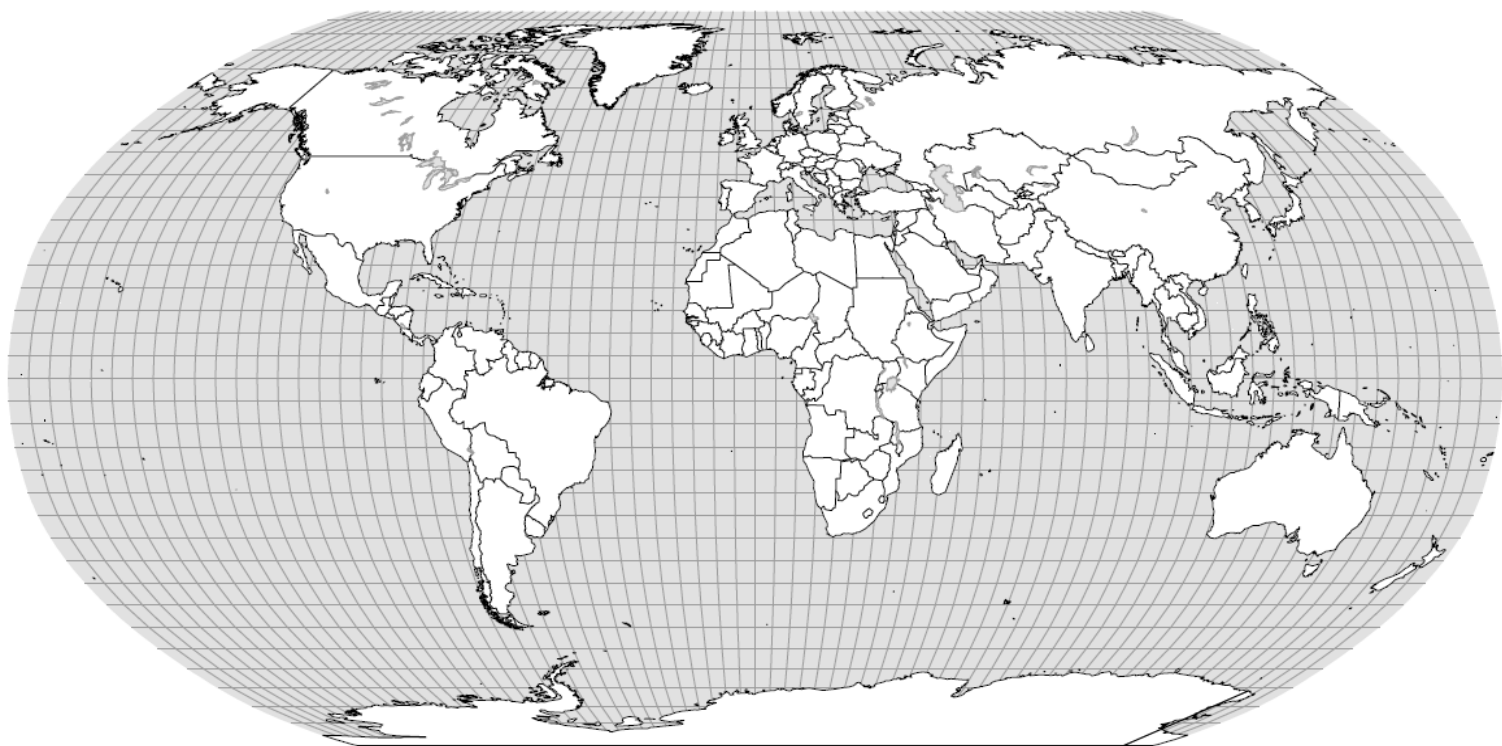


# IDAHO

## AGRICULTURE TRADE ISSUES REPORT

---

# 2011



Idaho State Department of Agriculture  
Market Development Division  
(208) 332-8530  
[www.agri.idaho.gov](http://www.agri.idaho.gov)



# INTRODUCTION

The Trade Issues Report began as the result of a Trade Issues Workgroup that was 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 procedures (SPS), 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 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, Section Manager  
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](mailto:laura.johnson@agri.idaho.gov)  
Website: [www.agri.idaho.gov](http://www.agri.idaho.gov)



Revision May 20, 2011



# Table of Contents

IDAHO PRODUCTS OVERVIEW .....	8
UNITED STATES TRADE AGREEMENTS.....	10
The World Trade Organization.....	10
<b>AGRICULTURAL ISSUES</b> .....	11
WORLDWIDE .....	11
All Products.....	11
Sugar.....	13
ARGENTINA.....	14
Fruit.....	14
AUSTRALIA.....	14
Fruit.....	14
Seed.....	15
BRAZIL .....	16
Dairy Products.....	16
Fruit.....	17
Wheat.....	17
CANADA.....	17
Dairy.....	17
Potatoes – Fresh.....	18
Wheat.....	19
CHILE .....	20
Fruit.....	20
Peas, Lentils, & Chickpeas .....	20
CHINA (PRC).....	21
U.S. – China Agreement On Agriculture .....	21
All Products.....	22
Beef.....	22
Dairy - Whey .....	23
Fruit.....	23
Potatoes – Fresh.....	24
Potatoes – Processed.....	24
Seed.....	25
Processed Fruits & Vegetables.....	26
Peas.....	26
COLOMBIA.....	26
All Products.....	27
COSTA RICA.....	27
Potatoes.....	27
CUBA.....	27
Fruit.....	28
Potatoes.....	28
EUROPEAN UNION .....	28
Beef.....	28
Fruit.....	29
Genetically Modified Foods And Organisms.....	29
Grains.....	30
HONG KONG.....	30
Beef.....	30

INDIA .....	31
Fruit .....	31
Peas, Lentils, & Chickpeas .....	31
Potatoes – Processed .....	31
INDONESIA .....	32
All Products .....	33
ISRAEL .....	33
Fruit .....	33
Seed .....	34
JAPAN .....	34
Beef .....	34
Dairy Products .....	35
Fruit .....	35
Potatoes – Fresh Table Stock .....	36
Potatoes – Fresh Chipping .....	37
Potatoes – Processed .....	37
Processed Foods .....	37
Seed .....	38
KOREA .....	38
Barley-Malting .....	38
Beef .....	39
Dairy .....	39
Fruit .....	40
Onions .....	41
Potatoes - Dehydrated .....	41
Potatoes – Fresh .....	41
MEXICO .....	42
All Products .....	42
Fruit .....	43
Potatoes – Fresh .....	44
Potatoes – Seed .....	45
PHILIPPINES .....	45
Seed .....	45
TAIWAN (ROC) .....	45
Beef .....	45
Fruit .....	46
Fruits And Vegetables – Fresh .....	46
Lamb .....	47
Potatoes – Fresh .....	47
Potatoes – Processed .....	48
THAILAND .....	48
Fruit .....	48
Lamb .....	49
Potatoes – Processed .....	49
VENEZUELA .....	50
All Products .....	50
Fruit .....	50
VIETNAM .....	51
Fruit .....	51
Potatoes – Processed .....	51
<b>IMPORT ISSUES</b> .....	<b>52</b>
Country Of Origin Labeling (COOL) .....	52

Dairy.....	52
Honey.....	52
CHINA (PRC).....	53
FRUIT.....	53
<b>RESOLVED ISSUES</b> .....	53
WORLDWIDE.....	53
Cattle.....	53
Meat.....	54
ARGENTINA.....	54
Dairy.....	54
AUSTRALIA.....	54
Fruit.....	54
Seed.....	55
Wheat.....	55
BRAZIL.....	55
Dairy.....	55
Fruit.....	56
Peas, Lentils, & Chickpeas.....	56
Seed.....	56
Potatoes – Seed.....	56
CANADA.....	57
Alfalfa Hay.....	57
Cattle.....	57
Dairy Products.....	58
Fruit.....	58
Potatoes – Fresh.....	59
Potatoes – Seed.....	60
Sugar.....	60
Wheat & Barley.....	60
CHILE.....	61
Fruit.....	61
CHINA.....	61
Fruit.....	61
Potatoes-Dehydrated.....	61
Wheat & Barley.....	62
COSTA RICA.....	62
Beef.....	62
INDIA.....	63
Fruit.....	63
ISRAEL.....	63
Cherries.....	63
JAPAN.....	63
Dairy.....	63
KOREA.....	64
Beef.....	64
Dairy.....	65
Potatoes-Dehydrated.....	65
Seef.....	65
MEXICO.....	66
Barley, Potatoes-Fresh & Processed.....	66
Beans.....	66
Beef.....	67

Canola.....	68
Cattle.....	68
Dairy.....	68
Fruit.....	69
Meat.....	70
Potatoes.....	70
Sugar.....	71
Wheat.....	71
Wine.....	71
PERU.....	72
Dairy.....	72
Potatoes.....	72
TAIWAN.....	72
Dairy.....	72
Potatoes – Dehydrated.....	72
Potatoes – Fresh.....	73
Poultry/Animal Feed.....	73
THAILAND.....	74
Peas, Lentils, & Chickpeas.....	74
VIETNAM.....	74
Potatoes – Table Stock.....	74
CALIFORNIA, USA.....	75
Alfalfa Hay.....	75
GLOSSARY OF TRADE TERMS.....	76

# 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 26 products.

<b>IDAHO CROPS</b>		
Idaho Crops (2009)*	Acres Harvested	Cash Receipts (1,000)
Potatoes	319,000	\$784,980
Wheat	1,250,000	\$491,949
Hay	1,510,000	\$420,393
Sugar Beets	163,000	\$234,822
Barley	510,000	\$231,529
Dry Beans	99,000	\$53,530
Corn	295,000	\$48,754
Greenhouse/Nursery	NA	\$48,681
Onions	8,800	\$39,301
Mint	17,500	\$34,535
Hops	4,030	\$29,359
Lentils	52,000	\$16,900
Apples	NA	\$12,015
Dry Edible Peas	41,000	\$8,102
Peaches	NA	\$7,280
Cherries	NA	\$2,975
Oats	25,000	\$2,928
Plums and Prunes	NA	\$991
<b>Total 2009</b>		<b>\$2,420,270</b>

