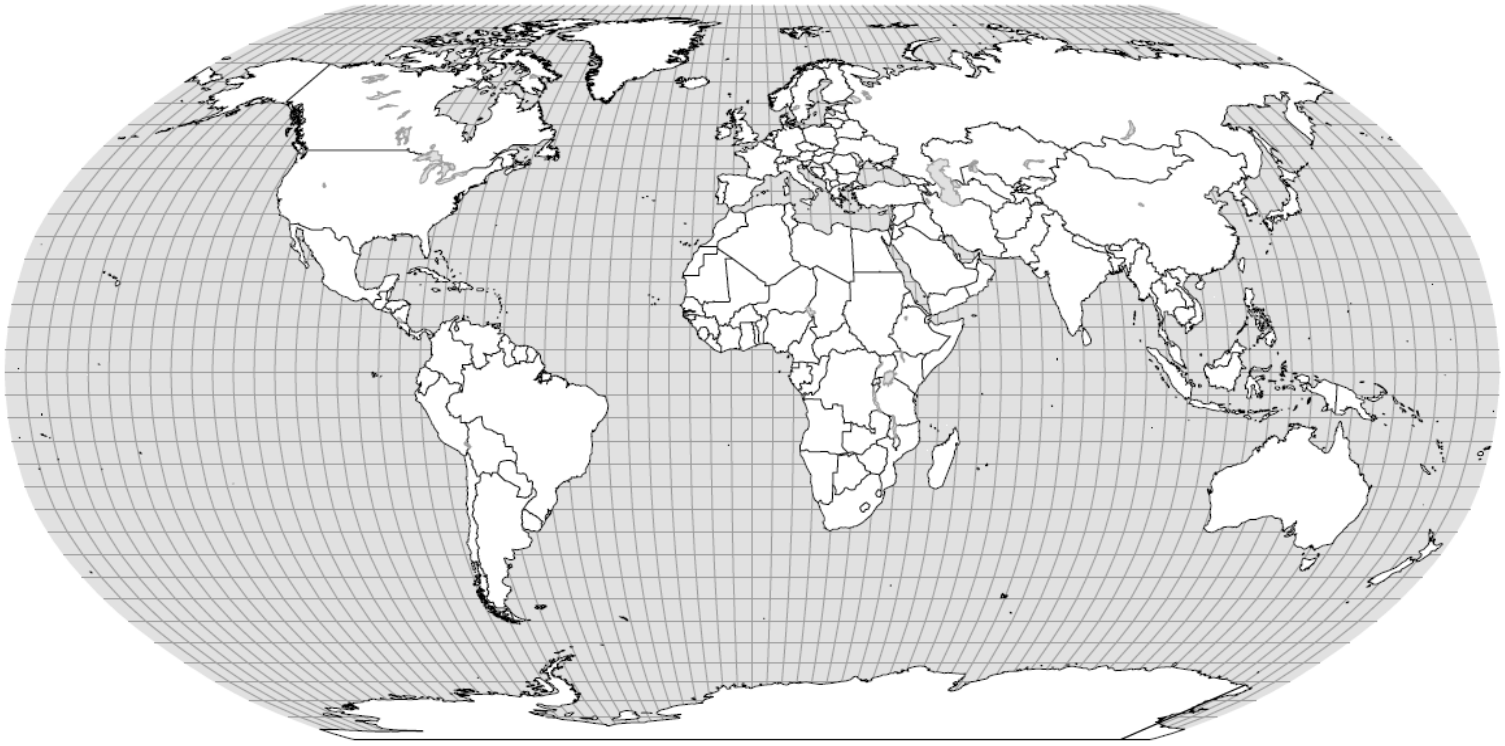
IDAHO

AGRICULTURE TRADE ISSUES REPORT

2013



Idaho State Department of Agriculture
Market Development Division
(208) 332-8530
www.agri.idaho.gov

INTRODUCTION

The Trade Issues Report began as the result of a Trade Issues Workgroup formed in February 1999 to address trade barriers for Idaho agriculture. The report is now published annually by the Idaho State Department of Agriculture to identify sanitary and phytosanitary measures (SPS) not based on science, tariffs, quotas, animal health requirements and other trade barriers that face Idaho agriculture.

Identifying issues is the first step in working to resolve trade barriers. The Department's action plan includes the following:

- Distributing the Idaho Agriculture Trade Issues Report to state and national officials, particularly Idaho's Congressional Delegation, USDA Foreign Agriculture Service and Office of U.S. Trade Representative.
- Establishing a direct dialogue with USDA Foreign Agriculture Service and Office of U.S. Trade Representative throughout the year as developments occur.
- Addressing specific issues directly with foreign government officials. Issues are discussed during Governor's Trade Missions and official meetings with Consuls General or Ambassadors visiting Idaho.
- Monitoring trade agreements and WTO negotiations that impact Idaho agriculture.
- Participating in key bi-lateral and multi-lateral forums including the Tri-National Agriculture Accord.

The trade issues that follow have been identified by industry as issues of concern. There may be additional issues, however, that are not included. For a complete listing of potato trade issues, contact the National Potato Council for a copy of their current "National Trade Estimate Report on Foreign Trade Barriers." The Northwest Horticultural Council also has a "National Trade Estimate Report on Foreign Trade Barriers (NTE)" for tree fruit.

Issues not specifically listed in this report that may affect products produced in the state are still of concern to the Department. The state of Idaho is interested in expanding market opportunities for all Idaho products regardless of rank or industry size. Reducing trade barriers for Idaho products will benefit Idaho farmers, ranchers and agribusinesses by giving Idaho's producers more alternatives in the marketplace.

Industry groups and individual exporters are encouraged to submit additional issues to the Department at any time. For information, or to submit an additional trade issue, contact:

Laura Johnson, Bureau Chief,
Idaho State Department of Agriculture
Market Development Division
P.O. Box 790
Boise, ID 83701
Tel: 208-332-8533
Fax: 208-334-2879
Email: laura.johnson@agri.idaho.gov
Website: www.agri.idaho.gov

Revision: April 17, 2013

The Idaho State Department of Agriculture would like to thank the following organizations for their valuable feedback and contributions to the Idaho Agriculture Trade Issues Report:

Idaho Potato Commission

National Milk Producers Federation

Northwest Horticulture Council

USA Dry Pea & Lentil Council

U.S. Dairy Export Council

U.S. Grains Council

U.S. Meat Export Federation

U.S. Wheat Associates

USDA Agricultural Trade Offices Worldwide

Table of Contents

IDAHO PRODUCTS OVERVIEW

Idaho's agriculture is plentiful and diverse. Idaho produces 185 crops and livestock commodities, and ranks in the top 10 in the U.S. in 25 products.

IDAHO CROPS

Idaho Crops (2011)*	Acres Harvested	Cash Receipts (1,000)
Potatoes	319,000	$914,928
Wheat	1,401,000	$732,875
Hay	1,350,000	$555,781
Sugar Beets	176,000	$346,894
Barley	500,000	$204,780
Other Field Crops	NA	$200,092
Dry Beans	94,000	$66,281
Corn	120,000	$112,837
Greenhouse/Nursery	NA	$50,545
Onions	9,000	$55,767
Mint	17,400	$39,959
Hops	2,265	$14,835
Lentils	27,000	$11,267
Apples	NA	$14,866
Dry Edible Peas	NA	$3,888
Peaches	NA	$7,800
Total 2011		**$3,333,395**

IDAHO LIVESTOCK

Idaho Livestock (2012)*	Total Head	Cash Receipts (1,000)
Milk Cows/Milk	578,000	$2,433,032
Cattle and Calves	2,220,000	$1,375,748
All Other Livestock	NA	$56,904
Trout (number sold)	27,600,000	$37,600
Other Livestock & Products	NA	$22,164
Sheep and Lambs	240,000	$22,740
Wool	NA	$3,400
Total Receipts 2011		**$3,234,287**

IDAHO TOTAL CASH RECEIPTS 2011: $6,567,682,000

* 2012 figures will be published in September 2013

IDAHO'S RANK IN THE NATION		
Product	**Rank (2011)**	**Percent of U.S.**
Potatoes	1	30
Trout	1	73
Austrian Winter Peas	1	47
Barley	1	30
Wrinkled Seed Peas	2	27
Sugarbeets	2	21
Mint	3	20
Hops	3	8
Total Cheese	3	8
Milk Production	3	7
Prunes & Plums (Fresh)	3	21
Alfalfa Hay	4	7
Lentils	4	7
Onions (Summer Storage)	4	13
Dry Edible Peas	4	5
Milk Cows	4	6
Other Spring Wheat	4	11
Dry Edible Beans	5	9
Sweet Cherries	5	1
All Wheat	5	6
Winter Wheat	9	4
All Hay	9	4
Honey	10	2
Apples	11	1
All Cattle & Calves	13	2

IDAHO AG EXPORT DESTINATIONS		
Rank	**Country**	**Market Share (2012)**
1	Canada	19.85%
2	Mexico	17.26%
3	China	10.62%
4	Japan	7.04%
5	Korean Republic	5.14%
6	Indonesia	4.81%
7	Netherlands	2.79%
8	Philippines	2.65%
9	Spain	2.49%
10	Taiwan	2.23%

UNITED STATES TRADE AGREEMENTS

Over the past few years, U.S. exports accounted for about a quarter of the country's growth. One in three acres of American farms is planted for sales overseas and 31 percent of gross farm income comes from exports. With 96 percent of the world's consumers living outside the U.S., foreign trade is becoming increasingly important to expand the U.S. economy.

Trade agreements create an opportunity to exchange goods and services more easily. The presidential negotiating authority, Trade Promotion Authority (TPA), is the process by which Congress gives authority to the President and/or U.S. Trade Representative to enter into trade negotiations in order to lower U.S. export barriers. Once legislation has been submitted to Congress for approval, under the TPA, both houses of Congress will vote on the agreement without making any amendments. The TPA lapsed in 1994 and was returned to the President under the Trade Act of 2002, but subsequently expired on July 1, 2007.

The U.S. is a member of various bilateral free trade agreements (FTAs): Australia, Bahrain, Chile, Israel, Jordan, Morocco, Oman, Peru, and Singapore. The U.S. trade agreement with Colombia was signed on October 12, 2011 and was implemented on May 15, 2012. The U.S.-Korea (KORUS) and U.S.-Panama Free Trade Agreements were signed on October 21,2011. The U.S.-Korea FTA took effect March 15, 2012 and the U.S.-Panama FTA took effect October 31, 2012. Multilateral agreements include NAFTA with Canada and Mexico and CAFTA-DR with Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua.

The U.S. is currently negotiating a regional, Asia-Pacific trade agreement known as the Trans-Pacific Partnership Agreement (TPP) with Australia, Brunei, Canada, Chile, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam. Broad outlines for the terms of the agreement have already been established and the leaders of the 11 countries last met to continue negotiations on the agreement in March 2013. For more information on FTAs visit http://www.ustr.gov/trade-agreements/free-trade-agreements.

The final provisions of the North American Free Trade Agreement (NAFTA) were fully implemented on January 1, 2008. With full implementation, the last remaining tariff barriers on a handful of agricultural commodities such as U.S. exports to Mexico of corn, dry edible beans, nonfat dry milk and high fructose corn syrup and Mexican exports to the United States of sugar and certain horticultural products were removed. However, many non-tariff barriers to trade remain including unscientifically-based phytosanitary restrictions on fresh potatoes. In spite of NAFTA, cross border trade disputes continue to occur.

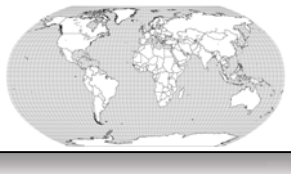
THE WORLD TRADE ORGANIZATION

In 1995, the World Trade Organization (WTO) came into being as the successor to the General Agreement on Tariffs and Trade (GATT). The WTO is the only global international organization dealing with the rules of trade between nations. The Uruguay Round, which took place in 1982 at a ministerial meeting of GATT, led to an Agriculture Agreement to promote order and fair competition and to decrease distortion through specific commitments by member countries. The Agriculture Agreement includes issues dealing with market access, domestic support, and export subsidies. The WTO has 159 members and 29 observer countries as of March 2, 2013.

The current round of negotiations referred to as the Doha Round began in November 2001. The last meeting was in Geneva in 2008 where special safeguard measures and farm subsidies were discussed. No agreements were reached on these topics. The USDA-ERS has a WTO commitment database at www.ers.usda.gov/db/wto.

AGRICULTURAL ISSUES

WORLDWIDE



ALL PRODUCTS

Under the WTO Agreement on Agriculture, member countries agreed to reduce domestic policies that are considered to be trade-distorting. Every year countries are required to submit documents describing their expenditures on domestic government support to agriculture sectors. In 2007 the U.S. spent $8.5 million in Aggregate Measure Support (AMS, domestic support for agriculture that is considered to distort trade and therefore subject to reduction commitments).

The reduction levels in agricultural subsidies and tariffs that were agreed to in the Uruguay Round were:

	Developed Countries 6 years: 1995-2000	Developing Countries 10 years: 1995-2004
Tariffs		
Average cut for all agricultural products	-36%	-24%
Minimum cut per product	-15%	-10%
Domestic support		
Total AMS cut for sector (base period 1986-88)	-20%	-13%

Source: http://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm3_e.htm

Domestic Support Ceiling Commitments	
United States	$20 billion
European Union	$79 billion
Japan	$36 billion

Issue: Export Subsidies

Export subsidies are special incentives provided by governments to encourage increased foreign sales. In the WTO, 25 countries can subsidize exports on certain products. The U.S. is authorized to subsidize 13 products including wheat and wheat flour and dairy products, but has chosen not to exercise those subsidies. For a complete list, visit: http://www.wto.org/english/tratop_e/agric_e/negs_bkgrnd08_export_e.htm.

The U.S. proposed to the WTO in 2000 to eliminate export subsidies through progressive implementation of annual reduction commitments over a fixed period. At the Hong Kong WTO Ministerial Meeting in 2005, members agreed to the parallel elimination of all export subsidies to be completed by the end of 2013, with developing countries receiving an additional five years later to fully eliminate their subsidies.

The European Union is by far one of the biggest offenders in providing large agricultural subsidies to its farmers and producers. For example, the E.U. has been distorting world dairy markets for decades with its export subsidies for dairy products. Under its WTO commitments, the E.U. is permitted to spend over 1 billion euros a year on dairy export subsidies: 724 million on other dairy products, 346 million on cheese, and 298 million on skim milk powder. While E.U. spending has been down in recent years, the

ability to provide export refunds to European producers to allow them to undercut other exporters in world markets puts downward pressure on world dairy prices and reduces U.S. global exports. Discussions in the WTO Doha negotiations have pressed the E.U. and all other countries to the point of eliminating export subsidies.

Issue: Food Safety

Food safety is an increasingly important issue. FDA is responsible for the safety of 80 percent of all food consumed in the United States, including the entire domestic and imported food supply; however, meat, poultry, and frozen, dried, and liquid eggs are under the authority of USDA. To view the most current alerts visit the FDA's webpage at http://www.fda.gov/opacom/7alerts.html.

FDA has developed a comprehensive Food Protection Plan to protect the nation's food supply from both unintentional contamination and deliberate attack, focusing on prevention, intervention, and response. For more details, visit http://www.fda.gov/oc/initiatives/advance/food.html.

In 2004, the U.S. began requiring registration for food manufacturers and producers who produce or export to the U.S. Many countries have initiated similar requirements, including the E.U., Canada, and Mexico. In addition, food safety commissions or agencies have been emerging in countries such as Japan and India as they prepare for additional global trade.

On January 4, 2011, President Obama signed the Food Safety and Modernization Act (FSMA), requiring companies to develop and implement written food safety plans in an effort to prevent food-borne illness. The provisions of the FSMA also provide FDA with the authority to better respond and require recalls when food safety problems occur, as well as ensure that imported foods are as safe for consumers as those produced in the United States.

The Codex Alimentarius Commission (Codex) was created in 1963 by the Food and Agriculture Organization of the United Nations (FAO) and the World Health Organization (WHO) to develop worldwide food standards, guidelines and related texts such as codes of practice under the Joint FAO/WHO Food Standards Program. These standards include biotechnology, irradiation, and meat standards. The United States aligns its food safety standards to those established by Codex. For more information visit www.codexalimentarius.org.

Issue: Geographical Indicators

Several countries, including the European Union and some of its allies, have begun pursuing an aggressive bilateral strategy to restrict the use of common product names by producers outside of the specific country through FTA negotiations, bilateral Intellectual Property discussions, and other forums such as the Anti-Counterfeiting Trade Agreement (ACTA).

The goal of these countries is to advance their own commercial interests for food products through advocating for wider use of GIs, beyond the realm of appropriate protection of product niches in order to try to appropriate for their sole usage. With this, many product names that are commonly used around the world, including in international trade are considered to be generic in the U.S. and many other countries. In the case of the E.U. for cheese, these names include such generally used names as Feta, Parmesan, Provolone and Romano, along with many others.

If successful, the efforts of these countries to limit the use of these common product names will significantly impair current U.S. exports that use those terms considered to be generic descriptions and will also greatly limit the future global potential for the U.S. industry. The affected U.S. industries, including dairy and beverages, stress how critically important it is for government and industry to work together in a very concerted manner to ensure that the customary use of common product names can continue in foreign markets.

Issue: Labeling

Labeling changes have been and will continue to be an issue for U.S. exporters to consider when exporting. Each country has specific regulations for labels. Possible and upcoming label requirements can be found at the USDA-FAS website www.fas.usda.gov/scriptsw/attacherep.

Labeling categories include allergens, biotechnology, health claims, meat labeling, minimum residue levels (MRLs), nutrition, recycling and origin. Information on Country of Origin Labeling (COOL) can be found in the import section of this document.

Issue: Pesticide Harmonization

Pesticide harmonization efforts have been ongoing in Australia, New Zealand, Canada, the E.U., and Japan, the result of which has been the establishment of positive maximum residue level (MRL) systems. U.S. officials are working to keep the Codex or U.S. standards as the default measurements and the new tolerances based on risk assessments. Attaché reports on these situations can be found at: http://www.fas.usda.gov/scriptsw/attacherep.

Issue: Tariffs

Idaho food and agriculture product exports are significantly hindered by high tariffs in other countries. These are specifically noted in this document. The Organization for Economic Cooperation and Development (OECD) and the United States Department of Agriculture Economic Research Service conduct the most comprehensive efforts to measure average tariff rates on agricultural products. Over-quota tariffs are not included. The average bound agricultural tariffs for various regions are:

2002 Mean and Median WTO Bound Tariffs		
Region	Mean	Median
North America	25%	6%
Central America	54%	45%
South America	39%	35%
European Union	30%	13%
East Europe	49%	20%
Asia Pacific Rim	34%	25%
South Asia	113%	100%

Source:http://www.ers.usda.gov/db/Wto/WtoTariff_database/StandardReports/tariffT2.xls

*As of March 2013, this was still the most current information available.

In addition, mega tariffs (100 percent or higher) play a major role in industry protection in Japan and the E.U. The E.U. has 141 mega tariffs, specifically in meat and dairy products, and Japan has 142, specifically in grains and dairy products. The U.S. has 24, mainly in tobacco, dairy, and sweeteners.

Issue: Value of U.S. Dollar

The U.S. dollar exchange rate plays an important role in U.S. agricultural trade. A comparatively weak dollar means U.S. products are relatively less expensive than the products from foreign countries.

The value of the U.S. dollar relative to other currencies increased slightly during 2012 and it is projected to appreciate against most other major currencies during 2013. USDA's November 2012 Outlook for U.S. Agricultural Trade projects Fiscal Year 2013 imports are projected to increase 11 percent while exports are also expected to rise 6.7 percent above the final fiscal year 2012 level.

Issue: Visa Issuance

Idaho businesses often have difficulty in obtaining visas from the U.S. State Department for foreign visitors, including company employees, traveling to the U.S. for business purposes. In some cases, the determination of visa issuance appears haphazard to Idaho businesses and their associates, and sufficient explanations for refusals are not always provided. This has resulted in significant ill will with business partners, customers, and buyers of Idaho agricultural products who are unable to visit the state and see the product, production, and manufacturing practices of Idaho exporters first-hand.

On January 19, 2012, President Obama signed an executive order establishing the "Visa and Foreign Visitor Processing Goals and the Task Force on Travel and Competitiveness," which aims to reduce processing time for all nonimmigrant visa applicants and increase processing capacity for China and Brazil. The goal of the order is to increase the number of foreign visitors to the United States, thus creating jobs and spurring economic growth in the U.S. economy.

SUGAR

Issue: Subsidies

Around 100 countries produce sugar and each one has some form of government intervention that affects the costs of production. The U.S. is one of the largest producers and consumers worldwide. The U.S. sugar industry is very efficient with production costs below the world average after adjustments made for government intervention.

The U.S. is a net importer of sugar, and imports have historically averaged around 15 percent of the total amount of sugar that the U.S. consumes. Sugar imports are subject to TRQs. For Fiscal Year 2013, the in-quota quantity for the tariff-rate quota on raw cane sugar is 1.12 million metric tons raw value, which is the minimum amount to which the U.S. is committed under the WTO. This is an unfair obligation because the U.S. can produce its own needs at a competitive price, but are subject to importing sugar from countries that heavily subsidize their domestic industry. The U.S. industry is supportive of open market access worldwide but not until domestic subsidies are significantly reduced.

ARGENTINA

FRUIT

Issue: Apples and Pears - Phytosanitary Ban

Argentine importers are unable to obtain import permits for apples and pears from the United States. Suspension of imports occurred sometime prior to 2009 due to concerns about the transmission of the bacteria causing fire blight via apple and pear fruit. In 2009 USDA/APHIS submitted technical information to the Argentine government documenting that the risk of transmitting the bacteria on mature symptomless apple and pear fruit is very low. The Argentine government had not responded to the letter, but has begun a pest risk assessment on apples indicating that the information will be used to determine the import permit requirement for apples. A separate PRA for pears will also be generated.

Issue: Cherries - Phytosanitary Ban

Argentina prohibits the importation of Pacific Northwest cherries into the country due to concerns over cherry fruit fly and other insect pests. This trade barrier has been in place since the mid-1990s.

Issue: Tariffs and Export Rebates

Argentina has a tariff, tax and rebate system that makes it difficult to import fruit because of increased costs which are transferred to the buyers.

2013 Argentina Tariffs, Taxes and Rebates for Apples and Pears	
Countries outside of Mercosur	Countries within Mercosur (Argentina, Brazil, Paraguay, Uruguay)
Import tariff: 10%	Import tariff: 0%
Statistical tax: 0.5%	Statistical tax: 0%
Export tax: 5%	Export tax: 10%
Export rebate (apples, > 20Kg): 3.4% Export rebate (pears, > 20Kg): 2.7% Export rebate (2.5Kg-20Kg): 5% Export rebate (< 2.5Kg): 6%	Export rebate (apples, > 20Kg): 3.4% Export rebate (pears, > 20Kg): 2.7% Export rebate (2.5Kg-20Kg): 5% Export rebate (< 2.5Kg): 6%

AUSTRALIA

FRUIT

Issue: Apples, Pears, and Stone Fruits -- Phytosanitary Ban

Australia prohibits imports of U.S. apples and pears primarily due to the possibility of introducing fire blight (bacteria).

In 2000, the Northwest Fruit Exporters (NFE) submitted information to Australian officials regarding pest and disease information so Australia could initiate an Import Risk Assessment (IRA). Australia initiated an IRA in March 2000. The clock stopped on the IRA on March 4, 2010 and has not been restarted as of March 2013. To read the latest details on the U.S. IRA process, see reports at http://www.daff.gov.au/ba/ira/current-plant/apples_usa.

Australia bans imports of U.S. stone fruit (peaches, nectarines, plums, and apricots) due to concerns about four plant pests (the peach twig borer, apple maggot, cherry fruit worm, and lesser apple worm). Australia published its draft import risk assessment in April 2008, and the United States submitted formal comments in June 2008. Australia published its final import risk assessment for access of U.S. stone fruit (peaches, nectarines, plums, and apricots) in March 2010. The two countries continue an active dialogue on implementation of Australia's final policy. This issue remains a top priority of the United States in its SPS engagement with Australia and is regularly addressed in bilateral discussions.

