we now see a variety of products such as frozen tacos and enchiladas and even guacamole flavored potato chips that were not in the market twenty years ago. As in the past, many of the new products we offer have their antecedents outside of the United States. However, they will be made and marketed in a way that clearly identifies them as unique branded products. It is just this kind of innovation that could be stifled by EU demands for new protections for geographical indications.

Definition of Geographical Indications. Geographical indications are defined in the WTO as indications which identify a good as originating in the territory of a Mem-

ber, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographic origin. The TRIPS agreement obligates member countries to protect GIs such that they cannot be used in a manner that deceives or misleads consumers as to the true origin of a good, or that is contrary to honest practices in industrial or commercial matters.

Wines and spirits, however, are offered higher levels of protection than GIs for other products. Under this higher level of protection, any use by a third party of a wine or spirit GI belonging to another is prohibited, even if the true origin of the good is demonstrated (e.g. New York State Bordeaux). The use of 'kind', 'type', 'style', 'imitation' or other such words or translations of the GIs is also prohibited. For example, in many countries it is not permitted to call sparkling white wine "champagne-style."

The TRIPS Agreement contains important exceptions that are fundamental to maintaining the territorial nature of the application of TRIPS commitments. Article 24 (6) of the TRIPS does not require that a WTO member extend protection to a GI if it is a generic name for a product in the Member State. For example, in the United States, dijon is used to refer to any sort of spicy brown mustard and as such is a generic term for a type of mustard. In addition, the TRIPS Agreement, under Article 24 (5), provides an exception or grandfathering clause for a trademark that may be identical or similar to a geographical indication if the trademark has been used in good faith either before the implementation of the TRIPS Agreement or before the GI was protected in the country of origin. Under the existing TRIPS Agreement, individual member states retain the ability to determine whether a product is generic or whether a trademark may exist that would preclude GI registration. This is a fundamental concept as it has allowed member states to develop unique systems for GI registration that are compatible with domestic laws.

EU Proposals on Geographical Indications. Several countries, led by the EU, have asserted that the higher level of protections afforded to wines and spirits must now be granted to other food products as well. In addition, they have coupled their demands for new protections with the mandated negotiations on a new system of notification and registration of geographical indications for wines and spirits. The EU and their allies have submitted expansionist proposals for this system and wish, in effect, to create a multilateral register or list of names with legally binding effect on all Member States. Although the system is meant to be limited to the notification of GIs for wines and spirits, the EU has also now stated that the system must be open to all geographical indications.

In the WTO Agriculture Negotiations, the EU is demanding absolute protection for GIs regardless of whether these products are currently generic (e.g.; feta, parmesan, dijon mustard, etc.) or whether there is an existing trademark on the product. They have proposed to create a list of products that are protected by all WTO Member States that would be subject to dispute settlement procedures if they were used unfairly. In essence, the EU is proposing to have the exclusive right to make, market and distribute products that have long been produced in many countries around the world, and have never been protected as GIs in those countries. In so doing, they are essentially proposing to override the existing TRIPS commitments by invalidating the critical exceptions for generic and trademarked products.

GMA Views on EU Proposals. Agriculture Negotiations. Perhaps the most alarming of all the EU ambitions is their proposal to claw back and terminate the use of generic names for food products outside of Europe. If the EU is successful, GMA companies would have to re-package, re-brand and re-market products on a global scale for which they created the current market value. The costs of this type of proposal to our industry are staggering. While the cost of a brand roll-out depends very much on the product and the market, generally, however, the national launch of a new cereal brand can run as high as \$160 million, spent over about 18 months to two years. A new mustard roll-out, which has a more limited audience than a cereal, can run from \$5 million to as much as \$30 million. These figures are based on national averages in the U.S. market. Imagine the costs to our companies that have global brands at risk. We believe that the EU is simply too late to the game to demand protections for products that we, and many other countries, have used without interruption for hundreds of years. If these products were so important to their producers, it was incumbent upon them to protect these names before they became part of the general lexicon for food products.

The EU proposal is, in its most basic form, a proposal to expropriate or confiscate the private property of many food companies. Although the EU has yet to publish their list, EU producers have made it clear they wish to repatriate terms like parmesan, feta, and many other cheese, wine and beer products. As noted above, many GMA member companies have built successful global brands around these same

products. The products are no longer geographical indications as they do not indicate the source of a product and are thought of by consumers as a type or style of cheese or meat. Rather, they are the private intellectual property rights of manufacturers that should not and cannot be treated as public goods for agriculture negotiators to trade away in favor of concessions in other areas.

GMA could not be more steadfast in our opposition to this proposal. In fact, the very idea of a global list of protected geographical indications raises serious concerns about the consistency of protection for all intellectual property rights. No such legally binding, WTO-sanctioned list exists for trademarks, patents, copyrights or other forms of intellectual property rights. We urge negotiators to consider the ramifications that such an imbalance of rights will create as a precedent for future negotiations. Will developing countries insist on a list of genetic resources that must be considered the property of indigenous people? Should copyrights be eliminated so that all countries can have easy access to literature and entertainment and ease of technology transfer? Intellectual property rights are limited monopolies that exist for a valid reason, so that innovation and technical achievement are encouraged and rewarded. We are extremely concerned that the EU proposal for geographical indications could be the first step to unraveling these important and necessary protections.

On a practical level, the idea of a list of protected product names also presents enormous difficulties. First, would all Member States be granted an equal number of protected products? In an organization of 146 members, even a small list of protected products would grow to an unmanageable size very quickly. Second, many countries now employ the argument that there is an imbalance in the TRIPS protections for wines and spirits and that all products should benefit from equal treatment. A new list of protected products would create yet another, higher level of protections in the hierarchy of GI commitments. It is highly likely, therefore, that there will be new demands to increase the list to afford all products equal protections in subsequent negotiations. Finally, we believe it is inappropriate for politicians to pick and choose arbitrarily which products should benefit from this type of protection. Consumer demand in the marketplace not political whim should assign value to products.

Given the EU's seemingly insatiable demands for GI protections, we are skeptical that they will be satisfied with a small list of products. We can all but guarantee that they will hold the next round of negotiations hostage in return for an expansion in their list of protected products. It is likely that they will also demand that traditional expressions and the method of production of their products (slicing and packaging) also be protected. To this end, we believe that creation of any kind of list is an enormous concession that should not be granted merely for political expediency in the heat of the next Ministerial.

Article 23 Negotiations and the Multilateral Register. GMA is equally concerned about proposals in the TRIPS Council to extend the enhanced protections for wines and spirits (Article 23 protections) to other products and to open up any future multilateral register on geographical indications to all products. As noted above, the EU proposal would create a binding list of registered products that would have the presumption of legal effect in all WTO member countries. This type of registry naturally raises similar concerns to those expressed above relating to an exclusive list of protected products in the agriculture negotiations. Furthermore, this type of system will clearly limit our ability to use the existing exceptions to the TRIPS Agreement for generics and trademarked products in third country markets.

Our opposition to Article 23 extension to products other than wines and spirits is further reinforced as a result of our experiences with the implementation of existing TRIPS commitments in the EU. Specifically, we are concerned that the EU has interpreted existing TRIPS commitments to mean that geographical indications should be superior to trademarks regardless of when the GI was first protected or indeed invented. According to this interpretation, a GI created or protected later in time than a trademark could invalidate that trademark on a global basis. Food companies have absolutely no way of knowing whether there is a small town, region, township or village somewhere producing something that just might resemble a branded product. A key trademark might be cancelled or be forced to coexist with a geographical indication at some future date because the new product resembles the established brand. Once trademark holders are forced to share their rights, the value of that trademark diminishes as copies may be allowed that compete for market share on the back of the trademark holder's established reputation.

It sounds extreme, but trademark piracy has indeed happened in the past to GMA member companies and easily could happen again. To illustrate, let's suppose a company invents a new fruit drink called Nice and invests billions of dollars to promote it. Under the EU system, a manufacturer in the city of Nice, France could produce

a similar juice and sue to cancel the trademark of the branded Nice juice product. Such trademark violation is absolutely contrary to current practice and would stifle innovation in the food industry. In a world where food is produced to meet the needs of multicultural societies, food manufacturers must have the ability to innovate to meet the needs of ever changing consumer demands.

We find it hypocritical for the EU to advance proposals seeking new TRIPS commitments, since their domestic GI laws are inconsistent with existing TRIPS requirements. For example, U.S. GI holders are unable to register their GIs in the EU which is a violation of the national treatment principle enshrined in the GATT and TRIPS. New rules should not be negotiated until existing commitments are adequately implemented and enforced.

Existing TRIPS Commitments are Sufficient. Our resistance to the EU proposals further stems from the fact that they have yet to explain adequately why the existing levels of protections for geographical indications are insufficient. What is often overlooked in the WTO discussions is that the U.S. and many other countries around the world already have systems in place that offer excellent protections for geographical indications. For example, in the United States many EU GIs such as STILTON, PARMIGIANO-REGGIANO and ROQUEFORT are granted protections through the U.S. certification and collective mark system. This system is transparent and fair, and is open to all producers equally, unlike the EU system.

The EU and other smaller producers have argued that this system is too costly and cumbersome to meet the demands of small farmers and producers. They note that their producers simply do not have the resources to defend their certification marks against misuse and, therefore, they need the absolute protection only a global list or registry can provide. We would counter that there is nothing that precludes a government from applying for and defending a certification mark on behalf of its producers. Instead of requiring all governments to protect certain select GIs, interested governments might simply be encouraged to assist their smaller producers in obtaining protections that exist today. In this manner, a new system is not necessary, just assistance to smaller producers to utilize existing systems.