<b>IDAHO LIVESTOCK</b>		
Idaho Livestock (2009)*	Total Head	Cash Receipts (1,000)
Milk Cows/Milk	550,000	\$1,430,514
Cattle and Calves	2,140,000	\$961,618
Trout (#sold)	29,800,000	\$35,583
Other Livestock & Products	NA	\$21,944
Sheep and Lambs	220,000	\$16,517
Poultry/Eggs	N/A	\$13,028
Hogs and Pigs	36,000	\$10,656
Wool	NA	\$1,482
<b>Total Receipts 2009</b>		<b>\$2,491,342</b>
<b>IDAHO TOTAL CASH RECEIPTS 2009: \$5,160,697</b>		

\* 2010 figures will be published in September 2011

<b>IDAHO'S RANK IN THE NATION</b>		
Product	Rank (2009)	Percent of U.S.
Potatoes	1	30
Trout	1	73
Austrian Winter Peas	1	53
Wrinkled Seed Peas	2	21
Barley	2	21
Sugarbeets	2	19
Mint	3	20
Hops	3	8
Total Cheese	3	8
Alfalfa Hay	3	7
Lentils	4	11
Prunes and Plums (Fresh)	4	11
Onions (Summer Storage)	4	11
Dry Edible Peas	4	5
Milk Production	4	6
Milk Cows	4	6
Other Spring Wheat	5	7
Dry Edible Beans	5	8
Sweet Cherries	5	1
All Wheat	7	4
Honey	7	3
All Hay	8	4
Wool	8	6
Peaches	9	1
All Sheep and Lamb	9	4
Winter Wheat	10	4
All Cattle & Calves	14	2

<b>IDAHO AG EXPORT DESTINATIONS</b>		
RANK	Country	% Market Share (2010)
1	Canada	22.6%
2	Mexico	17.8%
3	Japan	9%
4	China	7.8%
5	Indonesia	5.4%
6	Netherlands	3.7%
7	Malaysia	2.9%
8	Spain	2.8%
9	Korean Republic	2.7%
10	Taiwan	2.5%

# UNITED STATES TRADE AGREEMENTS

Over the past decade, 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 25 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. However, the TPA is still enforced for agreements signed by July 1, 2007.

The U.S. is a member of various bi-lateral free trade agreements (FTAs): Australia, Bahrain, Chile, Israel, Jordan, Morocco, Oman, Peru, and Singapore. U.S. trade agreements with Panama, Korea, and Colombia are pending congressional approval. Multi-lateral agreements include NAFTA with Canada and Mexico and Central America/Dominican Republic (CAFTA-DR) with Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua.

The U.S. is currently negotiating free trade agreements with Malaysia, Thailand and the United Arab Emirates. As of September 2010, the negotiations with Thailand are temporarily on hold. Regional free trade agreements that are currently in negotiation are U.S. and Andean Free Trade Agreement, the Free Trade Agreement of the Americas (FTAA), and the U.S.-Southern African Customs Union (SACU). For more information on FTAs visit <http://www.export.gov/fta/index.asp>.

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 dispute continue to occur.

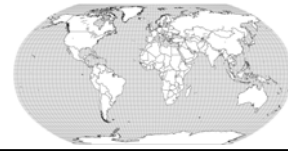
## THE WORLD TRADE ORGANIZATION

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, fair competition and 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 153 members and 30 observer countries. Russia is the most current country in the process of becoming a member of the WTO.

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](http://www.ers.usda.gov/db/wto).

# AGRICULTURAL ISSUES

## WORLDWIDE



### ALL PRODUCTS

Issue: Domestic Support

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 2005 the U.S. spent \$18.9 billion 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
<b>Tariffs</b>		
Average cut for all agricultural products	-36%	-24%
Minimum cut per product	-15%	-10%
<b>Domestic support</b>		
Total AMS cut for sector (base period 1986-88)	-20%	-13%

<b>Domestic Support Ceiling Commitments</b>	
United States	\$20 billion
European Union	\$79 billion
Japan	\$36 billion

Source: [http://www.wto.org/english/thewto\\_e/whatis\\_e/tif\\_e/agrm3\\_e.htm](http://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm3_e.htm)

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. For information go to [www.taacenters.org](http://www.taacenters.org)

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 US can subsidize 13 products including wheat and wheat flour, bovine meat, and cheese. For a complete list see: ([http://www.wto.org/english/tratop\\_e/agric\\_e/negs\\_bkgrnd08\\_export\\_e.htm](http://www.wto.org/english/tratop_e/agric_e/negs_bkgrnd08_export_e.htm)).

The US proposed to the WTO in 2000 to eliminate export subsidies through progressive implementation of annual reduction commitments over a fixed period. However, no agreement has been reached within the WTO.

## 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. It focuses on prevention, intervention, and response (<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.

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.net](http://www.codexalimentarius.net).

## 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](http://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, establishing 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 State 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	58%	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](http://www.ers.usda.gov/db/Wto/WtoTariff_database/StandardReports/tariffT2.xls)

\*As of March 2011, 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 has decreased slightly over the past year making U.S. crops more attractive to international buyers. The February 2011 U.S. Agriculture Trade Report projects that world growth and a weaker dollar will increase U.S. agricultural product export growth. A weaker dollar makes U.S. products less expensive relative to foreign goods. The euro and Argentine peso are expected to weaken against the dollar in 2011. The Japanese yen, Mexican peso, and Brazilian real are forecasted to depreciate versus the dollar as well. The Chinese Yuan is expected to modestly appreciate against the dollar in 2011.

(<http://usda.mannlib.cornell.edu/usda/current/AES/AES-02-24-2011.pdf>)

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.

## **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. Imports average around 15 percent of the total the U.S. uses. Imports are subject to TRQs. For Fiscal Year 2011, the in-quota quantity for the tariff- rate quota on raw cane sugar is 1.1 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: Cherries - Phytosanitary Ban

Argentina does not specifically prohibit U.S. cherry imports, its government has not yet identified the pests of potential quarantine concern or mitigation measures which might be required before commercial shipments can occur.

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.

<b>2011 Argentina Tariffs, Taxes and Rebates for Apples</b>	
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 (> 20Kg): 3.4% Export Rebate (2.5Kg-20Kg): 5% Export Rebate (< 2.5Kg): 6%	Export Rebate (> 20Kg): 3.4% Export Rebate (2.5Kg-20Kg): 5% Export Rebate (< 2.5Kg): 6%

Source: FAS Buenos Aires based on data from Tarifar

# 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.

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 2008 that is expected to be completed by September 2011. Australia's current policy regarding apples from Japan and New Zealand will be taken into account regarding relevant issues.

Apples from New Zealand had been banned due to fire blight risks as well until November of 2006, when Biosecurity Australia released its final risk assessment ruling that New Zealand apples could be imported under strict guidelines. However, the borders have not yet been opened.

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.

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](http://www.daff.gov.au/ba/ira/current-plant/apples_usa).

#### Issue: Cherry Preclearance Program

For the 2010 season, cherry exports to Australia had to undergo an interim visual inspection protocol (600 fruit per fumigation lot examined under 20x magnification) pending the outcome of ongoing fumigation trials designed to demonstrate the effectiveness of methyl bromide fumigation against spotted wing Drosophila (*Drosophila Suzukii* or SWD), a type of fruit fly. Tests were supposed to be completed in June 2010. However, due to some additional issues and very complex requirements the USDA pushed for an agreement with Australia to allow for the same protocols in 2011 crops that was used in 2010. Biosecurity Australia (BA) confirmed in March 2011 that the interim measures required for CA/PNW cherries in 2010 will continue to apply for the 2011 cherry export season. When the efficacy trials have been completed and accepted by BA, they will consider more permanent measures for SWD.

Cherries exported from the United States are not permitted into Western Australia.

## **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 three-

fold: 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.



**DAIRY PRODUCTS**

Issue: Non-Tariff and Tariffs

The Brazilian dairy industry has made greater domestic investments and offered more products on the market leading to more non-tariff barriers to dairy imports that are both extensive and persistent. These barriers include formal review and registration of foreign processing and plant inspection systems, greater pre-inspection of plants in exporting countries, complicated requirements for certificates of origin, laboratory product-quality tests, and product label registrations.

Plant registration, inspection requirements, and product label registration hinder Idaho dairy exporters. 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 one veterinary authority responsible for the plant. For the dairy sector, the only competent authority responsible for signing it is AMS. 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 US.

2011 Tariffs on Dairy Products			
Tariff Number (HTS)	Product Description	Rate (%) CXT*	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

\*Dairy and products Annual Brazil Gain Report BR 0623

## 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) countries 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: Tariffs

Brazil is one of the largest importers of wheat in the world. It imports approximately 90 percent of its wheat from Argentina at a zero tariff. Non Mercosul countries, including the US, are subject to a 10% tariff and a "maritime" tax of 25 percent of the cost of freight. The "maritime" tax amounts to \$17 - \$25 per ton. Historically, Brazil has temporarily eliminated the 10% tariff on wheat imported from outside Mercosul. In June 2010, Brazil suspended the tariff on wheat imported from the U.S. as a result of the U.S. and Brazil working out U.S. cotton subsidies in the 2012 farm bill. The northwest grain industry is urging Brazil to make the suspension of the wheat tariff permanent.

# 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 tons. Some imports above that level can be made through the Import for Re-Export Program (IREP). Dairy products that will be used in the manufacturing goods, such as confectionary items, that will be exported to Canada under the IREP and avoid the over-access tariffs.

