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MARKET CLOSED: FOREIGN TRADE BARRIERS FACING SMALL AGRICULTURE EXPORTERS

HEARING

BEFORE THE

COMMITTEE ON SMALL BUSINESS
UNITED STATES
HOUSE OF REPRESENTATIVES

ONE HUNDRED TWELFTH CONGRESS

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THURSDAY, JULY 26, 2012

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SMALL BUSINESS,
SUBCOMMITTEE ON AGRICULTURE,
ENERGY AND TRADE,
Washington, DC.

The Subcommittee met, pursuant to call, at 10:00 a.m., in room 2360, Rayburn House Office Building. Hon. Scott Tipton (chairman of the subcommittee) presiding.

Present: Representatives Tipton, King, Critz, and Keating.

Chairman TIPTON. Good morning. I would like to thank all of you for joining us today. The hearing will now come to order.

I would like to begin by extending a special thanks to each of our agricultural industry witnesses for taking time out of your business schedules to be able to travel to Washington, D.C. and to be able to appear before this Committee. I would like to especially recognize Mr. Roger Mix, a constituent of mine from Colorado's Third Congressional District out of Center, Colorado, and we look forward to everyone's testimony.

Today's issue is very important to small agricultural producers and their key role within the American economy. The challenges posed by foreign non-tariff barriers to agricultural trade. Approximately 91 percent of farming and ranching operations in the United States is classified as small by the United States Department of Agriculture. In comparison to most other industries, agricultural operations depend more heavily on overseas trade for a significant portion of their income. It has often been said that one of every four acres planted in the United States is planted for the export markets. Overall, exports account for up to 30 percent of farm income. Agricultural trade is also an important job creator in the United States and our economy needs job creators right now.

According to the Department of Agriculture, farm exports support more than one million jobs on and off the farm. Along with many of my colleagues, I believe that more can be done to take advantage of our nation's apparent comparative advantage and agricultural production by further expanding our access to foreign markets. A common tool employed by foreign nationals to block U.S. agricultural products is the use of non-tariff trade barriers, predominantly sanitary and phytosanitary measures. Because nations have the sovereign right to be able to block products that pose a threat to human or animal health that could contaminate their

food systems, they have used these measures in some instances as a means to be able to block competition.

The agricultural community and Congress have taken notice. I have heard from a number of potato and other commodity growers in my district regarding the harm caused to them by unfair trade. These barriers have to be able to be dealt with and I personally met with USDA Secretary Edward Avalos to be able to discuss this problem. I would also like to include, without objection, for the record, a letter that we sent to Ambassador Ron Kirk in regards to our export of potatoes into the Mexican market as well.

The purpose of today's hearing is to examine these issues further and to learn how sanitary and phytosanitary measures have been used as trade weapons against American agricultural producers and the resulting economic impact on all small businesses.

I would now like to yield to Ranking Member Critz for his opening statement.

Mr. CRITZ. Thank you, Mr. Chairman. I was going very quickly through my statement here as we have votes that could be coming within the next half hour, 45 minutes. So I will try to go very quickly so that we can get to your testimony.

Right now, job creation is priority one for this Committee and that means looking to new markets, whether they are domestic or abroad. One such opportunity lies in agriculture exports which have exceeded imports since the early '70s. In fact, last year, U.S. agricultural exports reached nearly $140 billion outpacing the previous record set in 2008 by 23 billion and suppressing 2010's totals by 29 billion. This growth shows that America's farmers are essential to leading our economy forward, spurring development and employment gains throughout the country.

Within this sector, small farms play a key role, accounting for 91 percent of all farms and 23 percent of overall agricultural production. Not surprisingly, these smaller farms are actively engaged in international trade, which now drives 20 percent of their employment. This is especially true for my home state. During an April field hearing in Pittsburgh, we heard the significant role that international trade plays in western Pennsylvania's economy. In fact, agricultural exports support more than 20,000 jobs in our state. Further inroads in foreign markets are necessary to generate even more jobs in our local communities. In order to do so, key challenges must be overcome.

The breadth of restraints is staggering and they reach into nearly every product grown or raised on America's farm. For our country's poultry producers, this means that such important markets like China, India, and Japan are off limits. Pork producers cannot export to the European Union, Singapore, or even Peru. The impact of this reaches into communities like mine in western Pennsylvania, where local dairy farmers are left with fewer customers even though foreign goods are plentiful in local stores. The truth is that for many the promises of free trade have never materialized, and America's farms face the prospect of having to compete with foreign imports without having access to those very markets.