Conclusion. The EU's insistence on new negotiations on geographical indications is a blatant expansion of the Doha mandate. In Doha, the EU refused to accept the agriculture text until they were granted concessions on many controversial subjects, such as the relationship between Multilateral Environmental Agreements and the WTO, environmental labeling, and commitments on future consideration of new rules on competition policy and investment. At the time, they justified these demands as necessary to ensure balance in the WTO negotiations. The resulting Doha Declaration was a careful compromise that included major concessions by the U.S. and our allies. The EU now wishes to override this agreement and has stated that they wish to be paid up front with concessions on GIs before they will begin to negotiate on the agriculture negotiations. We believe it is self-defeating to continually give concessions to the EU just to get them to the negotiating table on agriculture. We caution that concessions on geographical indications will only embolden the EU to again delay progress in agriculture until they achieve all their non-trade concerns such as precaution and non-science based mandatory labeling.

The current discussion in the WTO over expansion of new commitments on geographical indications is a serious issue with broad implications for both food and agricultural products. Decisions taken with respect to food products could have enormous consequences for all agricultural products. Currently, due to the vague nature of the definition for geographical indications, many countries are arguing for increased protections for kinds of rice (jasmine and basmati), tea (celon) and other plant and animal varieties. If the demandeurs are successful, it is possible that commonly used names for beef cattle (Angus), apples (fuji, gala) and other recognized plant and animal names could be the subject of expropriation by foreign producers. Geographical indications are the ultimate slippery slope of trade negotiations and must be resisted so that food and agriculture producers can enjoy the promised benefits of agricultural liberalization.

GMA is a strong supporter of the WTO Agriculture Negotiations and the broader Doha Development Agenda. We believe that trade liberalization will lead to a more reliable, diverse, safe and affordable food supply for all consumers. The current proposals on geographical indications could undermine these potential gains since they would allow bureaucrats to decide arbitrarily which manufacturers will be granted economic benefits. We believe that the best system for the protection of geographical indications is one that is equitable and transparent and allows for the market to work efficiently. For these reasons we strongly urge our negotiators to continue to resist calls for EU-style protections for GIs and to promote a fair system that facilitates the protection of all intellectual property rights.

Thank you for the opportunity to present our views this morning. I would be happy to answer any questions.

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STATEMENT OF JON W. DUDAS

Chairman Goodlatte, Ranking Member Stenholm, and Members of the committee:

Thank you for this opportunity to testify today on an important type of intellectual property known as geographical indications. As you know, certain of our trading partners at the World Trade Organization are calling for the immediate termination of U.S. usage of commonly known food terms such as Feta, Parmesan, Burgundy, Chablis, Champagne and Bologna.

While hardly a household term, geographical indications have been the subject of a number of articles in publications ranging from the Wall Street Journal to the Dallas Morning News. This growing attention is fitting, given that geographical indications are a key feature on many agricultural and food product labels and are valuable business interests that play an integral role in promoting U.S. trade and consumer awareness. The heightened publicity is also warranted in light of the efforts underway by some of our trading partners in the World Trade Organization (WTO) to undermine these valuable intellectual property rights by treating geographical indications solely as trade interests and ignoring intellectual property principles. Such efforts, if successful, would seriously impact our domestic producers, consumers, and trademark owners. In short, the subject of today's hearing is particularly timely, and I commend the committee for focusing attention on this important matter.

A geographical indication (GI) is a sign used to indicate the regional origin of particular goods or services. The WTO's 1994 Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs Agreement) defines GIs as indications which identify a good as originating in the territory of a Member, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographic origin. GIs are not just place names: they are signs that indicate to consumers some important characteristic of the goods or services that is attributable to their geographic origin. Examples of geographical indications from the United States include Florida for oranges, Idaho for potatoes, Washington State for apples, and NAPA for wine.

The United States protects geographical indications through our trademark system because, like trademarks, GIs are source-identifiers, indicators of quality, and business interests. As with trademarks, geographical indications are eligible for relief from acts of infringement and unfair competition.

At the international level, GIs fall under the purview of the TRIPs Agreement. The TRIPs Agreement establishes the minimum standards for the protection of geographical indications within WTO Member countries. The TRIPs Agreement and, thus, the TRIPs GI standards, are the result of trade negotiations during the Uruguay Round. In other words, the provisions and exceptions contained in the text were part of an overall package of balanced trade decisions—an appropriate give and take.

The TRIPs Agreement requires WTO Members to provide the legal means for interested parties to prevent the use of a GI that: (1) indicates or suggests that a good originates in a geographical area other than the true place of origin in a manner which misleads the public as to the geographical origin of the good; or (2) constitutes an act of unfair competition.

Because some European countries wanted a higher level of protection for geographical indications for wines and spirits, a provision was negotiated in TRIPs that requires WTO Members to provide the legal means for interested parties to prevent the use of GIs for wines and spirits that do not originate in the place indicated by the GI, even if the public would not be deceived by its use.

The United States agreed to the European demands for this provision for wines and spirits because the TRIPs Agreement includes exceptions which protect our industries. For example, the TRIPs text contains an exception that protects U.S. wine and spirits producers who use generic terms to describe their goods. TRIPs does not require that a WTO Member extend protection to a GI if that GI is the generic name for the goods in the Member. For example, in the U.S. the word Chablis is often used to refer to various types of white wine. Since Chablis is a generic term in the U.S., we can continue to permit use of word CHABLIS as a synonym for white wine. Similarly, Champagne is considered a generic term and in the U.S. means any light-colored wine with bubbles.

In addition to exceptions for using generic terms, the TRIPs Agreement offers important protections for U.S. trademark owners who use and/or register marks in

good faith, in the instance that a trademark happens to conflict with a geographical indication. A trademark that has been used or registered in good faith in one jurisdiction cannot be preempted by a later established GI that conflicts with the trademark. In fact, the later in time geographical indication cannot even be used if it conflicts with an earlier-established, good faith trademark. For U.S. producers, this means French cheese producers do not have a basis to cancel U.S. trademarks that contain terms protected in France merely because the goods do not come from France.

Geographical indications are well understood in the United States because we protect GIs through our trademark system as certification or collective marks, which are types of trademarks. Because the trademark system is well understood and well established, we have a successful systematic approach to protecting geographical indications, allowing domestic parties, foreign parties, governments, and even individuals the legal means for creating, maintaining, asserting, defending and challenging rights in GIs. That understanding is not shared worldwide. There is very little international consensus on the appropriate framework of protection for GIs. While the TRIPs Agreement sets out minimum standards, it does not dictate the system that WTO Members must implement to protect GIs.

In the absence of consensus, some WTO Members are attempting to advance a framework of protection that would deprive U.S. producers, trademark owners and consumers of the benefits negotiated in the TRIPs Agreement in 1994. For example, within the WTO at the TRIPs Council meetings and at the WTO Agriculture Committee negotiations, the European Union (EU) is demanding exclusive use for EU producers of certain commonly used wine terms such as BURGUNDY, PORT and CHABLIS. The EU is claiming that these common wine terms are GIs and are misleading on any wine that does not originate from the EU in the area named. Other like-minded countries are also advancing this so-called claw back agenda. Furthermore, those attempting to undercut U.S. interests by renegotiating the obligations in the TRIPs Agreement are arguably not fulfilling their current obligations under TRIPs.

In the ongoing U.S. EU wine negotiations, the U.S. government is working closely with our wine industry to reach a negotiated settlement that would adequately compensate U.S. wineries in return for voluntarily giving up the use of generic wine terms the EU claims as its own. Compensation could include adequate protection for U.S. geographical indications, as well as mutual acceptance of U.S. winemaking practices, reductions to EU wine tariffs and subsidies, and the removal of market restrictive EU certification and labeling requirements. To allow U.S. companies time to adjust, any eventual phase out of generic wine terms would take years to complete.

Disposition of the geographical indications issue is part of the Doha Development Agenda, on which Ministers will focus in September at the WTO Ministerial in Cancun, Mexico. At the Cancun meeting, the EU will likely call for worldwide termination of certain generic terms to describe food and wine unless those products come from a specific geographic region in Europe. If the EU is successful, use of generic terms which could include feta and gorgonzola for cheese and port and sherry for wine terms now considered generic in many WTO member nations and not just in the U.S.—would be prohibited in the U.S. and in all of our export markets.

Quite simply, the United States may be facing demands to give away our WTO entitlements in exchange for nothing. For example, from an intellectual property perspective, it is unclear that those requesting claw back at the WTO and in bilateral negotiations are offering any protection for U.S. geographical indications. We are particularly concerned because U.S. GI owners appear to face systematic discrimination in the EU. Significantly, not one U.S. geographical indication is currently protected in the EU under the EU's Agriculture Regulation. The United States has requested consultations in the WTO over this issue alleging,—among other things,—that EU regulations appear to be inconsistent with the national treatment and MFN provisions of the GATT. Just as troublesome is the fact that U.S. trademarks, such as Budweiser and Bud, are being subject to termination in various Member States of the European Communities because the EU believes that Budweiser and Bud are geographical indications for beer from the Czech Republic.

In contrast, the United States provides robust protection for geographical indications, whether of domestic or foreign origin. Examples of GIs protected under the U.S. certification mark system include: Banshu Somen for noodles from Japan; Colombian for coffee from Colombia; DARJEELING for tea from India; Jamaica Blue Mountain, for coffee from Jamaica; Parma for ham from Italy; Parmigiano-Reggiano for cheese from Italy; Roquefort for cheese from France; and Swiss for chocolate from Switzerland.

It appears that the EU is asking the U.S. Government, U.S. producers, and U.S. consumers to subsidize EU producers through this claw back of generic terms so that EU producers can charge monopoly prices for their products. Why should U.S. consumers subsidize EU producers? We see no basis for our producers, trademark owners, and consumers to be asked to stop the use of generic terms. And what system that promotes fairness for trademarks and geographical indications is being proposed by the European Union to protect our trademarks and GIs abroad?