2011 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%

<http://www.cbsa-asfc.gc.ca/trade-commerce/tariff-tarif/2010/01-99/ch04-t2010-01-eng.pdf>

#### 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% dairy content are subject to prohibitive tariffs.

2011 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	5%
2106.90.94	Containing 50% or more by weight of dairy content, over access commitment	KGM	212% but not less than \$2.11/kg

[www.cbsa-asfc.gc.ca](http://www.cbsa-asfc.gc.ca)

#### 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 Columbia 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 US 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. For more on the 2010 ruling go to

[http://ftp.citttce.gc.ca/doc/english/Dumping/Reviews/Orders\\_Reasons/rr2j002\\_e.pdf](http://ftp.citttce.gc.ca/doc/english/Dumping/Reviews/Orders_Reasons/rr2j002_e.pdf)

Issue: Prohibition 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. The agreement is now fully implemented, but 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, even with the agreement fully implemented, in fall 2010, CFIA announced that they were redoing their regulations for importing potatoes. This caused some concern because ME Agreements came into full effect just as these new requirements were announced. It is too early to determine whether these requirements are simply an update to the import requirements or if they are meant to replace ME's as a new way to restrict importation of U.S. potatoes.

## **WHEAT**

Issue: Canadian Wheat Board

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

In March 2003, the WTO agreed to an American request to convene a panel to hear a dispute about monopolistic wheat trading practices of the Canadian Wheat Board. 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.

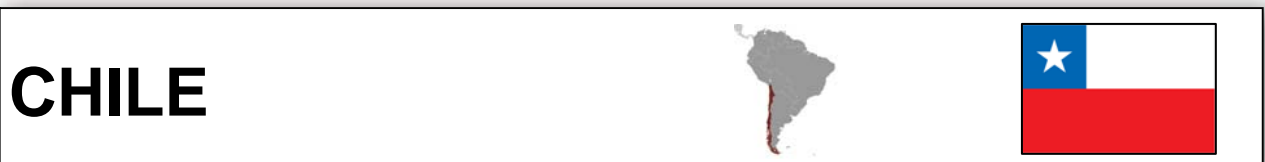
In April 2004, the panel released its report, in which it ruled that the Canadian Wheat Board is not violating WTO rules governing state trading enterprises. The WTO panel recognized the potentially harmful and trade distorting effects of state trading enterprises, but determined that the WTO Agreement 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 (May 19, 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 tariffs. The tariffs were subsequently lifted. The U.S. is now seeking meaningful and permanent reform of the Canadian Wheat Board and STE reforms through the adoption of new WTO rules.

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 and a barley marketing bill is now before Parliament awaiting debate.

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 current single-desk grain marketing system.

Stephen Harper, the Prime Minister of Canada (2006-current), has promised to dismantle the Canadian Wheat Board, but in the face of stiff opposition, in December 2008, Agriculture Minister Gerry Ritz stated that in the short run, the Canadian government will put aside its efforts to dismantle the CWB.



## **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 that was rejected by the northwest industry. Chile requires mitigation measure through expanded inspections that will prove overly restrictive and costly, and result in little if any commercial trade.

## **PEAS, LENTILS, & CHICKPEAS**

Issue: Phytosanitary Restriction

Chile requires 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. continues to press Chile to implement and enforce WTO-consistent sanitary and phytosanitary requirements.



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 bi-lateral 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 2011
Apples, Peaches & Cherries	30%	10%
Beef	45%	26.6% (effective rate with VAT)
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**

### **Issue: Undervalued Currency**

June 19, 2010 the Chinese government pledged that it would allow for greater exchange rate flexibility. However, in March 2011 the premier of China ruled out allowing a faster rise in its tightly controlled currency. The Chinese Yuan rose slightly from March 2010 to March 2011 from .14647 U.S. Dollars /Yuan in 2010 to .15216 U.S. Dollars/Yuan in 2011. Timothy Geithner, U.S. Treasury Secretary, expressed concern over China's currency policy saying appreciation is too slow but the the Obama administration remains reluctant to formally label China a currency manipulator under U.S. law.

The Yuan is generally believed to be undervalued against the dollar by 20% to 40%, making Chinese exports cheaper in overseas markets and American imports more expensive to Chinese buyers. A substantial increase in the value of the Chinese currency is essential to reduce trade imbalances, but China has blocked any significant rise by intervening massively in the foreign exchange markets, buying \$15 billion to \$20 billion per month for several years to keep market pressures from pushing up the currency. This currency intervention creates, in effect, a 33 percent subsidy for Chinese exports. Furthermore, by keeping its own currency undervalued, China has also deterred most other Asian countries, from Japan to India, from letting their currencies rise against the dollar for fear of losing competitive position against China.

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 September 2010, the House passed a similar bill, the Currency Reform for Fair Trade Act, which aimed to crack down on Chinese currency manipulation by targeting imports from China and other countries with currencies that are perceived to be undervalued. The bill never was passed in the Senate and therefore never became a law. Economist hope more progress will be made in 2011. It is predicted that in 2011 the Yuan will increase in value by 15%.

## **BEEF**

### **Issue: Ban**

In December 2003, China imposed bans 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 agreement on trade resumption conditions and, 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 back into China on a staged basis and he hoped the first shipments would be made in 2011. A team from the Department of Agriculture visited China in January 2011 in an effort to clear up remaining inspection issues.

## **DAIRY - Whey**

Issue: Ban on Benzoyl Peroxide and Benzoic Acid

With the enforcement of China's new Food Safety Law on June 1, 2009, 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 by-product 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. 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. Those exporters whose products consecutively fail to pass the test will be "black listed" and prohibited from exporting dairy products to China.

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 December 15, 2010 banning Benzoyl peroxide and calcium peroxide in the production of wheat flour and its products as of December 1, 2011.

## **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 APHIS' requests 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. APHIS is now better placed to press China for movement on U.S. apples in light of the WTO ruling.

APHIS is conducting a pest risk assessment (PRA) for Chinese apples as requested by China, but they have found many pests of quarantine concern which are a threat to the U.S. industry.

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 been actively seeking 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 concludes 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 and that document 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 2011, there has been no movement on the issue since the Chinese visited the growing region.

## **POTATOES – FRESH**

Issue: Phytosanitary Ban

Idaho table stock potatoes are prohibited entry into China because of claimed phytosanitary concerns. In 2000, AQSIQ committed to conduct a PRA to develop protocols for imports of U.S. potatoes from Alaska, 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. In 2002, the Alaskan PRA for seed potatoes was commenced. It was completed in 2003, and as a result of the SPS bi-lateral meetings in September 2003, APHIS and AQSIQ signed a work plan in December 2003, authorizing the shipment of Alaskan seed potatoes to China.

China agreed to make immediate progress in completing pest risk assessments (PRA) for Pacific Northwest and Alaska table stock potatoes that would provide a basis for negotiating a market access agreement or protocol with China. AQSIQ asked APHIS for additional information on Potato Mop Top Virus, Potato Rot Nematode, Columbia Root Knot Nematode, Skin Spot and bio-engineered potatoes. The industry, researchers and USDA/APHIS prepared and delivered a timely response. At subsequent bi-lateral meetings, AQSIQ identified the PRA completion as a high priority to be accomplished as soon as possible.

While China's General Administration of Quality Supervision, Inspection, and Quarantine (AQSIQ) has initiated a pest risk assessment and technical discussions are ongoing, very little progress has been made. FAS/Beijing believes China is hesitant to open the market to imports in an effort to protect its domestic industry.

## **POTATOES – PROCESSED**

Issue: Application of International Standards: Frozen Fries

Several times in the past, Chinese documentation and food additive standards have disrupted trade. In the summer of 2007, China detained and destroyed a load of processed US potatoes for highly questionable reasons. China misapplied a Chinese snack regulation to US processed potatoes and

claimed the US product did not meet Chinese standards. The claims against the US product were highly questionable and the Chinese rushed to destroy the product prior to allowing the situation to be reviewed and resolved. This situation is not acceptable. Chinese are encouraged to develop food importation regulations based on international standards. Now that China has joined the WTO, it is important that China's import regulations meet international standards.

## **SEED**

Issue: Corn -- Phytosanitary Ban

Corn seed to China is prohibited because of *Erwinia stewartii* or Stewart's Wilt. In 2000, the American Seed Trade Association (ASTA) and the National Agro-Technical Extension and Service Center Ministry of Agriculture-China (NATECS) 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 NATECS 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 bi-lateral 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. As of March 2011, this issue has not been resolved and a time frame has not been set for resolution.

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 that's 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 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.cnvp.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. In place 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 reduces the likelihood of processed products harboring pests.

The USDA authorizes the issuance of federal phytos that certify plant products free of pests and diseases, but prohibits federal phytosanitary certificates from being issued on processed products.

In the early 1990s, to assist with customs clearance, the Idaho State Department of Agriculture (ISDA) created a state phyto to meet the needs of Idaho exporters. ISDA asked USDA to add "Frozen and Dehydrated Fruits and Vegetables" to the list of items that can be certified for export using the Processed Plant Products Export Certificate, PPQ Form 578.

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 and there is a cost for each certificate.

## PEAS

Issue: Food Safety Restriction

China is enforcing a limit on the selenium content of imported peas. Under Chinese regulations, the selenium content is limited to 3 ppm which is not in line with any health dangers related to selenium intake and in fact may discourage intake of selenium at the minimum levels required for good health. USDA is working with the Chinese government on this issue, and the Chinese authorities have agreed to review their selenium standard in coordination with USDA. Chinese authorities are 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 has allowed the US to continue to export yellow peas to China while the selenium issue is under review. The selenium limits continue to present a barrier for other U.S. pea exports to China, e.g., green peas for fried pea snacks.

# 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 will enter into force upon approval by the U.S. Congress.

The agreement will eliminate duties on 53% of current U.S. trade including many agricultural products. Currently Colombia charges a 20% tariff on processed potatoes which will be eliminated along with all duties on potatoes and potato products under the agreement.