Also with the detection of Drosophila suzukii within multiple U.S. stone fruit production regions, efforts to obtain access to Australia have been delayed. Australia has determined these commodities from the U.S. present a pathway for introduction and until producers can identify measures to mitigate the associated risks, stone fruit from the Pacific Northwest and California may not achieve market access. Australia officials inspected California facilities in mid-2012 in preparation for allowing limited access under quarantine treatments with Methyl Bromide (producers in the PNW are interested in exporting

stone fruit under a systems approach protocol); however as of early 2013, Australia continues to delay publication of a final policy which likely is a preventative action delaying access within the 2013 stone fruit season. Industry continues to develop research to evaluate host status and preference of stone fruits and SWD to remove restrictions associated with stone fruits from the U.S.

SEED

Issue: Alfalfa Seed – Phytosanitary Restrictions

Australia currently prohibits all U.S. alfalfa seed due to Verticillium Wilt (VW) except from seven counties in California. A lab test can be done although neither the test nor a field inspection currently is being accepted. The requirements for the export program for the seven counties are generally threefold: 1) area of freedom, 2) phytosanitary seed inspection program, and 3) Sheppard and Needham's wash test. These requirements were last updated in July 1999. Idaho cannot meet the area of freedom requirements.

Issue: Sweet Corn – overly stringent requirements

Idaho is the only U.S. state allowed to ship sweet corn seed to Australia according to protocols established in 2002. Furthermore, it is only allowed by certain approved companies that meet the requirements. The requirements include export field registration, field sanitation and pest control measures, export crop inspection and testing, packing house registration and procedures, pre-export seed inspection, packing and labeling requirements, and on-arrival inspections. The requirements, however, are far more stringent than other countries. Most exporters do not bother to register their fields because of the onerous requirements. Additionally, biotech seed is prohibited unless it has an import permit. Shipments of non-biotech seed have been delayed or even prohibited due to concerns by Biosecurity Australia.

In 2005, Australia announced that they were interested in sending sweet corn seed to the United States. Industry has pressed APHIS to ensure that any seed trade is reciprocal.

BRAZIL

DAIRY PRODUCTS

Issue: Non-Tariff and Tariffs

Plant registration and product label registration are required for export to Brazil. The U.S. dairy product exporter must have the plant included on the USDA Agricultural Marketing Service (AMS)'s list of U.S. Dairy Plants Surveyed and Approved by the USDA Grading Service or in the list of plants approved by FDA. State approval only is not permitted. Product labeling for any shipped item must be registered with the Brazilian government. If identical products are shipped under different brand names (requiring different labels on the packaging), each label must be registered separately even though the actual products may be identical. The label registration process requires the signature from the company that is registering the label and AMS as the competent authority. The approval of the registration is based on the accuracy and completeness of information declared in the forms. If any critical information is missing the form is denied until the company provides it.

Brazil's tariffs on dairy products favor Mercosul members over the U.S.

2013 Tariffs on Dairy Products			
Tariff Number (HTS)	Product Description	Common External Rate (%)	Mercosul Rate (%)
0401.10.10	Milk and Cream, UHT	14	0
0401.10.90	Milk and Cream, UHT	12	0
0406.10.10	Cheese, Mozzarella (1)	28	27
0406.10.90	Cheese, Other	16	0
0406.20.00	Cheese: Grated or Powdered	16	0
0406.90.10	Cheese, with a fat content less than 36%, by weight (1)	28	27
0406.90.20	Cheese with a fat content superior or equal to 36% and less than 46%, by weight (1)	28	27
0405.10.00	Butter	16	0
0405.90.10	Butter Oil	16	0
0402.21.10	Whole Milk Powder (1)	28	27
0402.21.20	Nonfat Milk, Powder (1)	28	27
0404.10.00	Whey Powder (2)	28	27

FRUIT

Issue: Tariffs and Miscellaneous Charges

Brazil charges a 10 percent import duty on fresh apples, cherries, and pears. This tariff serves as a significant barrier to Idaho fruit exports to Brazil as fruit imports from Mercosur countries enter duty free and ALADI countries (Argentina, Bolivia, Chile, Colombia, Ecuador, Mexico, Paraguay, Peru, Uruguay and Venezuela) enter with preferential treatment. Brazil also levies a significant number of miscellaneous charges, port charges, internal taxes and assessments that amount to a significant cost increase to consumers above the landed value of the product.

WHEAT

Issue: Tariff and Tariff Rate Quota

Brazil is one of the largest importers of wheat in the world. It imports approximately 90 percent of its wheat from Merocul countries (Argentina, Paraguay, Uruguay) at zero tariff. Non-Mercosul countries, including the U.S., are subject to a 10 percent common external tariff and a Merchant Marine Renewal Tax (MMRT) of 25 percent of the freight cost. The transportation tariff was suspended for shipments to the Northeast port of Fortaleza for a ten-year period, but it has since been reinstated. However, mills in the Northeast can request a refund on the tariff that is usually granted.

U.S. wheat was also targeted for retaliatory tariffs under the WTO Cotton Case. Tariffs would have increased to 30 percent from the current 10 percent level. A memorandum of understanding (MOU) was signed between the U.S. and Brazilian governments in 2010 to not retaliate with countermeasures against wheat.

Brazil agreed to a tariff rate quota (TRQ) of 750,000 MT at zero duty for wheat under the Uruguay Round of the WTO, but they have not implemented that commitment. Enactment of this TRQ would likely benefit U.S. wheat producers greatly. There is an effort to push Brazil to enact this commitment.

CANADA

DAIRY

Issue: Tariff Rate Quota

Canada protects its domestic cheese industry through a tariff rate quota system. The 1998 U.S. - Canadian Free Trade Agreement (CFTA) eliminated many tariffs, but the preferential duty rate only applies to imports within the quota. The quotas are small, resulting in the higher duty rate utilization. Imports of cheese are limited to 20,412 metric tons. Some imports above that level can be made through the Import for Re-Export Program (IREP). Dairy products that are imported by Canadian processors for use in manufacturing goods, such as confectionary items, which are re-exported can be shipped to Canada under the IREP and avoid the over-access tariffs.

2013 Customs Tariff Schedule				
H.S. Code	Product Description	Quota	Below quota tariff	Above quota tariff
0406	All cheese (cheddar, powdered, mozzarella, soft)	20,412 MT	0	245.5%

Issue: Tariff on Processed Dairy Products

In addition to tariff rate quotas, Canada protects its dairy industry through high tariffs on some manufactured goods. Processed items containing more than 50 percent dairy content are subject to prohibitive tariffs.

2013 Customs Tariff Schedule			
H.S. Number	Description	Unit of Measure	MFN Tariff
2106.90.93	50% or more by weight of dairy content, within access commitment	KGM	7%
2106.90.94	Containing 50% or more by weight of dairy content, over access commitment	KGM	274.5% but not less than C$2.88/kg

POTATOES – FRESH

Issue: Anti-dumping penalties

Since 1984, Canada has imposed an anti-dumping duty on fresh potato imports from Washington, Oregon, California, and Idaho into British Columbia for allegedly selling potatoes below cost of production. Fresh potato floor price is determined by the Canadian government and varies by state of origin. Any imports below those prices are impacted with the importer paying the difference between the floor price and the actual sale price to Revenue Canada. The Pacific Northwest potato industry contested the allegations of dumping and the methodology used by Canadian authorities in calculating the dumping margins during reviews of the dumping order held in 1984, 1986, 1990, 1995, 2000, 2005,

and 2010. Each time, the Canadian authorities refused to revise the dumping order.
Dumping duties are not imposed on U.S. potatoes because they are unfairly traded. Rather, the fundamental reason dumping duties are maintained is that a very small number of competitive British-Columbian producers have taken advantage of the arbitrary treatment of normal industry/market circumstances under Canadian antidumping law to achieve a perpetual floor price. In other words, the pricing and market restrictions on U.S. fresh potato imports guarantee that the BC industry will never lose money because of floor prices at cost of production, contrary to normal agricultural commodity economic dynamics in a free market. This market manipulation is then coupled with BC grower supply control measures and pricing collusion between the marketing schemes in the province that guarantees growers profits in all years at the expense of the Canadian consumer.

The Canada Border Services Agency (CBSA) conducts a review every five years to determine whether U.S. potatoes exported to British Columbia should be subject to anti-dumping duties. In September 2010, the review stated that potato stocks in 2009-2010 were high and prices dropped significantly but CBSA did not rule to remove the anti-dumping duties, leaving them in place. North American potato industry publications report that current price levels are well below costs of production for U.S. potato growers.

The latest effort to prevent free and fair trade in British Columbia has been the British Columbia Provincial Government providing a generous endowment to the Pacific Institute for Climate Solutions to research and publish a report entitled: “Climate Change and Food Security in British Columbia”. Not surprisingly, this report makes the recommendation that government policies be reformed to promote local agriculture to reduce BC’s dependence on imports, especially fruits and vegetables for the United States.

Issue: Restrictions on Bulk Shipments

Canada’s Standard Container Law, part of the Fresh Fruits and Vegetable Regulations of the Canadian Agricultural Products Act, prohibited imports of fresh potatoes from the United States in bulk quantities (i.e., in containers larger than 50 kg or 110 lbs), whether the potatoes were being imported for fresh consumption or processing, unless a Ministerial Exemption (ME) was granted by provincial government. Over the years there have been ongoing trade disputes about MEs being denied and limiting trade. On November 1, 2007, an agreement was reached to facilitate bilateral trade of potatoes between Canada and the U.S. The agreement was intended to streamline the administration of the program for shipments of bulk potatoes. In spite of these changes the Ministerial Exemption system represents a significant barrier to trade in potatoes and other U.S. agricultural products. Significant questions have been raised regarding the consistency of these measures with Canada’s obligations according to the North American Free Trade Agreement and World Trade Organization. For the trading relationship with Canada to continue to mature, Canada would have to completely eliminate the Ministerial Exemption requirement and allow willing buyers and sellers to conduct cross-border commerce in bulk fresh potatoes based solely on the quality, variety, and price of the product.

In addition, in fall 2010, CFIA announced that they were revising their regulations for importing potatoes. This caused some concern because ME Agreements came into full effect just as these new requirements were announced. The Canadian Regulatory Agency, CFIA maintains that these requirements are simply an update to previous import requirements. However, even some Canadian processors agree that they are meant to replace MEs as a new way to restrict importation of U.S. potatoes. As an example, the new rules set up a “two-strike” approach to the imposition of a required “Compliance Agreement” for a facility handling U.S. potatoes, such as a packing shed. One of the strikes is if Soybean Cyst Nematode is present. A second strike would be another pest such as Potato Cyst Nematode. As Idaho has both, every facility repacking fresh Idaho potatoes in Canada will be required to enter into a compliance agreement covering all facets of their operation, even if they’re simply repacking washed, U.S. No. 1 Grade Idaho Potatoes. The regulations are commonly referred to as D-96-05.

For the new compliance agreement, it is not a requirement if potatoes are from a pest free area or are packaged in 50 pound containers or less meeting U.S. Grade #1. Also if the potatoes have undergone sprout inhibition or were packed within one month of harvest. Grade #1 potatoes that are washed and consumer ready in 50 pound boxes or other packaging must be repacked at a facility under a compliance agreement if not going directly to retail outlets. In the past, this was not the case. U.S. Grade #1 washed potatoes in 50 pound boxes or other packaging were allowed to enter Canada and be repacked without a compliance agreement.

For many years, shipments of bulk potatoes either washed or unwashed from the United States to Canada for processing or chipping have occurred based on obtaining a Ministerial Exemption, a USDA PPQ 450 Truck Cleanliness Certificate and a USDAFV-205 indicating the state of origin. Recent adjustments to the Ministerial Exemption system for potatoes created an improved opportunity for trade in bulk potatoes between the United States and Canada. The emergence of the revised D-96-05 has caused Canadian chip processors to begin asking U.S. bulk shippers to provide phytosanitary certificates for shipments since they do not wish to incur the costs associated with a compliance agreement.

WHEAT

Issue: Canadian Wheat Board Monopoly

The Canadian Wheat Board (CWB) receives financial backing from the federal government including low interest rates and backing of guaranteed payments. Over the years, there have been numerous disputes by the U.S. regarding CWB's unfair trading practices.

In March 2003, the WTO agreed to a U.S. request to convene a panel to hear a dispute about monopolistic wheat trading practices of CWB. In March 2004, the World Trade Organization (WTO) panel agreed with the U.S. that:

- Canada's mandatory authorization requirements for foreign grain entering Canadian grain elevators violate national treatment principles.
- Canada's "rail revenue cap," which may result in lower rail transportation rates for the CWB than for imported grain, also violates national treatment principles.
- Canada's prohibition on mixing foreign grain with Eastern Canadian grain also violates national treatment principles.

The panel ruled against the U.S. in that it did not find that the Canadian Wheat Board (CWB) export regime violates Canada's obligations under GATT Article XVII governing the behavior of state trading enterprises.

In April 2004, the panel released its report, in which it ruled that the Canadian Wheat Board was not violating WTO rules governing state trading enterprises. The WTO panel recognized the potentially harmful and trade distorting effects of state trading enterprises, but determined that the WTO Agreement as currently written does not provide an adequate remedy. USTR sought relief for farmers by filing a WTO challenge. As a result, Canada passed legislation in May 2005 that rectified its grain import and marketing system practices to bring them into compliance with the WTO panel's recommendations.

Antidumping and countervailing duties were initiated by the Department of Commerce against Canadian spring wheat in 2003, but the NAFTA panel found on appeal that there was not enough evidence to justify these duties. The duties were subsequently lifted. The U.S. is now seeking meaningful and permanent STE reforms through the adoption of new WTO export competition rules through the Doha Development Agenda.

In 2007, following release of results from a survey conducted by the federal government showing more than 60 percent of Canadian barley growers favored eliminating single desk control of barley marketing in western Canada—results that CWB disputed—the Harper government announced it would unilaterally end CWB's barley monopoly. CWB challenged that effort in federal court and won the right to have Parliament ultimately decide whether or not barley farmers will be able to sell their crop outside the wheat board system. The government lost a subsequent appeal. In June 2008, CWB won another legal victory when a federal court ruled that Canada's agriculture minister violated the Charter of Rights and Freedoms when he issued a gag order in 2006 preventing the CWB from spending money to advocate the single-desk grain marketing system.

The Marketing Freedom for Grain Farmers Act, passed in December 2011, established a free market system for barley and wheat farmers in which the farmers are able to choose how to sell their crops and to which buyers they will sell. A voluntary CWB with government backing will remain in place for up to five years as the farmers make the transition from the monopoly. This is a positive development for U.S. and Canadian wheat farmers as well as global customers. The change, effective August 2012, has created new opportunities to move U.S. wheat across the border as zero tariffs exist.

However, there are other policies that need to be addressed to ensure access to the Canadian market. One regulation does not allow non-Canadian grain to receive an official grade beyond the lowest statutory level. This results in U.S. wheat having to be traded on a specification basis only or bear the lowest grade level in the Canadian system. Canada also requires foreign grain that is mixed with Canadian grain to be marketed as foreign or mixed grain.

CHILE

FRUIT

Issue: Cherries - Phytosanitary Restriction

Chile prohibits northwest cherry imports due to alleged phytosanitary issues. Chile requires that cherries come from an area that is free of Rhagoletis indifferens and R. fausta. In 2002, an inspection team visited Idaho, Oregon, and Washington to view production and testing facilities. Chilean phytosanitary officials proposed a protocol for qualifying shipments, which was rejected by the northwest industry. The proposed mitigation measures through expanded inspections would have proved overly restrictive and costly, and result in little if any commercial trade.

CHINA (PRC)

Despite China's WTO admission in 2001, agricultural trade with China remains among the least transparent and least predictable of the world's major markets.

U.S. – CHINA AGREEMENT ON AGRICULTURE

In 1999, the U.S. and China signed a bilateral agreement as part of China's WTO accession package that contained China's commitments to provide greater market access for U.S. goods and services, including lowering tariffs. As part of the agreement, China committed to gradually reduce tariffs on agricultural products. The tariff reductions were completed in 2008. The following table shows the lowered tariffs on select products:

Product	**Original duty**	**Duties 2013**
Apples, Peaches & Cherries	30%	10%
Beef	45%	12%
Milk product: Cheese	50%	12%
Milk product: Ice cream	45%	19%
Milk product: Lactose	35%	10%
Milk product: Skim milk powder (SMP)	25%	10%
Potatoes: Dehydrated flakes and granules	30%	15%
Potatoes: Flour, meal and powder	27%	15%
Potatoes: Fresh or chilled & Potatoes: Frozen	13%	13%
Potatoes: Prepared/preserved, frozen	25%	13%
Potatoes: Prepared/preserved, not frozen	25%	15%
Wheat: The TRQ is divided among State Trading Enterprises and the private sector	Quota: 7.3 mil MT Duty: within quota: 1%, over quota:80%	Quota: 9.6 mil MT Duty: within quota: 1%, over quota: 65%

A Value Added Tax (VAT) is charged by China on imported products. The U.S. industry asks for equal trading standards, specifically that the VAT be applied to both imports and domestic products or not at all.

ALL PRODUCTS

A substantial increase in the value of the Chinese currency is essential to reduce trade imbalances, but China has intervened massively in the foreign exchange markets, buying $15-20 billion per month for several years to keep market pressures from pushing up the currency. Furthermore, by keeping its own currency undervalued, China has also deterred many other Asian countries from letting their currencies rise against the dollar for fear of losing competitive position against China. The overvalued currency makes Chinese exports cheaper in overseas markets and U.S. imports more expensive to Chinese buyers. This is a big issue because it was one of the hot topics in the 2012 Presidential debate.

The China Currency Manipulation Act of 2008 was presented in Congress to stop currency manipulation by China. It proposed that Congress work with the IMF to take steps to ensure that China promptly takes steps to correct their exchange rate. The China Currency Coalition, made up of American manufacturers, producers, farmers, and unions praised this bill. However, this bill was not passed. In June 2010, the Chinese government pledged that it would allow for greater exchange rate flexibility, allowing its currency to float gradually upward. By May 2011, the yuan had gained 5 percent in value, but towards the end of 2011, many estimates showed the currency still overvalued by about 25 percent.

Several bills have been proposed in an effort to crack down on Chinese currency manipulation by targeting imports from China and other countries with currencies that are perceived to be undervalued. In September 2010, the House passed the Currency Reform for Fair Trade Act, which subsequently was not passed in the Senate and therefore never became a law. In March 2013, the Alliance for American Manufacturing (AAM) praised U.S. Representatives for introducing the bipartisan Currency Reform for Fair Trade Act. AAM is hoping that 2013 will be the year that the stars align and both the House and the Senate finally pass it.

In December 2011, after seeing an 18 percent increase in the value of the yuan compared to the U.S. dollar over the previous 18 months, the Obama administration declined for the sixth time to label China as a currency manipulator. The U.S. Treasury Department says that China's currency is still overvalued despite the appreciation. The yuan appreciated 1.5 percent in 2012 and a mild appreciation is expected in 2013.

BEEF

Issue: Ban

In December 2003, China imposed a ban on U.S. bovine products in response to the bovine spongiform encephalopathy (BSE) detection in a cow imported into the U.S. from Canada. China's ban included not only beef, but low-risk bovine products, i.e., bovine semen and embryos, protein-free tallow and non--ruminant origin feeds and fats, which pose no risk of BSE and should not be banned under existing international standards.

In 2004, after numerous meetings, technical discussions, and a visit to U.S. bovine facilities by Chinese food safety officials, China announced a lifting of its BSE ban for some low-risk bovine products like bovine semen and embryos subject to facility certification. Additionally, China signed a bilateral protocol for non-ruminant origin feeds and fats contingent on facility certification by Chinese regulatory authorities. In 2006, China declared its border open to U.S. beef under 30 months of age. However, U.S. and Chinese officials have been unable to reach an agreement on trade resumption conditions; therefore, no export certificates for mainland China have been issued to date.

It is uncertain how long it will take to finish the bilateral protocol. Demand for U.S. beef remains strong in China. On September 7, 2010 a technical delegation from the U.S. Department of Agriculture (USDA) and the U.S. Food and Drug Administration (FDA) resumed discussions with Chinese experts from AQSIQ and MOA toward a market reopening for U.S. beef. This represented the first bilateral dialogue on beef market access since 2007. In December 2010, Agriculture Secretary Tom Vilsack announced that the Chinese had agreed to allow American beef exports from animals under 30 months old back into China. However, the U.S. and China have been unable to resolve inspection issues and U.S. beef continues to be banned as of March 2013. Even though there is no access into mainland China, there has been steady growth of U.S. beef sales and they are expected to rise in the future. The U.S. and the Hong Kong (HK) governments have been separately negotiating expanded US beef access beyond the current boneless under 30 month conditions, and implementation of a new protocol is expected within the 1st half of 2013.

DAIRY - Whey

Issue: Ban on Benzoyl Peroxide and Benzoic Acid

On June 1, 2009, with the enforcement of China's new Food Safety Law, the Chinese government implemented more stringent testing of imported foods for compliance with Chinese standards. As a consequence, China started testing whey products for the presence of benzoic acid, a byproduct of bleaching with benzoyl peroxide. Benzoyl peroxide is used in the U.S. industry to bleach whey derived from colored cheese. Benzoic acid is a byproduct of the process.

Benzoic acid can be used in many food products in China, but not whey. The General Administration of Quality Supervision, Inspection, and Quarantine (AQSIQ) may choose to request an affidavit stating that a product was not manufactured with the usage of benzoyl peroxide as a bleaching agent. Although U.S. products bleached with this substance have been shipped to China for many years, the Chinese government had not previously routinely tested for the presence of benzoic acid in whey products. Now that products are routinely tested, those products that fail to pass the test may be rejected or destroyed.

In 2006, CODEX adopted the usage of benzoyl peroxide at a rate of 100 mg/kg as a bleaching agent in dry whey products and subsequently in 2007 for liquid whey products. Therefore, China's standards for whey products are not based on sound scientific principles. In addition, the Chinese Ministry of Health issued a notice on December 15, 2010 banning benzoyl peroxide and calcium peroxide in the production of wheat flour and its products as of December 1, 2011. In 2010, China proposed to add hydrogen peroxide to the list of banned bleaching aid products, but it has not been added as of March 2013.

FRUIT

Issue: Apples – Phytosanitary Restriction

China prohibits imports of U.S. apples other than Red and Golden Delicious varieties due to quarantine concerns over the bacterial disease fire blight. Only three states are approved to export these two varieties: Idaho, Washington, and Oregon. Despite requests from APHIS for China to authorize the importation of six additional apple varieties (Fuji, Gala, Granny Smith, Rome, Jonagold, and Braeburn), the General Administration of Quality Supervision, Inspection, and Quarantine of the People's Republic of China (AQSIQ) has maintained current import restrictions on U.S. apples.

AQSIQ contends that fire blight may be transmitted to China's domestic crops if import restrictions are eased for U.S. apples. However, AQSIQ has not provided APHIS with scientific evidence that would justify excluding additional apple varieties and production areas from the export program due to fire blight. The U.S. industry and APHIS maintain that mature, symptomless apples produced under commercial conditions have not been shown to transmit fire blight.

In a related matter, in 2004 the WTO ruled in favor of the U.S. that Japan's quarantine measures for fire blight imposed on U.S. apples were maintained without scientific justification, providing additional support against China's position.

On August 9, 2012, China suspended imports of U.S. apples which mainly come from Washington. China did this due to postharvest diseases that had been found and China did not want this to affect their own apples. On January 15, 2013, China made a proposal to reopen the market if the U.S. agreed to store apples for 20 days in packing sheds before shipping them to China. The U.S. disagreed to this and submitted a counterproposal at the beginning of March. U.S. trade officials are continuing to try and gain access to China. To try and gain more access, the Washington Apple Commission has offered to open the U.S. to Chinese apples in exchange for full access of U.S. apples into China. As of yet, there has been no response and therefore, the market remains closed.