Reversing unfair practices has been extremely difficult. The U.S. trade representatives have taken the lead in mitigating the impact of these standards. They have worked to undue restrictions in

Japan and Korea in cherries and citrus, as well as barriers in South Africa and Sri Lanka for apples and seed potatoes. They were also able to get Kuwait and Taiwan to lift unwarranted restrictions on U.S. exports of poultry and poultry products, while it also negotiated full market access for U.S. beef to the United Arab Emirates. Clearly, this is progress, but more needs to be done if we are going to achieve the president's goal of doubling U.S. exports by the end of 2014.

Aside from the bilateral efforts of the USTR, there is a lot riding on the Trans-Pacific Partnership. This multiregional trade pact will ideally set common certification requirements for agricultural products which will ultimately be adopted by all signees of the partnership.

In the essence of time, I would ask unanimous consent if I could enter my full statement into the record. And I want to thank all the witnesses in advance, and I look forward to their testimony.

Chairman TIPTON. Thank you, Ranking Member Critz. We would like to be able to go ahead and start with introducing a constituent of mine for our first portion of testimony this morning, Mr. Roger Mix. He is from Center, Colorado. I was there just a couple of weeks ago. Roger is a fourth generation farmer and has been active in a number of agricultural producer organizations. Most recently, he served as president of the National Potato Council from 2010 to 2011. Roger is testifying today on behalf of both the Colorado Potato Committee and the National Potato Council. Mr. Mix, thank you for appearing today and you now may deliver your testimony.

STATEMENTS OF JAMES BOYER, OWNER, JIM BOYER HOGS, TESTIFYING ON BEHALF OF THE NATIONAL PORK PRODUCERS COUNCIL; JASON HAFEMEISTER, VICE PRESIDENT, ALLEN F. JOHNSON AND ASSOCIATES; ROGER MIX , OWNER-OPERATOR, MIX FARMS, TESTIFYING ON BEHALF OF THE COLORADO POTATO ADMINISTRATIVE COMMITTEE AND THE NATIONAL POTATO COUNCIL; CARL T. SHAFFER, PRESIDENT, PENNSYLVANIA FARM BUREAU

STATEMENT OF ROGER MIX

Mr. MIX. Thank you. Good morning, Chairman Tipton, Ranking Member, and other members of the Committee. Thank you for inviting me to testify before you today. It is an honor and a privilege to be here.

I am here today representing over 170 potato growers in the San Luis Valley of south central Colorado. Colorado produced 21 million hundredweight of potatoes in 2011 with an approximate market value of $200 million. We produce over 100 varieties of potatoes with 95 percent marketed as fresh potatoes, which ranks Colorado as the second largest producer of fresh potatoes in the nation.

Colorado is the largest United States shipper of fresh potatoes to Mexico, but access has been limited to a 26 kilometer deep area along the northern border of Mexico. The opportunity to expand this market represents a significant economic opportunity for Colorado and other U.S. potato growers. Currently, about one in every five rows of potatoes grown in the United States is exported, but in Colorado it is only one in every 20.

I want to thank you for calling this hearing to examine the effects of the application of non-scientifically based sanitary and phytosanitary standard on agriculture products grown in the United States and exported to our value-trading partners. All too often, the application of these standards has resulted in reduced market access for the agricultures grown by America's family farmers, who operate small businesses across the country. As we all understand, these small businesses are the heart and the soul of our economy.

In March 2003, the United States and Mexico signed a market access agreement that allowed for the shipment of U.S. fresh potatoes from all 50 states into a 26-kilometer deep area along the border of Mexico. This signed agreement called for increased access to the five northern Mexican states in 2004 and for the consideration of full access by 2005.

Presently, the shipping of U.S. fresh potatoes to Mexico is limited to 26 kilometers. In 2011, U.S. potato growers exported $39 million worth of fresh potatoes to Mexico, making it our second largest export market behind Canada. If our products had full access to all of Mexico, we estimate that would become the largest market for U.S. fresh potatoes with a value in excess of $150 million.

Many of the obstacles raised by Mexico to justify their failure to honor commitments in the 2000 agreement have been phytosanitary in nature, but were not based in sound science and did not justify trade restrictions. For example, Mexican potatoes produced in areas of the country with identical pass profiles as those in U.S. production areas have been allowed to move throughout Mexico if they were washed or brushed and labeled for consumption only. Yet, U.S. fresh potatoes exports to Mexico are not allowed to move in a similar manner.