Colombia has a price band system on dairy products with tariffs as high as 159%. All duties on dairy products will be eliminated within 15 years, with some eliminated earlier. Tariffs on whey will be eliminated immediately and TRQs for certain dairy products will be established.

TRQs will also be created for beef and the current 80% duty on beef will be reduced to 50% in the first year and then phased out completely over 10 years. Tariffs on wheat and barley will also be eliminated. For more information visit: [http://www.fas.usda.gov/info/factsheets/Colombia/Id\\_Colombia.asp](http://www.fas.usda.gov/info/factsheets/Colombia/Id_Colombia.asp).

## COSTA RICA



## POTATOES

Issue: Tariffs

Prior to the Central America Free Trade Agreement (CAFTA-DR) Costa Rica applied a 40% tariff on US frozen fries and tariffs for dehydrated potato ranged from free to 90%. This caused the US to lose tremendous market share in Costa Rica because of the discrepancy in tariffs between the US and Canada. In DR-CAFTA, Costa Rica agreed to grant a TRQ for frozen fries that is the equivalent to the offer it made to Canada in its free trade agreement. Having equivalent tariffs ensures that the US is able to compete with Canada in the region.

Costa Rica was the last country to implement the agreement. CAFTA-DR went into force on January 1, 2009 and significantly lowered tariffs for processed potatoes. The TRQ for frozen fries is 3,046 MT with a 0% duty and out of quota tariff of 9% which decreased to 0% in 2010. However, tariffs on other potato products remain high. The tariff for dehydrated potatoes is 30.33% with no TRQ. For Fresh Potatoes, the US will receive a tariff-free tariff-rate quota (TRQ) of around 300 metric tons, which will grow to 384 metric tons in 2020. After 2020, the TRQ cap will grow by 6 metric tons per year. Out of quota tariff for fresh potatoes will remain at 47%.

## CUBA



## **FRUIT**

Issue: Apples and Pears - Phytosanitary Requirements

The Northwest Horticultural Council (NHC) has sought Cuban access for Idaho and Oregon fruit, but has been unsuccessful to date. 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.

Cuba's market was closed to U.S. exporters for political reasons until 2000 when the Trade Sanctions Reform and Export Enhancement Act was signed, relaxing certain U.S. economic sanctions against Cuba. Some prohibitions remain. Cash sales of U.S. agricultural products are allowed but financed sales are not and exporters are required to secure permits from the U.S. government.

## **POTATOES**

Issue: Lack of Shipping Protocol

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

A protocol was drafted and sent for review in Sept 2008 to both governments. 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. To date the protocol has yet to be ratified.

# **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 EU agreed to a settlement that could resolve this longstanding trade dispute. This agreement is done in three phase. The first phase, which lasts until August 2012, expands market access for U.S. beef to the EU 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 11,500 metric tons of hormone-free beef. The United States will continue to impose U.S. import duties on the "reduced list" of products.

Phase 2 involves further expansion of EU market access for U.S. High Quality Beef to 45,000 metric tons and an agreement by the United States to reduce "increased duties" to zero. A decision on whether to move to Phase 2 would depend on conditions at the end of Phase 1. Phase 2 would last one year.

Phase 3 states that the EU maintains the TRQ for U.S. High Quality Beef at 45,000 metric tons and the United States removes import duties on selected EU products. However, the TRQ remains only open for hormone free beef.

## **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 EU. The report concludes that a flexible EPS system should be maintained, but focused on specific products during specific periods of time.

## **GENETICALLY MODIFIED FOODS AND ORGANISMS**

Issue: Excessive Regulation on GMOs

The EU has excessive barriers on Genetically Modified Foods and Organisms (GMOs). Since May 2004, only 9 biotech products have been authorized for marketing in the EU.

The U.S., Canada, and Argentina filed a complaint with the WTO in May 2003 over the E.U.'s ban on allowing imports of genetically modified foods and organisms (GMO). While the E.U.'s regulatory body has expressed that GMOs are one of the greatest hopes for food production, the EU 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 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 EU over the EU's moratorium on approving agricultural biotech products and over EU member State bans of previously-approved products. The WTO found that the EU measures were in breach of the EU'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 EU to bring its measures into compliance with WTO obligations. The United States and the EU initially agreed to a one-year reasonable period of time (RPT) for EU 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% GM content must be labeled as such, a policy that can lead to shipments being sent back to the U.S.

While the United States and the EU are continuing technical discussions on market access issues for biotech products, both Canada and Argentina have settled their disputes with the EU. On July 15, 2009, Canada and the EU signed a final settlement of the WTO dispute that Canada had brought against the EU in May 2003. Similarly, Argentina and the EU announced their final settlement of the biotech dispute on March 18, 2010.

## **GRAINS**

Issue: Duties on Grains

The EU 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 EU put medium and low quality soft wheat and feed barley imports under a TRQ system.

On February 18, 2011 the tariffs were suspended on soft wheat and feed barley but will return the end of June 2011. There will be an annual TRQ of 2,989,240 MT at an import duty of 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.

## **HONG KONG**



## **BEEF**

Issue: Prohibition of Bone-in beef

The Hong Kong market remains closed to all U.S. bone-in beef. However, Hong Kong has opened its market to Canada bone-in-beef products.

On March 9, 2009 the Hong Kong government (HKG) announced that the Center of Food Safety (CFS) will allow imports of bone-in beef cuts from Canada. This includes all non-vertebral (e.g. rib and shoulder cuts) bone-in cuts from cattle less than 30 months old.

Hong Kong banned imports of boneless beef from Canada in May 2003 after the detection of a case of BSE in Alberta, Canada. This ban was lifted in November 2004.

The HKG visited Canada to perform plant audits in September 2007. Because Canada has increased its control measures against Bovine Spongiform Encephalopathy (BSE), all Canadian plants which are currently cleared to export boneless beef to Hong Kong are eligible to export bone-in beef to Hong Kong.

Hong Kong opened the market to Canadian bone-in beef in three phases. Phase I expanded access from the current 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

## INDIA



### FRUIT

Issue: Tariffs

India imposes a 50 percent duty on apple imports and a 30.6 percent duty on pears and cherries. In addition the government of India charges a 2 percent Educational Tax on all taxes, excluding CIF value. Apples are exempt from the Educational Tax because it is equal to the WTO bound rate.

### PEAS, LENTILS, & CHICKPEAS

Issue: Phytosanitary Restriction

India requires fumigation for any U.S. pea and pulse shipments to India, although since 2005 there has been a waiver allowing fumigation upon arrival in India. Although the U.S. and Canada received the current waivers at the same time, earlier waivers created shipping gaps which gave Canada a significant advantage. The U.S. industry asks for equal treatment and implementation of WTO consistent sanitary and phytosanitary requirements. The U.S.A. Dry Pea and Lentil Council (USADPLC) continues to work closely with USDA/APHIS and USDA/FAS to find a permanent solution to this issue which will remove the fumigation requirement.

In addition in March 2011, India announced that it will soon be requiring additional documentation for pulse shipments to India. These additional documents will be official declarations regarding weed seed and soil in shipments. USADPLC is working on a daily basis with USDA/APHIS to ensure that any additional requirements implemented by India will not disrupt access to the largest export market for U.S. pulses.

### POTATOES – PROCESSED

Issue: Tariffs

In 1998, India moved its frozen fry classification from HS Code Chapter 7 to Chapter 20. As a result, the tariff rate rose from 10% to 56.5%. Later, they deemed this to be an internal oversight, and in April of 1999, India announced that the tariff would be reduced from 56.5% to 40%. Currently, this tariff is set at

30%.

In the 2000 Indian budget, India announced a series of taxes and duties including a "surcharge" of 10%, a "countervailing duty" of 16%, and a "special auxiliary duty" of 4%. The ultimate effect of these additional taxes/duties was to drive the effective duties paid on imported fries to a higher level than was previously charged, despite lowering the basic duty. The potato industry and the US Embassy protested these additional charges. The 4% special auxiliary duty remained, but the announcement further reduced total duties on imported potatoes from 40.4% to 35.4%.

Since that time, India has repealed and applied several types of taxes and duties in addition to the ad valorem tariff. It is unclear if these taxes and duties are also applied domestically. The American Potato Trade Alliance believes that only the ad valorem tariff should be applied to imports.

In addition, on November 18, 2003, Department of Agriculture and Cooperation, Ministry of Agriculture, issued a Gazette notification under the Destructive Insect and Pests Acts (1914) establishing new import procedures and quarantine requirements on agricultural products imported into India including products of export interest to the United States. Please note that fresh potatoes are included in the 2003 plant quarantine list, and therefore they are currently not allowed into India.

Considering all of these changes, the effective duty paid is approximately 50% on frozen fries as of March 2011.

The following are Indian tariff rates on US potato products:

HS number	Description	Bound Tariff by 2004 (Ad valorem)	2011 Tariff
0701.10 (seed)	Seed Potato	N/A	30% (India's main tariff under this HS number is 30%; however, there is also an indication that potatoes for planting may be subject to a reduced 5% tariff.)
0701.90 (fresh)	Potatoes Fresh or Chilled, other than seeds	100%	30%
0710.10 (processed whole)	Potatoes (uncooked or cooked by steaming or boiling in water)	150%	30%
0712.90.90	Dried potatoes sliced, whole, cut, broken, or in powder but not further prepared	35%	30%
1105.20	Potato flakes, granules, and pellets	N/A	30%
2004.10 (frozen fries)	Potatoes, cooked (prepared or preserved otherwise than by vinegar or acetic acid, frozen)	55%	30%
2005.20 (dehydrated)	Potatoes (prepared or preserved otherwise than by vinegar or acetic acid, not frozen)	55%	30%

(Sources: [FAS Attaché Report IN6089](#), [US Embassy - New Delhi](#))

**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 only 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 Food Act comprehensively covers legislative regulations related to food, reviewing those already in existence as well as creating new ones.