Issue: Pears -- Phytosanitary Ban

China currently prohibits pear imports from the U.S. due to quarantine concern for the bacterial disease fire blight. Research shows that commercially produced and packed fruit is extremely unlikely to transmit fire blight. China is concerned that this bacterial plant disease might be transmitted to the country's domestic crops. Mature symptomless pears do not transmit the disease.

The U.S. industry and government have sought access for pears to the PRC since 1991. Twice APHIS has submitted to China's AQSIQ a pest list and requested a pest risk assessment (PRA) for U.S. pears.

In 2003, the Northwest Horticultural Council (NHC) and Oregon State University began evaluation of the potential association of fire blight bacteria with mature pear fruit. Published in 2007, the study concluded that survival of the Erwinia Amylovora (the pathogen that causes fireblight) on mature symptomless pears is unlikely after the postharvest chilling period. Markets that could benefit from research information are Australia, China, Japan, and South Korea. China still has not opened the market to U.S. pears.

However, China finally provided APHIS with a PRA in July 2009 that is currently under review by APHIS and representatives of U.S. industry. Additionally, a Chinese pear delegation visited California, Oregon, and Washington in September 2009. As of March 2013, there has been no movement on the issue since the Chinese visited the growing region.

POTATOES – FRESH

Issue: Phytosanitary Ban

Idaho fresh potatoes are prohibited entry into China because of reported phytosanitary concerns. In 2000, AQSIQ committed to conduct a PRA to develop protocols for imports of U.S. potatoes from Idaho, Oregon and Washington. In 2001, a Chinese technical delegation visited the Northwest, gathering information on potato production areas, packing facilities, potato pests, mitigation measures, pesticide use, sprout inhibitors, phytosanitary inspections, and plant quarantine measures (specifically on viruses, diseases, nematodes, and insects) as well as an overview of all aspects of the U.S. potato industry from planting, growing, and harvesting to packing and shipping.

For the last decade, the issue has been raised at every U.S.-China plant health bilateral. In a violation of international trade practices, China's General Administration of Quality Supervision, Inspection, and Quarantine (AQSIQ) has overtly linked progress on the U.S. potato request to Chinese apple access to the U.S.

SEED

Issue: Corn -- Phytosanitary Ban

Corn seed to China is prohibited because of Erwinia stewartii or Stewarts Wilt. In 2000, the American Seed Trade Association (ASTA) and the National Agro-Technical Extension and Service Center Ministry of Agriculture-China (NATESC) signed an interim agreement to collaborate on a framework for a U.S.-China Pest Risk Analysis (PRA). Agreement on the framework was stalled as it appears that NATESC is authorized to conduct PRAs on "domestic" quarantine issues and is only authorized to conduct "field surveys" (not PRAs) on issues of quarantine importance.

In 2002, ASTA met with AQSIQ and confirmed the industry has the ability to conduct Step 1 and 2 of a PRA, but Step 3 involving final decision making is the exclusive responsibility of APHIS and AQSIQ. At ASTA's request, APHIS broached the corn seed PRA during the 2002 bi-lateral meetings. As progress was not made, ASTA urged APHIS to readdress the issue with AQSIQ in the 2003 discussions. Corn seed was not addressed at the 2003 bi-laterals, and industry has asked that APHIS address the issue in future bilateral meetings. Secretary Johanns traveled to China in October of 2005 to sign a Memorandum of Understanding (MOU) with the director of China's AQSIQ to improve bilateral cooperation on animal and plant health and food safety. The MOU provided a forum to seek resolution of bilateral technical food safety issues and promote scientific exchange to resolve technical barriers to trade. On December 4, 2012, The MOU was signed by the ASTA and China National Seed Association (CNSA). ASTA President Andy LaVigne said the following of this MOU, "This agreement achieves two extremely important goals. First, it is an important first step in providing new business opportunities for the world's two largest seed industries; and second, it will ultimately work toward increased farmer productivity."

Issue: Protection of Proprietary Varieties

China is one of the world's largest producers and users of seeds, and although China has implemented laws and regulations, intellectual property right (IPR) violations and counterfeit cases occur frequently. In April 1999, China joined the International Union for the Protection of New Varieties of Plants (UPOV) adopting the first two acts (China has not yet adopted the Act of 1991 that requires new members to grant protection for all new plant genera and species within a decade). UPOV is an international organization whose mission is to promote and protect new varieties of plants. It sets guidelines and uniform principles for protecting plant material. Without plant breeders' rights, there is nothing to prevent others from propagating and selling proprietary plant material.

Companies are strongly advised to register their trademarks and copyrights in China. Although registration does not guarantee complete immunity to IPR violations, without it companies have little legal recourse.

Seed sold in counterfeit packages identical to legitimate brand name is the most frequent problem for seed companies. Other crimes include theft of seed/germplasm from production fields or facilities which is then bred and marketed by other companies. Seed companies also report demands for restitution for "inferior quality" seed sold by counterfeiters. Local courts also can award damages to growers even when poor crop management or weather borne problems, not seed quality, reduce yield. However, the country has yet to improve testing technology to support its examination of applicants' compliance with the conditions for new plant varieties.

A list of the protected plant varieties in China can be found at http://www.cnpvp.com/english/National%20List%20of%20Protected%20Plants.htm.

PROCESSED FRUITS & VEGETABLES

Issue: Certificate Requirement

China required phytosanitary certificates (phytos) for processed potato products including frozen and dehydrated potatoes until 1998 when Chinese officials met with USDA-APHIS officials and agreed to lift this requirement. Instead, a Certificate of Quality and Condition issued by the AMS is required. International Standards for Phytosanitary Measures under the International Plant Protection Convention (IPPC) provides that importing countries should not require phytos for processed plant products because they have no potential to introduce regulated pests. The manufacturing process of heat treatment and/or cold temperatures eliminates the likelihood of processed products harboring pests. USDA authorizes the issuance of federal phytosanitary certificates that certify plant products free of pests and diseases, but prohibits federal phytosanitary certificates from being issued on processed products.

In 2001, it was suggested that the Certificate of Quality and Condition (CQC), Agricultural Marketing Service (AMS) Form FV –146CS, be accepted in place of a phyto for potato products. The CQC is appropriate for processed products and certifies that the "product is in good condition and appears fit for human consumption." In 2002, the Chinese government accepted and implemented the USDA/AMS document with regard to the importation of potato products.

While this is an improvement, the process is expensive, time-consuming, and unnecessary. AMS approves U.S. facilities once a year and then issues the CQC based on faxed requests (no samples are required as the plant certification addresses the phytosanitary issues). The cost of plant certification is between $300-$500 annually in addition to a separate cost for each certificate.

COLOMBIA

ALL PRODUCTS

Issue: U.S. – Colombia Trade Promotion Agreement

On November 22, 2006, the U.S. and Colombia signed the U.S.-Colombia Trade Promotion Agreement. The Colombian Congress ratified the legislation in 2007. The agreement was approved by the U.S. Congress on October 12, 2011 and was implemented on May 15, 2012.

Many sectors have gained duty-free access to Columbia which includes agricultural products. In these sectors, over 80 percent of U.S. exports have become duty-free. The remaining tariffs will be phased out over 10 years. Out of all the agricultural commodities, more than half of current U.S. farm exports to Columbia have gained duty-free access. Of these agricultural products, all remaining tariffs will be eliminated within 15 years. Products that do not have remaining duties include wheat, barley, soybeans, soybean meal and flour, high-quality beef, bacon, almost all fruit and vegetable products, wheat, peanuts, whey, cotton, and the vast majority of processed products.

Even though some Tariff Rate Quota's (TRQ) still remain, this agreement has provided duty free TRQ's on many products. These include standard beef, chicken leg quarters, dairy products, corn, sorghum, animal feeds, rice, and soybean oil.

COSTA RICA

POTATOES

Issue: Tariffs and Quota Allocation

With the implementation of CAFTA-DR in Costa Rica in 2009, tariff reductions for potatoes are underway. Most tariffs have been eliminated; however, tariffs remain for potatoes. A Tariff-Rate Quota (TRQ) has been applied to fresh potatoes. There will be no cut in the out-of-quota duty and liberalization will occur through expanded TRQ access, starting at a quantity of 300 MT. This is current as of February 21, 2013.

Issue: Zebra Chip

In April 2012, U.S. fresh potato exports were halted because of the pest Zebra Chip. The USDA and Ministry of Agriculture (MAG) had numerous meetings to try and reach an agreement so potato shipments could resume. In mid-June APHIS signed a bilateral agreement with the Costa Rican Ministry of Agriculture, effectively re-opening the market for chipping potatoes only.

Unexpectedly, Costa Rican authorities decided that the protocol had to be notified to the WTO to allow other members to comment on it. The United States objected to this procedure because the WTO does not require the notification of bilateral agreements such as the protocol in question. Nevertheless, Costa Rica provided the two month comment period and received comments from domestic producers, which further extended the time that U.S. potatoes could not enter Costa Rica.

After reviewing the comments, the MAG announced the opening of U.S. potatoes again into Costa Rica on October 26, 2012.

CUBA

FRUIT

Issue: Apples and Pears - Phytosanitary Requirements

The Northwest Horticultural Council (NHC) has asked USDA/APHIS to obtain access to Cuba for Idaho and Oregon fruit, but the request has not been actively pursued. In 2002, at the request of Cuban officials, the NHC hosted a site visit for Cuban officials in Washington State. U.S. and Cuban officials have subsequently signed an agreement allowing for the export of Washington apples and pears, but not for Idaho and Oregon.

POTATOES

Issue: Lack of Shipping Protocol

Presently there is no protocol in place for shipping table stock and seed potatoes. In June 2008 a delegation from Cuba visited three seed potato producing states to learn about seed potato production and the certified seed program. The purpose of this trip was to develop a shipping protocol. Cuban officials subsequently visited the Midwest and Northeast of the U.S.

A protocol was drafted and sent to both governments for review in September 2008. This protocol has not been ratified because viruses, pests, and diseases that do not occur in the U.S. were mentioned and needed to be removed. It also contained wording for state-by-state exclusions. USDA APHIS, NPC, and various state potato commissions objected to the draft. The draft was revised alleviating U.S. concerns and resubmitted to the Cuban government for signature on Aug 19, 2009. As of March 2013, the protocol has yet to be ratified.

DOMINICAN REPUBLIC

POTATOES

Issue: Application of Quotas

The CAFTA-DR eliminated the Dominican tariffs applied on U.S. potatoes. However, a problem has emerged with U.S. seed potato exports to the Dominican Republic. Dominican importers of U.S. seed potatoes are not having their full request granted when seeking import permits. Instead, they are told there is a quota on seed potato imports, and only certain amounts can be imported from the U.S. Other countries, such as the Netherlands, are granted other parts of the quota.

Under CAFTA-DR, there is no quota on U.S. seed or fresh potatoes, and there should be no quantitative limitation on imports of either product.

Issue: Phytosanitary Import Requirements for Seed Potatoes

The U.S. currently exports seed potatoes to the Dominican Republic under an import permit system. This system is problematic as the phytosanitary requirements frequently change from permit to permit. The U.S. potato industry seeks a signed seed potato market access agreement for all U.S. seed-producing states to ensure that Dominican Republic's quarantine regulations are standardized.

In June 2010, following several years of negotiations, Dominican Republic quarantine officials traveled to the United States to review the U.S. seed and chipping potato industries. The pre-condition for this trip was that the officials would use a regional approach. This meant a visit to an individual state would result in an entire region being approved for export. In the past, the Dominican Republic sought to only approve the states visited. After multiple exchanges since the visit, the U.S. potato industry is still waiting for final approval of market access for all seed-producing states under this regional approach.

EGYPT

POTATOES

Issue: Phytosanitary Import Ban – Seed Potatoes

Egypt is one of the largest importers of seed potatoes in the world. In 2009, the Egyptian government and Egyptian growers expressed an interest in importing U.S. seed potatoes. As a result, APHIS, working with the U.S. potato industry, forwarded a draft market access protocol for consideration by Egyptian authorities. Egypt sought additional information regarding the industry and pests faced by U.S. seed potatoes. This information was provided in January 2010.

In March 2010, the United States and Egypt held their first plant health bilateral. Market access for U.S. seed potatoes was high on the USDA agenda. Unfortunately, due to a reordering of Egyptian market access priorities, these talks failed.

The U.S. and Egypt re-engaged later in 2010 and in early 2011 and a second set of plant health meetings were held in Cairo in August 2011. Again an agreement was not signed, but progress was made and serious discussions occurred. The U.S. potato industry hoped that a commercial work plan and market access agreement would be reached in September 2011, but that did not occur.

In 2012, Egypt completed its pest risk assessment of US seed potatoes, which should clear the way for a market access agreement to be finally signed. There have been numerous exchanges between APHIS and CAPQ on this agreement and it is not yet completed. Further engagement will occur in 2013.

EUROPEAN UNION

BEEF

Issue: Ban

The E.U. bans all U.S. beef that is produced with growth hormones (imposed in 1989), maintaining hormones pose a risk to human health. Numerous medical studies, including several European-based studies, have shown that there is no health risk. In 1998, and again in 2008, the WTO ruled in favor of the U.S. and Canada by stating that the E.U. had not provided enough scientific evidence to justify the ban. The E.U. chose not to conform to the WTO ruling and in 1999 the U.S. imposed ad valorem duties on a list of E.U. products. In May 2009, following a series of negotiations, the United States and the E.U. agreed to a partial settlement that could resolve this longstanding trade dispute. This agreement is done in three phases. The first phase, which lasted until August 2012, expanded market access for U.S. beef to the E.U. under an annual tariff-rate quota (TRQ) of 20,000 metric tons at zero duty for beef produced without growth-promoting hormones. The new quota is in addition to the existing tariff reduced quota of 11,500 metric tons of hormone-free beef that is subject to 20% import duty . The United States removed all of the retaliatory duties that it was applying to a list of E.U. products and from August 1st 2012 the agreement moved into phase 2 and the duty free quota was expanded to 45,975MT. E.U. quota years run from July 1st to June 30th. From July 1st 2013 the duty free quota will become 48,200MT, reflecting a similar agreement made between the E.U. and Canada (the quantity negotiated with the USA was 45,000Mt and that with Canada 3,200MT over a full quota year).

While this agreement is a bilateral agreement signed between the U.S. and the E.U., it was deemed that for the new quota to be in compliance with WTO rules it would have to be open to any supplying country. The definition of “high quality” beef written into the agreement calls for the qualifying beef to come from animals that have been finished on a high energy diet for at least 100 days before harvesting and for a carcass grading system to be in operation directly under governmental control. Despite these stringent and restrictive requirements the E.U. Commission has now recognized four other supplying countries as being able to comply with these conditions and has given access to this quota to Canada, Australia, New Zealand and Uruguay in addition to the USA.

Shipments from the USA to the E.U. grew very well under this quota, more or less doubling every year to reach about 16.000MT in 2012 for a value of $200 million. However in the last six months shipments from Australia and Uruguay have grown quickly and as of March 2013 the U.S.’s share now stands at approximately 50% of total imports under the quota, and total quota usage since July 1st 2012 up to March 20th has been 22.360MT.

Phase 3 states that the E.U. maintains the TRQ for U.S. high-quality beef at 45,000 metric tons (plus the 3.200MT for Canada) and the United States renounces its claim at the WTO to have the E.U. accept beef produced using growth promoters. No date has been fixed to move to phase 3 yet. The TRQ remains only open for hormone free beef.

From the market perspective demand for high quality grain fed beef in the E.U. is growing. The E.U. is going through an unprecedented period of economic uncertainty and in early 2013 confidence in the meat sector took a massive hit from the scandal of horse meat finding its way into products marketed as beef. This has set back consumer confidence in the credibility of the domestic supply chain to levels not seen since the BSE crisis of the 1990s. General per capita beef consumption has steadily fallen in the E.U. for the last ten years and continues to do so, now pushed on by the recent scandal and by the need for some consumers to either trade down from high priced beef to lower cost proteins or to

reduce consumption. While high quality grain fed US beef represents only a tiny fraction of overall E.U. beef consumption its reputation is now firmly established in the E.U. and the demand for it in its niche is strong and growing. Some cuts such as rib-eyes and striploins sell for nearly double the price of similar cuts from either other imports (Argentina, Uruguay) or E.U. domestic production, but this is not stopping demand from growing. U.S. beef has established itself in the E.U. as a reputed product of excellent quality and most importantly of consistent quality. There is no equivalent available in the E.U. market and at the top end restaurant sector there is acceptance that it is worth the price required to obtain it.

DAIRY

Issue: Somatic Cell Count Standard & Import Requirements

As the Food and Drug Administration has stressed to the European Union for more than a decade, somatic cell count (SCC) levels for raw milk are quality criteria and not food safety criteria and as such should not be required as part of public health attestations. That the E.U. requires compliance with its SCC levels on health certificates for dairy products imported into member states illustrates their effort to impose its own quality and animal welfare preferences on imported products, regardless of the availability of science to support a public health justification for such measures.

It has been announced that trade negotiations between the U.S. and E.U. will begin. Since the E.U. dairy market is essential for the United States, NMPF and USDEC are positive that trade will begin to grow more as this issue and other issues including tariffs are eliminated. This will be possible as negotiations continue with the Transatlantic Trade and Investment Partnership between these two parties.

FRUIT

Issue: Tariffs and Entry Pricing System

The European Union imposes an excessively complicated tariff and quota system used to protect domestic production at different times of the year. The entry pricing system (EPS) negatively impacts U.S. exports as it exposes importers to financial uncertainty and creates major disincentives to import U.S. fresh fruit. Fruits and vegetables imported at or over an established entry price are charged an ad valorem duty only. Produce valued below the entry price are charged a tariff equivalent in addition to the ad valorem duty.

The European Commission sponsored a study on the effectiveness of the current EPS system from 2004 to 2006 and the results were published in 2008. The study showed that the EPS has a negligible effect on stabilizing prices in the E.U. The report concludes that a flexible EPS system should be maintained, but focused on specific products during specific periods of time.

Issue: Phytosanitary Trade Barriers

The European Union requires cherries to be free of Monilinia fructicola (brown rot) and requires documentation that controls have been applied in the field. This restriction limits the supply of cherries that qualify for export to the E.U. M. fructicola reportedly occurs in Europe, yet there are no known official controls on the disease or on movement of fruit within the E.U. from those countries where positive detections have been made. In addition, there is no supporting technical documentation justifying its quarantine requirements.

GENETICALLY MODIFIED FOODS AND ORGANISMS

Issue: Excessive Regulation of GMOs

The E.U. has excessive barriers on Genetically Modified Foods and Organisms (GMOs). Since 2004, few genetically-modified food and feed products have been approved to market in the European Union. Those that are approved include varieties of cotton, corn, oilseed, potatoes, soybeans, and sugar beets. The full list of approved food and feed varieties can be found at http://ec.europa.eu/food/dyna/gm_register/index_en.cfm.

Marketing of GMOs was initially banned in 1998. A complaint was filed with the WTO in 2003 by the U.S., Canada, and Argentina over the E.U.'s ban on imports of genetically modified foods and organisms. The ban on marketing GMO products was lifted in 2004, although the European Union maintains strict procedures for marketing approval. While the E.U.'s regulatory body has expressed that GMOs are one of the greatest hopes for food production, the E.U. has created barriers, legal and regulatory, for the full importation of GMOs.

A European scientific panel was set up to test the claims of the complainants. More than 30 GMOs or derived food and feed products were accepted before the 1998 ban. These are mostly round-up ready soybeans and corn. The major complaint is the process is lengthy in spite of the fact that exporting countries are complying with the Cartagena Protocols.

The Cartagena Protocols were set up in 2003. This body has designed protocols to have transparency and control over the GMO world trade. Under the provisions in the protocol, a nation can reject the GMO imports without scientific proof if they think that the product will cause harm to their traditional crops. This occurred in 2004 when the U.S. sent food aid to Zimbabwe. Zimbabwe rejected the shipment because it contained GMO corn. The U.S. has not signed the Cartagena Protocol because of concerns with the language within the protocol that allows rejection without scientific back up.

On September 29, 2006, the WTO issued the final report in the case brought by the United States, Argentina, and Canada against the E.U. over the E.U.'s moratorium on approving agricultural biotech products and over E.U. member State bans of previously-approved products. The WTO found that the E.U. measures were in breach of the E.U.'s obligations under the WTO Agreement on the Application of Sanitary and Phytosanitary Measures. On November 21, 2006, the WTO Dispute Settlement Body (DSB) adopted recommendations and rulings calling for the E.U. to bring its measures into compliance with WTO obligations. The United States and the E.U. initially agreed to a one-year reasonable period of time (RPT) for E.U. compliance, which ended on November 21, 2006. The parties subsequently agreed to extend the RPT until January 11, 2008, which subsequently expired without resolution.

The E.U. now has a set of rules that must be followed when importing GM food. The E.U. rules mean imported GM food has to be labeled and separated along the supply chain to safeguard against "contamination" of organic farms. Any produce containing more than 0.9 percent GM content must be labeled as such, a policy that can lead to shipments being sent back to the U.S.

As of March, 2013, the United States and the E.U. are continuing technical discussions on market access issues for biotech products; however Canada and Argentina have settled their disputes with the E.U. On July 15, 2009, Canada and the E.U. signed a final settlement of the WTO dispute that Canada had brought against the E.U. Similarly, Argentina and the E.U. announced their final settlement of the biotech dispute on March 18, 2010.

GRAINS

Issue: Duties

The E.U. has a very strict policy for setting duties on grains. Import duties are based on a maximum duty-paid import price that is based on a representative CIF price and derived duty that is set every two weeks for each category of grain. The European Commission monitors grain prices daily, and changes the duty when the average import duty calculated differs by at least 5 Euros per metric ton; however, changes in duties are made at most two times per month.

In response to the large quantity of cheap wheat that was imported between 1999 and 2002, the E.U. put medium and low quality soft wheat and feed barley imports under a TRQ system. With the previous extension set to expire at the end of December 2012, the EU has extended the suspension of duty on barley and wheat of low and medium quality until June 30, 2013. It is likely a further extension will be granted due to the current high price for feed grains in the EU.

On February 18, 2011 the tariffs were suspended on soft wheat and feed barley but returned in June 2011. The annual TRQ is 2,989,240 MT and the import duty is 12 Euros/ MT for low quality soft wheat. For feed barley, there is an annual TRQ of 306,215 MT with an import duty of 16 Euros/MT. The TRQ is a total quantity for all countries combined.

The EU import duty rate for U.S. sorghum is currently zero. Similarly, the EU import rate for U.S. corn (maze), dried distiller grains, and corn gluten feed is currently zero. With respect to corn gluten meal, the EU import duty rate is 16% on the first 10,000 metric tons. A 320 Euros/MT duty is imposed on corn gluten meal imports above 10,000 metric tons.

HONG KONG

BEEF

Issue: Prohibition of Some Beef Products

On February 25, 2013, it was announced that access would be granted for U.S. bone-in beef from cattle 30 months of age and younger to enter Hong Kong that had been prohibited due to BSE since 2003. It officially entered in on March 8, 2013. However, this has not granted access for all beef to enter into Hong Kong. Vertebral column cuts, ground beef, processed meats, and offal have not achieved access yet. While the changes that took effect on February 25 were a big step in the right direction, access will continue to develop in a phased process which is similar to Canada's.

In 2009, Hong Kong opened the market to Canadian beef in three phases. Phase I expanded access from boneless under 30 months (UTM) to allow entry of all bone-in beef from cattle UTM, except vertebral column cuts. Phase II began in 2009 which eliminated age restrictions on ribs and boneless beef, and also granted access to offals from cattle of any age. Following a three-to-six month period of smooth imports of Phase II products, the Phase III addition of T-bones from animals UTM was added. On December 6, 2009 the third and final phase went into effect. Canada now has normalized trade in Canadian beef in Hong Kong and is currently on Phase III of the process. They were able to reach phase 3 because they have a mandatory animal ID system, which is a request the HKG has continually made to the U.S.

INDIA

DAIRY

Issue: Requirement for U.S. Dairy Certificate

The vast majority of U.S. dairy exports are blocked from the Indian market. This is due to barriers India has maintained on U.S. dairy exports since late 2003, when their import permit requirements were revised to require arbitrary and unfeasible new government attestation statements citing certain CODEX regulations. Since 2004, USDEC and NMPF have worked closely with the U.S. and Indian government to try to reach an agreement on an export certificate that would demonstrate compliance with India's import requirements. The U.S. government has raised these concerns in bilateral and multilateral meetings over the past eight years with historically very little response and no genuine engagement in pursuit of a good-faith resolution from the Indian side.