Mr. Chairman, the United States is deeply concerned by the efforts by the EU and others to substantially restructure the standards for protecting intellectual property rights in geographical indications. I am hopeful that today's hearing will shed much-needed light on the EU's proposal and, in so doing, help preserve strong and equitable protection for geographical indications and trademarks in the U.S. and throughout the world.

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#### STATEMENT OF PATRICK J. KOLE

Good morning, Mr. Chairman, Committee members, distinguished members and guests. Thank you for the opportunity to appear here today. My name is Patrick Kole. I am the Assistant to the Executive Director of the Idaho Potato Commission, and Vice President for Legal and Governmental Affairs.

The Idaho Potato Commission is a self-governing agency of the government of the State of Idaho. It was created in 1937. Some of the important purposes of the IPC are to set grade and quality standards for Idaho potatoes, to promote the sale of Idaho potatoes, and to protect consumers by making sure that only genuine Idaho potatoes are put in Idaho-labeled bags. Other similar programs are in place throughout the nation. These include programs operated by the Florida Department of Citrus and the Vidalia Onion Committee in the State of Georgia.

An essential component of these programs is to create customer awareness of the commodity in question. Florida and Idaho have been quite successful in this effort. So have many other programs. It is not unusual for consumers to associate cheese with Wisconsin, ham with Virginia, raisins with California, and so on. These positive connections are the result of the hard work of many people, including the dedicated growers, shippers and processors working through commodity groups over the past sixty years. These agencies have worked hard to insure that quality standards set for their products are met, for products uniquely associated with their states often have standards that are set higher than those minimally required by other bodies.

An important common bond exists between these commodity groups. This bond is the registration and use of "certification marks," as provided for in the Lanham Act. Specifically, section 4 of the Lanham Act, 15 U.S.C. §1054, permits the registration of certification marks that indicate regional origin. Registration is an important tool that provides access to statutory remedies. These remedies provide additional clout in the effort made by holders of certification marks to prevent product substitution, misrepresentation and fraud.

The hearing today concerns Geographic Indications (GIs), Trademarks, Certification Marks, and the ongoing discussions concerning agricultural policy in the Doha Round of the WTO Member States negotiations. Other witnesses have provided the committee with definitions for each of the above terms, and of the status of the WTO negotiations as the September 2003, Cancun, Mexico session nears. So my testimony will instead focus on the substantive problems faced by Idaho Potato Growers in particular, and other U.S. agricultural producers in general, when they seek protection for their important intellectual property rights. I will describe the inherent unfairness that results from the special treatment given to EU nationals by the European community who can obtain protection for their GIs in both the EU and other countries, while no protection is given to U.S. agricultural producers in the EU. This disparity in treatment we believe is in violation of the national treatment principle of the WTO TRIPs Agreement.

My testimony is about how the EU's approach of protecting GIs is in stark contrast to the certification mark system that is in use in the U.S. and other countries. In most countries, the certification mark system used is an open and transparent registration system accessible to all, whether they are citizens of the particular country where protection is sought or not. The EU system, however, is not accessible to non-EU nationals upon the same terms as an EU national. Instead, it requires all non-EU countries to have in place a system for the protection of EU GIs identical to that of the EU before it will grant access to the EU registration system. Secondly, I will point out how the practice of limiting non-EU nationals access to the EU registration system and only allowing EU member states to take certain actions

has been extended into the phytosanitary arena. This limitation has been used to create a trade barrier preventing the import of U.S. potatoes into the EU, and in fact, is even preventing U.S. potatoes from being shipped to our military facilities in the EU.

The Idaho Potato Commission has diligently followed the international trade in Idaho potatoes. Where the product has gone, we have sought, and largely succeeded, in registering the word Idaho when used with potatoes, and the Grown in Idaho logo. Canada, Mexico, Japan, Korea and Great Britain are just a few of the countries where protection has been achieved for the Idaho certification marks. These countries, unlike the EU, have allowed the Idaho Potato Commission to register its marks within their national systems for the protection of intellectual property rights. They have afforded the same protection to us as they have to their own citizens.

We register our marks in these other countries because there are exciting opportunities opening up in the international arena for potato products. In the EU, for example, we have been contacted by interested parties who would like to use a baked Idaho potato as part of a western steak house type of dining format. Other parties in the EU have expressed interest in using the unique potatoes we grow in Idaho for fresh cut French fries. We believe that there is a real opportunity for a niche to be filled in the EU with Idaho potatoes. We also register our marks to protect our hard-earned reputation and to prevent others from trading on that reputation to our detriment. For example, the Idaho Potato Commission has encountered infringement problems in South Africa, Great Britain and Thailand, just to mention a few.

While we have been able to obtain registration and protection for our certification marks in the U.S. and many other countries, the picture is much different in the EU. To initiate any kind of application for GI protection in the EU, two general avenues are provided. The first path is for EU nationals, and nationals from those countries that are in the process of becoming members of the EU. The second venue is for everyone else, which includes Idaho potato producers and other U.S. agricultural producers.

The path for EU nationals begins with an application to a Member States competent authority in which the national seeking protection is located. Following review, the application is forwarded to the European Commission for further review. If accepted, the application is published in the Official Journal of the Commission. A direct opposition procedure to the registration is only available to EU Member States. Private parties must file opposition papers with the European Commission that are sent to the Member State, who then forward the opposition on to the European Commission after examination by the competent authority of the Member State. This process is not available to non-EU members.

This second avenue to protection for a GI is founded upon the principle of reciprocity. This is the path that a U.S. agricultural producer would have to follow in order to obtain protection in the EU. What reciprocity means, at the simplest level, is that for a U.S. GI to become protected in the EU, the U.S. government must be willing to negotiate a bilateral treaty with the EU. But it is not just any sort of treaty that must be negotiated. Rather, the treaty must pass the muster of the EU: the treaty needs to show that the country seeking GI protection for its nationals has essentially adopted the EU system for protecting GIs. This puts the EU in the position of evaluating the laws of another WTO member, and then making a determination that their system for protecting GIs is reciprocal to the laws of the EU. In short, protection of GIs for non-EU nationals is premised on reciprocity, not equal treatment. Reciprocity is anathema to national treatment obligations. To condition enjoyment of intellectual property protection by nationals of one WTO member by requiring that member's laws be the equivalent to its own violates the national treatment obligations set forth in the TRIPs agreement.

Let me put this in plain terms. In order for the Idaho Potato Commission to obtain protection for its certification marks in the EU, it would have to convince the U.S. government to negotiate a bilateral treaty with the EU. That treaty would require the U.S. government to adopt the equivalent of the EU system for the protection of GIs. The existing U.S. certification mark system is not, in the view of the EU, sufficient. In short, there is no way for U.S. agricultural producers to register and protect their certification marks given the current impasse.

While holders of certification marks in the U.S. have been unable to file and obtain protection in the EU, EU organizations have freely availed themselves of the ability to register their GIs in this country. As a result, they have enjoyed the benefits that come with registration: access to the U.S. court system and the enhanced statutory protections afforded to a registrant under the Lanham Act. The ability to back up a cease and desist letter with a viable promise to initiate court proceedings

is a powerful tool. But even a registration alone can, in this day of due diligence and pre-use searching, head off infringement upon one's intellectual property rights.

In the meantime, what has happened across the Atlantic Ocean in the EU? We are aware of at least ten registrations in the EU for the word Idaho, two as Community Marks, and eight registrations with the French Trademark Office. The Idaho Potato Commission tried to register its marks in France. After considerable time and expense, we were only permitted a trademark registration. That registration, however, specifically excluded potatoes. We have also looked into registering our certification marks within the Community Trademark Office. Further, the attorneys we have retained in the EU to investigate and advise us of any recourse that might be available to us have all reached the same conclusion: the EU system has simply shut us out. We are powerless to protect our name in the EU, but EU nationals are free to register and use our name.

The second point of my testimony is to show how the violation of the national treatment principle has extended into phytosanitary trade-related issues, thereby ending fresh potato exports from the U.S. to the EU. According to USDA APHIS reports provided to the National Potato Council, when the EU harmonized its plant legislation pursuant to 2000/29/EEC, a procedure was put in place requiring a special derogation to be initiated before the EU will allow U.S. potatoes into Europe. This is also required for U.S. military facilities. The derogation is essentially a work plan that sets forth mitigation measures in order to insure unwanted pests from entering into the EU. However, only Member State plant directors can bring this up for consideration. Like GI's, membership has its privileges.

My final point concerns the reports that there is a trade-off under discussion as part of the upcoming negotiations in Cancun, Mexico. The EU would reform its programs of subsidies to agriculture in exchange for enhanced protection of GI's. The Idaho Potato Commission would urge this Committee, and our negotiators, to view any such proposal with extreme caution. Trade barriers are multi-tiered, deeply imbedded and almost impossible to negotiate away. When unrelated concepts like agriculture reforms get linked to GI's, the intended result of fair and free trade can be thwarted by other impediments, like the phytosanitary procedure outlined above. It is far better to deal with each issue on its own merits.

There are productive discussions underway, that, given the impetus of this Committee, and a willingness of those who have intellectual property rights, whether GI's, certification marks or trade marks, that can lead to a fair and equitable resolution of this matter. A good starting point that should require no negotiation is this: The EU should allow U.S. certification mark holders to register their marks immediately and unconditionally.

The points that have been presented today identify issues of broad concern. They also provide the framework for a solution to the conflicts raised by all of the various stakeholders in this debate. We, of course, are willing to work with all interested persons and organizations and would welcome any questions or suggestions that they or this Committee may have.

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#### STATEMENT OF MICHAEL PELLEGRINO

Mr. Chairman, members of the committee, I am Michael Pellegrino, Vice President of Marketing & Strategy, Kraft Cheese Division of Kraft Foods North America. With me today is Ms. Jacqueline Leimer, Chief Trademark Counsel for Kraft Foods. She is also Executive Vice President, International Trademark Association, although she is here today on behalf of Kraft, not INTA.