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. In addition, 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. Between December 2008 and January 2009, U.S. exports of snack foods and breakfast cereals declined 87 percent in value when compared to the same period the previous year

The registration process should be conducted by a local agent or importer. Typically, it takes longer than the officially reported time frame and costs more than the published rate. Detailed requirements from the food manufacture and product samples are needed for the registration process, which can be sent to the local agent or importer.

In addition effective February 1, 2009 to December 31, 2010, shipments of the selected products were required to be surveyed at the exporting port by a local appointee of PT Sucofindo (Persero) or PT Surveyor Indonesia, or in some cases there will be a local office representing both the Indonesian companies. This regulation is extended until December 31, 2012 based on the regulation on Minister of Trade No 57/M-DAG/PER/12/2010 dated December 29, 2010.

## ISRAEL



## FRUIT

Issue: Tariff Rate Quotas

In 1985, the U.S. and Israel signed a Free Trade Agreement (FTA), providing phytosanitary safeguards and 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 is in the process of being extended through December 31, 2012.

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 2011 TRQ for apples and pears is 4000 MT and 1364 MT respectively.

## **SEED**

Issue: Import Permits for warm season species

An import permit is required for seed and Israel officials refuse to issue necessary permits for warm season species such as *Cynodon Dactylon* (burmuda) even though warm season species are not officially prohibited.

## **JAPAN**



## **BEEF**

Issue: Ban on beef from animals over 20-months

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

As a result of meetings between U.S. and Japanese officials 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 just a few weeks later on January 20, 2006 Japan 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 of plants and of 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. The Japanese policy is not based on sound science and is not consistent with international standards.

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 Japanese government is not expected to budge much on the issue.

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 (394,000 metric tons in fiscal 1990 became a 70 percent import tariff in 1991). 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.

However, Japan continues to have a safeguard in place for beef. If cumulative beef imports on a quarterly basis exceed the imports of the average 2002 and 2003 levels or the previous corresponding period by 17 percent then the beef tariff increases from 38.5 percent to 50 percent.

## 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 for products containing added sugar and for 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

In 1994, Japan opened its market to U.S. Red and Golden Delicious apples from Washington and Oregon under a restrictive phytosanitary protocol directed at preventing the import of codling moth and fire blight. Idaho apples, however, remain prohibited due to alleged phytosanitary concerns over fire blight.

In 2005, the WTO upheld the decision that Japan has unfairly used unscientific restrictions to block U.S. apple exports. As a result, on August 25, 2005, Japan issued regulations removing the restrictive measures dealing with fire blight including orchard registration, bugger zones, and orchard inspection. Replacing these measures is a requirement to sample export fruit to ensure they are mature and certify that shipments are free of fire blight disease. In addition, the new protocol allows imports of California

apples. Approved apple varieties are Braeburn, Fuji, Gala, Granny Smith, Jonagold, and Red and Golden Delicious.

The new protocol keeps the post-harvest treatment provisions that are aimed at killing codling moth and its larva. These provisions include the holding of apples in cold storage rooms dedicated to the Japan export program. U.S. and Japanese inspectors check the monitoring equipment and then seal the apples in the storage room for 55 days of cold treatment to kill codling moth. Once apples are removed from cold storage, they are fumigated with methyl bromide. Apples are required to be fumigated in field bins instead of in packed cartons. Because of the severe restrictions, there has been no effort to include Idaho in the protocol.

#### 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, cherries will last longer allowing them to be shipped more cost effectively by sea than air.

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 have started drafting the regulation change to include Idaho. Idaho shippers are expected to be able to ship in the 2011 season.

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: Tariffs

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

## **POTATOES – FRESH TABLE STOCK**

#### Issue: Phytosanitary Ban

Japan prohibits imports of U.S. fresh table stock potatoes, allegedly to prevent the introduction of golden nematode and potato wart into Japan. Potato wart is not found in the U.S. and golden nematode is not found in the Pacific Northwest, California and other U.S. potato exporting areas. The

U.S. urges Japan to recognize disease-free U.S. areas for golden nematode and potato wart. As U.S. chipping potatoes received market access in 2006 and again in 2007 following potato cyst nematode detection (except Idaho, see below), it is hoped this will lead to market access for table stock potatoes going forward.

## **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. Unfortunately, the market had just opened to U.S. chipping potatoes. In an effort to ensure Japan has a sufficient supply of potato chips throughout the year, the Japan Potato Chip Association (JPCA) and the U.S. Potato Board lobbied the government of Japan to allow processing facilities to import fresh chipping potatoes.

Under an agreement announced on February 2, 2006, imports of potatoes to be processed into potato chips are allowed on approved plants during the February to June period when Japanese processors experience supply shortages. Potatoes are being shipped under a strict protocol that covers seed, field inspections, storage, soil removal, packing and shipping.

Fourteen states (Arizona, California, Colorado, Florida, Idaho, Maine, Michigan, Minnesota, New Mexico, North Dakota, Texas, Oregon, Washington and Wisconsin) met the export requirements. Final inspections of United States facilities were required before shipments could begin. Inspections were completed in Idaho and the first, and subsequently only, shipment from Idaho was sent in March 2006.

Japan re-opened to U.S. chipping potatoes in February 2007. Chipping potatoes from Idaho were not included in the initial re-opening of the Japan market. Market access for chipping potatoes from Idaho, from outside the regulated area was a priority for the bilateral negotiations between Japan and USDA held in the fall of 2008. The Japanese did agree to consider re-opening on a county by county basis during the bilateral discussions. In 2010, the Japanese government requested additional information on testing in Idaho. Beyond that there has been no progress to date resulting from the bilateral discussions but the US will continue to press for a county by county approach for Idaho.

## **POTATOES – PROCESSED**

Issue: Tariffs

Japan's tariff on frozen fries is 8.5%. Japan's tariff on dehydrated potato flakes, granules, and pellets (HS 1105.2) is 20%. And Japan's tariff on mashed potato and potato flakes (HS 2005.2) is 13.6%. The potato industry urges US negotiators to seek a total elimination of Japan's frozen fry and dehydrated potato tariffs in the ongoing WTO negotiations.

## **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 approved by the Japanese government to pre-approve food and agriculture products for the Japanese market. Contact information for the Oregon Export Service Center is:

Export Service Center Ph# 503-872-6630  
1207 NW Naito Parkway, Suite 204 Portland, OR 97209-2851

**SEED**

Issue: Phytosanitary Restrictions

Japan has had a zero tolerance for any soil presence in seed shipments in place for many years under the Plant Quarantine Law. 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.

<h1 style="margin: 0;">KOREA</h1>		
-----------------------------------	--	---

**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.

Commodity & HS Number	2011 WTO Market Access Quota			2011 Korea's Voluntary Quota <sup>1</sup>		
	Quota	In quota rate	Out-of-quota rate	Quota	In quota rate	Out-of-quota rate
Malting Barley 1003.00	30,000 MT	30 %	513 %	30,250 MT	15 %	513 %

The Korea-U.S. Free Trade Agreement, currently awaiting Congressional approval, would increase access for all U.S. barley. In the first year of the agreement, the United States will be able to export 9,000 tons of unroasted malt and malting barley, combined, 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 increases 2 percent per year while the out-of-quota tariff is phased out over 15 years.

## **BEEF**

### **Issue: Ban**

In December 2003, Korea imposed a ban on most products derived from cattle, sheep and goats, following the discovery of an imported cow with BSE in Washington State. 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 have also been taken. Multiple technical and political meetings and extensive negotiations have 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 has 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 reflects 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.

U.S. beef faced a great challenge of countering the negative image developed during the protests of 2008. Misinformation spread rapidly through cell phones and the internet. However, in 2010, imports of U.S. beef showed significant growth and it appears the educational and promotion efforts of USMEF has helped to overcome some of the negative perceptions seen in 2008 and 2009.

### **Issue: Tariffs**

High tariffs have been a significant impediment to beef trade. The Korea-U.S. Free Trade Agreement, currently awaiting Congressional approval, would significantly cut 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 15 years. In year 16 and beyond, tariffs will be zero and the safeguard will no longer apply. Korean tariffs on beef offal also decline in 15 equal annual reductions from their current 18- and 27-percent levels. Offal trade faces no safeguards.

## **DAIRY**

### **Issue: Tariff Rate Quotas**

Korea has restrictive tariff rate quotas on many dairy products.

Commodity & HS Number	2011 WTO Market Access Quota	2011 Korea Voluntary Quota <sup>1</sup>
-----------------------	------------------------------	---

	Quota	In quota rate	Out-of-quota rate	Quota	In quota rate	Out-of-quota rate
Whey and modified whey 0404.10	54,233 MT	20 %	49.5 %	35,000 MT for feed only	4 %	20 % (35,001 MT - 54,233 MT) 49.5 % (54,234 ~)
Lactose 1702.11	9,400 MT	20 %	49.5 %	20,000 MT	Zero	49.5 %

The Korea-U.S. Free Trade Agreement, currently awaiting Congressional approval, would significantly increase access. The agreement creates TRQs for dairy products that double the current quotas. 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, growing 3 percent annually in perpetuity. The over-quota tariffs on these milk products remain at the current 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 is reduced from the current 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 becomes duty free immediately.

## FRUIT

Issue: Apples -Phyosanitary 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 pest of concerns can be successfully mitigated and commercial shipments of fruit do not pose a threat to Korea's plant health.

Issue: Cherries – Phyosanitary Ban

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. 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. Fumigation requirements may be obtained from state departments of agriculture commodity inspection representatives in each state.

Issue: Pears – Phyosanitary Ban

South 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 South Korea's pest concerns are under consideration by the U.S. pear industry.