Over the past several years, India has shown a repeated unwillingness to constructively work to resolve this issue and to ensure that all of its restrictions are based on sound science. The U.S. has provided considerable scientific data in support of its position, compromise solutions to address India's concerns, as well as information demonstrating that the vast majority of countries around the world that accept U.S. dairy products and recognize them as safe. Because of India's deep pattern of resistance to resolution, NMPF and USDEC have asked USTR to pursue a WTO Dispute Settlement case against India over its blatant violation of WTO commitments, believing that exploration of legal options is essential to ultimate resolution of this long-standing issue.

FRUIT

Issue: Tariffs

India imposes a 50 percent duty on apples and a 30.6 percent duty on pears and cherries. In addition, the government of India charges a 0.9 percent Educational Tax on all direct and indirect taxes, excluding the CIF value. Apples are exempt from the Educational Tax because the duty charged is equal to the WTO bound rate.

PEAS, LENTILS, & CHICKPEAS

Issue: Phytosanitary Restriction

In 2004, India imposed a non-tariff barrier requiring all imported pulses to be fumigated with methyl bromide and certified free of stem and bulb nematodes, pea cyst nematodes, and bruchids. The U.S. and Canada have been granted a series of waivers allowing pulse shipments to be fumigated in India, rather than in the exporting country. The fumigation waiver was requested because methyl bromide must be applied at or above the ambient temperatures required on the label (5 degrees Celsius or 42 degrees Fahrenheit). Processing plants and warehouses across the northern tier of the USA are below 42 degrees F for 6 months of the year or longer. The current fumigation waiver expires June 30, 2013.

Although it is possible that the waiver will be extended again, the USADPLC is working closely with USDA/APHIS on a long-term solution to this issue. The specified pests are insignificant in the processed pulses being exported to India. Fumigation is not warranted. The USA Dry Pea & Lentil Council believes the USDA/APHIS phytosanitary certificate provides the Indian government with adequate assurances that the shipments are free of the specified pests.

In 2010, India announced that it would require Additional Declarations to be added to Phytosanitary Certificates for all imported pulses; these Declarations would address the absence of quarantine weed seeds and the absence of soil contamination. India planned on instituting these Additional Declaration requirements March 31, 2011. Since that time, they have granted postponements to allow more time for discussions with trading partners. Given that there is no possibility of certifying that a shipment is absolutely free of weed seeds or soil based on standard sampling procedures, there must be some agreement between the Indian authorities and APHIS on sampling protocols and allowances in order for APHIS to be able to issue Additional Declarations. India has re-imposed penalty fees for shipments that are not accompanied by Additional Declarations. USDA is now reviewing ways in which it can meet India's requirements without diluting the integrity of the SPS process. That is a very positive development that could provide relief on this issue in the not too distant future.

POTATOES – PROCESSED

Issue: Tariffs

U.S. potato growers and processors have identified India as an important growth market for U.S. frozen fry exports based primarily on the expansion of U.S. Quick Service Restaurant chains in the country. India currently applies a 30 percent duty on imported potato products. This applied rate is lower than India's bound rate, but the reduction has been nullified to some extent by the addition and occasional repeal of a variety of "taxes" in addition to the ad valorem tariff.

The current effective duty paid is approximately 50 percent on frozen fries (30 percent tariff, 6-10 percent countervailing duty, 3 percent educational taxes, and 4 percent and 1 percent additional customs duties). These taxes change annually, so the specific taxes currently applied may be different, but the issue is unchanged. It is unclear whether these additional duties are also applied domestically and therefore WTO-compliant.

In recent years, the U.S. potato industry, in coordination with the U.S. Embassy in New Delhi, have requested that India significantly lower its 30 percent duty on frozen potatoes and 30 percent duty on dehydrated potatoes in annual Indian budget cycles when tariffs are set. Although several commodities had their tariffs reduced in March 2011 through this process, the Indian fry tariffs have remained unchanged to date.

In addition to the unilateral tariff reduction, the U.S. potato industry requests that only the tariff (and not the additional duties) be applied on potato imports, unless those taxes are applied domestically as well. To date, no progress has been made on any of these requests.

INDONESIA

ALL PRODUCTS

Issue: Onerous documentation process

Many of Indonesia's regulations related to marketing food are unclear and confusing and therefore either not enforced at all, or are enforced inconsistently. Therefore, it is essential that exporters confer with their local importers and agents to determine current requirements.

A comprehensive law concerning food was signed into force in 1996 that controls domestic production, imports, processing, and distribution of food, but regulations needed to implement the law were issued slowly. The most difficult problem for exporters shipping high-valued products may be the requirement that all imported products be registered with the National Agency for Drug and Food Control (BPOM) to obtain food registration (ML) number. This can be a long and onerous process. Some products require additional approval from BPOM and animal-based food requires an import permit from the Director General of Livestock in the Ministry of Agriculture.

At the end of 2007, the Indonesian government began gradual implementation of the National Single Window, an electronic system that simplifies the process for export and import documentation submission and review. However, BPOM is increasing its documentation requirements. For example, legislation issued in March 2008 requires that every shipment of imported raw materials, food additives, processing aids, and food ingredients be accompanied by an import approval by BPOM. These regulations are restricting trade.

Further, the Indonesians have informed the U.S. government that all companies exporting animal derived products to Indonesia must complete an application containing numerous proprietary questions and submit their plants to inspection by Indonesian authorities in order to comply with Law 18/2009. Law 18/2009 stipulates that all companies exporting animal derived products, including dairy and eggs, to Indonesia will be required to apply for pre-listing. The law was announced in June of 2009 but not fully implemented until 12 months later. Following its implementation, Indonesia began declining to recognize the domestic monitoring programs already in place in the U.S. and other countries.

FRUIT

Issue: Phytosanitary Trade Barrier – Apples, Cherries, and Pears

On March 27, 2006, Indonesia's Minister of Agriculture implemented a decree that regulates the importation of fruits and vegetables. The regulation requires various mitigation treatments for apples to control fruit flies. These regulations were not preceded by any formal pest risk analysis, pest interceptions on imports or immediate evidence of risk to domestic production from U.S. apples.

The regulation disregards important technical facts and international standards by requiring treatment of apples even though some of the pests do not attack apples or the apples come from production areas that are free from the pests of concern. It also requires treatment of apples even though Indonesia does not have host material for some of the fruit flies and lacks a climate suitable for establishment and spread of fruit flies occurring in the Pacific Northwest.

The U.S. government has provided detailed technical information to support its request for revisions to the regulation, beginning with comments that were submitted to Indonesia through the World Trade Organization (WTO) in August of 2005.

In March 2013, Indonesia began stalling U.S. efforts to seek a solution by WTO over a dispute about their fruit import rules. The U.S. has requested to look at Indonesia's restrictive regulations on agricultural imports, but Indonesia blocked the formation of a dispute panel. The U.S. will request this dispute panel from the WTO again in April when Indonesia cannot block the request. Working through the WTO over this dispute could take more than a year to resolve.

Since November 2012, U.S. apples exports to Indonesia have dropped 70% due to an import license system that was created. This new system deals with new inspection and labeling rules on imported fruit. It contains a requirement that all shipments must be verified by Indonesian inspectors upon arrival or by a third-party in the country of origin. Also, all packaging must be written in Bahasa Indonesia, which is the country's official language. It must also carry such mandatory labels as a recycling code.

POTATOES

Issue: Phytosanitary Issues – Fresh Potatoes

The U.S. potato industry is interested in Indonesia as an export market and is seeking transparent guidelines necessary to open the market in 2013. In the spring of 2011, the U.S. potato industry requested that APHIS seek market access for U.S. fresh potatoes to Indonesia. A letter was forwarded to the Government of Indonesia requesting what steps would need to be taken to open the market. A clear response has not yet been received.

Issue: Import Permits and Quotas

In 2011, Indonesia announced new food import regulations that included requiring import permits prior to import for many products, including processed potatoes. The regulation went on to provide reasons when import permits might not be granted, such as when prices domestically were unacceptable or when domestic products were in the market. Such a policy amounts to a quota restricting when product can enter and is not WTO-sanctioned. This policy has caused significant concern among many commodity groups and among numerous countries. The U.S. has requested consultations with Indonesia on their policy at the World Trade Organization.

ISRAEL

FRUIT

Issue: Phytosanitary Trade Barrier – Apples, Cherries, and Pears

Israel does not allow U.S. sweet cherries to enter the country. Concerns regarding plant pests and diseases are said to be the reason. In June of 2002, USDA/APHIS requested Israel conduct a pest risk assessment (PRA) on Pacific Northwest cherries. The countries continue exchanging technical information so that Israel can finish its PRA.

In March 2009, Israel's Plant Protection and Inspection Service informed USDA/APHIS of upcoming changes to the cold treatment requirement for the importation of U.S. apples and pears. Technical exchanges and research have been ongoing since Israel raised its concerns in an effort to avoid phytosanitary mitigation measures that would further restrict U.S. growers from shipping to Israel.

U.S. apple and pear exporters have a long history of shipping to Israel with no report of any detection of live apple maggot or plum curculio, the two primary pests of concern targeted by Israel with the proposed new cold treatment requirements. Bilateral meetings were held the week of August 22, 2011, but the two countries were unable to resolve all of the outstanding issues.

Israel continues to refuse to accept a standard cold treatment that has been in use for other major markets for many years and that has been applied without any failure. Israel did agree to drop plum curculio as a pest of concern and will continue to allow access for U.S. apples and pears under a temporary cold treatment protocol effective until September 1, 2012. There has not been an extension for 2013 as of March 2013. That temporary cold treatment protocol is based on the treatment schedules that the U.S. industry is attempting to make permanent. This continuing uncertainty undermines the market and limits the abilities of importers and exporters to develop long-term or permanent market plans.

Issue: Tariff Rate Quotas

In 1985, the U.S. and Israel signed a Free Trade Agreement (FTA), providing phytosanitary safeguards against import restrictions for agriculture products. In 1996, the U.S. and Israel signed an Agreement on Trade in Agricultural Products (ATAP) which provides a schedule of tariff rates, quotas, and reference prices. The ATAP was extended through the remainder of 2013.

The agreement provides U.S. food and agricultural products access to the Israeli market under one of three different categories: unlimited duty free access, duty free tariff-rate quotas (TRQs), or preferential tariffs, which are set at least 10 percent below Israel's Most Favored Nation (MFN) rates. The agreement also provided for annual increases in the in-quota quantity under the TRQs.

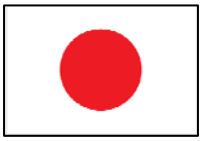
Imports of U.S. apples and pears may enter duty free under a tariff rate quota. The TRQ is measured in metric tons and may be filled throughout the year. The 2013 TRQ for apples and pears is 4000 MT and 1364 MT respectively.

SEED

Issue: Seed potato import

Imports of all seed potatoes from the U.S. are strictly prohibited.

JAPAN



BEEF

Issue: Restrictions on Processed Beef, Ground Beef, and Veal

In December 2003, Japan banned most products derived from cattle, sheep, and goats following the discovery of a cow with BSE in Washington State that was imported from Canada.

Eventually, the two countries agreed to resume two-way trade of beef and beef products, subject to their respective domestic approval processes based on science. In December 2005 Japan officially opened its market to U.S. beef from cattle 20 months and younger with all specified risk materials (brain, spinal cord tissues, and bone marrow) removed.

However, on January 20, 2006, just a few weeks later, Japan once again halted beef imports from the U.S. after an inspection revealed that a shipment of beef from New York contained vertebral columns which were in violation of the agreement between the U.S. and Japan.

The USDA found that due to a lack of understanding by U.S. processing plants and by USDA inspection personnel the veal with the vertebral column intact and the veal offal were mistakenly shipped to Japan. The USDA took several actions in response to the findings of this report including certifying plants to ship specific products rather than issuing blank export certifications; increased training for in-plant inspectors; notifying USDA inspectors of change of a plant’s eligibility three separate times in the certification process; and a second signature on shipments of beef for export unless a trading partner indicates that a second signature is not necessary for U.S. exports to that country.

In June 2007, trade resumed for U.S. beef from animals aged 20 months or younger. This policy was

based on the evaluation of the Food Safety Commission, a group of independent experts that evaluates the risk level of the disease in Japan.

In April 2010, the Obama administration reopened negotiations on American beef with the aim of getting Japan to agree to allow the import of beef from cattle less than 30 months old. The Ministry of Health, Labor and Welfare initiated a risk assessment process to measure whether or not there would be a difference in the level of risk if the age were changed from 20 months to 30 months. After a lengthy review, Japan changed the policy effective Feb. 1, 2013. For under-30-month cattle slaughtered on or after this date, all beef and veal muscle cuts and offals are eligible for export to Japan. Beef from cattle imported from Canada and Mexico are also eligible. This change is an extremely positive development for the U.S. beef industry, making nearly all of its fed slaughter cattle eligible for export to Japan.

Some U.S. products remain ineligible, even from cattle meeting the age eligibility standard. These include processed beef and veal, ground beef, veal, and advanced meat recovery products containing beef and veal. These products will be considered for inclusion at a later time. Specified risk materials are now defined as tonsils, and the distal ileum of the small intestine.

Issue: Tariffs and Safeguard

Under the 1988 U.S.-Japan Beef and Citrus Agreement, beef tariff reductions were negotiated and the import quota system was removed. The 394,000 metric ton quota in fiscal 1990 became a 70 percent import tariff in 1991. Under the agreement, this rate was lowered to 60 percent and then to a bound rate of 50 percent. The agreement also removed restrictions on the purchasing and distribution of beef. The Uruguay Round on Agriculture further lowered the tariffs from 50 percent to 38.5 percent in 2001.

Japan continues to have tariff rate safeguards in place for beef. If cumulative beef imports on a quarterly basis exceed the imports of the quarter of the previous year by 17 percent then the beef tariff increases from 38.5 percent to 50 percent. Japan uses 2002-2003 data as the baseline for chilled beef, so the tariff rate on chilled beef is unlikely to be affected. However, triggering the higher tariff rate for frozen beef is a concern in 2013.

DAIRY PRODUCTS

Issue: Tariff Rate Quotas

Japan limits worldwide dairy product imports through a restrictive quota system. Imports within the quota are also assessed excessive duty rates. Within quotas, tariffs range from 0 to 35 percent, with the 35 percent rates applicable to products containing added sugar as well as high-fat products.

H.S. Code	Product description	Quota	Tariff
0404.10.1110	Whey with added sugar (6.48)	137,202 MT	35%
0404.10.1191	Whey without added sugar (6.48)		25%
0404.10.121	Whey, mineral concentrated with added sugar	14,000 MT	35%
0404.10.122	Whey, mineral concentrated without added sugar	14,000 MT	25%
0404.10.129	Mineral concentrated whey outside quota		29.8% + 425￥/kg
0404.10.131 0404.10.141	Whey for animal feed	45,000 MT	0
0406.20.200	Grated or powdered cheese (not processed)	0	26.3%

FRUIT

Issue: Apples – Phytosanitary Restriction

Japan maintains a fumigation requirement on U.S. apples, which significantly increases the cost and reduces the quality of apples shipped to Japan.

Issue: Cherries – Phytosanitary Restrictions

U.S. cherry exports to Japan have required fumigation with methyl bromide to control codling moth since the export program began in 1978. In the past, Japan has been unwilling to eliminate this costly fumigation requirement and inspection program despite evidence demonstrating minimal risk of transmitting codling moth.

Based on USDA research that demonstrates that cherries are not a suitable host for codling moth, the U.S. requested that Japan remove the specific treatment requirement for sweet cherries. In its place, the U.S. government submitted a systems approach to the Japanese government for consideration, which combines post-harvest commodity inspection with good orchard pest management practices. The industry has supplied documentation that the proposed systems approach provides quarantine security, which is equivalent or better than that provided by methyl bromide fumigation.

Washington, Oregon, and California have been in continuing negotiations with Japan and in 2005 the Pacific Northwest industry conducted a pilot program at the request of MAFF to demonstrate the efficacy of a systems approach. This project continued in 2006 with the California cherry industry. The Pacific Northwest continued to press Japan to lift the fumigation requirements and in July of 2009, Japan agreed to allow cherries from orchards in Washington, Oregon, and California that use traps to monitor pest levels, rather than fumigate for them. Without fumigation, the shelf life of cherries increases, making the cherries more marketable.

Idaho has not yet been added to the list of states allowed to export without fumigation. Idaho cherry exporters participated in the pilot program in 2010. MAFF is now done with the technical reviews of the program and has started drafting the regulation change to include Idaho. Due to issues resulting from the tsunami in 2010, the rule making process to allow cherries from Idaho was not able to move forward as quickly as anticipated in 2011. MAFF decided in early 2012 that it would not be possible for Idaho to be added to the list for the 2012 season. The decision for the 2013 season has not yet been made.

The inspection program is very costly to exporters. Currently, exporters must pay for all the costs of Japanese inspectors to travel to the U.S. to inspect the product.

Issue: Pears – Phytosanitary Restrictions

Imports of U.S. pears into Japan are prohibited for plant quarantine reasons such as fire blight.

Issue: Tariffs

Japan imposes import duties of 8.5 percent ad valorem on cherries, 17 percent ad valorem on apples, 6.0 percent ad valorem on nectarines, and 4.8 percent ad valorem on pears.

POTATOES – FRESH TABLE STOCK

Issue: Phytosanitary Ban

Japan prohibits imports of U.S. fresh table stock potatoes. The US potato industry in 2013 has officially requested that USDA include opening the Japanese market for U.S. table stock potatoes on the

bilateral agenda for the next plant health negotiations. These meetings will be held in Japan in the summer of 2013.

POTATOES – FRESH CHIPPING

Issue: Phytosanitary Restrictions

In April 2006, potato cyst nematode (PCN) was found in a soil sample collected from a potato processing facility in Idaho. This was the first time the potato cyst nematode had been found in the United States. The nematode does not pose a threat to human health but can reduce the yield of potatoes and other crops. Scientists from USDA APHIS and ISDA conducted extensive soil sampling to determine the extent of PCN in Idaho and established a regulated area within Idaho with strict protocols. An eradication program using fumigation and other methods has also been established. Eradication may take many years.

Although processed potatoes are not considered a source for infection because nematodes cannot survive the cooking process, Japan immediately banned shipment of chipping potatoes from the United States. The market was reopened in February 2007 for all original shipping states except Idaho. The market has grown steadily since that time with over $9 million exported in 2012.

Idaho remains banned due to the PCN find. APHIS, the U.S. potato industry, and ISDA have all worked each year to reopen the Japanese market for counties beyond the PCN control area. Several questionnaires have been returned and another is pending in 2013. Idaho has invited Japan MAFF officials to visit the PCN control program.

POTATOES – PROCESSED

Issue: Tariffs

Japan's tariff on frozen fries is 8.5 percent. Japan's tariff on dehydrated potato flakes, granules, and pellets (HS 1105.2) is 20 percent. And Japan's tariff on mashed potato and potato flakes (HS 2005.2) is 13.6 percent. The U.S. potato industry is seeking to have all of these tariffs immediately eliminated as part of Japan's participation in the Trans Pacific Partnership regional negotiations. Japan has not yet agreed to join the TPP talks, but Japan Prime Minister Shinzo Abe expresses great interest in participating in these talks. The U.S. potato industry strongly supports Japan's TPP participation.

PROCESSED FOODS

Issue: Food Additive Restrictions

Japan requires the review of all emulsifiers, coloring agents, and artificial flavors in processed foods. Many items that are commonly used in the United States, such as some food coloring and preservatives, cannot be used in Japan and foods containing even traces of such additives cannot be imported. In addition to the general assessment of an additive's safety, it is approved for use on specific products. Some products have difficulty at customs due to food ingredient discrepancies. The Oregon Export Service Center is the laboratory closest to Idaho that is authorized by the Japanese government to pre-approve food and agriculture products for the Japanese market.

Contact information for the Oregon Export Service Center is:

Food Innovation Center, Regulatory Lab and Export Service Center
1207 NW Naito Parkway, Suite 204, Portland, OR 97209-2851
Phone: (503) 872-6644, E-mail: esc-info@oda.state.or.us

SEED

Issue: Phytosanitary Restrictions

Japan has zero tolerance for any isolated soil in seed shipments. The Ministry of Agriculture, Forestry, and Fisheries (MAFF) feels that the difficulty in removing all soil from seed has been addressed through improvements in machine technology to the degree that they are now fully enforcing the zero-tolerance standard.

Also, Japan will refuse to issue a phytosanitary certificate if seeds are contaminated with more than 0.05 percent (weight ratio) of Claviceps (ergot) sclerotia and if contaminated with more than 0.01 percent (weight ratio) of Sclerotinia sclerotia.

KOREA

BARLEY-MALTING

Issue: Tariff Rate Quota

In the past, South Korea has used quotas to encourage the purchase of domestic malting barley and discourage imports even though domestic barley may cost as much as four times that of imported malting barley. Korea has an autonomous tariff rate quota (TRQ) of 21,000 tons and applied tariffs of 20 percent in-quota. Korea's out-of-quota tariff and WTO bound duty is 513 percent.

The Korea-U.S. Free Trade Agreement implemented March 15, 2012, increases access for all U.S. barley substantially. In the first year of the agreement, the United States was able to export 9,000 tons combined of unroasted malt and malting barley into Korea duty free. This 9,000 tons duty-free quota grows 2 percent each year through year 15, at which time all U.S. shipments of malt and malting barley will enter duty free. This provides the United States a 10 percent tariff advantage over competitors for malt and 20 percent for malting barley. At a minimum, this will keep the United States on a level tariff playing field if Korea concludes similar FTA agreements with Canada, the European Union, and Australia.

The agreement also creates a 2,500-metric ton duty-free quota for U.S. unhulled and naked barley, which gives the United States a tariff advantage over competitors such as Australia and China. The quota increases 2 percent per year while the out-of-quota tariff is phased out over 15 years.

BEEF

Issue: Tariffs

High tariffs have been a significant impediment to beef trade. The Korea-U.S. Free Trade Agreement, implemented March 15, 2012, significantly cuts these tariffs. Tariffs on imports of beef muscle cuts will decline from the current 40 percent to zero in 15 equal annual reductions. The agreement includes a quantity safeguard of 270,000 metric tons for beef muscle cuts, growing at a compound 2-percent annual rate to a final safeguard level of 354,000 tons in year 15. In year 16 and beyond, tariffs will be zero and the safeguard will no longer apply. Korean tariffs on beef offal also decline from their current levels of 18 and 27 percent in 15 equal annual reductions. Offal trade faces no

safeguards.

DAIRY

Issue: Tariff Rate Quotas

The Korea-U.S. Free Trade Agreement, implemented March 15, 2012, significantly increases access. The agreement creates TRQs for dairy products that double the levels prior to the agreement. The TRQ established for cheese, with an initial duty-free quantity of 7,000 tons, grows 3 percent annually. Over-quota tariffs on cheddar cheese are eliminated over 10 years, and over-quota tariffs on all other cheeses are eliminated over 15 years. The TRQ for skim milk powder, whole milk powder, and evaporated milk has an initial duty-free quantity of 5,000 tons total, growing 3 percent annually in perpetuity. The over-quota tariffs on these milk products remain unchanged at the MFN rates, ranging from 89 to 176 percent. The TRQ for food-grade whey has an initial duty-free quantity of 3,000 tons, growing 3 percent annually. The over-quota tariff for food-grade whey was reduced from 49.5 percent to 20 percent upon implementation of the agreement and is phased out over 10 annual reductions. The agreement establishes a TRQ of 200 tons for butter and a TRQ of 700 tons for infant foods, with both of these quotas growing at 3 percent, and becoming duty free in 10 years. The 36-percent tariff on whey blends is phased out through 10 annual reductions. Feed-grade whey became duty free immediately.