The application of the different standard for domestic production than that for imports clearly violates the globally accepted principle of national treatment. Mexico also argues that the pest finds on U.S. potatoes entering Mexico have been excessive. U.S. growers and shippers apply rigorous production and testing protocols to ensure that shipments to Mexico are free from pests. According to USDA's Animal and Plant Health Inspections Service, legitimate pest finds on U.S. potatoes entering Mexico are at or below the levels of pest detections for any Mexican agriculture products entering the U.S. The lack of timely and accurate reporting of test finds is used by Mexico to artificially inflate the number of pest finds.

Recently, U.S. and Mexico negotiators were able to reach an agreement on a path forward to develop a market access agreement for the U.S. for potatoes to Mexico. As Mexico, Canada, and other key trading partners seek to become participants in the Trans-Pacific Partnership, we need to be vigilant in using that process to increase the commitments to signed space resolutions on sanitary issues. The trade agreement negotiation process provides an opportunity to gauge our trading partners' commitment to the scientific evaluation of sanitary risk, as well as our internationally accepted trade rules and standards.

We are encouraged that the progress toward expanding potato trade with Mexico and as of TPP negotiations continue, America's family potato farmers believe there is a need for continued and

visible progress on the final work plan that would give potato growers and shippers in Colorado and the rest of the U.S. the opportunity to export potatoes to Mexico. A lack of progress on the potato issue would call into question Mexico's commitment to be a responsible partner in the TPP agreement.

Thank you again for the opportunity to testify.

Chairman TIPTON. Thank you, Mr. Mix.

I neglected to mention, and you hit it right on the button, we do have five minutes to be able to testify. When you do see the green light on you are doing great. When the yellow light comes on you have a minute left. And when the red light comes on, if you would wrap up your testimony. And you did perfect. Thanks a lot.

Mr. MIX. Thank you.

Chairman TIPTON. Our next witness is Jason Hafemeister. He is vice president of Allen F. Johnson and Associates, a trade consulting firm headquartered in Washington, D.C. In this capacity, he works with businesses and associations in identifying trade opportunities and barriers for American agricultural producers. Prior to joining Allen F. Johnson and Associates, he served as deputy assistant and U.S. trade representative for agriculture, where he led agricultural negotiator at a number of treaty discussions including the WTO to a round of trade negations. The Central America-Dominican Republic Free Trade Agreement and negotiations over China's success to the WTO.

Mr. Hafemeister, you may deliver your testimony. Thank you for being here.

STATEMENT OF JASON HAFEMEISTER

Mr. HAFEMEISTER. Great. Good morning. Thank you, Mr. Chairman, Ranking Member Mr. Critz, and Mr. King. It is good to be here.

What I would like to focus my time on here is to summarize three of the key points that we face in agriculture when looking at unjustified trade restrictions on our exports. First, right now, U.S. agriculture exports are doing great, but even today we are performing below our potential because of unjustified health and safety measures applied by other countries. And in the future we run the risk of even more disruption of our exports as countries revert to unwarranted technical barriers to restrict trade, either to protect domestic industries from competition or for misguided efforts to protect health and safety. The kind of problems our products face, which I think are well explained in the case of Mexico and potatoes, range from shipments held up in ports because of concerns about a particular government test that an inspector finds, or production or labeling requirements that other countries employ that force changes in how we have to produce goods if we are going to access the market, or limits on chemicals or other residues that may show up in our products that are more stringent than required by the U.S. laws or international standards. Or even just outright bans on our products because of purported concerns about the safety of U.S. products. So these are the reasons, some sincere and some not so, that are used to stop our products. And in the future, we expect it is going to be an even bigger problem as tariffs come down and we conclude other trade agreements.

So I do not think there is any dispute about the importance of this. What I think the issue is is making them a top priority in U.S. trade policy and implementing effective action plans to improve our export opportunities. Reducing tariffs in other countries or running promotion programs to boost exports will deliver no benefits if our exports can be shut down by unjustified import restrictions. That means the United States need to prioritize staffing, operations, and policies that give our trade negotiators the tools needed to convince other countries to establish science-based health and safety standards and work to facilitate trade rather than trying to block it. In particular, technical agencies, such as agencies within USDA, FDA, and EPA need to prioritize discouraging other countries from erecting unjustified barriers and challenging unjustified barriers when they are established.

Finally, third point, we have a strong set of principles already to guide us in world trade in the WTO. They require countries to establish science-based measures and encourage them to facilitate trade when there may be different approaches across countries' health and safety systems. But this set of principles needs to be strengthened by prioritizing efforts to foster trade through international standard organizations and through trade negotiations, such as the Trans-Pacific Partnership which was mentioned earlier.