Issue: Tariffs

The applied tariff rates are: Apples - 45 percent, Pears - 45 percent, and Cherries - 24 percent.

The Korea-U.S. Free Trade Agreement, currently awaiting Congressional approval, would decrease tariffs. Tariffs on U.S. fresh cherries will be eliminated immediately. Import tariffs of 45 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 exports through high tariffs and limiting quotas. Currently the tariff-rate quota is 50 percent until the quota of 20,645 MT is met. At that time, the tariff jumps to 135 percent. When the Korea-U.S. FTA is implemented, the duties on onions will be reduced in fifteen equal annual stages beginning on the date the FTA enters into force.

## **POTATOES - DEHYDRATED**

Issue: Tariff Rate Quotas

Korea has strict limitations on imports of dehydrated potato products through restrictive quotas and high over-quota duty rates. Dehydrated potatoes (HS 1105.2) has a 5.4% tariff within the 60 MT quota and 304% over quota tariff. Potato starch (HS 1108.13) has a quota of 45,692 MT, an in quota tariff of 8%, and an out of quota tariff of 455%. Dehydrated blends, (HS 2005.2) which must be blended with other materials, do not have a quota and have a 20% tariff.

The Korea-U.S. Free Trade Agreement, currently awaiting Congressional approval, would significantly increase access. In the agreement, a 5,000 MT quota for dehydrated potato products (HS 1105.2) will be set. The quota will expand throughout the 11-year phase out and, at the same time, the over-quota tariff will be reduced. At the end of the tenth year, U.S. dehydrated potatoes will have duty-free access into Korea.

## **POTATOES – FRESH**

Issue: Phytosanitary Restrictions

Korea has phytosanitary barriers which restrict U.S. fresh potato imports. However, July 29, 2010 the Korean market for Idaho fresh potatoes re-opened, with the exception of potatoes grown or packed in Bingham and Bonneville counties.

In April 2006, Korea closed the border to all Idaho fresh potatoes when potato cyst nematode was found in a soil sample collected from a potato processing facility. 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 took more than 38,000 samples in the area in 2006 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.

In 2006, PCN was found in two Idaho counties - Bingham and Bonneville counties. The Idaho potato production acreage is the most heavily surveyed area in the world for PCN with over 301,764 samples taken and processed since initial detection of PCN in April 2006. The PCN infestation remains confined to 1,100 acres near Shelley, Idaho. There has been no potato production on those fields since the nematodes were first detected. "The level of sampling is evidence that PCN is not present in any fields outside of the regulated fields," said Mike Cooper, Bureau Chief, Idaho State Department of Agriculture. "Hopefully, Korea will eventually allow potatoes from the non-regulated areas of Bingham and Bonneville counties as do Mexico and Canada."

State, industry and federal representatives were persistent in keeping this issue a priority in bi-lateral trade discussions with Korea. By stressing the importance of basing decisions on sound science, arguing for a more regional scientific-based approach, and responding to multiple requests for documentation and reporting on the PCN containment and eradication efforts, the State has achieved success in Korea after several years of minimal progress. The reopening of the Korea market is a major achievement for free trade and economic growth for Idaho's potato industry.

#### Issue: Tariff Rate Quotas

Korea has strict limitations on fresh potato imports through restrictive quotas and high over-quota duty rates. Fresh potatoes do not have an in quota duty, but once the 18,058 MT quota has been reached a 304% over quota duty is charged. Potatoes can only be shipped from January to June unless a waiver is obtained from the Korean government.

The Korea-U.S. Free Trade Agreement, currently awaiting Congressional approval, would significantly increase access. Korea agreed to create a special tariff line which will allow chipping potatoes (potatoes destined to be processed into potato chips) to enter duty-free from December to April. This seasonal tariff will allow Korean processors to source product from the U.S. when domestic supplies are low. From May 1 to November 30, the chipping potato tariff will remain at 304% for the first seven years of the agreement, and then will be eliminated in equal segments over the next eight years.

For table stock potato market access, Korea agreed to a 3,000 metric ton quota that will enter duty free and will grow 3% a year in perpetuity. The 304% over-quota duty will not phase out. U.S. shippers will still be able to use the 18,810 metric ton MFN WTO quota, under which product enters at a 30% tariff instead of the 304% over-quota rate.

## MEXICO



### ALL PRODUCTS

#### Issue: Retaliation Import Tariffs

On August 18, 2010 the Mexican Secretary of Economy announced additional import tariffs on 99 U.S. agricultural products in retaliation to the termination of the U.S.-Mexico Cross Border Trucking Demonstration Project. This replaced the prior retaliation list published on March 18, 2009 that listed

only 36 tariffs on U.S. product. These Mexican tariffs have a considerable impact on the Idaho economy.

The Mexico Cross-Border Trucking Demonstration Project began on September 6, 2007 allowing U.S. and Mexican trucking firms to transport international cargo beyond the commercial zones along the border into the other country. The approval of the Omnibus Appropriations Act for FY 2009 by the U.S. Congress banned funds to the Department of Transportation (DOT) used to maintain the Demonstration Program and as a result the DOT ceased to operate the Program. Mexican officials justified their retaliation with NAFTA articles 2018 and 2019 that allow retaliation for failure to reach a mutually satisfactory settlement claiming that by banning the Demonstration Program, the United States failed to honor its international obligations under NAFTA.

Processed potatoes products from the US now have a 5% tariff whereas, Canada, the major competitor in the market has the zero NAFTA tariff. The U.S. potato industry believes that over the long term, exports could decrease as much as 40%.

Also included on the list are onions with a 10% tariff, wine at 20%, dry peas at 20%, and fresh table grapes at 20%. For a complete list visit:

[http://gain.fas.usda.gov/Recent%20GAIN%20Publications/Mexico%20Increases%20Trucking%20Retaliation%20Against%20AG%20Products\\_Mexico\\_Mexico\\_8-18-2010.pdf](http://gain.fas.usda.gov/Recent%20GAIN%20Publications/Mexico%20Increases%20Trucking%20Retaliation%20Against%20AG%20Products_Mexico_Mexico_8-18-2010.pdf)

On March 3, 2011, President Obama and President Calderón announced that Mexico and the United States found a clear path to resolving the cross-border long-haul trucking dispute. This will allow for the establishment of a reciprocal, two phased-in program built on the highest safety standards that will authorize both Mexican and United States long-haul carriers to engage in cross-border operations under NAFTA. The first phase, Department of Transportation will work with Mexico on a framework to govern cross border procedures for Mexican carriers entering the U.S. and U.S. carriers entering Mexico. Once the procedures have been agreed upon, they will be formalized in a written document and published in the Federal Register for public comment. An agreement ready for signing is expected by the end of May/early June 2011.

Once a final agreement is reached, Mexico will suspend its retaliatory tariffs in stages beginning with reducing tariffs by 50 percent at the signing of the agreement and will suspend the remaining 50 percent when the first Mexican carrier is granted operating authority under the program. Mexico will terminate all current tariffs once the program is normalized. President Obama and President Calderón both reiterated their commitment to conclude these negotiations by the end of 2011.

Issue: Restrictive Protocols for Live Cattle

Mexico lifted the ban on U.S. beef cattle in May 2008. Mexico will accept U.S. cattle born after 1999. 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](http://www.aphis.usda.gov/regulations/vs/iregs/animals/downloads/mx_bo_br_us-ca.pdf)

The main problem is that U.S. cattle producers are required to give SAGARPA 30 days notice before the cattle cross the border. This procedure is too long for many producers and inconsistent with many international trade protocols. U.S. producers must also pay for the expenses of Mexican contracted animal health officials to inspect the animals. Mexico also requires the trailers to be sealed at the export farm border. This restricts the ability of multiple Mexican buyers to consolidate a load. Some estimates are up to \$500 per head as an additional cost of doing business with Mexico.

## **FRUIT**

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. Additional modifications will be needed to design a protocol for Idaho peach and nectarine exports to be allowed to Mexico. The Northwest Horticulture Council, USDA, and APHIS are working on a new protocol for stone fruit. As of March 2011, no reasonable resolution had been made. This team is trying to negotiate agreement on a protocol similar to the established apricot protocol. Before the market opens up, Mexico needs to publish a note at the Diario Oficial that updates their import requirements.

## **POTATOES – FRESH**

Issue: Border Zone Limitations

On March 11, 2003, Mexico agreed to allow U.S. fresh potato imports into a 26-kilometer (16 miles) border zone in year one, to the seven northern states in year two, and to the remainder of Mexico in year three, based on bilateral talks. Many years later, U.S. exports continue to be limited to the 26-kilometer zone in spite of numerous bilateral talks.

Mexican officials stated that a review of NOM-12 (the Mexican regulation impeding market access for fresh potatoes) would be done by September 2009, which is needed to change any rules set by the Mexican government. In January 2010, Mexico submitted a draft of NOM-12 revisions to the U.S. for comments. Disagreements continued. A discussion has been underway between USDA's Animal Plant Health Inspection Service (APHIS) and their Mexican counterparts (SENASICA) regarding a consultative mediation. APHIS and SENASICA signed an agreement March 10, 2011 to move ahead with this effort.

Below are the general details of the process that will unfold.

- The consultation will take place under the North American Plant Protection Organization (NAPPO) auspices. The two countries have agreed to split the costs of this process. There will be three panel members/experts selected for this process. The selection process is underway, but not finalized.
- This will be mediation, not an arbitration. That means the panel members are seeking to find some middle ground between the two sides that will be acceptable to both parties. This differs from an arbitration, where the panel would rule in favor of one side or another.
- The panel members will be asked to review Mexico's pest list as applied to the US and assess the risk associated with importing potatoes for consumption or processing into Mexico.
- There is a firm timeline associated with this process, the panel must be formed 45 days after the document is signed, though it can begin sooner. The mediation process will be completed within 90 days. Initial arguments are to be submitted 30 days after the panel is formed. A written submission will be made, along with the option to make a presentation to the panel. After this, no further submissions will be accepted. APHIS and SENASICA agreed to meet with the panel members 30 days after the information has been submitted. APHIS and SENASICA then agreed to a follow up meeting 30 days after that to work out the final details of the agreement.
- If the group reaches an impasse, both sides agree to seek the professional opinion of the panel, and the Undersecretaries are requested to assist with finding a resolution.
- Mexico has agreed to adjust NOM-12 if a resolution is achieved within a certain period of time.