FRUIT

Issue: Apples -Phytosanitary Ban

Korea prohibits the import of U.S. apples due to phytosanitary concerns such as codling moth and fire blight. APHIS has been negotiating with Korea to authorize imports of U.S. apples since 1993. In 1996, Korea submitted to APHIS a U.S. apple pest risk assessment (PRA) that identified 13 pests, including three spider mites (Yellow, Pacific, and McDaniel) of quarantine concern, and requested a proposal for the appropriate mitigation measures. U.S. industry maintains that the risk from pests of concern can be successfully mitigated and commercial shipments of fruit do not pose a threat to Korea's plant health.

Issue: Cherries – Fumigation Requirement

Idaho cherries from Ada, Canyon, Gem, Payette, Twin Falls, and Washington counties can be exported to Korea with methyl bromide fumigation to control codling moth and other pests of quarantine concern. In June 2008, the industry proposed and submitted a systems approach for the Northwest (Washington, Oregon and Idaho) which provides quarantine security that is equivalent to that provided by methyl bromide fumigation. Research demonstrates that cherries are not a suitable host for codling moth. Korea has not accepted the systems approach and negotiations continue.

Issue: Pears – Phytosanitary Ban

Korea prohibits imports of U.S. pears due to five quarantine pests identified in a pest risk assessment (PRA). The development of feasible mitigation measures to address Korea's pest concerns are under consideration by the U.S. pear industry.

Issue: Tariffs

The applied tariff rates for fruit were: Apples - 36 percent, Pears - 36 percent, and Cherries - 24 percent. The Korea-U.S. Free Trade Agreement, implemented March 15, 2012, decreases tariffs. Tariffs on U.S. fresh cherries were eliminated immediately. Import tariffs of 36 percent on U.S. apples, excluding the Fuji variety, will have a 10-year phase-out and tariffs on Fuji apples will have a 20-year phase-out. The agreement also includes an initial quantity safeguard of 9,000 tons that increases in

year 5 to 12,000 tons, growing 3 percent annually thereafter to 20,429 tons in year 23, after which the safeguard no longer applies. Beginning in year 11, the safeguard only applies to Fuji apples. Korean tariffs on non-Asian pear varieties will be eliminated in 10 years, and in 20 years for Asian pear varieties.

ONIONS

Issue: Tariff Rate Quota

Korea restricts onion imports through high tariffs and limiting quotas. The WTO in-quota tariff rate is 50 percent until the quota of 20,645 MT for world markets is met. At that time, the tariff jumps to 135 percent.

When the Korea-U.S. FTA was implemented, a 2,904 MT safeguard for U.S. onions was established in the first year ending December 31, 2012. Onions that entered under the safeguard amount were assessed a 126 percent tariff the first year with a 135 percent tariff over the safeguard amount.

Each year, the safeguard amount increases and the duty applied to quantities that enter within the safeguard amount decreases. By the tenth year (2021), the duty for U.S. onions (45 percent) within the safeguard amount is less than the WTO in-quota rate of 50 percent. The safeguard will increase to 5,808 MT in the fifteenth year. After the nineteenth year of the agreement, the safeguard is removed and all quantities enter duty-free.

POTATOES

Issue: Tariffs

The U.S.-Korea Free Trade Agreement has resulted in zero duties on U.S. fries exported to Korea; a new annual reduced quota for dehy flakes which will provide incremental additional market access; a reduction in dehy blended product tariffs, and a U.S. only quota for fresh potatoes. As the KORUS is implemented in the years ahead, additional tariff reductions will occur.

POTATOES – FRESH

Issue: Phytosanitary Restrictions

In August 2012, Korea closed its market for Pacific Northwest table stock and chipping potatoes due to the presence of zebra chip in the region. Zebra Chip is a disease that is found in potatoes caused by the bacterial pathogen Candidatus Liberibacter solanacearum, which is inserted by the psyllid insect. This disease is not harmful to humans and potato chips that contain this disease darken when fried. In the early 1990's, Texas had experienced this disease not knowing the causes of it. Since then, it has been discovered in different states including Idaho. In October, after intensive negotiations, Korea reopened the market for PNW chipping potatoes including Idaho. The market for fresh potatoes remains closed. This is especially frustrating due to the new access available under the KORUS FTA.

MEXICO

CATTLE

Issue: Restrictive Protocols for Live Cattle

Mexico lifted the ban on U.S. beef cattle in May 2008, but as the country insists on accepting only slaughter cattle up to 30 months of age, APHIS does not have a negotiated protocol in place with Mexico's Food and Drug Administration (SENASICA) for slaughter cattle of any age and no slaughter cattle are exported to Mexico. The U.S. has a breeding cattle protocol in place and Mexico will accept any breed, dairy or beef, of any age. Many of the agreed protocols are fairly standard for international trade. A summary of the regulations can be found at http://www.aphis.usda.gov/regulations/vs/iregs/animals/downloads/mx_bo_br_us-ca.pdf.

Fifteen days prior to the scheduled date for the arrival of the animals to Mexico, the importer should notify the Mexican authorities to coordinate inspection activities (the Food and Grain Inspection Agency (DGIF), SENASICA's Mexican-American Commission, and Mexico's federal cattle identification system (SINIIGA)'s authorized window). The animals will be verified in facilities authorized by Mexico's Secretary of Agriculture, Livestock, Rural Development, Fishing, and Food (SAGARPA). DGIF personnel will then seal the shipment of the imported animals and issue the import animal health certificate. The shipment must be sealed after the animals are inspected.

All breeding cattle being exported to Mexico must be accompanied by a U.S. Origin Health Certificate in English and Spanish. This certificate must be issued by a USDA veterinarian and endorsed by a Veterinary Services veterinarian. The certificate is available at: http://www.aphis.usda.gov/regulations/vs/iregs/animals/downloads/mx_bc_pro_ab.pdf

FRUIT

Issue: Phytosanitary Trade Barrier – Cherries

The government of Mexico requires a monitoring program (trapping) for Rhagoletis indifferens (western cherry fruit fly). USDA APHIS has provided information to Mexico's Sanidad Vegetal pointing out that in 1995 a NAFTA Technical Working Group concluded that the western cherry fruit fly was not of economic importance to Mexico, given the country's extremely limited scope of cherry production. Also, given the distribution of the pest in California, the fly is not ecologically adapted to the climate of northern Mexico's fruit growing areas. Mexico's concern is apparently for a native species, capulin cherry, which is used as an indigenous food. USDA APHIS has proposed an existing fruit sampling protocol for the western cherry fruit fly in lieu of trapping.

Issue: Stone Fruit (Peaches, Nectarines, Apricots) On-Site Inspections

In 1997, a pilot program was signed by Mexico and the U.S for the export of unfumigated peaches and nectarines from California. Continual discussions occurred, allowing California stone fruit and Northwest (Idaho, Oregon, and Washington) apricots into Mexico in 2002 under a systems approach program with registered packing facilities. The low prevalence of Oriental Fruit Moth (OFM), documented in three technical visits by Mexican officials, allowed the avoidance of oversight costs (a U.S. office). Slight program modifications were made in 2003 and 2004.

Peach and nectarine growers in Idaho, Oregon and Washington are seeking access to the Mexican market under a systems approach. These same growers currently ship apricots to Mexico under a systems approach for OFM and also have been successful in exporting peaches and nectarines to British Columbia, Canada, under the this OFM system approach protocol proposed to Mexico. OFM has never been discovered in stone fruit shipments to British Columbia, Canada, or in apricots to Mexico. Mexico requires the presence of on-site inspectors to monitor the program. This is not required for the apricot systems approach and is not needed for the peach and nectarine program. Mexico has explained that in order for the on-site verification requirement to be dropped, it must first change its federal regulation making this a requirement. The NHC requests that USTR and USDA FAS work with the Mexican government to make this regulatory change. This process has also followed in order for apricots to be exported to Mexico without the on-site inspector requirement.

POTATOES – FRESH

Issue: Border Zone Limitations

Expanding fresh potato market access into Mexico is the U.S. potato industry's highest international market access priority. In March 2003, through a bilateral agreement, U.S. fresh potato market access was granted to the border region of Mexico (to an area within 26 km of the U.S.-Mexico border). In 2012, the border restriction was still in place, and fresh potato exports to that region reached $40 million, making it the second largest fresh potato export market for the U.S. potato industry (behind Canada).

While the U.S. industry considers access to the border region important, the 26-km border restriction is not based on any phytosanitary justification; rather, it was a political concession agreed to by USDA and the U.S. potato industry to reopen the Mexican market. In exchange for this concession and a commitment to open the U.S. market for Mexican avocadoes, Mexico committed to open its market for U.S. potatoes to the Northern States of Mexico by 2005 and to discuss access to the rest of Mexico in 2006. The U.S. opened its market for Mexican avocadoes and shipments have since exceeded $2 billion; however Mexico has not opened its market for U.S. fresh potatoes.

Throughout the summer of 2011, a North American Plant Protection Organization mediation panel heard the Mexican and U.S. cases on expansion. In July 2011, the panel found many of Mexico's arguments against expansion invalid. A final panel meeting was scheduled for late August 2011 but the panel was not able to mediate a complete agreement between the U.S. and Mexico. The panel submitted a final report and two subsequent meetings took place with Secretary Vilsack and Secretary Mayorga in December 2011 and January 2012. After the failure to reach an agreement during mediation, U.S. industry believed resolution of the issue would be achieved at the political level. Discussions are continuing at a very high level between the U.S. and Mexico.

PHILIPPINES

POTATOES

Issues: Table Stock Potatoes – Phytosanitary Concerns

Although some U.S. chipping potatoes enter the Philippines, table stock potatoes are prohibited. For the past two years, the U.S. potato industry has sought market access for U.S. table stock. The

Philippines has conducted a pest risk assessment on U.S. table stock potatoes and visited the U.S. potato industry in July 2012. Market access negotiations occurred in March 2013 on this issue. It is hoped the market will open in 2013.

RUSSIA

DAIRY

Issue: Health Certificate, Plant List, and Individual Plant Inspections

Since October 7, 2010, U.S. dairy products have been shut out of Russia. The U.S. and Russia have not been able to agree on a dairy certificate due to Russian demands for U.S. certification to various statements that cannot be fully verified and/or do not have a firm scientific underpinning. Throughout 2010 and 2011, the U.S. government sought to engage the Russians in further negotiations towards a valid dairy certificate that U.S. exporters could rely upon. A complication emerged after a new Russian regulation took effect in late 2008 that required foreign governments to certify compliance of facilities with all various Russian regulations. This type of expansive demand is currently beyond the certification capability of the U.S. government and an appropriate demand by a foreign government.

Russia has also asked the U.S. government to provide a list of all plants that meet Russia's technical regulations. Many of the requirements in Russia's regulations are more prescriptive than Codex. For example, Russia's regulation requires raw milk to be refined and cooled to a temperature of 4°C, plus or minus 2°C, within 2 hours. On this one point alone, all U.S. plants could be excluded since U.S. regulations require cooling to 7°C, even though the U.S. system is compliant with Codex recommendations in the Code of Hygienic Practice for Milk and Milk Products. Codex allows for deviations from its recommended temperature of 6°C for milk collected on a daily basis as long as those deviations will not result in an increased risk of microbiological hazards, have been approved by the manufacturer receiving the milk, have been approved by the competent authority, and the end product will still meet the microbiological criteria. Russia's regulations also require milk not to be collected for the first seven days after calving, despite the fact that Codex documents contain no specified time period. In addition, Russia has a zero tolerance level on tetracycline residues in all dairy products while the tolerance established by Codex is 100 ppb in raw milk only. Russia's insistence that all foreign trade partners comply with their overly-prescriptive regulations continues to be a stumbling block in U.S. attempts to negotiate market access.

The plant inspection requirement demands the ability of Russian inspectors to be able to physically inspect every single U.S. dairy exporting facility shipping to Russia. NMPF and USDEC have long maintained that this is not practical and not necessary given the extensive inspection and oversight system in place throughout the U.S. for all dairy products. This system provides the product safety assurances necessary, in conjunction with Russia's undisputed right, as any country maintains, to test products for compliance with domestic health and safety regulations. The willingness of other sectors and other countries' dairy industries to submit to this demand over the past two years has frankly complicated the U.S. dairy industry's efforts to stress the value and soundness of the existing inspection system.

BEEF/PORK

Issue: Ractopamine

In order for U.S. beef and pork to be exported to Russia, it must be tested and certified free of the feed additive ractopamine. Ractopamine is a drug that is used as a feed additive to develop leanness in animals that are raised for their meat. It is an acceptable production practice approved within CODEX. Russia began enforcing a zero tolerance in December 2012 effectively closing the market to U.S. beef. On December 8, 2012, United States Agriculture Secretary Tom Vilsack and United States Trade Representative Ron Kirk said the following about this issue:

"The United States is very concerned that Russia has taken these actions, which appear to be inconsistent with its obligations as a member of the World Trade Organization (WTO). The U.S. calls on Russia to suspend these new measures and restore market access for U.S. beef and pork products. The U.S. sought, and Russia committed as part of its WTO accession package, to ensure that it adhered rigorously to WTO requirements and that is would use international standards unless it had a risk assessment to justify use of a more stringent standard. Especially in light of its commitment to use international standards, this is an important opportunity for Russia to demonstrate that it takes its WTO commitments seriously."

The USDA has asked Russia to allow the trade to continue until technical discussions have been concluded. Russia continues to state that it has banned ractopamine and will test all shipments of meat products for residues.

SOUTH AFRICA

FRUIT

Issue: Phytosanitary Barriers – Apples, Cherries, and Pears

Pacific Northwest apples first gained market access to South Africa in 2009, but only for apple fruit originating from orchards that are declared pest free for Rhagoletis pomonella (apple maggot). During the 2010-2011 season, numerous containers of apples exported to South Africa were detained for reported quarantine pest finds. Notifications from South Africa of alleged interceptions are generally lacking in sufficient detail and are often issued many weeks after the interception. This severely limits the U.S. industry in any efforts to research the issue and to correct a problem, should one exist. Additionally, South Africa has failed to respond to a USDA request to amend the market access agreement now in place for Pacific Northwest apples with a cold treatment protocol. Such a protocol would permit the export of apples originating from areas regulated for apple maggot. That request was first issued in June 2010.

South Africa currently prohibits the importation of cherries and pears from the United States due to a number of phytosanitary issues.

TAIWAN (ROC)

FRUIT

Issue: Apples – Phytosanitary Restriction

U.S. apple exports to Taiwan are subject to pest-free phytosanitary certification requirements for the following pests: (1) codling moth, (2) apple maggot, (3) plum curculio, (4) western flower thrips, and (5) fire blight.

U.S. regulatory authorities have provided Taiwan with U.S. research demonstrating that the risk associated with codling moth transmission and establishment in Taiwan via U.S.-origin apples is extremely low. During a technical bilateral held in January 2011, Taiwan agreed to evaluate an alternative penalty structure proposal. The United States submitted a new proposal to Taiwan in February 2011; however, industry had some concerns with the proposal, modified the contents, and submitted a suggested work plan at a December 2011 bilateral. Taiwan rejected the proposed work plan and provided technical comments to USDA/APHIS at the beginning of 2012. Negotiations and revisions to the work plan continue.

A USDA Animal and Plant Health Protection Service technical document finished in October of 2006 supports industry's position. The document is titled Quantitative risk assessment for the introduction and establishment of codling moth, Cydia pomonella (Linnaeus) (Lepidoptera:Tortricidae), associated with apples exported from the Pacific United States (including the states of Idaho, Oregon, Washington and California) to Taiwan. The results of this assessment demonstrate that based on the environmental requirements for codling moth to complete its lifecycle, the climate in Taiwan and the very low rate of CM infestation, apple shipments from the U.S. are a very low risk pathway for codling moth establishment in Taiwan.

Issue: Tariffs

Tariffs are 20 percent for apples, 10 percent for pears, and 7.5 percent for cherries. With Taiwan's WTO accession in 2002, import quotas were lifted on fresh fruit imports from Argentina, Australia, Chile, Japan, Korea, New Zealand, and South Africa. This increased competition for the Taiwan market.

FRUITS AND VEGETABLES – FRESH

Issue: Pesticide Tolerances

In 1999, Taiwan proposed significant changes in the allowable pesticide tolerance levels and testing requirements for fresh produce. Applications to establish maximum residue levels (MRLs) on various chemicals were closed in 2000. Several hundred applications were submitted.

Many pesticides used in the United States have not been assigned Taiwan MRLs. As a result, there is the risk that U.S. shipments will be stopped when they have legally applied a pesticide in the U.S. because there is no MRL in Taiwan. Currently, the U.S. has over 10,000 MRLs, while Taiwan only has 1,000-2,000. Taiwan has committed to expanding its pesticide MRL list. There are 248 MRLs established leaving thousands of tolerances approved in the U.S. not covered in Taiwan. The Taiwanese authorities have detained shipments of U.S. products (fruits and grains) due to residue violations. In some cases press conferences were held regarding the violation undermining the reputation of such products to the Taiwanese consumer.

USDA and EPA are working cooperatively with Taiwan on this issue and are seeking a solution that would be acceptable to both parties. Possible solutions might involve Taiwan deferring to Codex or exporting country MRLs when they do not have a MRL established, it might involve setting up provisional MRLs in Taiwan similar to what Japan did in 2006 or it might involve only testing for the pesticide MRLs established in Taiwan. However, DOH has been unwilling to defer to the Codex or U.S. MRL on an interim basis.

LAMB

Issue: Scrapie

The market for U.S. lamb is closed. Although it is a niche market, there is demand from Mayfull Foods for natural lamb from Idaho. The issue has been raised off and on for the past several years. The U.S. sent an official letter in August 2011 requesting that Taiwan reopen the market to lamb but discussions had taken a back seat to other higher priority issues including ractopamine in beef. USDA APHIS in DC along with meat industry representatives are reengaging in the process now that the beef issues are resolved. It is hoped that the lamb issue can now move back up the priority list.

Initially banned in conjunction with beef over the finding of BSE in a dairy cow in December 2003, the market remains closed due to requirements that the sheep originate from farms that have been scrapie-free for at least seven years under Taiwan's "Quarantine Requirements for the Importations of Animals or Animal Products". Taiwan's "scrapie free" definition follows the OIE standard (World Animal Health Organization --- Office of International Epizootics). Transmissible spongiform encephalopathy (TSE) scrapie affects the nervous system of sheep and goats but is not transmissible to humans. Scrapie is not considered a zoonotic disease; therefore, edible products exported from scrapie-infected countries, regions or zones should not be restricted. According to USDA and USMEF, the next step to re-open the market is for AIT to submit an official application to the Government of Taiwan.

POTATOES – FRESH

Issue: Phytosanitary Restrictions

Exports of U.S. fresh potatoes are limited to six states: Idaho, Oregon, Washington, Alaska, Montana, and California, with Colorado on the verge of being approved to ship table stock within the 2013 calendar year.

Taiwan requires that fresh potatoes be field inspected for late blight. This is unique among international potato trade protocols and increases the cost of doing business with Taiwan. Late blight (Phytophthora infestans) is a serious potato pathogen. This pathogen exists in the U.S. When market access was first granted for U.S. fresh potatoes to Taiwan in the late 1990s, Taiwan expressed concern over this pest and required that U.S. potato fields with product destined for Taiwan be pre-inspected during the growing season to ensure late blight did not exist. This pre-inspection costs time and money and requires that product be segregated for Taiwan. Often growers have all of their fields inspected to avoid the segregation issue. At times, due to increased demand in Taiwan, pre-inspected product has run out, thus limiting U.S. exports to Taiwan. There is no storage or on-site shipment inspection allowed.

This issue was raised in the U.S.-Taiwan bilateral held in Taichung, Taiwan in January 2011. Taiwan refused to eliminate the late blight field inspection, but was amenable to adjusting the field inspection requirement to allow pest control advisors (PCAs) to conduct the inspections, instead of state officials. Such a change will allow for an easier process with significant savings. Specific details are being negotiated. Likely some sort of affidavit will be needed by the growers from the PCAs.

In 2013, Taiwan announced it was planning to add additional import requirements on U.S. potato imports due to the presence of zebra chip in the region.

THAILAND

FRUIT

Issue: Tariffs

Tariffs are 10 percent for apples, 30 percent for pears and 40 percent for cherries (ad valorem). As a result of the ASEAN-China Free Trade Area, the U.S.'s largest competitor, China, has been able to export competitive products to Thailand duty free since 2003. Under the free trade agreement between Thailand and New Zealand, New Zealand apples and pears also have duty-free access.

Issue: Plant Quarantine Regulations

On August 28, 2008 Thailand's Plant Quarantine Act (No. 3) B.E. 2551 went into effect, strengthening the quarantine practices for imported fresh fruits and vegetables from all exporting countries. Imports are classified as being restricted, prohibited, or unprohibited. The regulations could potentially prohibit the import of a broad array of plant products based on their potential to act as a host to a quarantine pest.

One of the major concerns is that in the prohibition list, deciduous tree fruit grown in parts of the U.S. is listed as a host of tropical fruit flies that do not exist in the growing areas. Prohibited articles that have previously been imported are exempt until the completion of a Pest Risk Analysis (PRA).

The Thai Department of Agriculture (DOA) granted a request by the U.S. Department of Agriculture to waive the PRA requirements for 19 products dependent on DOA review of industry PRAs. As a result of the PRA waiver, some U.S. products were subject to previous import requirements. These products included apples, apricots, cherries, currants, figs, grapes, nectarines, peaches, pears, plums, prunes, strawberries, sorghum grain, sorghum seed, sweet peppers, and eggplant.

The DOA completed PRA process for U.S. potatoes, including seed potatoes, potatoes for processing, potatoes, and also fruit for consumption in 2009. This has been the only progress made. Import requirements did not change during 2012.

LAMB

Issue: BSE

The Department of Livestock Development (DLD) of Thailand prohibits the entry of any U.S. sheep or goat meat. In December 2003, after finding the first BSE case the DLD placed a ban on all kinds of carcasses from ruminant animals (including goat and sheep). In early 2006, the DLD lifted the ban on boneless beef and beef products, but the ban remains in place for goat and sheep. Thailand does, however, allow cooked lamb product to be imported as long as the country of origin/birth is approved by the Government of Thailand (GOT); and cooked in a USDA facility. As of March 2013, Thailand is still working with FAS/BKK on U.S. lamb being eligible for import.

POTATOES – PROCESSED

Issue: Tariffs

Thailand's bound duty is 30 percent on most processed potatoes including frozen french fries and

potato flakes. The tariff is one of the highest in the region. The American Potato Trade Alliance (APTA) has requested that Thailand reduce its ad valorem tariff on HS 2004.1 to 10 percent or less. The United States and Thailand began Free Trade Agreement negotiations in 2004 but suspended them in 2006. Thailand has expressed interest in joining Trans Pacific Partnership (TPP) negotiations, but several steps need to be taken for this to occur, and follow up steps to this announcement have not yet taken place.

VENEZUELA

ALL PRODUCTS

Issue: Import Permits

An import permit is required for all agricultural products. This is not a result of phytosanitary concerns. These import permits are not assigned equally to all exporters and result in unfair trade. Following years of discussions, temporary agreements and unsuccessful negotiations on improving the import system in Venezuela, USTR raised concerns with the WTO in 2002, but trade distorting import practices remain in place.

Import licensing practices prevent entry of $200 million in U.S. agriculture products for goods including dairy products, fruits, and beef annually. Venezuela has failed to establish an open and predictable system for issuing import licenses which has led to application processing delays and with the exception of a brief period in 1994, has failed to publish rules and information on licensing procedures.

Import licenses are valid for four, six or twelve month periods, and are renewable. When applying for a license, local importers are required to submit a monthly list of imports received, indicating volume and value, along with the balance of the allocated quota along with the invoice of the most recent import. Local importers are required to obtain the “certificate of non-domestically produced food product” and the “certificate of insufficient domestically produced food product” from the Ministry of Light Industry and Trade (MILCO), in order to obtain import licenses.

U.S. exporters must consider the long time frames between the process of obtaining an import license by a local importer, and the final shipment of the product. The process of obtaining an import license is involved and takes a considerable amount of time and resources from the local importer.

A special office to process import licenses along with other necessary certificates was opened in March 2008 to improve the efficiency of the application process. In spite of the office, obtaining import permits still takes a considerable amount of time.