I will give you two examples. One is the United States needs to work in the Codex Alimentarius to set more common standards that recognize scientific consensus on the safe use of technologies so that countries across the world, when they recognize a product as safe, will allow it to be imported. This is particularly true in veterinary drugs. Similar work is needed in the World Animal Health Organization on animal diseases and in the International Plant Protection Convention on plant pests.

Similarly, the United States needs to negotiate agreements with other countries that facilitate trade by delivering enforceable agreements that recognize the U.S. system as delivering high levels of food safety and protection against pests and diseases. Important ideas that should be included in these negotiations include developing common export certificates to reduce the complexity of meeting paperwork requirements; recognition by other countries that the U.S. system, while it may be different in some technical details from theirs, delivers world-class food safety protection against pests and diseases, protection that is equal or higher than exists in the importing country; and providing procedural safeguards that allow exporters time to comment on and adapt new measures before they are finalized.

America's farm and ranch families include some of the most successful exporters in this country. They, along with the network of food processors, brokers, and trade servicing professionals depend on keeping U.S. export markets open. Health and safety barriers are the biggest threat to reducing our current exports and can place a cap on their future growth. Moving aggressively to stop these barriers from being put on place or removing those that exist will provide a tremendous benefit to our farmers.

Thank you for your time, and I am happy to answer any questions.

Chairman TIPTON. Thank you. Our next witness, I will now yield to Ranking Member Critz to be able to introduce.

Mr. CRITZ. Thank you, Mr. Chairman.

I would like to introduce Mr. Carl Shaffer, president of the Pennsylvania Farm Bureau. Pennsylvania Farm Bureau is the state's largest farm organization with a volunteer membership of more than 50,000 farm and rural families representing farms of every size and commodity across Pennsylvania. Mr. Shaffer also serves on the American Farm Bureau Federal Board of Directors where he serves on the Trade Advisory Committee. Mr. Shaffer continues to be an active farmer himself, growing vegetables and grains on 1,800 acres of farm land in Columbia County, Pennsylvania. Among the much recognition for leadership and achievement in agriculture, Mr. Shaffer was named as a Master Farmer in 1996, one of the highest honors awarded to farmers in the Commonwealth.

Mr. Shaffer, if we could have your testimony.

STATEMENT OF CARL T. SHAFFER

Mr. SHAFFER. Thank you, Mr. Tipton. Thank you very much for the opportunity to be here, and Ranking Member Critz, and the rest of the Committee.

Trade matters to Pennsylvania and America's farmers. As you well know, more than 95 percent of the global population lives beyond our borders. As such, agriculture is mindful of global markets, the opportunities they present and the trade barriers that exist. Previously, barriers to U.S. agricultural trade were mostly confined to tariffs. As tariffs on many agricultural products have been reduced, other forms of barriers have been increased, though they essentially serve the same function—restricting market access.

You may have seen a report published by the Office of the U.S. Trade Representative, which gives an account of the sanitary barriers maintained by nations against the United States agricultural exports. Within this report, the primary concerns of Pennsylvania agriculture include restrictions on biotechnology; export health certificates for poultry, pork, dairy, and dairy products, specifically regarding Russia and India; and the increased use of geographic indicators. Formal negotiations between nations can act to reduce tariff and non-tariff trade barriers. However, in negotiating these agreements, we must strive to make sure we benefit the entire agricultural economy, not just parts of it. For example NATFA did nothing to address the Canadian tariff on U.S. dairy products. Canada imposes out-of-quota tariffs on dairy products that exceed 200 percent, with some as high as 292½ percent. This is particularly harmful to Pennsylvania's dairy industry in that we could be exporting cheese to our northern neighbors if NATFA had eliminated or reduced this barrier.

U.S. negotiations should use the Trans-Pacific Partnership negotiations to address these Canadian tariffs and expand market opportunities for America's dairy producers close to home. As you know, the dairy sector has taken several hits on the chin lately. Any effort we can take to find long-term, reliable markets for our dairy products will help decrease price volatility for our dairy farmers. The conversation about geographic indicators as a non-tariff barrier is an emerging and difficult challenge. Pennsylvania's dairy

industry is concerned about the common names for dairy products, like mozzarella or feta cheese, or even Greek yogurt being restricted in use.

Affordable and reliable shipping of commodities and foreign products is also essential in delivering U.S. agricultural products to foreign consumers and to compete in world markets. Our inland waterways are in need of continuing repair and maintenance to locks to preserve a major domestic shipping advantage that the U.S. has over many other nations in the movement of agricultural goods. Our seaports need to be improved to take advantage of and to be ready for the competition that will come from nations after the expansion of the Panama Canal moves freight into even larger ships that require deeper harbors.