Thank you for inviting me to appear before you to discuss an initiative in the ongoing Doha Round of multilateral trade negotiations to extend to foods the geographic indication protections that were established exclusively for wines and spirits in the Uruguay Round. This is an issue of vital importance—not only to my company, but also to many other U.S. food manufacturers and to thousands of American farmers who supply high quality raw materials to the U.S. food processing industry.

Even though the operations of my company are directly and continually affected by policies developed in this room, our appearances before this Committee are relatively infrequent. Accordingly, a few words to familiarize you with the scope of Kraft's activities may be appropriate: Kraft Foods Inc., a proud member of the Altria family of companies, is celebrating its one hundredth anniversary this year, tracing its origin back to the days when James L. Kraft rented a horse and wagon and started selling cheese in Chicago. The company launched and built by J. L. Kraft is now the largest branded food company in the U.S. and the second largest in the world. With annual sales of \$30 billion last year, our products are sold in more than 145 countries around the world.

Kraft products can be found in 99 percent of American households. In addition to our flagship cheese brands, we take pride in producing and marketing many other popular foods, including Ritz crackers, Post cereals, Maxwell House coffee, DiGiorno pizza, Oreo cookies, Planters nuts, and Oscar Mayer meat products.

Kraft buys \$7 billion worth of agricultural commodities annually. We are one of the world's largest buyers of dairy products, sugar, meats, coffee, oils, and nuts. We also purchase large quantities of wheat, rice, corn, and soy and other crops.

One reason we are here today is that Kraft is one of the world's largest producers of parmesan cheese. We believe that our ability to continue to sell parmesan cheese (and other Kraft products) may be at risk due to an initiative being aggressively advanced by the European Union (EU) in the ongoing Doha Round of multilateral trade negotiations conducted under the auspices of the World Trade Organization (WTO).

This issue was summarized well in a recent Wall Street Journal article: Over the centuries, Europe has given the world some of its favorite foods. Now the Continent wants the names of many of them back. If European negotiators at the World Trade Organization get their way, numerous food names associated with specific regions, from the United Kingdom's cheddar cheese to the Czech Republic's pilsner beer to Italy's balsamic vinegar, will be reserved exclusively for companies located there. With a number of developing countries following the EU's lead, that could mean that hundreds if not thousands of products could have to be renamed when they are made in places like the U.S. and Australia.

The EU promises that its list of protected products will be short. However, it has yet to identify the specific items for which it would propose to extend WTO geographic indication protections, notwithstanding media speculation. Cheeses and meats invariably are mentioned as two of the food classes likely to contribute the most candidates. Within the cheese category, most consider parmesan cheese to be a prime target. Over the past several months, we have watched with growing concern as parmesan cheese has become the unofficial poster child in the debate surrounding EU efforts to extend to foods the higher level of geographic indication (GI) protection established in the Uruguay Round for wines and spirits.

This year, Kraft will manufacture and market over 60 million pounds of parmesan cheese, under the Kraft and DiGiorno brands—made from nearly a billion pounds of U.S.-produced milk. We also produce and market Athenos feta cheese and Grey Poupon dijon mustard two other very popular products valued for their authentic flavors. Both of these products could also become victims if the Doha Round results in an agreement to extend the GI protections that now apply only to wines and spirits to foods. Throughout the U.S. food industry, and across the food industries of the entire Western Hemisphere, scores of food names are similarly vulnerable.

If the EU achieves its stated objective—and if the three products I have mentioned earlier are among those designated by the EU for geographic protection—Kraft would no longer be permitted to sell parmesan or feta cheese or dijon mustard using terms that the U.S. Patent and Trademark Office considers generic in the U.S. and, therefore, ineligible for trademark protection. Parmesan is even a recognized standard of identity under FDA regulations. Under the EU proposal, WTO rules would supersede national rules, and the right to market these products would be reserved to producers in Parma, Italy (for parmesan cheese); Greece (for feta cheese); and Dijon, France (for dijon mustard).

Kraft is very concerned that it would be prohibited from using terms that are integral to the identity of brands we have been building for decades. Our company has been selling parmesan cheese for nearly sixty years, winning favor with generations of consumers. We have been producing and marketing feta cheese in the United States for two decades. Grey Poupon dijon mustard has been a well-known product in the U.S. market for more than two decades.

If Kraft no longer has access to our long-standing product names, it will be faced with the prospect of convincing each of our consumers that the Kraft grated cheese being sold under a new and unfamiliar name is the same high quality cheese that has been served in their household for decades as Kraft parmesan cheese. The same would be true for our Athenos feta cheese and Grey Poupon dijon mustard brands. This would likely require millions of dollars in packaging costs and an extensive and multi-million dollar marketing campaign just to preserve, rather than grow, our existing level of sales. Consumers will be confronted with new and unfamiliar names at the grocery shelves, and Kraft and others in the industry would have to spend huge sums just to educate them that only the words on the package have changed. We would be expending funds that could be better used for other important purposes, such as building further dairy product consumption. Once again, these marketing challenges are unlikely to be unique to Kraft.

Even with this investment in maintaining the parmesan category, we believe it is likely that there would be a significant risk of alienating our consumers, either because they do not hear or do not believe that we are still selling the same products they know and trust. This would almost certainly result in lost sales for Kraft and others in the industry. This would inevitably ripple through the supply chain and have a serious impact on manufacturing facilities and dairy farms, and the people who depend on them for their livelihood.

We regard the threat to our businesses, and to those of other U.S. and other non-EU food processors and producers, as real, substantial, and immediate. In the aftermath of the June 26 announcement that EU agriculture ministers had reached painful agreement on fundamental reforms in the EU's Common Agricultural Policy, EU officials have made it clear that they will insist on equivalent concessions from other countries specifically the U.S. and the Cairns Group countries—before they will agree to lock these reforms into any WTO agreement on agriculture. The Washington Post reported on July 7, 2003, that At a meeting in Palermo, Italy, ministers of the 15-nation EU agreed to call for the United States to limit its own farm subsidies, criticized commodity monopolies on wheat, dairy and sugar trade in Canada, New Zealand and Australia, and argued that World Trade Organization rules protecting wine and spirits should be extended to all other agricultural goods. Further, the Bureau of National Affairs (BNA) reported on June 19, 2003, The European Union's top official in Geneva warned June 11 that a World Trade Organization agreement on further liberalization of agriculture will not be possible without a commitment to provide expanded protection for geographical indications (GIs) beyond wines and spirits. According to the BNA, the EU Ambassador to the WTO said the GI issue was one of the few offensive interests the EU has in the current Doha Round trade talks on agriculture.

It must be emphasized that this is not just a Kraft issue, nor just a cheese issue, nor is it just another trans-Atlantic difference of opinion with the potential to affect only EU and U.S. interests. And it certainly is far more than simply a food processor issue. Any weakening in demand due to consumer confusion or erosion of confidence will inevitably impact the farmer. Imagine if dairy processors could no longer call milk milk, or cheese cheese. Consumers would understandably be suspicious and confused about the new products on the market. Funds currently expended to grow demand for these items would have to be reprogrammed to reassure consumers that they could trust these new products and use them for the same purposes they formerly used milk and cheese.

An article in the most recent edition of the USDA Economic Research Service Amber Waves notes that cheese consumption has been steadily growing. U.S. per capita consumption of cheese during 2001 was 30 pounds, more than twice as much as in 1975. Currently, the milk from one out of every three U.S. dairy cows is used to make cheese. (For reference, we buy about 15 pounds of milk—or 1.7 gal.—to make each pound of parmesan cheese.) While there are many reasons for the increase in demand for cheese, we believe industry marketing and promotion efforts deserve some credit. To the extent our efforts to promote cheese consumption are frustrated or reversed by any new WTO GI protection rules, U.S. cheese consumption would be adversely impacted.

There are broader implications for the U.S. agri-food industry from any expansion to foods of the current WTO geographic protections that now apply to wines and spirits. For example, the right to designate protected products will not be reserved to the EU and the few other advocates of this policy. Currently, there are a total of 146 members of the WTO. Another 27 countries are currently in the process of joining the organization. All WTO members would have the opportunity to designate protected products. This suggests that the registry proposed by the EU could conceivably include hundreds of food products if not thousands. Under its existing internal system, the EU protects geographic origin indications for hundreds of products, including 149 kinds of cheeses, 63 meat-based products, and 16 types of table olives.

Although we have focused on parmesan and feta, the current EU internal register includes a number of other cheeses recognized as generic in the U.S. gorgonzola, romano, and provolone from Italy alone. Moreover, once established, any list of protected designations would be subject to expansion. Even if fixed under a Doha Round agreement, any list would be subject to renegotiation and extension in the next round of WTO negotiations. If GIs are established for a limited number of cheeses in the current round of talks, the list could grow in the next round, and the next. Other cheeses that are considered generic in the U.S., like cheddar, mozzarella, and provolone could become EU targets. Switzerland may want to protect swiss cheese. The prospects for consumer confusion and disruption of dairy markets presented by the loss of the name parmesan would be small compared with the loss

of these other names, which represent a substantial share of U.S. cheese sales and domestic milk usage. As there are now efforts to extend coverage from wines and spirits to all foods, there could be future interest on the part of some WTO members in further expanding GI coverage to include downstream and upstream food-related areas, like animal breeds and/or restaurant/bakery cuisine.

In addition, there could be efforts to further tighten any origin protections for food that might result from the Doha Round. For example, to the extent the EU's underlying motivation is to create an international system that mirrors its internal policy, a recent ruling by the EU Court of Justice may be relevant: In response to complaints filed by the producer of Grana Padano cheese in Italy and the Consorzio del Prosciutto di Parma, the EU Court of Justice ruled on May 20, 2003, that maintaining the quality and reputation of Grana Padano cheese and Parma ham (both EU protected designations of origin) justifies a rule that product must be grated or sliced in the region of production. As a result of this ruling, any Grana Padano grated, or any Parma ham sliced, outside the region of origin even within the EU—cannot maintain the EU protected designation of origin.