FRUIT

Issue: Tariffs

Tariffs for apples, pears, and sweet cherries are 15 percent. U.S. fruit trade is limited by tariffs, the import permit system, and the duty free access negotiated by the Andean Community (Bolivia, Colombia, Ecuador, Peru, and Venezuela), Mercosur (Argentina, Brazil, Paraguay, and Uruguay) and Chile.

VIETNAM

FRUIT

Issue: Tariffs

Under the terms of its WTO accession agreement reached May 2006, Vietnam agreed to gradually reduce its tariffs between January 1, 2010 and January 1, 2012. The final reduction left tariffs for apples, pears, and cherries at 10 percent. Industry is pressing to reduce the tariffs to zero in order to be able to better compete with Australia and New Zealand who have duty-free access under the ASEAN Free Trade Agreement.

PEAS

Issue: Tariffs

Opportunities for sales of whole green peas into the Vietnamese market for use in making fried and extruded snacks would exist if the tariffs were eliminated or significantly reduced. On January 11, 2007, Vietnam became the 150th member of the World Trade Organization (WTO). Vietnam's bound duty on peas (H.S. 07081000), beans (H.S. 07082000), and other leguminous vegetables (H.S. 07089000) in the negotiated WTO accession agreement was slated to fall in equal annual increments from the pre-accession level of 30 percent to 20 percent by 2010. However, the duty on dry peas and other pulses was further reduced to 10 percent through the efforts of U.S. Government and other pulse suppliers.

The USA Dry Pea & Lentil Council supports ongoing negotiations to move the Vietnam tariffs on dry peas, lentils, and chickpeas to zero.

POTATOES – PROCESSED

Issue: Tariffs

In 2006, the U.S. and Vietnam reached an agreement on Vietnam's accession to the World Trade Organization (WTO). In that agreement, Vietnam agreed to reduce its 40 percent tariff on frozen fries to 13 percent over six years and its 40 percent tariff on potato chips to 18 percent over five years. As of 2013, the lower tariff levels are in effect. Sales have increased and are expected to continue as the Vietnamese economy grows. The U.S. potato industry has requested that these tariffs be entirely eliminated through the current Trans Pacific Partnership (TPP) talks.

IMPORT ISSUES

COUNTRY OF ORIGIN LABELING (COOL)

Issue: U.S. Country of Origin Labeling (COOL)

On January 15, 2009, the U.S. Department of Agriculture (USDA) published the final rule for Country of Origin Labeling (COOL). Effective March 16, 2009, COOL regulations require country of origin labeling

at retail for muscle cut and ground beef, veal, pork, lamb, goat, and chicken; wild and farm-raised fish and shellfish; fresh and frozen fruits and vegetables; peanuts, pecans, macadamia nuts, and ginseng sold by designated retailers.

Processed food items and food sold in restaurants and food chains are excluded. State and regional designations may be used for designation in certain circumstances. The law provides for penalties of up to $1,000 per violation for both retailers and suppliers not complying with the law. For specific details on COOL visit http://www.ams.usda.gov/AMSv1.0/cool.

Mexico and Canada brought a WTO case against the United States for enacting COOL regulations, and in November 2011 a WTO panel ruled that the COOL regulations violated WTO rules on technical barriers to trade. The United States has until May 23, 2013, to come into compliance with the WTO ruling in COOL. The proposed rule was published in the March 11, 2013 Federal Register and can be viewed at http://www.federalregister.gov/public-inspection. Comments may be submitted and all must be received by April 11, 2013. AMS will consider all timely comments that are submitted regarding the proposed rule.

DAIRY

Issue: Tariffs on Milk Protein Concentrates and Caseins

According to the U.S. National Milk Producers Federation (NMPF), importers have used a loophole in the current laws that restrict the importation of milk products. Imports spiked in 2000 with 44,878 metric tons of Milk Protein Concentrate (MPC) and 74,230 metric tons caseins. They were imported duty free. This drove concerns by U.S. dairy products producers about an influx of product that would not be in keeping with the type of tariff treatment provided to the vast majority of other dairy products. In response, House and Senate bills were introduced to establish import quotas. These have used the bill title: Milk Import Tariff Equity Act. In Congress, the House bill (H.R. 2813) was introduced by Representative Peter Welch from Vermont. There was not a Senate companion bill last year. As of March 2013, no bill on this issue had been introduced in the Congress yet.

Market conditions have changed somewhat since 2000 and now some U.S. companies manufacture MPC. In addition, imports have not continued to rise as steeply as they were at the beginning of the last decade.

FOREIGN COMPETITION

Producers impacted by foreign competition may qualify for assistance under Trade Adjustment Assistance (TAA). Idaho fresh potato growers qualified for relief under the TAA for the 2002-2003 growing season because of Canadian potato competition. The provisions of the Trade Adjustment Assistance for Firms program were extended by Congress on October 21, 2011. For more information go to www.taacenters.org.

HONEY

Issue: Sale of Product at Less than Fair Value (LTFV) by Argentina and China Producers

In September 2000, the American Honey Producers Association and the Sioux Honey Association filed a petition with the International Trade Commission (ITC) and Commerce, alleging that the honey industry was being injured by LTFV imports of honey from Argentina and China and that Argentina subsidized their industry's honey products. In November 2001, the ITC determined the industry had been injured and the USDOC issued antidumping and countervailing duty orders on imports of honey from Argentina and an antidumping duty order on imports of honey from China. Some of the duty orders have since been rescinded. On December 15, 2003, the USDOC International Trade

Administration concluded that dumping had occurred and reparations were negotiated. The ITC determined in June 2007 that revoking the existing countervailing duty order on honey from Argentina and the existing antidumping duty orders on honey from Argentina and China would likely lead to continuation or recurrence of material injury within a reasonably foreseeable time. Therefore, the existing orders remain in place. The order will be reviewed again after 5 years.

On January 31, 2012, the ITC published the results of a preliminary review of honey sales made from nine Argentine companies from December 1, 2009 to November 30, 2010. The preliminary results indicated that the honey was not being sold at less than normal value. During the preliminary results, it was requested that companies provide information regarding sales of honey made to the U.S. during the period of review to determine the appropriateness of preliminary margin assignments. The final assessment results and instructions were submitted to U.S. Customs and Border Protection (CBP) upon completion of the review, which was 180 days from the publication of the preliminary results. The CBP shall assess antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. The final results were that companies who provided valuable information were provided with a rate of zero and those that did not give information have a rate of 0.77.

CHINA (PRC)

FRUIT

Issue: Dumping of Concentrated Apple Juice

In 2000, the USDOC imposed antidumping duties ranging from 9 - 52 percent on 11 Chinese apple juice exporting firms. U.S. apple growers sought this trade remedy after apple juice concentrate imports from China increased by more than 1,200 percent between 1995 and 1998 jumping from 1 to 18 percent during that three year period. At the same time, the average price of apple juice concentrate from China declined from $7.65 per gallon in 1995 to $3.57 per gallon in 1998.

The U.S. apple industry requested an administrative review in June 2001, asking the U.S. government to increase the antidumping duty rates. In October 2001, U.S. Department of Commerce announced that it would apply antidumping duties of up to 52 percent on all forms of non-frozen Chinese apple juice concentrate. This added semi-frozen concentrate that had been entering duty free, closing a loophole that had previously permitted suppliers and importers to circumvent the U.S. government's ruling.

In 2005, the antidumping order was set to expire and was reviewed by the U.S. International Trade Commission and the U.S. Department of Commerce. The U.S. Department of Commerce said on September 19, 2005, "the ITC determined that revoking the existing antidumping duty order on certain non-frozen concentrated apple juice from China would likely lead to continuation or recurrence of material injury within a reasonably foreseeable time." As a result of the Commission's affirmative determination and the Department of Commerce's 2005 affirmative finding, the order on imports of certain non-frozen concentrated apple juice from China remained in place. A five-year sunset review began in October 2010 but was terminated in November 2010 due to lack of participation by the domestic interested parties in the review process. Therefore, the antidumping order expired and no duties were applied.

RESOLVED ISSUES

WORLDWIDE

CATTLE

Issue: Transshipment of Cattle into the U.S.

In 2000, cattle from New Zealand entered Canada and cattle from Australia entered Mexico, which later entered or attempted to enter the U.S. as Canadian or Mexican cattle. These cattle could not have entered the U.S. directly from New Zealand or Australia due to animal health restrictions. In December 2003, the U.S. discovered a case of BSE (Bovine Spongiform Encephalopathy), resulting in revisions for all protocols for live animal importation.

MEAT

Issue: Pork Bans due to H1N1 Virus (Swine Flu) concerns

The first two confirmed cases of the H1N1 virus (also referred to as the swine flu) in the U.S. were in children in southern California in April, 2009, but officials first detected an outbreak of influenza in Mexico City in March 2009. Since the initial detection of the H1N1 virus, the World Health Organization (WHO) labeled the outbreak a pandemic.

In response, many countries banned pork products from the United States, although the WHO, the World Animal Health Organization (OIE), the World Trade Organization (WTO), and other international health organizations stated that the virus cannot be spread through properly cooked food products.

In July 2009, Armenia, Azerbaijan, Bahrain, China, Indonesia, Jordan, Kazakhstan, Kyrgyzstan, Macedonia, Malaysia, Russia, South Korea, St. Lucia, Thailand, Ukraine, and Uzbekistan implemented bans on pork from the United States, which were subsequently lifted. China was the last country to lift the ban on U.S. pork in 2009.

ARGENTINA

DAIRY

Issue: Export Certificates

In 2002, Argentina's Department of Agriculture (SENASA) began requiring a new sanitary certificate. The U.S. industry asked USDA to assist in drafting text agreeable to all parties. USDA's Agricultural Marketing Service (AMS) and Animal and Plant Health Inspection Service (APHIS), along with SENASA, finalized the wording for the Argentine Sanitary Certificate for Exports of Dairy Products from the U.S. The certificate is available for use. The AMS Dairy Grading Branch provides the certificate for exporters shipping product from USDA or Interstate Milk Shippers-approved production facilities. The

exporter or manufacturer must complete the "Worksheet for Sanitary Certificate for Exports" available on AMS's website http://www.ams.usda.gov. Upon receiving the completed worksheet, the AMS Dairy Division issues the official certificate within five business days.

AUSTRALIA

FRUIT

Issue: Cherries – Phytosanitary concerns

U.S. cherries were not allowed into Western Australia due to phytosanitary concerns including the possibility of introducing brown rot. After ten years of negotiations, the market for cherries into Western Australia has been opened. Following the opening of the market in July 2011, acting undersecretary for Farm and Foreign Agricultural Services made a statement indicating that Australia is the seventh most valuable export market for U.S. cherries.

SEED

Issue: Sweet Corn - Various diseases

Prior to April 2002, all sweet corn seed from the U.S. was prohibited. In April 2002, the work plan was established that allowed Idaho sweet corn market access.

WHEAT

Issue: State Trading Enterprise - Australian Wheat Board (AWB)

After years of dispute, AWB Limited, formerly known as the Australian Wheat Board, lost its monopoly control as the exclusive manager and marketer of all Australian bulk wheat exports through what was known as the Single Desk system on July 1, 2008. As a result, wheat farmers began selling in an open market for the first time since 1939.

AWB also marketed and traded a range of other grains including barley, sorghum, and oilseeds. Although AWB was a publicly traded organization, it was a sole marketer which restricted the right of other entities to export. Now, container-shipped wheat is open to export competition.

BRAZIL

DAIRY

Issue: Ingredient Restrictions

In 1999, Brazil changed its standards to be in compliance with Codex standards. Previously, Brazilian dairy regulations concerning yogurt products did not allow the use of Whey Protein Concentrate (WPC) as an ingredient in yogurt. Codex and U.S. yogurt standards permit WPC in yogurt.

Issue: Individual Plant Inspection and Approval

Since 1999, suppliers wanting to ship to Brazil had to have their plants individually inspected and pre-approved by Brazilian authorities. USDA, FDA, and the U.S. Dairy Export Council (USDEC) worked with Brazil's Meat and Dairy Inspection System (DIPOA) to change the requirements. In 2001, a Brazilian plant inspector met with USDA and FDA officials, toured various dairy and meat facilities, and reviewed the U.S. certification process. In 2002, Brazil initiated a new policy that allows plants listed in the AMS publication "Dairy Plants Surveyed and Approved for USDA Grading Service" or the U.S. Food and Drug Administration's Interstate Milk Shippers (IMS) to export to Brazil after completing the required paperwork. Plants approved only under state inspections will not be accepted. OAA/Brasilia and DIPOA jointly maintain a list of plants approved for export.

FRUIT

Issue: Pears - Phytosanitary Requirements

In January 2001, Brazil's plant quarantine organization (DDIV) published a new regulation requiring pears to be treated with either chlorine or SOPP due to the presence of fire blight in Northwest production areas. The regulation was published without discussions between USDA's Animal and Plant Health Inspection Service (APHIS) and DDIV, and Brazilian officials did not provide evidence that the previous inspection-only protocol, used over the previous four to five years, was inadequate. While chlorine treatment is a potential option, it is not workable for most pear shippers.

The Northwest Horticulture Council (NHC) protested the new requirements. In November 2001, the NHC was informed that DDIV would be forced to withdraw the regulation that allowed post-harvest use of SOPP as it was not registered in that country. Brazil's federal laws prohibit DDIV from requiring the use of an unregistered chemical for phytosanitary treatment purposes. APHIS worked to reinstate the fire blight inspection protocol that had been in place prior to January 2001. Protocols were established for the 2002 season.

PEAS, LENTILS, & CHICKPEAS

Issue: Fumigation Requirements

Brazil required fumigation for any peas, lentils, and chickpeas imported from the United States. Domestic researchers found Idaho did not have significant numbers of the insects to prompt the fumigation requirement. Additionally, Brazil did not require the fumigation certificate from the U.S.'s largest competitor, Canada. The Bruchidae family, commonly called storage seed weevils, is the prominent group of pests that are of concern for these types of grains in Brazil.

In April 2001, Brazil changed their requirements. For peas, Brazil requires inspections for pests and diseases. Fumigation is no longer required. There are no requirements listed for imports of lentils and chickpeas so the requirements are determined by the conditions listed on the import permit.

SEED

Issue: Seed Certifications Protocols

Although Brazil has prohibited all seed imports until a pest risk analysis (PRA) can be done, numerous products have already been through the PRA process and are approved for export when accompanied by a phytosanitary certificate. A list of seeds produced in the U.S. that are allowed entry into Brazil is present in Annex XIV of the Normative Instruction 36 published in 2010. Those seeds that do not appear on the list must complete a PRA. PRAs must also be completed for third-country origin seeds that are re-exported from the U.S. to Brazil, with information provided by the country-of-origin. Brazil's Ministry of Agriculture, Livestock, and Food Supply has proposed changes to the import requirements that are likely to result in additional required declarations for seed products. APHIS is negotiating the proposed changes and expects to complete the negotiations at the end of 2012.

POTATOES – SEED

Issue: Potato Seed Certification Protocols

After five years of work, the United States achieved official market access to export seed potatoes to Brazil. In 2005, the two countries established phytosanitary and certification criteria for shipping seed potatoes from the U.S. to Brazil. On February 8, 2006, Brazil published the Normative (law) announcing the access for U.S. seed potatoes.

The U.S. Potato Board initiated work in Brazil in 2001 by bringing Brazilian growers, importers, and government officials to visit the U.S. and view seed production areas. In May 2002, APHIS requested that Brazil conduct a pest risk assessment (PRA) on U.S. seed potatoes. Brazil agreed, but because of Brazil's PRA legislation changes, a completion date was never provided. The U.S. Potato Board conducted variety trials in different growing regions of Brazil to gather data to register varieties, a requirement prior to the occurrence of commercial sales.

CANADA

ALFALFA HAY

Issue: Cereal Leaf Beetle (CLB)

Alfalfa hay shipped to British Columbia is regulated for Cereal Leaf Beetle (CLB). Prior to 2001, alfalfa hay from Idaho, the Northwest, and infected areas in California were required to be fumigated. Cereal Leaf Beetle is already present in southeastern British Columbia in the Creston Valley. Cereal crops including wheat and barley are hosts to the CLB. Cereal grains can be found as weeds in alfalfa hay. Since British Columbia already has the pest and does not regulate the movement of hay within the province, it is unreasonable to require fumigation of alfalfa hay from Idaho.

ISDA sent a request to USDA in February 1999 and to USTR in December 2000, asking for a resolution. In 2001, the situation was clarified that the Creston Valley in British Columbia is a quarantine

area. Shipments of alfalfa hay may be shipped to that area from Idaho without fumigation. However, all products from the Creston Valley must be fumigated before shipment to other areas of Canada. This puts the U.S. on a level playing field with the producers in the Creston Valley area. Therefore, fumigation is still required for shipments of alfalfa hay to Canada (except the Creston Valley). In addition, the requirement for an in-field treatment has been dropped.

CATTLE

Issue: Exchange of Production Information

Per the December 1998 U.S.-Canada Record of Understanding on Agricultural Trade, the Canadian government began publishing information on feed cattle. This information is available by CanFax in a timely manner and in a consistent format to assist Idaho producers in making marketing decisions.

Issue: Bluetongue and Anaplasmosis

On March 22, 2007, Canada updated the requirements for all cattle from the U.S. Effective immediately: 1) All Bluetongue testing and requirements were deleted; 2) For Anaplasmosis, only one test is required during the 30 days prior to exportation. A CFIA issued import permit is required.

Previous to March 2007, there had been long-term barriers to the movement of U.S. feeder cattle to Canada. In April 2004, Canada increased access for U.S. feeder cattle from 39 states considered to have low or medium incidences of Anaplasmosis (AN) and Bluetongue (BT). Testing and treatment requirements were removed from U.S. feeder cattle imports, enabling year-round access to Canadian feedlots. As an additional risk mitigation measure, Canadian feedlots were required to segregate the imported U.S. feeder cattle from breeding stock and to identify, track, and restrict movement of the animals. Prior to this change, exports to Canada were restricted to limited states and only allowed from April 1 – September 30.

Issue: Bovine spongiform encephalopathy (BSE)

On September 18, 2007, the USDA published a final rule amending the regulations for the importation of live bovine animals, bovine products, and byproducts from regions that pose a minimal risk of introducing BSE into the United States. The final rule establishes science-based provisions for safe trade with countries designated as minimal-risk countries for BSE while continuing to protect American agriculture. Canada is currently the only country designated by USDA as a minimal-risk country. Under the final rule, live cattle and other bovines (including bison and pregnant bovines) for any use (including breeding) born on or after March 1, 1999, which APHIS has determined to be the date of effective enforcement of Canada's ruminant-to-ruminant feed ban, are allowed for import from Canada. Also allowed for import are blood derived from bovines (collected under certain conditions), castings, and part of the small intestine derived from bovines. This rule became effective November 19, 2007.

Multiple cases of BSE have been discovered in Canada since 2003. The Canadian Food Inspection Agency (CFIA) oversees the investigation of these cases, tracking the animals and feed sources. Under Canada's enhanced feed ban, which came into effect on July 12, 2007, BSE should be eliminated from the national cattle herd within approximately 10 years. The CFIA expects the periodic detection of a limited number of cases to continue as the level of BSE continues to decline.

The United States had banned live cattle imports from Canada in May 2003 in the wake of Canada's first confirmed BSE case. The Canadian border was reopened to beef imports with high-risk materials removed a short time later, and in July 2005 live Canadian cattle were allowed into the United States, as long as they were under 30 months of age and were going directly to a feedlot or directly to slaughter. This prohibited the importation of dairy heifers.

DAIRY PRODUCTS

Issue: Export Subsidies on Milk Products and Quotas on Fluid Milk

Canada's protectionist policies have historically undercut U.S. dairy exports. The U.S. filed WTO cases against Canada for its dairy export subsidy programs, and in 2002, Canada lost all appeals. In May 2003, Canada agreed to comply with the WTO ruling. Special export permit exceeding Canada's Uruguay Round WTO level commitments and all other exceptions ended in July 2003.

In 1995, dairy export subsidy payments were replaced with a two-tiered pricing system based on export performance. Canadian dairy processors paid government-managed marketing boards a higher price for milk used domestically and a discount price for milk to be used in products for the export market. In 1999, the WTO ruled that Canada's special milk class system was indeed an export subsidy. In 2001, the "commercial export milk" (CEM) scheme was introduced. In 2002, the WTO found that Canada's CEM scheme provided an export subsidy in the form of discounted milk to Canadian manufacturers of processed cheese and other dairy products.

FRUIT

Issue: Apples -- Alleged Dumping of Red Delicious Variety

The Canadian International Trade Tribunal (CITT) ruled in 1995 that Red Delicious apples were being sold in Canada at less than the cost of production. A floor price was established at $12.99 per carton. If the FOB price fell below this floor price between October 1 and June 30, an antidumping duty was collected on the difference. The Canadian International Trade Tribunal rescinded the antidumping ruling on February 8, 2000.

Issue: Apple Maggot

British Columbia required that apples imported from the U.S. come from a state free of apple maggot based on annual pest surveys or undergo costly cold storage treatment. California, Oregon and Washington were allowed to ship apples without treatment from an apple maggot-free area within their states. Idaho has an apple maggot-free zone that includes Canyon, Owyhee and Payette Counties and a portion of Washington and Gem Counties. USDA submitted Idaho's apple maggot data to the Canadians in 1999 and asked that British Columbia accept Idaho apples from these maggot-free zones without requiring cold storage treatment. The Canadian Food Inspection Agency changed the regulation and it became final in December 2000.

POTATOES – FRESH

Issue: Phytosanitary Restrictions & Double Lab Testing

In 2002, Canada notified the U.S. that Potato Mop Top Virus (PMTV) had been found in U.S. potato shipments over the previous 18 months. A resulting joint U.S.-Canadian PMTV survey showed that the virus is present in both countries. In 2002-2003, USDA/APHIS and the Canadian Food Inspection Agency implemented the joint potato virus management plan to maintain high quality seed potato production through seed certification measures. The Wisconsin lab is now approved to certify potato seed and the Idaho Crop Improvement Association lab was approved by USDA to test for PMTV and certify seed as free of the disease. Previously Canada's seed law provided that only Canadian lab results were acceptable.

Issue: Potato Cyst Nematode

In April 2006, potato cyst nematode (PCN) was found in a soil sample collected from a potato

processing facility in Idaho. This was the first time the potato cyst nematode had been found in the United States. The nematode does not pose a threat to human health but can reduce the yield of potatoes and other crops. In 2006 ISDA and APHIS officials took more than 38,000 samples in the area from 224 production fields, 459 seed potato fields, and 58 facilities confirming that the pest was isolated. Additional surveillance continues.

On August 28, 2006 APHIS issued a Federal Domestic Quarantine Order to prevent the spread of PCN through regulatory authority provided by Section 412(a) of the Plant Protection Act of June 20, 2000, as amended, and the State of Idaho issued a parallel State Rule in support of the Federal Order. These regulations established restrictions on the interstate movement of certain regulated articles from Idaho and designated a regulated area identical to the Idaho Department of Agriculture quarantine, established April 27, 2006 restricting the intrastate movement of regulated articles.

Canada initially closed the border to Idaho nursery stock as well as potatoes. On October 11, 2006, Canada removed its prohibition against nursery stock which provided that the plants come from outside the regulated area.

In November, 2006, Canada and the U.S. entered into an agreement for the import and export of seed potatoes based on a specific protocol for survey and certification. Idaho seed potatoes from outside the regulated area are eligible for export provided they meet the protocol requirements. Potatoes for consumption may be exported to Canada from both within and outside the regulated area.

On June 4, 2009 the Canadian Food Inspection Agency (CFIA) and the U.S. Department of Agriculture (USDA) announced modified guidelines for PCN that allows for the continued trade of seed potatoes. The guidelines include increased soil sampling and testing from all fields where seed potatoes are produced for trade between the two countries. They also outline the measures that should be taken to manage PCN detection and contain procedures for the subsequent removal of restrictions on land.