Until 2003, Mexico did not allow imports of Idaho potatoes due to Columbia Root Knot Nematode (CRKN) and Golden Nematode pest concerns, despite the fact that CRKN has been detected in Mexico. The agreed shipping protocol states that the importation of fresh potatoes into Mexico is limited to the 26-kilometer border zone, must be free from the following pests of quarantine concern to Mexico: *Meloidogyne chitwoodii*, *Meloidogyne javanica*, *Globodera rostochiensis*, *Globodera pallida*, *Clavibacter michiganensis* subsp. *Sepedonicus*, PVYn, PVYntn, and Mop Top Virus, the packing shed number must be present on all boxes, shipments must be sampled, and the potatoes must be grown from certified seed. These protocols must be followed by all U.S. fresh potato exports to Mexico.

## POTATOES – SEED

Issue: Phytosanitary Protocol Procedure

Mexico prohibits use of all parts of the potato for planting, except prenuclear seed, due to phytosanitary concern for *Meloidogyne chitwoodii*, or Columbia Root Knot Nematode. Although this nematode does exist in Idaho, survey data can show where it is or is not located. Certification for “free of *Meloidogyne chitwoodii*” can be done by specific growing area. Seed potatoes from certified free areas should be accepted for importation.

Negotiations have been ongoing and the U.S. submitted a suggested protocol which would allow Mexican pre-nuclear seed potatoes into the U.S. and allow U.S. pre-nuclear and field grown seed potatoes into Mexico. USDA completed a risk analysis in 2002 for a proposed rule to allow Mexico mini tuber potatoes into the U.S. and the risk analysis was published for comment in August 2002. No comments on the analysis were made on either side. During 2011 discussions between the respective governments, the U.S. has offered to allow equivalent standards to govern the trade in seed potatoes between the two countries. It is anticipated that this issue will be part of the mediation outlined above.

## PHILIPPINES



### SEED

Issue: Grass Seed -- Pests and Diseases

Certain grass seeds are prohibited entry. As requested, ISDA provided a list of pests and diseases of Bermuda and Zoysia grass to USDA to send to Philippine officials in 1999. USDA sent the list to the Philippines to be used to develop an acceptable protocol. No progress has been made as March 2011.

## TAIWAN (ROC)



### 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, contaminants, 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 JECFA.

As of January 2011, Taiwan has banned the import of beef and pork that have traces of Ractopamine. Taiwan does not have a MRL (Maximum Residue Level) standard for Ractopamine therefore they have set the requirement for zero. These measures create significant barriers to U.S. exports of meat and meat products. There are a couple of other countries using the zero MRL standard, including China, Australia, and New Zealand. The Ractopamine hasn't affected Idaho's pork exports to Taiwan, because exporting companies have Ractopamine free pork.

The Taiwan government is working on a MRL for Ractopamine, but it will take 6-12 months to complete the legislative procedures.

## **FRUIT**

Issue: Apples – Phytosanitary Restriction

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

In August 2003, the U.S. and Taiwan agreed to a new quarantine work plan for apples that requires improved pre-screening in the packing shed and a graduated system of penalties for detection of codling moth. If codling moth is detected, there is a "three strikes" program, which stated if three findings occurred, the market for the season would close. The "three strikes" provision was negotiated in 2004 following a couple of pest finds that completely suspended shipments.

During the 2007-2008 apple-shipping season, there were three codling moth interceptions found in shipments of Washington State apples. All three interceptions occurred in November 2007 which was fairly late season. Fortunately, because of the extended grace period (increased from one to two weeks at the 2006 bilateral technical meeting) the three interceptions counted only as a single strike, with no subsequent market closure. For the 2008-2009 growing season there were no interceptions. In 2009-2010 there was one inception and in 2010-2011 there were no inceptions. However, the "three-strikes" mechanism regarding codling moth (CM) detection remains. BAPHIQ closely monitors how U.S. apple packinghouses comply with the systems approach outlined in the U.S. apple export work plan.

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. Industry, however, has some concerns with the new proposal and is working on getting it modified.

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 US shipments will be stopped when they have legally applied a pesticide in the US because there is no MRL in Taiwan. Currently, the US 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: BSE

U.S. lamb is prohibited for export to Taiwan due to BSE restrictions. In December 2003, Taiwan banned imports of ruminant meat products from the US after a finding of a BSE infected dairy cow. On January 25, 2006, Taiwan lifted the ban on certain boneless beef products that are specific risk material (SRM) - free and derived from cattle under age of 30 months at the time of slaughter and raised and slaughtered (after April 16, 2005) in the United States, but left the ban on lamb in place. US lamb is typically slaughtered between the ages of 5 – 8 months. Lamb can also be boneless and SRM-free.

There is no scientific justification to allow U.S. beef imports while restricting U.S. lamb. The Food Safety Bureau (FSB) in Taiwan's Department of Health (DOH) is the responsible regulatory agency for beef and lamb. Additionally, the Board of Foreign Trade (BOFT) is responsible for controlling the import and export requirements for those products as well.

## **POTATOES – FRESH**

### Issue: Phytosanitary Restrictions on late blight

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 both seed and table stock in the near future.

Currently, 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 US. When market access was first granted for US fresh potatoes to Taiwan in the late 1990's, Taiwan expressed concern over this pest and required that US 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 exports to Taiwan. There is no storage or on-site shipment inspection allowed.

This issue was raised in the US-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.

An earlier concern regarding whether A2 strain of late blight was present in Taiwan has been alleviated as Taiwan has documented its absence.

## POTATOES – PROCESSED

Issue: Tariffs

In February 1998, the U.S. and Taiwan agreed to a market access package that was part of Taiwan's WTO accession commitments. The frozen fry tariff in bags over 1.5 kilo is 12.5 percent with other frozen potato products tariff at 18 percent. High tariffs continue to be the main impediment to trade.

The chart below shows Taiwan's 2011 tariffs on processed potato products that were applied upon Taiwan's entry into the WTO. While the WTO-negotiated bound tariffs are an improvement over previous tariffs, they are in most cases higher than the 10% bound tariff requested by the U.S. potato industry and the American Potato Trade Alliance.

HS Number	Description	Current Taiwanese Tariff based on WTO Commitments
0710.10.00	Frozen potatoes	15%
1105.20.00	Potato flakes	10%
2004.10.10 (a)	Potato sticks, frozen (frozen fries) >1.5 kg.	12.5%
2004.10.10 (b)	Potato sticks, frozen (frozen fries) <1.5 kg.	12.5%
2004.10.90	Other potatoes, prepared or Preserved, frozen	18%
2005.20.10 (a)	Potato chips and sticks >1.5 kg.	12.5%
2005.20.10 (b)	Potato chips and sticks <1.5 kg.	15%
2005.20.90	Other potatoes, preserved	18%

## 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. The high landed price of U.S. fruit makes competition difficult, as China has duty free access to Thailand's market. Under the free trade agreement between Thailand and Australia, Australian apples and pears also have duty-free access. The U.S. fruit industry supports free trade discussions.

#### Issue: Plant Quarantine Regulations

On August 28, 2008 Thailand's new 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 new 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 and potatoes for consumption in 2009. As of December 30, 2010 this has been the only progress made.

A summary of new import requirements for U.S. Potatoes can be seen at

[http://gain.fas.usda.gov/Recent%20GAIN%20Publications/Food%20and%20Agricultural%20Import%20Regulations%20and%20Standards%20-%20Narrative\\_Bangkok\\_Thailand\\_1-6-2011.pdf](http://gain.fas.usda.gov/Recent%20GAIN%20Publications/Food%20and%20Agricultural%20Import%20Regulations%20and%20Standards%20-%20Narrative_Bangkok_Thailand_1-6-2011.pdf)

## **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.

## **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 following the dissolution of the Thai Parliament and the subsequent military-led coup. U.S. and Thai officials continue to discuss bilateral issues such as intellectual property rights and customs issues as well as ways to advance the WTO Doha negotiations and the APEC and ASEAN agendas. APTA has stressed that any FTA agreement include an immediate reduction in the tariff.

# 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 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. It is worth noting that 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) and Chile.

# VIETNAM



## FRUIT

Issue: Tariffs

Under the terms of its WTO accession agreement reached May 2006, Vietnam has agreed to steadily reduce its tariffs to the following levels.

	January 1, 2010	January 1, 2011	Final Reduction January 1, 2012
Apples	15.6%	12.8%	10%
Pears	16%	13%	10%
Cherries	20%	15%	10%

## POTATOES – PROCESSED

Issue: Tariffs

After years of work, the U.S.-Vietnam Bilateral Trade Agreement (BTA) went into effect on December 10, 2001. Vietnam agreed to lower the tariff on vegetables from 30 percent to 20 percent and lower the tariff on frozen fry type products from 50 percent to 40 percent in December 2004. Vietnamese tariff reductions on frozen potatoes were negotiated in Vietnam's WTO accession negotiations. According to the agreement signed on May 31, 2006, Vietnamese officials immediately lowered the tariff on frozen fries (HS 2004.10) from 50% to 40% and agreed to lower it to 13% over a six year period. In addition, tariffs on dehy potatoes (HS 2005.10) are to be reduced from 40% to 18% over a five year period. For the dehydrated potatoes (11051000 and 11052000) the tariff is at 30 percent and no further reduction has been agreed to.