Even though Pennsylvania is not often considered to be an agricultural exporter, poor infrastructure is a major concern of farms. Lone Maple Farms of New Alexandria in Pennsylvania's 12th Congressional District sells all the soybeans they grow to Agland Co-op in neighboring Ohio. Their beans are loaded on a barge, floated down the Ohio and Mississippi Rivers, and loaded onto ships headed into Asia. Unfortunately, Gulf Coast ports are not able to accommodate the larger ships that will soon navigate the Panama Canal. The inability to dock, load, and unload the post-Panamax ships in the Gulf Coast could limit the foreign markets currently enjoyed by Lone Maple Farms and several other Pennsylvania farmers.

In closing, America's agriculture depends on export markets. Policymakers must remain committed to reducing sanitary and phytosanitary trade barriers. Moreover, an efficient, reliable, export-oriented transportation system is necessary to get agricultural goods to foreign markets. Agriculture matters to the American economy, and trade matters to agriculture.

I really look forward to your questions. Thank you.

Chairman TIPTON. Thank you, Mr. Shaffer.

Our final witness today is Mr. Jim Boyer. Jim raises hogs on his family's operation located in Ringstead, Iowa. He also serves on the board of Iowa Farm Bureau and represents Iowa on the American Farm Bureau Swine Advisory Committee. He is also a member of the Iowa Pork Producers Association and will be testifying today on behalf of the National Pork Producers Council.

Mr. Boyer, thank you for being here, and we look forward to your testimony.

STATEMENT OF JAMES BOYER

Mr. BOYER. Good morning, Chairman Tipton, Ranking Member Critz, and members of the Subcommittee.

As Mr. Tipton said, I am Jim Boyer, pork producer from Ringstead, Iowa. My wife, Lisa, and I, and our three kids, operate a third-generation family farm where we produce corn, soybeans, hogs, and cattle. I appreciate the opportunity to present my views and those of the U.S. pork industry on the application by foreign nations of non-science based sanitary and phytosanitary measures that restrict market access of U.S. pork and adversely affect small producers like myself. I also appreciate the interest of this Committee in assuring that future trade agreements include more ro-

bust and effective dispute resolution mechanisms to address the misuse of sanitary measures.

The future of the U.S. pork industry and of American family hog farms like mine depend on free and fair trade and the continued access of our exports. The U.S. is the lowest cost producer of pork in the world and the number one global exporter of pork. In 2011, the United States exported a record $6.2 billion worth of pork, up from $4.8 billion in 2010. Those exports represent nearly 27 percent of the pork produced in the United States and added almost $55 to the price I receive for each hog I sell.

Increasing pork exports is important to more than just pork producers. The U.S. pork industry supports an estimated 550,000 domestic jobs, 110,000 which are a result of pork export. USDA estimates that each $1 billion in meat exported generates about 12,000 new U.S. jobs, meaning that last year's increase in pork exports created about 18,000 new jobs.

The growth in the U.S. pork export has been achieved despite significant foreign barriers in the form of unjustified health and sanitary measures. Those barriers are costing the U.S. economy and the pork industry billions of dollars. The U.S. pork industry supports the Trans-Pacific Partnership, but for it to be a 21st century agreement there must be a market access outcome similar to that achieved in the Korea and the Columbia Free Trade Agreements. And sanitary barriers must be eliminated. A strong SPS chapter with a meaningful dispute settlement provision must be part of the TPP, and sanitary restrictions on pork in all TPP countries must be eliminated. Vietnam alone holds incredible potential but blocks pork with non-science based restrictions.

The only way to gain the support of U.S. pork producers for a final TPP deal will be though a robust outcome in Vietnam and other TPP countries in which all barriers are eliminated. Russia soon will be joining the World Trade Organization. Although Russia established a zero duty tariff rate quota for pork as part of its WTO essential commitments, it is highly unlikely that the U.S. pork industry will be able to take advantage of those quotas because of a long list of Russian sanitary barriers. Russian food safety officials recently said they intend to leave these unjustifiable and trade restrictive measures in place after Russia joins the WTO and that they may add new restrictions. We need Russia to eliminate its sanitary barriers. The EU should be one of our largest export markets, but because of numerous sanitary barriers it is currently one of our smallest export markets. We actually export more pork to Honduras than we do to the entire EU.

As in the TPP and other trade deals, agriculture and pork must be included in any EU trade negotiations, and discussions on eliminating sanitary barriers also must be included. It makes no sense to have a standard for our TPP partners and another for the European Union. Taiwan unfairly restricts exports of U.S. pork from hogs that have been fed ractopamine, a feed additive approved by the FDA, 25 other countries and earlier this month the U.S. Codex. This restriction flies in the face of science. If eliminated, ISU economist Dermot Hayes estimates that we could see pork exports to Taiwan increase by an additional $417 million. Taiwan has been

campaigning for entry in the TPP, but a country that ignores science likewise should have its bid to join the TPP ignored.