I want to emphasize that EU and other non-U.S. producers who believe that a mark of geographic origin confers value to their product and want to protect the integrity of such designations are not without effective recourse in our market. They have the ability to register and protect such marks through the U.S. trademark system. Section 4 of the Trademark Act provides for the registration of certification marks, including indications of regional origin. In fact, Roquefort (cheese from France), Darjeeling (tea from India), Parma (ham from Italy), Swiss (chocolate from Switzerland), and Stilton (cheese from the United Kingdom) are all examples of geographic indications protected in the U.S. as certification marks under the U.S. trademark system. Further, Parmigiano-Reggiano is a U.S. registered mark certifying that cheese carrying this mark is a product of the Parma-Reggio region of Italy. Holders of the certification mark have exercised their enforcement rights to protect their mark against U.S. manufacturers producing products with names deemed to encroach on the Parmigiano-Reggiano mark.

As a substantial buyer of raw agricultural products and major processor and marketer of consumer food products, Kraft's business is heavily influenced by changes in agricultural and trade policies. As a buyer and a seller in the global food market, we benefit from the impact of the agreements made as part of the Uruguay Round and the creation of the World Trade Organization in 1995. Kraft strongly favors continued worldwide reductions in agricultural support and protection, and we encourage efforts to achieve that objective established for the Doha Round by the 146 WTO-member countries.

The EU sees new rules on GIs as a way of softening the impact on European farmers of further cuts in agricultural protection and support. The reverse is true on this side of the ocean: New GI protections for foods will devalue any progress made in the Doha Round reducing support and protection levels.

The Doha Round should be about expanding trade opportunities for all countries and broadening choices for all consumers. The negotiations should not be used to internationalize policies that impede trade and narrow consumer choice. On behalf of Kraft Foods Inc., I urge the committee to give this matter your full and sustained attention. At the upcoming Cancun WTO Ministerial Conference, U.S. officials should firmly reject efforts by the EU to extend GI protections to foods and hold progress on the issues that are at the core of the WTO agriculture negotiations hostage to its GI demands.

Thank you for your attention. I will try to answer any questions you or other Members of the committee might pose.

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#### STATEMENT OF THOMAS M. SUBER

Mr. Chairman and Members of the committee:

Thank you for the opportunity to offer my views on the potential impact of the proposals regarding geographical indications that have been tabled by the European Union in the World Trade Organization (WTO) multilateral trade negotiations taking place in Geneva. I am the President of the U.S. Dairy Export Council, a non-profit, independent membership organization that represents the export trade interests of U.S. milk producers, dairy cooperatives, proprietary processors, and export traders. The Council's mission is to increase the volume and value of U.S. dairy product exports. Today, I also speak on behalf of the National Milk Producers Federation, which represents the vast majority of milk producers in the United States. The U.S. dairy industry is the second largest agricultural commodity sector in the United States, measured by farm cash receipts of \$20 billion per year, and

is one of the top three agricultural sectors in fully half of the fifty states. In addition, dairy processors peg the annual retail value of their industry at \$70 billion a year. Internationally, in 2002 the United States was the world's largest single country producer of cow's milk, with production of 170 billion pounds. Impressive as those numbers are, they represent only the milk producer side of the industry. Dairy processors, which turn milk into cheese, butter, ice cream, yogurt, milk powders and designer milk proteins and package the products, add tremendous value to milk after it leaves the farm. This further processing adds overall strength to the industry and adds jobs to the nation's economy. The Protection of Geographical Indications. With the conclusion of the Uruguay Round, WTO Members accepted broad obligations regarding the protection of intellectual property. Those obligations are contained in the Agreement on Trade-Related Aspects of Intellectual Property Rights—commonly called the TRIPS Agreement. One type of intellectual property right that profited exceptionally well from the conclusion of the TRIPS Agreement is that of geographical indications. While a network of earlier international, bilateral agreements, and national laws provided some protection, the TRIPS Agreement offered, for the first time, comprehensive, global minimum standards for the protection of geographical indications. The TRIPS Agreement defines geographical indications as “indications which identify a good as originating in the territory of a member or region or locality in that territory where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin.” There are two different standards of protection for indications that meet this definition, depending on the product involved.

For geographical indications associated with wines and spirits, the European Union insisted in the Uruguay Round on an especially high level of protection. Wine and spirit geographical indications are protected against any use for products not originating in the place referred to by the geographical indication. This protection is absolute, and applies even if the true origin of the goods is noted, the geographical indication is used in translation, or if the indication is accompanied by expressions such as kind, type, style or indication. Wine and spirit geographical indications are protected unconditionally, even if the labeling of the goods in question would not mislead consumers.

For all other products, the TRIPS agreement requires WTO Members to have national rules that provide interested parties with the legal means to prevent the use of any designation that suggests that a product originates someplace other than its true place of origin in a way that misleads consumers. Members must also maintain rules providing interested parties with legal means to prevent use that constitutes unfair competition, a term in intellectual property law that means, among other things, acts that create confusion about a competitor's goods.

At the same time, the TRIPS Agreement allows WTO Members to leave unprotected those geographical indications that are considered generic terms that are identical with the term customary in common language as the common name for a product. Although the TRIPS Agreement establishes minimum standards of protection, countries have retained the right to establish their own specific requirements regarding eligibility, validity and enforcement of intellectual property rights. As a result, each WTO Member can decide for itself whether a term is generic.

This treatment is very important, because a term that is generic in one country might not be generic in other countries. For example, while the use of the term feta on a cheese produced in the United States and/or in Denmark might be seen as infringing the rights of some Greek producers about the origin of the product, it will not mislead consumers in the United States, in Denmark or pretty much anywhere else in the world, since in the United States or in Denmark the term feta is simply a common, generic name for a tasty, salty, crumbly white cheese that bears no association, in the minds of consumers, to the product's place of origin. As you can see, Mr. Chairman, the ability to make country-specific judgments regarding the generic nature of cheese names is particularly important, since the European Union claims that U.S. and other producers have usurped European names for a number of cheeses that should qualify for protection of geographical indications, but that the United States and other countries consider to be generic. Dangers of the European Union's Proposals The current threat is an energetic and coordinated effort by the European Union to eliminate the ability a WTO Member now has to decide for itself whether a name is generic, through a series of three inter-related proposals that it has tabled in the on-going WTO negotiations in Geneva. Allow me to explain precisely how. The first E.U. proposal seeks the extension to all products of the absolute protection currently afforded geographical indications associated with wines and spirits. As I have already discussed, the TRIPS Agreement provides heightened protection for wine and spirit geographical indications. The rules provide an absolute prohibition against labeling wines or spirits with a name similar to a geo-

graphical indication, even if use of the name would not mislead consumers about the origin of a product. This heightened level of protection for wines and spirits is an exception from the general rule that arises out of the unique history of those products. The general rule, as noted above, requires protection against uses of geographic terms that are misleading or constitute an act of unfair competition. In other words, the European Union wants the exception to swallow the general rule.

The European Union contends that even if a new agreement extends heightened protection to products other than wine and spirits, Members would still retain the right to deem certain names generic, and as a result to withhold geographical indication protection for those names. Its second proposal eliminates this option, however. Disguised as a way to guarantee fair market access opportunities for products “whose quality, reputation or other characteristics are essentially attributable to their geographical origin and traditional know-how,” the European Union’s so-called claw back proposal calls for a list of geographical indications that would be exclusively reserved to the agricultural products originating in the place indicated by the geographical indication in question. The E.U. proposal would claw back these names even if they are considered generic. If the extension of heightened geographical indication protection to products other than wine and spirits carries with it an opportunity to exempt generic names, therefore, the list established by the E.U. claw back proposal would erase that opportunity.

The third E.U. proposal concerns the establishment of a multilateral notification and registration system for geographical indications associated with wine and spirits. The negotiations are limited to a registry for wines and spirits, but given the debate on extension described earlier, the European Union’s intent is for the system to one day apply to all products. The E.U. proposal would create a full registration system that would result in uniform, world-wide protection for registered geographical indications. While one could raise an objection to a registration in the case of a generic name, a private party would have to rely on its government to raise this objection, since the E.U. proposal does not provide for direct objections by private parties. Once a geographical indication is registered, its status could not be challenged in national courts on the basis that it is generic. In addition, the U.S. could raise an objection about a geographical indication, but many developing countries may not have the systems in place to routinely review new registration proposals. Consequently, the U.S. could in fact lose the ability to export the new registered geographical indication (e.g. parmesan) into the markets of those developing countries that did not oppose the registration. Furthermore, the E.U. proposal would require a WTO Member to protect a registered geographical indication, even if the indication is considered generic in that country. Again, therefore, even if the European Union’s extension proposal would permit a WTO Member to deny protection to a generic name, the E.U. registry proposal would take that discretion away.

Costs of the European Union’s Proposals. The costs involved for each WTO Member to adopt a system that would provide and enforce absolute protection for geographical indications for all products would be inordinately high. The costs to consumers would also be significant. While the European Union tries to sell its proposals as a benefit to consumers by ensuring that they know the origin of the product they are buying, under the system envisioned in the E.U. proposals, consumers will in fact have fewer choices and pay higher prices than they do today. If protecting consumers is the European Union’s real goal, we need to ask why the current TRIPS rules for geographical indications not associated with wines and spirits are insufficient. Those rules require WTO Members to maintain measures that will prevent the use of names that mislead consumers about the origin of a product. If consumer protection is the objective, the current rules are sufficient.