	2008	2009	2010	2011	Final Reduction 2012
Frozen fries (2004.10)	31%	26.5%	22%	17.5%	13%
Processed dehydrated (2005.20)	31.2%	26.8%	22.4%	18%	18%

# 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 regulation requires country of origin labeling at retail for muscle cuts 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: [www.ams.usda.gov/cool](http://www.ams.usda.gov/cool).

## DAIRY

Issue: Tariffs on Milk Protein Concentrates and Caseins:

According to the U.S. National Milk Producers Federation (USMPF), importers 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 created an unfair competitive market for U.S. dairy products producers. Imports have decreased slightly over the past few years. Senator Larry Craig first introduced Senate Bill 1417 on July 18, 2005 to establish an import quota. The bill sought to impose a quota of 18,488 metric tons of MPC and 55,477 metric tons of caseins per calendar year. The bill was reintroduced as Senate Bill 1485 on May 24, 2007. In 2009, Senator Chuck Schumer resumed work on this issue and introduced the Milk Import Tariff Equity Act. This bill never became a law. There has been no new legislation as of March 24, 2011.

## 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.

# 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, 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 existing order on imports of certain non-frozen concentrated apple juice from China remains in place. A five-year sunset review began in 2010, and is currently still in process.

## 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. In 2009, China was the last country to lift the ban on U.S. pork.

## ARGENTINA



## DAIRY

Issue: Export Certificates

In 2002, SENASA, Argentina's Department of Agriculture 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 will provide 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" and then mail or fax the worksheet, along with the manifest, to the national field director for AMS in Glen Ellyn, Ill., which will issue the official certificate within three to four business days.

## AUSTRALIA



## FRUIT

Issue: Cherries- Fumigation

Under a fumigation protocol to protect Australian fruit from cherry fruit fly, cherry imports are allowed to parts of Australia from certain counties in California, Idaho, Oregon and Washington. No U.S. cherries are permitted into Western Australia, due to the possibility of introducing brown rot. In 2003, the fumigation protocols were changed to temperatures as low as 6°C (42.8°F) (versus 50-52 degrees)

which is essentially the same protocols as for Japan and Korea. The ideal protocols would exclude fumigation treatment, as it is hard on fruit. Fumigation protocols are not expected to change.

## **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. Idaho is the only U.S. state allowed to ship sweet corn seed to Australia.

## **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 are 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. DIPOA retained all previously registered U.S. dairy plants and are gradually de-listing facilities that no longer appear on AMS/IMS lists.

## **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 U.S. 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, shipments are occurring and import permits are being issued, regardless of the regulation. To get the PRA, U.S. exporters must request and fund the project, costing close to US\$10,000. Exceptions were made for alfalfa, dry bean, tomato, sorghum, trifolium, lotus corniculatus, brassica napus, garlic, onion, red pepper, pea, tobacco, and corn seed as the PRAs were done in 2001. PRAs also need to be done on third-country origin seeds that are re-exported from the U.S. to Brazil, with information provided by the country-of-origin.

In addition, Brazil requires freedom of the nematode *Ditylenchus dipsaci* for many seeds. Brazil only has one type of the nematode and wants to prevent the entry of new ones. A lab test can be done to certify the shipment free of pests.

## **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). Alfalfa hay from Idaho, the Northwest and infected areas in California must 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 US-Canada Record of Understanding on Agricultural Trade, the Canadian government began publishing information on fed 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 US. 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, and 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's (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 permits, exceeding Canada's Uruguay Round WTO level commitments, and 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 businesses that 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. Continued procedure implementation is critical to control and manage pests, maintain existing high quality seed production, and minimize the impact on commercial potato production.

#### 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. 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. On October 11, 2006, Canada removed its prohibition 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.

## **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 will allow persons within the U.S. to grade and label certified seed for shipment into Canada.

Issue: PCN Monitoring Agreement

On June 4, 2009 the Canadian Food Inspection Agency (CFIA) and the U.S. Department of Agriculture (USDA) announced modified guidelines for potato cyst nematode (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 a PCN detection and contain procedures for the subsequent removal of restrictions on land.

## **SUGAR**

Issue: Imports of Sugar Syrups

Sugar syrup imports (H.S. 1702.90.40) from Canada are duty free. Refined and raw sugar (HS 1701), on the other hand, face a heavy duty. The U.S. is 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 & 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.

## 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. A phytosanitary certificate is required as is an additional declaration that, "All fruit in this shipment has been grown in accordance with relevant regulations of PRC and within the approved growing sites."

### POTATOES-DEHYDRATED

Issue: Sulfite Tolerance

Until March 2002, China limited the sulfite level, 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 SO<sub>2</sub> 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. The export requirements for Costa Rica have been updated. 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 new regulation, effective February 28, 2008, is now in place permitting the use of beeswax (white and yellow), carnauba 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



## CHERRIES

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: Anticaking 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 Ferrocyanide, an anticaking 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 is being 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 increase 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 or 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 adds a provision for marking in situations where multiple primal cut names exist making it possible to conduct such sales.

## **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 must 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 HS 2005.2 are misclassified by the Korean Customs Service as HS 1105. The blended products are subject to the restrictive quota and excessive over-quota tariff of 317 percent. In order to qualify as a potato preparation, Korea requires that 10% 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



## **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 of \$42 million per year 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 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.

<b>Negotiated TRQ and Over Quota Schedule</b>		
<b>Year</b>	<b>Over Quota Duty</b>	<b>Quota Metric Ton</b>
2002	70.4%	63,337
2003	58.7	65,237
2004	46.9%	67,195
2005	35.2%	69,212
2006	23.2%	71,287
2007	11.8%	73,425
2008	0%	No Limit

## **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 include Mexico’s:

- o Injury investigations in the antidumping determinations
- o Improper application of the “facts available”
- o Improper calculation of the antidumping rate applied to firms not investigated
- o Improper limitation of the antidumping rates it calculated in the beef investigation
- o Refusal to conduct reviews of exporters’ antidumping rates
- o 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.

## CATTLE

### Issue: Importer Registration

In April 2001, Mexico announced new regulations for all Mexican beef and cattle importers. Importers of live bovine animals, fresh or chilled beef, beef offal and other bovine meat products had to be registered with Mexico’s Treasury (SHCP) by June 1, 2001, listing the specific products they import. Previously, importers were able to register as a “generic” importer without specifying products. The short implementation period was of concern, but the regulation change did not seriously impact trade.

## 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.

<b>Skim Milk and Whole Milk Powder Import Duties and Quotas</b> <b>(Source: U.S. Dairy Export Council)</b>				
<b>Year</b>	<b>U.S. Quota (tons)</b>	<b>Over Quota Duty (%)</b>	<b>Quota from all other countries (tons)</b>	<b>Over Quota Duty (%)</b>
2004	53,750	46.98	120,000	128
2005	55,369	35.25	120,000	128
2006	57,030	23.52	120,000	128
2007	58,741	11.79	120,000	109
2008	60,504	0.06	120,000	109

## FRUIT

### Issue: Apples - Costly On-Site Inspection Procedures

Apple exports to Mexico are limited to Idaho, Washington, Oregon and Michigan. Although no listed quarantine pest has been detected at the border, the protocol required apple exports to be supervised by an official of the Mexico Export Inspection Office (MEIO). 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 UNIFRUT.

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 that it would lift the compensatory duties imposed on U.S. Red and Golden Delicious apples effective the following day.

## **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.

## **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 imposes a 20 percent sales tax on soft drinks and other beverages that use any sweetener other than cane sugar. Sugar-sweetened beverages are exempt from the taxes. The beverage taxes have sharply curtailed U.S. high fructose corn syrup (HFCS) producers' access to Mexico's market for soft drinks and other beverages. This affects 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 remains in place, but many bottlers are 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 disrupted the flow of Idaho wheat into Mexico. This issue has not been officially resolved. Although the requirement still exists, the government is not enforcing the ban. Thus Idaho wheat has been moving into Mexico uninhibited. Mexico has 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 enjoy a 0 percent 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 and after approval by both governments was implemented on February 1, 2009. The US-Peru FTA eliminated the 20 percent tariffs on fresh potatoes, 20 percent tariff on fries and 12 percent tariff on flakes and granules.

# TAIWAN



## 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 remains suspended from LPAI positive areas.

# 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% to 5% on an ongoing basis.

# VIETNAM



## POTATOES – TABLE STOCK

Issue: Non-Tariff Barrier

In June 2010, U.S. fresh potatoes, including chip and table-stock, may now enter Vietnam. According to a press release from the National Potato Council (NPC) and the United States Potato Board (USPB), 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).

Gaining market access for U.S. fresh potatoes to Vietnam was initiated by a letter to APHIS from the NPC in February 2009. Additional support was provided by the USPB during a visit to Vietnam in April 2009 and during an official visit by MARD staff to California in June 2009. During this visit to negotiate the framework for a U.S. potato market access agreement, MARD officials visited potato growers and production facilities in this region.

Requirements for shipping US fresh potatoes are now on the APHIS Excerpt database system, which will allow the issuance of phytosanitary certificates. An export permit will also be required for shipments to Vietnam.

# 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, which is arranged in 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. A version of the terms reviewed in January 2000 remains in force.

**ISO (International Organization for Standards)** The ISO is a worldwide federation of national standards bodies from some 130 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.

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

**Normal Trade Relations (NTR)** An agreement between two countries to extend the same trading privileges to each other that they extend to any other country. Under a NTR 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 NTR treatment to another country, unless both are members of the WTO, or unless NTR is specified in an agreement between them (formerly MFN- Most Favored Nation).

**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)** The is an international organization made up of European countries, Canada 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.

**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 (low-interest export credits guaranteed by a government agency, for example.)

**Tariff** A tax imposed by a government on imports or exports. A tariff may be imposed to protect domestic industries from imported goods and or to generate revenue. A tariff 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 64 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.