POTATOES – SEED

Issue: Non-recognition of U.S. Seed Certification Procedures and Labs

From 1996 to 2005, the U.S. lab certification for seed was not accepted by Canada without further testing. In June 2005, the Canadian Food Inspection Agency (CFIA) determined that the U.S. Accredited Seed Laboratory Program (USASL) is essentially equivalent to the Canadian Seed Laboratory Accreditation and Audit Protocol (SLAAP). This provides U.S. growers the opportunity to sell on a competitive basis without having to obtain secondary testing once their product arrives in Canada.

The USASL was created as a low-cost alternative to International Seed Testing Association (ISTA) lab accreditation for the verification of quality testing for the international community. U.S. seed testing laboratories accredited by USDA-AMS pursuant to the ASL Program can be officially recognized by CFIA, and seed test results from these laboratories may be used to grade and label seed with a Canada pedigreed grade name by accredited graders. USDA and CFIA have established procedures and training, testing and certification that allow persons within the U.S. to grade and label certified seed for shipment into Canada.

SUGAR

Issue: Imports of Sugar Syrups

Sugar syrup imports (H.S. 1702.90.40) from Canada are duty free. Refined and raw sugar (H.S. 1701), on the other hand, face a heavy duty. The U.S. was importing significant quantities of sugar syrup from Canada. Although it was blended in Canada, the raw sugar was often imported from Brazil or Australia

which uses the 1702 duty. This product was sold to the U.S. and the sugar was extracted.

In 1999, U.S. Customs re-classified the syrup product as raw sugar as requested by U.S. industry. The Court of International Trade overturned the Customs Service ruling and the government and the U.S. Sugar Beet Association appealed that decision to the Court of Appeals. In 2001, the Court of Appeals for the Federal Circuit in Washington D.C. upheld a U.S. Customs Service ruling that blends of sugar and molasses imported through Canada are subject to the quota limitations on sugar imported into the U.S. The Court of Appeals reversal holds that the Customs Service's classification is the law. Congress passed amendments that permanently closed the loophole by making stuffed molasses and other products applicable to U.S. legal tariff rate quota for refined sugar.

WHEAT AND BARLEY

Issue: Karnal Bunt

In the 1998 U.S.-Canada Record of Understanding on Agriculture Trade, Canada committed to eliminating burdensome testing requirements for Karnal Bunt on U.S. grain. In 1999 Canada recognized 14 northern U.S. states as Karnal Bunt-free. Idaho was not one of those states despite the fact that Karnal Bunt had never been identified in Idaho and a Karnal Bunt quarantine is enforced. Canada claimed Idaho was not included in the first year as an additional year (fourth year) of survey data was required even though several states in the first tier (CT, MA, ME, MI, MT, and others) did not have any survey data or only had three years of data. USDA submitted 1999 survey data to the Canadians. Idaho was finally approved as a Karnal Bunt-free State in January 2001.

CHILE

FRUIT

Issue: Apple Maggot

Before 2001, Idaho apples were prohibited in Chile. In 2000, an import protocol was established for Washington, resulting in apple exports to Chile. ISDA worked with USDA APHIS and the Northwest Horticulture Council to negotiate similar protocols for Idaho. ISDA sent apple maggot information to APHIS, and in August 2001, Idaho and Oregon producers were allowed to ship apples to Chile.

Issue: High Tariffs

Chile assessed a tariff of 6 percent ad valorem on the CIF value with an additional 18 percent value-added tax. The 2003 passage of the U.S.-Chile Free Trade Agreement provided U.S. horticulture better access to Chile's market. The tariff on apples and pears was immediately eliminated January 1, 2004 and three-quarters of all U.S. farm goods began entering Chile duty-free January 1, 2008. All duties are to be phased out over 12 years.

PEAS, LENTILS, & CHICKPEAS

Issue: Phytosanitary Restriction

Chile used to require fumigation for pea, lentil, and chickpea imports from the U.S. Domestic researchers have found that the U.S. does not have significant insect numbers to prompt the fumigation requirement. The Bruchidae family, commonly called storage seed weevils, is the prominent group of

pests that are of concern in Chile.

Chile does not require fumigation from the U.S.'s largest competitor, Canada. The Canadian-Chile Free Trade Agreement strengthened Canada's competitive advantage in the Chilean market for special crops. Canada currently supplies almost all of Chile's lentil imports and most of its dried pea imports. The U.S. though USDA/APHIS had continued to press Chile to implement and enforce WTO-consistent sanitary and phytosanitary requirements. After years of effort by USDA/APHIS, the Chilean requirement of fumigation of U.S. peas and lentils was finally removed.

CHINA

FRUIT

Issue: Cherries – Phytosanitary Barrier

In 2003, China approved a work plan for cherry exports from Idaho, Oregon and Washington. The work plan includes pest control measures for Mediterranean fruit fly through trapping and recording in orchards for three seasons. There are other specific requirements regarding inspecting, packing, labeling, and exporting. In addition, if Cherry Fruit Fly or Codling Moth is found, the packing facility will be banned from exporting and the shipment will be either fumigated or destroyed.

PEAS

Issue: Food Safety Restriction

China was enforcing a limit on the selenium content of imported peas. Under Chinese regulations, the selenium content was limited to 3 parts per million (PPM) which is not in line with any health dangers related to selenium intake. In fact, this limit may have discouraged the intake of selenium at the minimum levels required for good health. USDA worked with the Chinese government on this issue, and the Chinese authorities agreed to review their selenium standard in coordination with USDA. Chinese authorities were allowing the importation of peas for noodle-making without reference to selenium content, because only the pea starch is used in the noodle-making process, and any selenium present is removed in the by-product that enters the animal feed chain. This exception allowed the U.S. to continue to export yellow peas to China while the selenium issue was under review.

In March 2011, through the efforts of USDA and the FAS headquarters and FAS Beijing, China's selenium restriction on imported peas was lifted. This allows the U.S. to continue to grow its exports of peas, as China became the second-largest export market for peas during the 2010-2011 crop season.

POTATOES-DEHYDRATED

Issue: Sulfite Tolerance

Until March 2002, China limited the level of sulfite, a bleaching agent and preservative frequently used in the U.S., to 30 parts per million (PPM) for dehydrated potatoes. This level was below international standards. Some processors had difficulty meeting the requirement and market share was lost.

In the U.S., sulfites are "generally recognized as safe" with some very broad restrictions. Therefore, there is no standard specified for dehydrated potatoes and good manufacturing practices are applied.

There is no Codex standard established for sulfites on dehydrated potatoes either. Other countries have established standards for dehydrated potatoes specifically or dried vegetables in general. In all cases, they are significantly higher than the 30 PPM established by China.

Country	Sulfite tolerance (PPM)	Product
Canada	500	No specific standards for dehydrated potatoes. Tolerance established for "unstandardized foods"
UK	400	Dehydrated granulated potatoes
New Zealand	3000	Dried fruits and vegetables
Singapore	550	Dehydrated potatoes

In July 2001, the U.S. Potato Board (USPB) submitted an application to the Commission of Food Additive Standardization to increase the China National Standard for SO2 level in dehydrated potato products to 600 PPM. After supplying additional information, the final report was submitted to the Ministry of Health. Both the Ministry of Public Health and the Plant Quarantine Division (CIQ) accepted the report, and in March 2002, the Chinese Ministry of Public Health issued an announcement to change the tolerance to 400 PPM, which is 200 PPM below the application amount. However, this is within international standards and is the same standard used by the U.K.

WHEAT AND BARLEY

Issue: TCK Smut

China had prohibited Pacific Northwest wheat and barley since 1972 due to the presence of TCK smut. The April 1999 bi-lateral agreement between the U.S. and China immediately lifted the TCK ban. Shipments of U.S. wheat must be tested for TCK by an accredited U.S. laboratory. The tolerance level has been set at 30,000 TCK spores per 50-gram sample. Idaho levels are considerably lower. Therefore, it has not been difficult for industry to meet the requirements.

COSTA RICA

BEEF

Costa Rica lifted the ban on U.S. beef on February 13, 2006. Costa Rica allows trade on boneless beef, tongues, kidneys, livers, and hearts.

INDIA

FRUIT

Issue: Food Safety Restriction

On Aug. 13, 2003, the Indian Ministry of Health & Family Welfare (MOHFW) issued a Gazette Notification G.S.R. 656(E) amending food regulations prohibiting the sale of fresh fruits and vegetables

coated with waxes, mineral oils, and colors. Although this amendment was not enforced, it threatened U.S. apple, pear, and other horticultural exports to India as the U.S. industry uses coatings of carnauba wax and shellac to maintain the quality and shelf life of fresh horticultural products.

A regulation, effective February 28, 2008, permitted the use of beeswax (white and yellow), carnuba wax and shellac, not to exceed Good Manufacturing Practices. Each package must be labeled with the type of wax with which the product is coated. Shellac wax is now approved for use on fruit.

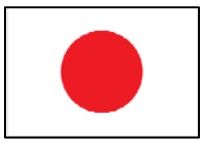
ISRAEL

FRUIT

Issue: Phytosanitary restrictions

Israel prohibited imports of U.S. cherries for phytosanitary concerns. APHIS submitted a list of pests associated with Pacific Northwest and California production in 2005. This allowed Israel to complete a pest risk assessment. Israel now allows imports of U.S. cherries with an Israeli import permit and a phytosanitary certificate.

JAPAN



DAIRY

Issue: Anti-caking Agent

In 2002, the U.S. Dairy Export Council (USDEC) announced that Japan had finally changed their additive requirements to allow for the use of Sodium Serrocyande, an anti-caking agent used in salt. This allowance is beneficial to many industries, not just dairy.

Issue: Labeling Restrictions on WPC

Industry has chosen to put the labeling restrictions on Whey Protein Concentrate (WPC) on hold as the current standard is not limiting exports of whey isolates. Before April 1998, whey proteins with a protein level over 65 percent were not classified as a dairy ingredient. After negotiations, the protein level was changed to 80 percent. Skim milk powder and other dairy ingredients are labeled simply as “dairy ingredient” on retail products. Many Japanese manufacturers do not use whey proteins of 80 percent and higher because they do not want to list whey proteins separately on the label as the listing could confuse consumers. According to FAS, WPC 80 application has been successfully promoted to Japanese end users and this is no longer an issue.

KOREA

BEEF

Issue: Import Quotas, Restrictions on Marketing, Distribution and Labeling

Korea had a complex regulatory scheme that discriminated against imported fresh, chilled and frozen beef. Beef was imported under a government-set quota through the Simultaneous Buy and Sell (SBS) System and irregularly timed tenders by the Livestock Products Marketing Organization (LPMO). Beef importers had to be licensed which effectively restricted U.S. beef imports to ten so-called "super-groups" under the SBS system. Korea's retail marketing regulations required imported beef to be separated from domestic product at the retail level and only a select and limited number of beef stores were allowed to sell imported beef. Korea had 45,000 shops selling only domestic beef and 5,000 shops that sold only imported beef. These practices were clearly discriminatory.

Korea's GATT commitments required Korea to import minimum volumes of foreign beef annually. The U.S. and Korea negotiated two bi-lateral "Record of Understanding on Market Access for Beef" agreements in 1990 and 1995 with specified quota commitments and an agreement to liberalize beef trade by January 1, 2001. The agreements, however, did not address tariff reductions past 2004 or the discriminatory retail practices. The U.S. and Australia filed a WTO complaint against Korea's discriminatory retail marketing practices, super-group system limiting who could legally import beef, mark-up practices and excessive domestic subsidies. In January 2001, a final WTO ruling in favor of the U.S. and Australia allowed smaller Korean retailers to sell both domestic and imported beef. In January 2001, Korea eliminated all quotas and the complicated import system. In September, Korea complied with the WTO Dispute Panel and allowed butcher shops to sell both domestic and foreign beef, eliminating the dual retail system.

Korea announced on December 10, 2007 that the number of beef cut names allowed on retail packaging will be increased from 29 to 39 cuts and the number of pork cut names will be increased from 17 to 22 cuts. Prior to this announcement, although there was an established regulation limiting the allowable cut names, it was not enforced and often common for historical names that consumers easily understood were used. Regulating the method of classification by cut resulted in discrimination against imported U.S. beef. This proposal had nothing to do with food safety and only served to limit imports.

On March 5, 2009 the Ministry for Food, Agriculture, Forestry and Fisheries announced a revision for the Method for the Classification of Meat by Cut, Grade and Kind. The revision ensures that matters related with classification of domestic and imported meat will be stipulated in the country of origin. It also added a provision for marking in situations where multiple primal cut names exist making it possible to conduct such sales.

Issue: BSE Ban

In December 2003, Korea imposed a ban on most products derived from cattle, sheep and goats, following the discovery of a cow with BSE in Washington State that was imported from Canada. The U.S. government immediately engaged Korea at a technical level and provided extensive documentation on the situation. Additional measures to further ensure U.S. beef safety were taken, and multiple technical and political meetings and extensive negotiations occurred.

On January 13, 2006, Korea and the United States agreed on an initial import protocol allowing the U.S. to export boneless beef from cattle less than 30 months of age under a Beef Export Verification

Program. But in early June 2007, Korea temporarily suspended the issuance of import certificates after two shipments of U.S. beef were found to contain beef ribs.

U.S. industry continued to work with Korea for the opening of the market to bone-in beef, variety meats and offal which historically accounted for approximately 50 percent of U.S. beef exports to Korea.

In May 2007, the World Organization for Animal Health (OIE) concluded that American beef poses a "controlled risk." The OIE says deboned beef from cattle under 30 months of age is safe, and with appropriate precautions, beef from older animals and bone-in meat is safe as well.

In April 2008 the U.S. and Korea came up with an agreement that reflected the OIE ruling. However, due to strong protests by Korean consumers, both governments held additional negotiations to address the main concerns of Korean consumers. Based on these negotiations, Korea published the final import health requirement in its government gazette on June 26, 2008, allowing for U.S. beef imports to resume on the publication date. The final health requirement allows for Korea to import beef from cattle under 30 months, utilizing the Quality System Assessment Program.

DAIRY

Issue: pH Declaration

In February 2002, the U.S. Dairy Export Council announced that some dairy product exports were delayed into Korea. In November 2001, the Korean government began enforcing a new labeling rule as a result of the 2001 BSE outbreak. All dairy products were required to include a health certificate stating they were made from raw milk with a pH less than 7 and pasteurized at 72°C (161.6°F) for 15 seconds. All properly handled raw milk in the U.S. has a pH below 7. Without this information, shipments are forced to undergo inspection at the Korean port, a process that can take up to 18 days. With the health certificate, shipments now proceed without delay.

Issue: Food Standards

Korean food manufacturers use whey and modified whey products to lower production costs. Whey Protein Concentrate (WPC) was not allowed as an ingredient in yogurt or in frozen desserts, but this code was revised in 2001.

In 1998, the U.S. Dairy Export Council (USDEC) submitted a petition to the Korean Ministry of Agriculture requesting Korean officials to expand the current definition of non-fat milk solids to include whey products, fermented milks, and ice cream. Additional technical questions, supplemental materials, and a new petition were provided in 2000. The Korean National Veterinary Research & Quarantine Service (NVRQS) reviewed the petition. In December 2001, the Korean government issued a Code revision, allowing whey solids to be used in ice cream, ice milk, sherbet, low-fat ice cream, and non-fat ice cream (up to 25 percent milk solids) as a replacement for skim milk powder.

POTATOES - DEHYDRATED

Issue: Product Misclassification

Blended potato formulations that should enter under the tariff classification of H.S. 2005.2 were misclassified by the Korean Customs Service as H.S. 1105. The misclassified blended products were then subject to the restrictive quota and excessive over-quota tariff of 304 percent for the H.S. 1105 category, rather than the much lower and more appropriate tariffs and quotas for products under H.S. 2005.2. In order to qualify as a potato preparation, Korea requires that 10 percent of the product be additives. Industry requested FAS remove this issue from discussions as product is moving without issue into Korea under the blended category.

SEED

Issue: Quality Standard Concerns

In May 2002, the American Seed Trade Association (ASTA) was informed that the Korean government lab reported germination test results in the low 70s. The seed was retested in a Korean university, which showed upper germination in the 80s and 90s. The Korean government buyers reduced the payment amount on the containers, creating a loss for the U.S. supplier.

Realizing it would take time to resolve this technical issue, most U.S. seed companies decided to use the International Seed Testing Association germination method to minimize trade disruptions and commercial disputes.

MEXICO

ALL PRODUCTS

Issue: Retaliation Import Tariffs due to Trucking Dispute

On October 21, 2011, all tariffs related to the trucking dispute were reduced to zero effective immediately. On this date, the first Mexican trailer crossed freely into the U.S. with authorization from the National Highway Traffic Safety Administration. The trucking company was Transportes Olympix, which had applied to the cross-border transport program and received its certification in October 2010.

The trucking dispute began in March of 2009 after the announcement that the U.S.-Mexico Cross Border Trucking Demonstration Project was no longer in effect. The U.S. Congress had banned funds to the Department of Transportation (DOT) which had previously been used to maintain this program and as a result, the DOT ceased to operate the program. Mexico created additional import tariffs on 34 U.S. agricultural products in retaliation. In August of 2010, a revised set of tariffs was published which included tariffs for 20 additional agricultural products, as well as increased tariffs for many of the original 24 products. This increase in tariffs had a considerable impact on Idaho's economy and agricultural products. For example, processed potatoes from the U.S. had a 5 percent tariff (reduced from an initial 20 percent) whereas Canada, the major competitor in the market, had zero NAFTA tariff. Other affected Idaho products included onions with a 10 percent tariff, wine at 20 percent, dry peas at 20 percent, and fresh table grapes at 20 percent.

BARLEY, POTATOES-FRESH & PROCESSED

Issue: Tariff Rate Quotas

Mexico had a Tariff Rate Quota (TRQ) limiting market access for Idaho malting barley, fresh potatoes, and processed potatoes. The TRQ ended in January 2003. Industry continues to monitor the situation as barley, malt, and potatoes are on the sensitive products watch list.

BEANS

Issue: Phytosanitary Restrictions

In January 2003, Mexico effectively closed its border to dry edible bean imports when SAGARPA imposed a temporary inspection suspension for U.S. and Canadian dry edible beans. USDA and USTR resolved this ban, leading to continued U.S. sales into the Mexican market.

Mexico did not clarify the reason for the closure, thereby failing to provide legal justifications and neglecting to honor the NAFTA provisions that require dialogue, shared information and cooperation.

The suspension was rescinded in April 2003, but SAGARPA put regulations in place, NOM-041, which imposed onerous phytosanitary requirements on imported dry edible beans from the U.S., Canada, Argentina, Nicaragua, and Chile. In May 2003, SAGARPA cancelled NOM-041 and established new phytosanitary requirements (below), NOM-006, for U.S., Canada, Chile, and Nicaragua. Dry bean trade continues despite onerous regulations.

- An International Phytosanitary Certificate must be issued by the corresponding authority in the country of origin and must state the province or state from which the product originated and that the product comes free of soil.
- A phytosanitary inspection must be carried out at the point of entry.
- A sample will be taken for testing at a laboratory approved for phytosanitary diagnosis. The samples will be tested for insects, weeds, fungus, and bacteria. The costs for this testing will be borne by importers.
- Phytosanitary treatment in the country of origin or at point of entry into Mexico, in conformance with methyl bromide specifications.
- When the treatment is applied in the country of origin, the specifications must be noted on the International Phytosanitary Certificate.

The containers and packages must be new, pre-printed with the name and variety of the product, net content of the container, names or trade name and fiscal address of the producer, packer or associated company, country of origin, identification of the lot, and cycle of harvest.

Issue: Import Permit Auctions

Mexico converted its import-licensing regime for dry beans to a transitional tariff-rate quota (TRQ) under NAFTA. However, during the transition period, they also required importers to purchase import permits at auction. The auction sold the right to import beans within the quota, which effectively created an import tax, thereby increasing bean prices to discourage imports.

During the phase out period, there were multiple disputes over the administration of the auctions from timing to eligibility that were finally resolved in 2001. With the implementation of NAFTA, the tariffs, quotas, and auction system were all eliminated January 1, 2008.

BEEF

Issue: Anti-Dumping Duties

Beef had been subject to antidumping duties by Mexico since 1999, even though a North American Free Trade Agreement (NAFTA) dispute settlement panel ruled in 2004 that Mexico improperly imposed the antidumping duties.

In 1998, Mexican cattlemen requested an anti-dumping investigation, alleging that U.S. livestock and beef products were sold below cost of production. In 1999, the Mexican Department of Commerce (SECOFI) imposed dumping duties on U.S. beef and beef variety meat imports. The final decision

announced in 2000 resulted in assorted anti-dumping duties that vary by product and range between zero and $0.80/Kg. Product graded USDA Prime or certified by USDA as "Angus Beef" is exempt.

In 2003, the U.S. requested and received two WTO consultations on Mexico's antidumping measures on U.S. beef as well as five provisions of Mexico's Foreign Trade Act and its Federal Code of Civil Procedure. Specific U.S. concerns included Mexico's:

- Injury investigations in the antidumping determinations
- Improper application of the "facts available"
- Improper calculation of the antidumping rate applied to firms not investigated
- Improper limitation of the antidumping rates it calculated in the beef investigation
- Refusal to conduct reviews of exporters' antidumping rates
- Insufficient public determinations.

In April 2006, Secretary of Economy (SECON) decided to continue antidumping duties on imports of U.S. beef and beef by-products from certain U.S. exporters and producers for another five years, after completing a sunset review investigation. In addition, Mexico's modification of the beef dumping duties in 2004 in response to the findings of a NAFTA Chapter 19 panel, which determined that SECON did not sufficiently demonstrate that U.S. beef imports had damaged Mexico's beef industry. Mexican policies in this area reduced the number of U.S. suppliers and altered product trading patterns.

The issue was finally resolved on August 10, 2010. The Mexican Government published a notice to eliminate the imported duties imposed on beef exports after the only Mexican producer association withdrew its support for continuing the duties. As of August 11, 2010, all U.S. beef exports to Mexico are no longer subject to any compensatory duties.

Issue: Bovine spongiform encephalopathy (BSE)

Mexico's Secretariat of Agriculture (SAGARPA) banned imports of bovine products in December 2003 following the bovine spongiform encephalopathy (BSE) detection in Washington State. In March 2004, SAGARPA resumed boneless beef imports, and in February 2006, bone-in beef imports resumed from cattle less than 30 months of age.

CANOLA

Issue: Phytosanitary Restrictions

Previously, Mexico accepted U.S. rapeseed seed, canola oil and canola meal, and not U.S. canola, but did accept Canadian canola. Under NOM 28, Mexico now accepts entry of commercial U.S. canola. The term "canola" is actually a trade name for rapeseed owned by the Canola Council of Canada. The Council has granted the U.S. the rights to use the name canola at no charge.

Industry has commonly distinguished rapeseed and canola by erucic acid content:

- Rapeseed – high erucic acid, industrial use
- Canola – low erucic acid (less than 2 percent), used for human consumption

Both are botanically equivalent and subject to the same pests and diseases. Mexico sought a risk analysis to modify NOM 28 but grandfathered Canada.

DAIRY

Issue: Milk Powder -- Tariff Rate Quotas

Most U.S. dairy products shipped to Mexico duty-free as a result of NAFTA tariff phase-outs, the lone exception being skim milk powder. NAFTA established a tariff rate quota for milk powder that increased

3 percent per year through January 1, 2008. Until 1999, CONASUPO was the exclusive milk powder importer into Mexico. LICONSA then became the largest importer of dry milk. LICONSA is a government-owned company charged with distributing milk to the poor. Private companies import milk powders for production of various dairy products such as cheese and yoghurt. They were allowed to import a predetermined amount per year. This amount changed due to production levels in Mexico. For their remaining requirements, companies offered closed bids to pay a fee per ton to obtain the necessary import permit (cupos) for an amount up to the maximum quantity allowed under the quota. The quota system was fully phased out January 1, 2008.

FRUIT

Issue: Apples - Costly On-Site Inspection Procedures

Although no listed quarantine pest had been detected at the border, the protocol required apple exports to be supervised by an official of the Mexico Export Inspection Office (MEIO). After many years, the Yakima, Washington MEIO was closed, with oversight functions turned over to the USDA/APHIS.