The European Union’s motivation is clear—and it is not consumer protection. As E.U. agricultural producers continue to lose their competitive edge in markets around the globe as it slowly ratchets down its hugely expensive support and export subsidies, the European Union has frantically sought a new way to skew the playing field in favor of E.U. agricultural products. The real beneficiaries of the E.U. proposals will be European agriculture producers, who will enjoy the price premiums associated with monopoly use of names that have long been generic throughout the world. The impact on users of generic terms is potentially enormous. If the European Union’s proposals are accepted in full, names that are considered generic in the United States will no longer be available for use by U.S. agricultural producers. For example, U.S. producers, processors and traders of cheeses with names such as feta, mozzarella, parmesan, brie, cheddar, havarti, muenster and gouda, many of them displayed before this committee, would no longer be able to use these names to market their products either at home or abroad. This would sharply disrupt domestic and export sales of U.S. cheeses with a commensurately negative effect on their U.S. processors and the dairy farmers who supply them. These sales would

only recover, if at all, through massive investments to make consumers familiar with new names for cheeses that are unchanged in taste and composition from what they have long known and appreciated. In a business with historically tight margins at both the wholesale and farm level, such unnecessary investments could be ruinous to processors and co-operatives alike.

Mr. Chairman, the U.S. Dairy Export Council and the National Milk Producers Federation have made numerous attempts to understand and even contemplate a potential understanding on Geographical Indications that would allow the U.S. to achieve substantial trade reforms in the Doha Round, along the lines currently proposed by the U.S. government negotiators. However, we must express complete disillusionment with the EU's total disregard for trade reform, trademarks and generic names. There should be no doubt to this Committee the EU will not rest until their past is protected, regardless of the years of efforts by U.S. producers and processors in promoting and producing these products. We are mindful of our duties regarding Doha and Cancun. There should be no mistake; we have worked hard to find a resolution. However, this seems to be unreachable at this time due to the unreasonable, anti-competitive requests by the European Union.

We must remain cognizant of the fact that the WTO Members have issued no mandate to negotiate the extension to other products of the heightened protection currently granted wine and spirit geographical indications. The negotiation of a multilateral notification and registration system is the subject of a mandate, but only for wine and spirits. The European Union offers this ambitious bid for a full registration system in the clear hope that that system will at some point apply to all products. And the European Union's only nod to market access in the agricultural negotiations is not a concession, but rather a new anti-trade requirement, as demonstrated by its proposal to claw back a list of terms from the category of generic names. Its recent, much ballyhooed CAP reform proposal fails even to hint at any potential market access concessions.

As we head toward the September 10-14 WTO ministerial meeting in Cancun, the threat of E.U. success on its aggressive geographical indications agenda looms large. The European Union has made clear that the only way it will make significant concessions in the agriculture negotiations is if it gets what it wants on geographical indications. It has already succeeded in elevating TRIPS Council discussions on the issue of extension into more focused consultations chaired by WTO Director General Supachai. Unless the U.S. government and its allies are firm in their opposition to the E.U. agenda, we fear that our interests will be sacrificed to keep Cancun from becoming the next Seattle. As I have discussed, handing the European Union success on its geographical indications agenda will mean putting at risk the U.S. dairy industry's success, along with the many U.S. jobs it creates across the country. Mr. Chairman, I ask the committee's help in making sure that this does not occur.

Thank you once again for the opportunity to express my views. I would be pleased to answer any questions you have.

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#### STATEMENT OF JAMES B. CLAWSON

Mr. Chairman and distinguished Members of the House Committee on Agriculture, my name is James B. Clawson and I am the Chief Executive Officer for JBC International, a Washington business and trade consulting firm. I also serve as the international trade advisor to Wine Institute, a trade association of over 600 California wineries, representing more than 80 percent of the U.S. wine industry and 95 percent of all U.S. wine exports.

It is a pleasure for me to be here today and I applaud you, Chairman Goodlatte, for holding this hearing. During my career in the U.S. government and as a business advisor I have been providing strategic advice about geographic indications since 1973. The issue of geographic indications and how they should be protected, if at all, needs more review and discussion. While there was attention given to the issues surrounding the use of geographic indications as an intellectual property right during the development of the Trade Related Aspects of Intellectual Property Rights Agreement (TRIPS) in the Uruguay Round of World Trade Organization (WTO) negotiations, the use and protection of geographic indications as a means to provide producers the monopolistic use of those terms has not received enough international exposure.

The ramifications of some of the current proposals developed in both the World Trade Organization (WTO) could severely hamper the marketing of U.S. wine in the U.S. and in foreign countries. The proposals as put forth by the European Union (EU) in the TRIPS Council and the Agriculture negotiations will eliminate the use by U.S. producers of many terms that are used today to describe their products to

the consumer. In addition, their proposals will seek to invalidate any existing trademark that could be considered similar to a geographic indication. In effect, this proposal seeks to establish an anti-competitive monopoly for EU wine producers and other European agriculture interests by excluding the use of many generic and common terms legitimately used by producers in the United States and elsewhere.

#### THE TRIPS AGREEMENT AND GEOGRAPHICAL INDICATIONS

The TRIPS agreement defines geographical indications as: “Geographical indications are, for the purposes of this Agreement, indications which identify a good as originating in the territory of a Member, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin.”

Provisions are already made for goods where:

- the use geographic indications is used in good faith
- geographic terms are customary in common language
- geographic indications cease to be protected by the country of origin

Article 23.4 of the TRIPS Agreement calls for WTO members to establish a system of “notification and registration” for geographical indications for wines and spirits. In the Doha Ministerial Mandate, ministers agreed to conclude negotiations on this register by the WTO Fifth Ministerial meeting in Cancun, Mexico in September of 2003. The WTO TRIPS Council Special Session is current negotiating such a system of notification and registration for wines and spirits.

There has been discussion amongst WTO members concerning the extension of such a system of notification and registration to products other than wines and spirits. The position of Wine Institute is simple: any discussions related to the question of extension must be kept separate from the mandated discussions on the notification and registration system called for in TRIPS Article 23.4.

Agriculture Negotiations. A great concern for U.S. winemakers is the EU push to include geographical indications as part of the WTO Agriculture negotiations. The EU has prepared a list of over 40 geographical indications they want all WTO members to agree to protect as part of the WTO agriculture negotiations, the vast majority of the terms being for wine. The EU’s position is that geographic indications should have superior standing over trademarks and other intellectual property with governments being obligated to enforce those rights.

The EU is including protection of geographical indications as a mandatory part of the WTO agriculture negotiations and have indicated they will not move forward on other agriculture negotiations (tariffs, subsidies, etc.) unless WTO members agree to protect their geographical indications.

There is nothing in the TRIPS Agreement that provides greater protection for geographical indications over any other form of intellectual property such as trademarks. As a result, will owners of patents, trademarks and copyrights be entitled to similar protection by all WTO member governments? And why just agriculture geographical indications? Will owners of any business be protected by its governments against the use of its trademark or brand name?

Enforcement and Enforcement Regimes. Non-EU countries, particularly the US, should be most concerned with the practical enforcement called for under the EU plan to protect geographic indications. The EU has proposed a list or register system that when a term is placed on the register, all WTO countries are then obligated to protect that term’s exclusive use in their country. The EU has in place an infrastructure to administer its own wine and agriculture geographic indications. It does not have in place a system to protect other country geographic indications. Members of the WTO should be concerned with their ability to sustain such a regime. If the EU cannot manage a system to protect terms from 130 countries, how will developing countries manage that new obligation? The cost will be prohibitive.

#### Wine

Since the 19th century the member states of the EU have tried to obtain intellectual property rights for wine geographical indications and to make those terms superior to trademarks. More importantly, these countries have tried to make geographical indications a government enforced public right rather than an owner-enforced right as with the case of other forms of intellectual property. The historic government obligation to private intellectual property rights holders is to create the regulatory and judicial “rule of law” environment where those private right owners can enforce and protect their rights. Nevertheless, current EU law provides that geographic indications for wine are enforceable by the government and are superior to trademarks, even existing trademarks (unless they are over 100 years old).

Experience has shown that efforts to change these rights from private rights to government or public rights enforced by government action at the international level

have not been successful. Various international conventions, such as the Lisbon Convention, created by the French and other European countries address international protection for geographical indications but only a few countries, mostly European, ever became signatories to the conventions.

The EU had tried to push a system for geographical indications protection in the World Intellectual Property Organization (WIPO). Their proposals met resistance from WIPO member states. Being unsuccessful in the WIPO in selling their concept of government enforced intellectual property rights to the rest of world, the EU brought its position to the WTO in the Uruguay Round TRIPS negotiations. They successfully obtained intellectual property status for geographic indications but were not successful in making those rights superior to trademarks or enforceable by governments. WTO members did not agree that geographic indications should have greater rights than other intellectual property private rights. By raising geographic indications in the agriculture talks the EU is now making another effort to advantage its agriculture sector even though it has failed in its previous attempts.

For the wine sector the EU's initiatives and positions in trade negotiations have been even more blatant in their effort to provide advantages to EU producers. Some of these initiatives have included implementation of regulations on labeling that restrict the use of terms like "table wine," and other information to only EU producers; introducing restrictions on the use of "traditional terms" like "chateau" and "ruby"; eliminating the use of generic geographic indications; and providing to geographic indications greater intellectual property rights than trademarks, i.e. ignoring first in time first in right principles.

The EU has also conducted negotiations with or imposed pressure on wine producing and traditionally non-wine producing nations to adopt EU standards and labeling practices that will exclude other wine producing countries' products. As compensation in bilateral negotiations with wine producing countries, the EU has provided for guaranteed access to the EU market through waivers of the non-tariff barriers the EU created in their winemaking regulations that should not have been allowed in any event under WTO obligations. In exchange for this market access, the EU has demanded that these countries provide protection for the thousands of EU geographical indications for wine and provide for exclusive use of geographical indications even over pre-existing trademarks. Processed High-Value Agriculture Products

The introduction of the debate over the use of geographic indications in the WTO agriculture talks is in keeping with similar efforts made by the EU in the past to provide for protection of its high-value agriculture products in international markets. EU initiatives for wine, cheese and other high-value products have included the provision of domestic and export subsidies, maintenance of high import duties to protect domestic producers, and the enforcement of unnecessary and cumbersome standards and labeling restrictions. Further concern has risen from the debate over practical barriers caused by the EU's so called "precautionary principle," where import restrictions are based upon standards that are not always grounded on WTO health or safety standards.