In conclusion, Mr. Chairman, we are convinced if we sit by passively while SPS measures are incorrect or erected and maintained, we will see our exports rapidly erode. Pork producers understand that the future of our industry depends on adopting new and safe technologies and in expending our exports. We must protect our current market access from unfair barriers or such expansion will be impossible.

Thank you, and I will be happy to answer any questions you may have.

Chairman TIPTON. Thank you, Mr. Boyer. And thank all of you for your testimony. We will now begin the questioning. I will begin, and if you can give maybe a brief answer we would appreciate it. And this is for all of the panelists here.

A number of associations representing agricultural producers are pushing for inclusion of a WTO plus chapter in future trade agreements. In your opinion, would enforceability of SPS major requirements improve market access for small producers? Mr. Mix.

Mr. MIX. I believe it would. Anything that would help as a fresh potato grower get access to the various export markets that would definitely help us and go in the right step.

Chairman TIPTON. Mr. Hafemeister.

Mr. HAFEMEISTER. Yes, it would. I think the key thing to focus on is the difference between a best endeavors commitment by some other country to something that is actually subject to dispute that we can litigate. And that I think is the key question in the negotiation. And without the ability to litigate, it is not worth much.

Chairman TIPTON. Mr. Shaffer.

Mr. SHAFFER. I think without a doubt it would be beneficial. With us depending on exporting 30 percent of what we produce, that is how critical the continuation to expand that market just becomes.

Mr. BOYER. Yes, I believe so also, like the other three gentlemen said. It is imperative to small producers, like myself, that we have access to these markets. Like I said in my statement, 27 percent of the pork that we produce here in the United States goes to export markets. If we can expand that, we saw what the dollar value of the Taiwan market is. We look at the value of the Russian market. We have already achieved or seen what we can create by the Korea, the South Korea, and the Columbia trade agreements. So yes, it is definitely going to help small producers like myself.

Chairman TIPTON. Mr. Boyer, you spoke a lot about scientific-based testing to be able to make sure that the products are safe. We all want that. And how many agencies do testing on pork—U.S. agencies?

Mr. BOYER. That I do not know off the top of my head but I can get you that number. Just assuming it is USDA, FDA, they regulate all the pharmaceuticals that we use and that is what is standing as a barrier, especially with Russia, the European Union, as some of the pharmaceuticals that we use, their standards for traceable amounts within the meat, anything that we produce. As a family farmer, I also feed my children what I produce on my farm. So as a producer and as a farmer, I am not going to—and as a fa-

ther, I am not going to produce something that is going to be detrimental to the health of my kids.

Chairman TIPTON. Certainly.

You know, we have groups representing—Mr. Hafemeister, maybe you would like to be able to speak to this—groups representing small agricultural producers wrote to USTR regarding their concerns that certain regions, such as the EU that Mr. Boyer had mentioned as well, are overrepresented in international standard setting bodies and that these regions use these positions to be able to legitimize non-science based standards. Is this a worthy concern?

Mr. HAFEMEISTER. I think it is certainly worth attention. The key issue here is that in World Health Organization proceedings, all countries are allowed to attend and they can all vote on whether or not a certain product is safe or not, say a veterinary drug. One of the concerns we have had is that some of the small countries who may otherwise not attend a meeting or pay attention, may find their airfare paid by the European Union and encouraged to vote against a standard that may protect European producers and damage U.S. producers.

We just had a big vote in Rome that the U.S. won, but just barely, on ractopamine, which benefits pork in particular. So the U.S. government did a great job of convincing all these folks, but we are running up against some undue influence we thought from other countries. So it is definitely working to make sure these decisions are science-based and not influenced by anything else. But of course, we want to make sure all countries have bought into this process. That requires international organizations' cooperation, consensus, so it is a difficult issue.

Chairman TIPTON. Well, thank you for that. You know, we have worked long out of our district to be able to try to work with the Mexican government. We thought about a year ago we got there, to be able to get the potatoes out of the San Luis Valley down into the Mexican market. And when you are talking about being limited to 26 kilometers into Mexico, Mr. Mix, I understand that some of the potato exports going into Mexico, they have been denied access by the Mexican officials because they claim that they test positive for certain pathogens. However, those are the same potatoes that are tested in U.S. laboratories and they came up clean. Is this a common practice that you see?