Issue: Border Clearance

Fruit shipments had frequently experienced delays and customs refused clearance for minor clerical errors. In 2002, bi-lateral meetings resulted in a tolerance of 2 percent for boxes not stamped with the TF number (a federal identification number assigned by the Tax Department) and a list of acceptable documentation "substitutes." Shipments proceeded without many difficulties as Mexican SAGARPA officials made efforts to keep trade moving.

Issue: Tariff Rates

The apple tariff rate under NAFTA dropped to 0 percent in 2003. No import duty is assessed on pears, apricots, plums or cherries from the U.S. Peaches and nectarines were assessed a 6 percent tariff. Mexico had a 15 percent value added tax (VAT) which is assessed on the FOB (Free on Board) invoice value plus the ad valorem duty. These tariffs were eliminated with the full implementation of NAFTA.

Issue: Apples - Safeguard Duty/Minimum Reference Price

Apple trade between the U.S. and Mexico has had numerous issues. In 1997, Mexico initiated an antidumping case against Northwest apples. In 1998, Northwest Fruit Exporters (NFE) entered into an agreement with the Mexican Department of Commerce (SECOFI/SE) that suspended the investigation into the alleged dumping of U.S. fresh Red and Golden Delicious apples. Mexico removed the 101 percent duty that had effectively halted U.S. apple exports.

The agreement required a minimum reference price of $13.72 per 42lb. carton FOB U.S. treatment facility in 1998. The price has ranged from $11.05 to $13.72 per carton. In 2002, UNIFRUT (the Regional Agricultural Fruit Producers of Chihuahua) protested the prices, went to court, obtained a review of the reference price, and finally moved officials to terminate the reference price agreement (it was to end on April 1, 2003 and conclude the antidumping case). The decision stated the Mexican industry had suffered damages because of increased U.S. Red and Golden Delicious apple imports that were sold at discriminatory prices in Mexico (from January-June 1996).

A final duty of 46.58 percent was placed on U.S. apple imports at the same time that the NAFTA agreement reduced tariffs to zero. The 46.58 percent duty was due to expire on February 25, 2005, but on Feb. 17, 2005, UNIFRUT filed an Amparo (Court Injunction) to stop the suspension of antidumping duties and reference price agreement between the Northwest Fruit Exporters (NFE) and Mexico's Secretariat of Economy. A judge admitted the Amparo documents and issued a provisional suspension

to UNIFRUIT.

Some NFE Apple shippers petitioned the Ministry of Economia to prove that they were not part of the apple dumping in Mexico. Not all that petitioned received zero or reduced tariff rates. There were only eight shippers in the Pacific Northwest that received the reduction. The tariff rate varied from zero to 47.05 percent. This petition process was a cost prohibitive venture for Idaho companies. The legal and audit fees amounted to over $100,000, effectively shutting off this market for small to medium shippers'. On September 23, 2005, the Ministry of Economia established a new "all others rate" at 44.67 percent.

On April 18-19, 2006 meetings were held between the Northwest Fruit Exporters and the Ministry of Economia (with UNIFRUT in attendance). After making some headway, the negotiations deteriorated and then fell apart. Ministry of Economia made a final determination of a 47.05 percent "all others rate" on November 2, 2006. A NAFTA panel was eventually formed.

The high tariffs reduced U.S. exports by 25 percent, providing other international competitors who are not subject to the tariff an accessible market. The U.S. could ship varieties other than U.S. Red and Golden Delicious, but the Mexico market is dominated by these two varieties.

On March 2, 2010, Mexico's Secretariat of Economy (SECON) published a notice in the Mexican Diario Oficial lifting the compensatory duties imposed on U.S. Red and Golden Delicious apples effective March 3, 2010.

MEAT

Issue: Inspection Points

In 2000, Mexico's Agriculture, Livestock, Rural Development, Fisheries and Food Ministry (SAGARPA) implemented laws changing all "verification points" for inspection of meat products to be "in Mexican territory." The most important provision was the moving of import verification points from the U.S. side of the border to the Mexican side of the border. In 2012, multiple seminars were held which gave additional training to those who inspect U.S. meat in Mexico.

POTATOES

Issue: Potato Cyst Nematode

In April 2006, potato cyst nematode was found in a soil sample collected from a potato processing facility in Idaho. This was the first time the potato cyst nematode had been found in the United States. The nematode does not pose a threat to human health but can reduce the yield of potatoes and other crops. ISDA and APHIS officials continue to believe the PCN infestation in eastern Idaho is isolated because of the more than 38,000 samples taken in 2006, all have been negative for PCN except for those from seven fields in close proximity. The 2006 samples were from investigations involving 224 production fields, 459 seed potato fields, and 58 facilities. Surveillance continues.

On August 28, 2006 APHIS issued a Federal Domestic Quarantine Order to prevent the spread of PCN through regulatory authority provided by Section 412(a) of the Plant Protection Act of June 20, 2000, as amended and the State of Idaho issued a parallel State Rule in support of the Federal Order. These regulations established restrictions on the interstate movement of certain regulated articles from Idaho and designated a regulated area identical to the Idaho Department of Agriculture quarantine, established April 27, 2006 restricting the intrastate movement of regulated articles. On April 2, 2007 Mexico agreed to a shipping protocol for Idaho fresh potatoes resuming trade. Idaho fresh potatoes must follow the protocols and additional requirements. The additional requirements for fresh potatoes are all production fields are:

- The potatoes must be shipped from production fields outside the PCN-regulated area;
- All Idaho potatoes produced in 2006 must be certified free of PCN based on soil samples taken during the growing season or post-harvest prior to export;
- Beginning with the 2007 growing season, all Idaho potato fields must be tested before planting and certified free of PCN; and
- Post-harvest soil samples from Idaho packing sheds must periodically be tested to ensure they are free of PCN.

SUGAR

Issue: Excessive Imports

In January, 2008, with the full implementation of NAFTA, all sugar tariffs between the U.S. and Mexico were eliminated. Sugar trade will continue to be impacted by the various sugar policies implemented in both countries that shape production and trade among third parties.

Previously there was a WTO case against Mexico regarding high fructose corn syrup. Mexico imposed a 20 percent sales tax on soft drinks and other beverages that use any sweetener other than cane sugar. Sugar-sweetened beverages were exempt from the taxes. The beverage taxes sharply curtailed U.S. high fructose corn syrup (HFCS) producers' access to Mexico's market for soft drinks and other beverages. This affected sugar use and sugar production in the U.S. In 2004, the U.S. filed a WTO case against Mexico over these taxes. On October 7, 2005, the WTO issued a decision siding with the U.S. WTO Appellate Body, which ruled in favor of the United States in its challenge of Mexico's discriminatory beverage tax. The Mexican tax remained in place, but many bottlers were able to use HFCS without being subject to additional taxes due to court injunctions allowing HFCS use in soft drinks without paying the tax. The U.S. was allowed to export 250,000 MT of HFCS to Mexico. Mexico was allowed to ship 250,000 MT of cane sugar annually to the U.S. up until January 1, 2008 when the quota was eliminated. The U.S. sweetener market has transitioned from an all sugar market 30 years ago to a mixed market of sugar and high-fructose, downsizing production by over 58 sugar processing mills, factories, and refineries.

WHEAT

Issue: TCK Smut

In November 1998 the Mexican government issued a new rule specifying zero tolerance for TCK in wheat. The rule briefly disrupted the flow of Idaho wheat into Mexico, although even with the rule in place, the government did not enforce the ban. Thus Idaho wheat moved into Mexico uninhibited, and Mexico later adopted a NOM regulation change that repealed the zero tolerance.

WINE

Issue: Import Tax

Mexico imposed a 12-30 percent import tax on U.S. wines under tariff code 2204, effective August 18, 2005, in retaliation to the U.S. Byrd Amendment. This resulted from a WTO ruling against the U.S. The tariff stayed in effect for 12 months, putting U.S. wine at a distinct disadvantage in the market, as Chile, the E.U., and Canada had zero import tax. The tariff on wine from the U.S. has since been removed.

PERU

DAIRY

Issue: Export Certificates

In 2002, Peru and the U.S. agreed on export certification language that allows all federally inspected and approved U.S. dairy plants to export to Peru. U.S. dairy plants registered on either the Agriculture Marketing Service (AMS) Approved Plant list or the Interstate Milk Shippers (IMS) compliance list or the E.U. Approved U.S. Dairy Exporters list are eligible to ship dairy products to Peru. AMS provides the certificates reflecting the new requirements, eliminating APHIS certificates from the process.

Peruvian officials tightened inspection requirements on export certificates and package labels in 2001, resulting in some U.S. shipments being detained in port. The U.S. Dairy Export Council (USDEC) worked with APHIS, AMS and USDA's Foreign Agricultural Service to develop a new certificate addressing the requirements of SENASA, Peru's agriculture inspection agency.

POTATOES

Issue: Tariffs

On April 12, 2006 the US and Peru signed the US-Peru FTA, which was implemented on February 1, 2009 after approval by both governments. The US-Peru FTA eliminated the 20 percent tariff on fresh potatoes, 20 percent tariff on fries and 12 percent tariff on flakes and granules.

TAIWAN

BEEF

Issue: Ban on Beef with Traces of Ractopamine

Ractopamine, a veterinary drug that is used to boost meat gains in pigs and cattle, was approved for use by the FDA for pork in 1999 and beef in 2003.

In 2004, the joint FAO/WHO Expert Committee on Food Additives (JECFA), a body of experts which provides scientific advice to Codex on food additives, contaminates, and residues of veterinary drugs, issued a report recommending the establishment of a MRL for ractopamine in the edible tissue of animals treated with the drug. This report provided further scientific evidence that this product is safe. The Codex has not adopted the MRL recommended by JEFCA.

Taiwan's Council of Agriculture put a ban on beta-agonists including salbutamol, terbutaline, clenbuterol, and ractopamine in October 2011. Taiwan did not have a MRL (Maximum Residue Level) standard for ractopamine, therefore they set the requirement for zero. These measures created significant barriers to U.S. exports of meat and meat products. The ractopamine issue did not affect Idaho's pork exports to Taiwan because exporting companies have ractopamine-free pork.

On July 25, 2012, Taiwan's Legislative Yuan (LY) quickly passed, by a vote of 63-46, three separate amendments dealing with ractopamine that cleared the way for Taiwan to administratively establish Maximum Residue Limits (MRLs) for ractopamine in beef. On September 11, 2012, a new regulation allowing imported beef containing set levels of rectopamine took effect. This implementation set the maximum allowable residue level of the drug at 10 ppb.

DAIRY

Issue: Whey - Bleaching Agents

The use of benzoic acid as a bleaching agent in whey powder was not allowed. U.S. whey manufacturers were permitted by FDA to bleach annatto-colored whey with benzoyl peroxide. The U.S. Dairy Export Council (USDEC) submitted a petition to Taiwan for the use of benzoyl peroxide in whey powder. On December 20, 1999, the Taiwan Department of Health, Food Sanitation and Safety approved USDEC's petition permitting the use of the bleaching agent.

POTATOES – DEHYDRATED

Issue: Sulfite Tolerance

Taiwan's sulfite tolerance for dehydrated potatoes was changed to the world standard of 500 ppm in 2004.

POTATOES – FRESH

Issue: Tariff Rate Quotas & Tariffs

Taiwan had a quota that limited shipments of U.S. fresh potatoes to 5,000 MT from April 1 – November 30. The quota was very small and the time frame was very limiting. As part of Taiwan's 1998 WTO accession package negotiated with the U.S., Taiwan agreed to eliminate the quota and reduce the tariff from 25 percent to 20 percent. This went into effect in 2002 when Taiwan entered the WTO.

Issue: Sprout Inhibitor Documentation

In June 2001, Taiwan requested federal documentation guaranteeing that U.S. fresh potato exports had been treated with a sprout inhibitor to prevent potatoes from being planted in Taiwan and potentially spreading quarantined pests or diseases. Initially, Taiwan requested the federal phytosanitary certificate (phyto) indicate that the product had been treated. Since a sprout inhibitor treatment is not related to a plant pest or disease, USDA/APHIS would not allow the phyto statement addition unless it was placed in the box for "other distinguishing marks." That notation, however, would require that every single product, package or carton be stamped with "treated with sprout inhibitor." Such markings are not pre-printed on packaging materials and would be costly to change and many fresh potatoes are merchandised in the retail store in the carton in which they are shipped.

Instead a "shipper affidavit" was developed that can be signed by the ISDA Bureau of Shipping Point Inspection. Taiwan accepted the alternative document and began requiring it (along with the phytosanitary certificate) for all shipments beginning October 2001.

POULTRY/ANIMAL FEED

Issue: Avian Influenza

A routine bacterial respiratory disease testing in an Idaho game bird flock in August 2008 revealed concurrent infection with Low Pathogenic Avian Influenza (H5N8, LPNAI) virus. A farm was put under

quarantine with a 3 km surveillance zone where all poultry and game birds were tested. Results were all negative for AI. The quarantined flock was totally depopulated and the premises was cleaned and disinfected.

Taiwan restricts poultry products from areas where High Path Avian Influenza (HPNAI) have been detected. Regulations clearly specify restrictions for HPNAI, but does not mention LPNAI, the disease found in Idaho. In spite of the distinction, certain Idaho animal feeds were restricted effective September 8, 2008. The issue was brought to the attention of APHIS, which responded that it doesn't matter if the detection is HPNAI or LPNAI, all manufacturers where animal feeds are produced must comply with Taiwan's quarantine requirements. During the Governor's trade mission to Asia in October 2008, Governor Otter discussed this issue with officials in Taiwan.

Effective June 11, 2009, the Bureau of Animal and Plant Health Inspection and Quarantine (BAPHIQ) lifted restrictions on poultry and poultry products except poultry meat for human consumption originating from countries (zones) where HPAI is not known to exist but LPAI may be. That means animal feed containing poultry ingredients manufactured in the states where LPAI is detected are allowed to ship to Taiwan without any additional heat treatment conditions. Poultry meat for human consumption including carcasses, meat, internal organs, and products manufactured by using aforementioned materials was still suspended from LPAI positive areas, but is permitted as of May 16, 2011.

THAILAND

PEAS, LENTILS, & CHICKPEAS

Issue: Tariffs

Thailand placed 30 percent tariffs on pulses, specifically dry peas, chickpeas, and lentils despite the fact that they cannot be grown locally. Thailand lowered tariffs for peas to 5 percent on an experimental basis in 2006 and extended through August 2007. On September 12, 2007, applied tariff rates for peas, chickpeas, certain beans and lentils were reduced from 30 percent to 5 percent on an ongoing basis.

VIETNAM

POTATOES – TABLE STOCK

Issue: Prohibition

In June 2010, the Vietnam market was opened to U.S. fresh potatoes, including chip and table-stock. This access is based on an agreement reached between the USDA Animal Plant Health Inspection Service (APHIS) and Vietnam's Ministry of Agriculture and Rural Development (MARD).

CALIFORNIA, USA

ALFALFA HAY

Issue: Cereal Leaf Beetle (CLB)

Alfalfa is not a host to Cereal Leaf Beetle although grasses found in hay are hosts. California requires that grass hay be fumigated and alfalfa hay must be grass free. In 2003, compressed baled alfalfa hay was given an exception to the fumigation rule (not rolled hay or rounds). No certification needs to accompany the shipment and it will be inspected at the California border, but any shipment with live beetles or larvae will be rejected. Alfalfa has always been exempted from the quarantine unless it is contaminated with grass (it is difficult to not have some grass). Now the alfalfa can have grass but as long as it is compressed, it does not need to be fumigated.

GLOSSARY OF TRADE TERMS

APHIS (Animal and Plant Health Inspection Service) A branch of the USDA, regulates plants, domestic animals, and plant and animal products coming into the U.S.

Bound Tariffs Rates, Tariff "binding" Tariff rates resulting from GATT/WTO negotiations or accessions, incorporated as part of a country's concessions schedule. Bound rates are enforceable under Article II of GATT. If a WTO member raises a tariff above the bound rate, the affected countries have the right to retaliate against an equivalent value of the offending country's exports or receive compensation, usually in the form of reduced tariffs on other products they export to the offending country.

CIF A standard trading term that includes cost, insurance, and freight.

Codex Alimentarius The Codex Alimentarius Commission, based in Rome, is a subsidiary of the Food and Agriculture Organization of the United Nations (FAO) and the World Health Organization (WHO). The SPS agreement (Sanitary Phytosanitary) designates Codex as the authority for international food safety evaluation and harmonization matters. Codex develops scientific methodologies, concepts and standards to be used worldwide for food additives, microbiological contaminants, and veterinary drug and pesticide residues.

Countervailing Duty A special duty imposed on imports to offset the benefits of subsidies to producers or exporters in the exporting country.

Decoupled Payments to farmers that are not linked to current production decisions. When payments are decoupled, farmers make production decisions based on expected market returns.

Duty Tax imposed by a government on goods imported or exported.

Export Subsidies Special incentives, such as cash payments, extended by governments to encourage increased foreign sales; often used when a nation's domestic price for a good is artificially raised above world market prices.

FOB A standard shipping term that stands for "free on board," meaning without charge to the purchaser for delivery on board or into a carrier at a specified point or location.

GATT General Agreement on Tariffs and Trade. GATT was founded in 1948. Eight rounds of trade negotiations were completed under GATT. GATT was replaced by the World Trade Organization (WTO) on January 1, 1995.

Generalized System Of Preferences (GSP) A temporary, non-reciprocal grant of tariff preferences by developed countries to developing countries to encourage the expansion of manufactured and semi-manufactured exports from developing countries by making goods more competitive in developed country markets.

GMO Genetically modified organism. This is an organism made up of genes from different organisms to produce a final organism that has the desired characteristics (such as disease resistance). This differs from traditional plant breeding in that genes can be moved from one plant to another with greater precision.

Harmonization International efforts to increase the uniformity of regulations and procedures in cooperating countries.

Harmonized code An international nomenclature developed by the World Customs Organization and recognized by over 170 countries. The system classifies goods into general categories using six-digit codes, allowing all participating countries to classify traded goods on a common basis. Beyond the six-digit level, countries are free to introduce national distinctions for tariffs and many other purposes.

Internal Support The Uruguay Round agreement on internal support recognized for the first time that policies of overproduction of specific commodities by individual countries played a major role in distorting world agricultural trade. It defined those policies that seriously distorted trade and those with minimal trade distorting effects using the traffic-signal colors of amber and green. Amber box policies (symbolizing "caution") are subject to reduced government support; while green boxes (symbolizing "go") entail no reduction requirements or restrictions. Another temporary exemption category called blue box was created to accommodate the E.U. and bring negotiations to a conclusion.

- **Amber box** policies include price supports, marketing loans, payments based on acreage or number of livestock, input subsidies and certain subsidized loan programs.
- **Green box** policies focus on governmental programs intended to support agriculture and include many of the operations of state and federal departments of agriculture or state university research. Such policies include: research, pest and disease control, extension services, inspection, marketing and promotion, crop insurance, natural disaster relief, conservation programs, and public stockholding.
- **Blue box** policies are redefined amber box policies that are related to production-limiting programs, such as payments based on fixed area and fixed yield, fixed number of livestock, or no more than 85 percent of the base level of production.

Incoterms Standard terms established by the International Chamber of Commerce which are used to define the specific responsibilities of buyers and sellers in international sales contracts. The most recent version of the terms went into effect January 1, 2011.

ISO (International Organization for Standards) The ISO is a worldwide federation of national standards bodies from over 160 countries. Its mission is to promote the development of standardization and related world activities, specifically to facilitate the international exchange of goods and services, and to develop cooperation in intellectual, scientific, technological, and economic activities.

Most Favored Nation (MFN) An agreement between two countries to extend the same trading privileges to each other that they extend to any other country. Under a MFN agreement, for example, a country will extend to another country the lowest tariff rates it applies to any third country. A country is under no obligation to extend MFN treatment to another country, unless both are members of the WTO, or unless MFN is specified in an agreement between them.

Norma Oficial Mexicana (NOM) The NOM is published in the Diario Official with the final ruling, just as the U.S. publishes rulings in the Federal Register.

Normal Trade Relations (NTR) The term applied to Most Favored Nation (MFN) status for trading partners of the U.S. The U.S. extends NTR/MFN treatment to all of its trading partners. Some countries, such as Cuba and North Korea, are denied NTR treatment.

Non-Tariff Trade Barriers Government measures other than tariffs that restrict trade flows. Examples of non-tariff barriers include quarantine restrictions, import licensing, variable levies, import quotas, and technical barriers to trade.

Organization for Economic Cooperation and Development (OECD) An international organization made up of European countries, Japan, Korea, Israel, Australia, New Zealand, Canada, Mexico, and the United States that allows these governments to discuss, develop, and perfect economic and social policy. They compare experiences, seek answers to common problems, and work to co-ordinate domestic and international policies.

Price Pooling A price pooling system allows a State Trading Enterprise (STE– see below) greater flexibility in export pricing relative to private grain trading companies. Under the pool system, prices to producers may be averaged across grades and quality differences, time of year, and in some cases, freight charges. The degree to which pools are segmented by grade, quality, marketing period, and location defines how much flexibility the STE has in pricing products for export.

Quota A specified quantitative limit of a product that can be imported from a specified country.

Reference Price The minimum import price for certain farm products, normally based on an average of the country's market or producer prices over a given period. Specifically refers to a commodity of a prescribed quality which may be supported by intervention measures.

Risk Management Document (RMD) It includes a summary of the findings of a pest risk assessment and records the pest risk management process for the identified issue.

Sanitary and Phytosanitary Measures (SPS) Sanitary and phytosanitary (SPS) measures are laws, regulations, and procedures adopted by governments to protect animal, plant, or human health. International trading rules embodied in the General Agreement on Tariffs and Trade (GATT) have always recognized the right of each country to adopt and maintain any measure deemed necessary to protect human, animal or plant health. Under the Uruguay Round Agreement on the Application of SPS measures, WTO member countries agreed to base any SPS measures on an assessment of risks posed by the import in question and to use scientific methods in assessing the risk.

State Trading Enterprise (STE) Governmental and non-governmental enterprises, including marketing boards, which have been granted exclusivity, special rights or privileges, including statutory or constitutional powers, in which they influence purchases or sales in the level or direction of imports or exports. (Understanding on the Interpretations of Article XVII of GATT 1994)

Subsidy An economic benefit granted by a government to producers, often to strengthen their competitive advantage. The subsidy may be direct (a cash grant) or indirect (e.g. low-interest export credits guaranteed by a government agency).

Tariff A tax imposed by a government on imports or exports. A tariff may be imposed to protect domestic industries form imported goods or to generate revenue, and may be either a fixed charge per unit of product imported (specific tariff) or a fixed percent of value (ad valorem tariff).

Tariffication The process of converting nontariff trade barriers to bound tariffs. This was done under the Uruguay Round Agreement on Agriculture in order to improve the transparency of existing agricultural trade barriers and facilitate their proposed reduction.

Tariff-Rate Quota (TRQ) A two-tiered tariff scheme. A lower tariff applies to imported goods in a quantity below the specified quantitative (quota) amount. Any amount that is imported after this initial quota has been filled faces a significantly higher tariff rate.

Union for the Protection of New Varieties of Plants (UPOV) The International Union for the Protection of New Varieties of Plants is an intergovernmental organization with headquarters in Geneva, Switzerland. UPOV was established by the International Convention for the Protection of New Varieties of Plants which was signed in Paris in 1961. The Convention entered into force in 1968 and has been revised in 1972, 1978 and 1991. Currently there are 65 member countries.

Value Added Tax (VAT) An indirect tax on consumption that is levied at each discrete point in the chain of production and distribution, from the raw material stage to final consumption. Each processor or merchant pays a tax proportional to the amount by which he increases the value of the goods he

purchases for resale after making his own contribution.

World Customs Organization (WCO) Established in 1952, the WCO is a worldwide, intergovernmental organization designed to increase the effectiveness and efficiency of the customs systems worldwide.

World Trade Organization (WTO) Established on January 1, 1995, as a result of the Uruguay Round, the WTO replaces GATT as the legal and institutional foundation of the multilateral trading system of member countries. Located in Geneva, Switzerland, it provides the principal contractual obligations determining how governments frame and implement domestic trade legislation and regulations.