Knowing that it must give up its trade distorting subsidies and other protections, and knowing that its product standards and labeling requirements are under attack as being contrary to WTO rules, the EU's current push to reserve the use of terms, such as geographic indications and "traditional expressions" is an attempt to create another mechanism to compensate domestic producers for the loss of its current protection. The EU proposal includes protection for the use of geographical indications like feta cheese for Greece and so-called traditional expressions. Many of the terms that the Europeans are now claiming exclusive use of have become generic among world consumers in which the name describes a product that is produced in a certain style. For the so-called traditional expressions, the European Union is seeking exclusive use of terms that may be described as adjectives that have no link to a geographical place name.

#### CURRENT DEBATE

The ramifications of some of the current proposals developed in both the World Trade Organization (WTO) could severely hamper the marketing of U.S. wine in the U.S. and in foreign countries. The proposals as put forth by the European Union (EU) will eliminate the use by U.S. producers of many terms that are used today to describe their products to the consumer. In addition, the proposals will seek to invalidate any existing trademark that could be considered confusingly similar to a geographic indication. In effect, this proposal seeks to establish an anti-competitive monopoly for EU wine producers and other European agriculture interests for

the use of many generic and common terms to the exclusion of legitimate use by producers in the United States and elsewhere including use of existing trademarks.

For the past several years the EU and a number of its trading partners have embarked on a clear international strategy to further the competitive advantage both domestically and internationally for their high-value agriculture sector. This strategy is most easily identified in current EU bilateral negotiations concerning wines and spirits with a number of wine producing countries including Canada, Chile and South Africa. The recent EU-Canada wine and spirits agreement provides for the elimination of the use of geographic European terms that had previously been found to be generic terms by Canadian courts. It is not clear what affect this agreement will have on U.S. wine sales in Canada since the Canadian authorities have not said if they intend to enforce the elimination of the use of those terms on third country imports. If they do, there will be a loss of sales in the Canadian market for U.S. wine.

With their proposal for geographic indications in the Doha Development Round agriculture talks, it appears that the EU is pushing its internal policy to WTO members which will govern geographical indications for agricultural products. While government policy to promote its products is understandable, some of the techniques and methods being used are not fair nor do they seem to conform to agreed international obligations.

The EU's strategy to negotiate this issue in the agriculture talks provides them ground for a higher degree of leverage within the context of the Doha Development Round. EU officials are well aware that access to its agriculture market is key to obtaining support from the developing countries in reaching a successful conclusion to the Doha Round. To strengthen their leverage, EU officials are imposing the condition that it will not negotiate any agriculture concessions unless WTO members agree to protect a list of European geographic indications in the agriculture negotiations. This demand is in addition to the European demands for a mandatory system of notification and registration for wine and spirits and other products in the TRIPS negotiations. Thus, if developed and developing countries want access to the EU consumer market, it must first grant the EU agriculture producers the monopoly they want on the use of descriptors of their products worldwide. This condition is unacceptable and should be rejected.

To restate what we described above, the debate over geographic indications is a push to provide additional leverage to construct market access barriers and protect domestic producers in those countries wishing to protect their domestic industry. It is also indicative of a larger clash between traditions of a government-controlled economy and the consumer-driven demand of today's more open global economy.

The implications of the EU proposal over geographic indications reach farther than wines, spirits and cheeses. Economic blocks, like the EU, and developing countries understand the potential to influence the global marketplace by inhibiting consumer driven demand for products commonly recognized by consumers. European country officials have stated that it is time to reclaim their rights to certain terms. It has been stated a restaurant claims to be an Italian restaurant the all of the products served must come from Italy. Following this logic all French Roast coffee must be roasted in France. Does this mean that all Chinese Food must come from China?

In the international arena, the Europeans and their partners on this issue are trying to frame the debate concerning geographical indications as either supporting protection or not supporting protection of geographical indications.

From the U.S. wine industry perspective, we strongly support and value our geographical indications. Some of the most beautiful and well-known wine regions of the world are located in California; Napa, Sonoma, Monterey, etc. have all become synonymous with high-quality wine.

The issue is not whether or not to protect geographical indications. The issue is how to provide protection for geographical indications.

WTO members are obliged to develop a system of notification and registration for wine and spirit geographical indications (TRIPS Article 23.4). We can develop a workable system but we need to be cognizant of the fact that nothing in the TRIPS agreement or any other WTO agreement provides for greater protection for geographical indications over any other form of intellectual property such as trademarks or brand names.

And in order for such a system to really work it cannot be too burdensome or infringe upon other intellectual property rights. The U.S. wine industry strongly supports the U.S., or Joint, proposal in the TRIPS Council for a system of notification and registration.

Furthermore, we vigorously object to the European Commission demand that protection of geographical indications be included as part of the WTO Agriculture nego-

tiations. The issue of protection of geographical indication is currently taking place within the TRIPS Council. The members of the TRIPS Council are familiar with international laws and regulations governing geographical indications and other forms of intellectual property.

We thank you very much for the opportunity to comment and to share our views with the committee. If you should have any questions or need more information, I welcome you to contact me at any time.

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**The Consorzio del Prosciutto di Parma's Position on the  
 Protection of Geographic Indications**

The Consorzio del Prosciutto di Parma is entrusted with the protection of the valuable "PARMA" GI. The Consorzio believes that the existing international trademark regime is insufficient in protecting products like Parma Ham. This system provides producers of "copycat" products too much room to mislead consumers and does not do enough to safeguard the interests of producers. For this reason, the current WTO negotiations regarding GIs are serious business for consumers and producers of regional foods

In our opinion, U.S. companies should give real consideration to the benefits that a stronger GI regime offers – not only to the Europeans, but also to them. US consumers, in their effort to identify "counterfeit" foods, should also support efforts to strengthen the GI system.

The GI is a unique species. It is unlike a trademark, which identifies a single source for a product or service. It is also unlike a generic designation, which defines a specific type of goods, such as "clam chowder", regardless of the producer. Instead, the GI identifies the geographic origin of goods -- goods that possess a special quality *precisely because* they come from that geographic region. The GI is not the property of a single firm; it can be used legitimately by anyone who makes a product that fits the bill in the geographic area the GI covers. But the GI is also valuable intellectual property that should be protected, much as brand names are usually vigorously defended. The consumer looks for the security and quality GIs/brand names provide.

The WTO already provides significant protection to GIs for wines and spirits. One of the issues on the table in the current WTO talks is extending stronger GI protection to products other than wines and spirits, most importantly, agricultural products such as Parmigiano-Reggiano cheese and Parma Ham. Under the current regime, each WTO member is, in effect, free to devise its own system for protecting GIs related to agricultural products and other goods. The United States has generally protected GIs simply as "certification marks", a certain class of trademarks. The current WTO TRIPS Agreement obligates the U.S. to protect GIs and to negotiate the mechanisms for doing so in good faith. In view of these obligations, it is not credible for the U.S. simply to point to the Lanham Act trademark provisions and claim that these are in any way adequate for the protection of GIs. U.S. producers and consumers deserve better.

The European Community and others are proposing a comprehensive registration system for GIs worldwide in order to strengthen GI protection. WTO member states could object to the inclusion of specific names on this registry if they are generic -- for example, "french fry" or

“swiss cheese.” The proposal also allows for a trademark owner to *continue* to use a GI if it holds legitimate prior trademark rights in the name in an individual country.

The producers of “Florida” oranges, “Washington State” apples, “Idaho” potatoes, “California” artichokes or almonds, or other similar U.S. products, should support this initiative. In fact, U.S. agriculture, with its preeminent position in the international market, should welcome stronger protection for the names identifying the geographic origin of its high quality products. Wouldn’t the Idaho potato farmers, for example, balk at the idea of Ukrainian farmers using “Idaho potatoes” to identify Ukrainian potatoes exported to Ireland or anywhere else?

The alternative is for WTO members to rely on trademark rights alone. But this alternative offers far less certainty, far more work, and much higher costs for the legitimate users of GIs. For example, a trademark owner must invest in the time-consuming, costly process of registering its trademark separately in each country. Not so in the realm of GIs, where all legitimate producers of a region’s products automatically receive protection for their names, without costly registration processes and legal battles.

More importantly, the trademark laws generally permit unscrupulous people to apply to register any designation, including a GI, as a trademark, and to hold legitimate GI producers hostage. Witness the battles over the McDonald’s, Victoria’s Secret and other trademark registrations in South Africa.

Some cite PARMA as an example of a GI that is adequately protected under the trademark laws. What they do not know is that the Consorzio has fought long and hard and spent millions of dollars to secure trademark protection for the PARMA GI in certain countries. It has succeeded in some, but only after protracted legal battles. In others, those battles are still ongoing, and unwitting diners are served “Parma” ham made in the States or elsewhere. The absence of GIs – in our client’s case and in many others – means disappointed consumers, who expect to enjoy the qualities of genuine regional foods but receive something else.

A strong, rationally-designed regime for worldwide protection tailored to GIs can offer enormous benefits for U.S. producers as well as their international counterparts. Such a regime would not, as some claim, be a barrier to trade. This system would *not* preclude anyone from selling the products they now offer. It would simply ensure that products are identified accurately in the world marketplace, and prevent the sale of, say, “California raisins” made under the Peruvian sun.

Yes, WTO members face some challenges in trying to properly protect producers and consumers of GI foods, among them devising procedures for recognizing established generic terms and legitimate prior trademark rights. In spite of these difficulties, however, GIs are worth the effort.