Mr. MIX. I believe it is getting better. Working with Secretary Vilsack and Under Secretary Avalos, they have brought this to the attention of the Mexican government. As of February of this year, we have only had one legitimate fine. So the fines have dropped due to the talks with the NAPO panel. They have dismissed a bunch of the fines. A lot of them were like PV-wide viruses that they were finding, but they have the same viruses in Mexico that we do in the United States. So they decided to dismiss the viruses. So it is getting better, but the thing that, you know, halters the shipments into the 26 kilometers is if they find a pest, it is the timeliness that they get back to the growers. And then it just distorts everything. So you have to wait a certain period of time before you can export from that shed again. So if they find a pest, they hold up the proceedings and take their time before they let the

grower know what they did find and if there was a second test in the United States' lab, it just takes time to do it. So that is the bad part about it.

Chairman TIPTON. Thank you. I would now like to yield to Ranking Member Critz for his questions.

Mr. CRITZ. Thank you, Mr. Chairman. And before I ask my first question I did want to recognize a special guest that came down with Mr. Shaffer and the Farm Bureau, Jenna Moser, who is in the audience. She is a candidate for the FFA national officer team and came along to learn about public policy process and agriculture in general. So Jenna, welcome to the hearing. I hope this is helpful in your future. And thanks for being a young person who is interested in the future of agriculture in this country.

With that said, Mr. Shaffer, you had mentioned about inland infrastructure, water infrastructure, the inland waterways, and you and I discussed very briefly when the Panama Canal gets finished, and you mentioned that as well in your testimony. And if you would, just elaborate. And if anyone else wants to jump in on this as well, elaborate on what you see as what is going to be happening as these larger barges come online, what the impact is going to be on agriculture. And sort of, if you have a crystal ball, what the timing is. You know, what you think, you know, when do you think the impact is really going to hit us?

Mr. SHAFFER. Okay. As I indicated in my testimony, with the opening up of the new Panama Canal, the post-Panamax ships are so much larger. They are going to be able to accommodate them through the canal. Unfortunately, according to USDA, there are only six ports in the United States that will be able to accept these larger vessels. Now, if we expect them to go to the Bahamas and be offloaded on another smaller ship to accommodate a U.S. port, our economic competitiveness is just going to drop to nothing. We are going to be uncompetitive. Now, if we do not wake up and address the infrastructure in our ports and harbors in this country to accept these larger vessels as other countries have done who have invested billions of dollars in infrastructure upgrades, we are going to be left behind. And as you know, for instance, it is my understanding New Orleans cannot accept these larger vessels, and that is where a lot of the majority of our agricultural products are funneled down the Mississippi loaded on these ships for export. So I think in the future it is going to be very critical to address this situation, and it is going to come sooner than later.

Mr. CRITZ. Anyone else like to——

Mr. BOYER. I concur with what Mr. Shaffer said, too. And this is outside my realm of pork, but as a producer from the Midwest, a lot of our agricultural raw products, be it soybean or corn, move down the Mississippi River. As we see the impacts of the drought this summer, a lot of that traffic has been curtained or they are moving it at a much larger expense because of the draft or the barges and such.

As we look at our competition, especially in the soybean area, we look at the expenditures or the investment that other countries are making in their infrastructure. One of our biggest competitors for soybean is Brazil, and we look at the share of the soybean produc-

tion that China is now buying from Brazil because they can move that product a lot more efficient than we can.

Mr. CRITZ. Thank you. And this question is for Mr. Shaffer and for Mr. Mix about what the TPP means for farmers in Pennsylvania or farmers in general. Now, in Pennsylvania, my question was centered around dairymen and the problems exporting to Canada, but one of the questions I wanted to ask, too, is do we send potatoes as well to Mexico? Is that part of our market or is that too far from Pennsylvania? We do not export to Mexico. But what would the TPP mean to dairy and potatoes in both of your instances?

Mr. SHAFFER. We ship very little potatoes to Mexico, but I will tell you this. When I look at trade, whatever leaves any part of the country is making room for the rest of the product in the country.

Mr. CRITZ. Okay.

Mr. SHAFFER. So whether it leaves from Colorado, that opens up more markets for our potatoes on the East Coast or anything else.

Mr. CRITZ. I see.

Mr. SHAFFER. So that really has that effect. And dairy, as I said, our dairy farmers really have been taking a beating on price the last couple of years. And in this country, we are about at maximum consumption of dairy products for all practical purposes. So the only opportunity is exports, and that is why it is so vital to the dairy industry.

Mr. MIX. I would agree with the statement of Mr. Shaffer on exports. You know, if Colorado does get the Mexican to all the nation, that market, it allows the potato movement in the United States to open up and there are less potatoes. So it is the supply and demand curve that everybody knows in the economics.