## STATEMENT OF ALAN C. DREWSEN

Dear Mr. Chairman:

The International Trademark Association (INTA) is extremely pleased that the House Agriculture Committee is holding hearings on the issue of geographical indications (GIs) and respectfully requests that this letter be made part of the record. We also would like to say that the combination of your knowledge, Mr. Chairman, of both agricultural and intellectual property issues presents a rare opportunity to bring leadership with a unique perspective on the major factors that impact the current negotiations on geographical indications during the World Trade Organization's Doha Round.

Since the start of the negotiations of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), INTA has been heavily engaged in trying to find a balance between the protection of trademarks and the proper protection of geographical indications. We have produced numerous analyses of the issue through reports and articles, and have held educational forums around the world. INTA was selected by the WTO to organize and moderate the geographical indications session during the Doha Symposium in 2002. INTA believes that GIs are an intellectual property right and should be fully recognized and protected as such. Protection of GIs and trademarks within a single jurisdiction is possible, as long as conflicts between these rights continue to be resolved pursuant to the well-established intellectual property principles of territoriality (i.e., the right needs to be established in each individual jurisdiction where protection is sought), exclusivity (i.e., the right holder may prevent others from using the exact or similar designation), and priority (i.e., the first to obtain the right through creation, use or registration is entitled to its benefits).

In the wake of the November 2001 Doha Declaration, three key issues regarding geographical indications are now the focus of intense debate: creation of a multilateral system for notification and registration of geographical indications; the extension of additional protection provided for wines and spirits to other products; and the claw-back of certain GIs originating in the European Union. As these issues will no doubt be discussed in great detail during the hearings, let me briefly provide INTA's point of view.

#### Multilateral System

It is extremely important to understand that in what may be called the geographical indications camp of WTO Member States, there is a definite bias that geographical indications, which are a collective right often used by several holders, are therefore a public right that is superior to private interests. Therefore, under this concept of superiority for geographical indications, pre-TRIPS systems of protection emanating from Europe and provided internationally under treaties such as the Lisbon Agreement, regionally as in the European Union's wine and agricultural/food stuff regulations, or nationally, allow for the actual abolition of prior registered trademark rights that conflict with later-established geographical indications. During the TRIPS negotiations, however, this superior or extra protection was only applied to geographical indications for wine and later expanded to spirits. This means that geographical indications for wines and spirits under TRIPS Art. 23 are not only protected against misleading use as is the case for all other geographical indications under Art. 22, but also against any use for products not originating in the place indicated by the geographical indication in question. However, an exception was allowed under TRIPS Art. 24 (5) for prior existing trademarks.

In the current WTO negotiations to establish a multilateral system for notification and registration of geographical indications for wines and spirits, the European Union (EU) has proposed a WTO-level multilateral register for GIs, based on the principle of absolute protection that INTA believes would amount to the confiscation of rights of other IP owners and would expressly violate the principles of territoriality, exclusivity and priority. As currently proposed, the designations in the multilateral register would enjoy protection in all WTO Member States that have not challenged registration of a GI after the expiration of an 18-month period. Under the EU proposal, the possible grounds for opposition available to interested parties are very limited and do not include grounds based on similarity to prior trademark rights. Also, since only member nations can act at the WTO level, under the EU proposal, owners of prior trademarks would have no individual right to oppose confiscation of their pre-existing rights, due to protection of a geographical indication at the WTO level. In addition, there is no legal remedy available to ensure that a later geographical indication does not prejudice a prior trademark. The owner of a prior trademark would at the very least lose the exclusivity of its earlier right and be forced to coexist with the GI. Further, the owner of a prior trademark might

lose the trademark entirely (i.e., mandatory phase out of use), without any legal remedies available to prevent such an inequitable result.

There are two alternate proposals being considered in the negotiations that attempt to balance the rights of trademark owners. The first is a non-binding multilateral system proposed by a group of WTO members led by the United States that would have the WTO maintain a database as a source of information for other Member States when deciding on the registrability or validity of a trademark or the enforcement of the geographical indication. This permits the WTO Member States, relying on established laws and procedures, to adjudicate the competing claims with trademark owners having the ability to oppose either through administrative tribunals or the national courts. The downside to the proposal is that it is quite likely that the courts of the Member States will presume that designations contained in the WTO database are indeed legitimate geographical indications, thus shifting the burden of proof to the trademark owner without any legal remedies available to prevent an entry into the WTO database. Even if the trademark owner succeeds in a particular case in a Member State in arguing that the GI conflicts with his prior trademark, the entry on the database remains, raising the possibility of future objections upon renewal or other changes to the mark.

The other alternative model for the system being considered in the negotiations is a proposal by Hong Kong that would create a voluntary registration system at the WTO level. Notification of the geographical indication by Member States would be examined only on formal grounds. An entry on the register would create prima facie evidence of ownership, that the indication is within the broad TRIPS definition of geographical indications, and that it is protected in the country of origin. While the proposal does respect the principle of territoriality of intellectual property rights and allows for court review, it is silent on the issue of priority or exclusivity. Thus a prior trademark may be forced to co-exist with a later geographical indication at the Member State level.

Given the deficiencies of each of the three main proposals, and faced with the reality of a deadlock in the negotiations thus far, INTA submitted to the WTO Secretariat a proposal to be posted to the WTO homepage for Member State consideration. INTA believes that the new multilateral register for wines and spirits geographical indications should not deviate from the experience gained under other intellectual property systems such as the Patent Cooperation Treaty (PCT) and the Madrid System for the international registration of marks that are administered by the World Intellectual Property Organization (WIPO). For example, the Madrid Protocol, which the United States will join in November, is essentially a filing system whereby WIPO accepts and formally examines the application, collects the fees, issues an international registration, and then notifies the designated member countries for which protection is sought, who then either approve or reject the request for protection based on their national law.

In line with such systems, the ultimate decision on the protection of a geographical indication must rest with the competent authorities of the participating states, rather than at the WTO level. Legal remedies must be available for the users of generic terms and, in particular, the owners of prior intellectual property rights. INTA believes that any other system would be incompatible with Part III of the TRIPS Agreement. INTA's recommendation is that the system adopted for the establishment of a GI Register should follow a Madrid-like or PCT-like approach and include the following key elements:

- Notification/registration through an international body to the participating states.
- Ex officio examination of protectability in the country of protection.
- Refusal/opposition on the basis of prior (trademark) rights.
- Availability of a challenge of the registration to the national courts.

INTA strongly believes that a system built on these concepts will facilitate the equitable protection of geographical indications, as the Madrid System facilitates the protection of trademarks and, similarly, the PCT facilitates the protection of patents. At the same time, it will recognize that geographical indications meet the TRIPS definition of an intellectual property right, clearly establishing that the importance and value of a GI is equal to the rights afforded to trademarks, copyrights, and patents.

#### Absolute Protection for Other Products

The second major issue of concern to trademark owners is the push by the EU, with the support of several other WTO members, to extend the additional protection for wines and spirits under Art. 23 to other products such as cheese, beer and rice. These discussions are taking place outside of the negotiations on the multilateral system for notification and registration of wine and spirit geographical indications

and have been termed informal by the WTO Director General who is leading the consultations.

What would happen if absolute protection is extended to all geographical indications? In many cases it would restrict the ability of trademark owners and users of generic terms (including those who combine a trademark with a generic term) to sell in WTO member countries products that they have developed into well-known brands. This in turn would severely limit consumers' choice and would create additional barriers to trade. The confusion would be exacerbated due to the lack of any international consensus as to what terms might be eligible for protection as a geographical indication. The extension could lead to loss of trademarks, loss of generic terms, and imposition of burdens on trademark owners such as renaming, rebranding, re-labeling, loss of common terms and company names, and changes to shipment routes, as well as potential loss of markets domestically and abroad. Extension of absolute geographical indication protection could affect for instance generic terms that are widely used such as pilsner for beer, sardine for fish and Lippizanner for horses. For many years, INTA, in conjunction with the USPTO, has administered an international program to object on an informal basis to the registration of generic words as trademarks, and we certainly do not want generic words to receive protection through the back door of a WTO-level GI system. Confiscation

Finally, there is the claw-back issue that has been introduced in the agricultural negotiations under the Doha Round in which the EU is seeking the exclusive use of certain geographical indication names, even where they are currently considered as generics or trademarks in other WTO Member States. Under the EU proposal a trademark such as PARMA, one of Mexico's leading brands for ham and sausages, would have to be cancelled even though it was registered in good faith and not geographically descriptive in Mexico when it was applied for. Clawing-back GIs means confiscating trademarks without any compensation and without the trademark owner concerned being heard during the Doha negotiations. INTA strongly opposes this approach.

#### Conclusion

Mr. Chairman, INTA supports creating a balance between valid trademarks and valid geographical indications, enabling conflicts between the two to be decided on the basis of priority under national and international law. Neither intellectual property right should be given special and greater protection over the other. Under the priority principle, a validly registered prior mark should prevail against a later geographical indication and vice versa. Forcing prior trademarks to coexist with a later geographical indication is not a solution. Coexistence, especially in the same market, deprives the trademark owner of the core of its intellectual property right, namely the right to exclusivity. Coexistence is injurious for both holders of geographical indications and trademark owners since both are entitled to exclusivity based on the priority principle. The establishment of a multilateral system for the notification and registration of geographical indications for wines and spirits, as well as the possible extension of art. 23-type protection to other products will therefore have to guarantee the exclusivity of validly registered prior intellectual property rights, in particular trademarks. This objective may be achieved through a Madrid-type notification and registration system as well as clarification of certain TRIPS provisions regarding the scope of protection afforded to geographical indications and the resolution of conflicts between valid trademarks and geographical indications.

Finally, Mr. Chairman, INTA believes that these hearings and the increased participation in this debate by the U.S. agricultural community and the food and beverage industries is vitally important to finding a balanced solution to these issues.