We, as a potato industry, right now we are watching the negotiations of the TPP to see how that goes and to see what the reaction of the Mexican government is to that to go forward with it. I think that would be a definite help to us as an industry in Colorado being with our locality to Mexico, the freight advantage that we do have. So that is where we are at with the TPP, is just watching the negotiations and where it is going to go here in the next 80–90 days.

Mr. CRITZ. Okay. Well, thank you. And because I know we are going to have votes here shortly, I have about a dozen questions but I will yield back so that we can get to our other members. Thank you.

Chairman TIPTON. Thank you, Mr. Critz. And we actually have had votes called now and that series will run until about 1:00. And I want to recognize and give Mr. King and Mr. Keating an opportunity to maybe ask a question before we do move on to vote.

Mr. KING. Thank you, Mr. Chairman. I would first inquire how much time is left on the clock at the vote. Pardon?

Chairman TIPTON. Nine minutes.

Mr. KING. Nine minutes. So normally here we would be able to head over that way with a couple minutes left but I appreciate being recognized and I appreciate the witnesses. I regret I had to step out of the room and miss the opportunity to introduce Mr. Boyer, who comes from—I will call it my neighborhood in Iowa. And some things call us away and we have simultaneous com-

mittee meetings and hearings going on in this town on a regular basis.

I wanted to start with Mr. Mix and ask you do you know if there is, aside from these issues that you testified, do you know if there is a foreign entity out there that has regulated your means of production that said you have to raise potatoes in a certain way?

Mr. MIX. I am not aware of a foreign entity. There are protocols that we have to meet to ship to Mexico. The brushing of dirt off and we have to apply a storage product so they do not sprout, but as far as a foreign entity, I am not aware of one.

Mr. KING. Are there any regulations that you know of that would regulate how you raise potatoes that could not be identified at the border? For example, application of a treatment to the potato where cleaning those potatoes, they can look at that potato and examine it and tell whether you have done what they have asked. Correct?

Mr. MIX. Yes.

Mr. KING. So there is no regulation that you know from a foreign entity that regulates the means of production, just the product itself at the border?

Mr. MIX. Right. They do not—there is no means of regulating how we grow the actual potato.

Mr. KING. Okay. I like that kind of world.

Mr. Shaffer, I would ask you, do you know of any regulations of any means of production that you have to comply with that cannot be identified by examining the product?

Mr. SHAFFER. No, I would only referred to limited exports because of biotechnology issues some countries put on us that that might—I consider that a production tool that I use, so that might be one of the means you are referring to.

Mr. KING. That would be GMO?

Mr. SHAFFER. Correct. Correct.

Mr. KING. And do we not know also that that can be examined in the lab to determine the GMO identity?

Mr. SHAFFER. Correct.

Mr. KING. Like ground up ready beans, for example?

Mr. SHAFFER. Yes.

Mr. KING. And so we know that technical fee has been applied to soybeans coming in from Argentina and Brazil over the years and charged back again. So I understand your answer and I appreciate it.

I would like to turn to Mr. Boyer and say do you know of any regulations of the means of production that come from an outside entity outside Iowa or the country that cannot be identified by observing the product and examining it but only can be a regulation on your means or method of production?

Mr. BOYER. At this time I am not aware of some but I think if we are not cognizant about it, it will come to fruition. We see what is going on within our own country between states—California requiring some kind of identifying of a product, if it was raised in a cage or not in a cage. I know for a fact you cannot tell from a pound of bacon if that pig was castrated using anesthetics or if that sow was housed in a gestation crate or an open pen.

But at the same time we are seeing through the European Union some are processing practices. One of the problems that the European Union had was the color of the walls in the processing plants and also the style of molding using the processing plants. Those have been addressed by some of the packers, but it is still one of those issues that they are using, what they are saying are sanitary or phytosanitary measures but they are accurately not being portrayed that way.

Mr. KING. Aesthetics for hogs or aesthetics for the people that are processing them?

Mr. BOYER. I could not answer that. I am not from France.

Mr. KING. You would not take that I think.

Mr. BOYER. Yes.

Mr. KING. But in any case, what you have identified, Mr. Boyer, is the trade protectionism by regulating the means or method of production. When that happens from a foreign country, we see that as trade protectionism. When that happens within the United States, state-to-state, it is still trade protectionism. The Constitution of the United States reserves the regulation of interstate commerce to the Congress and prohibits it to the states for that very reason, because they did not want to set up trade wars between the states. Now we are seeing this emerge in the ag community with regulations of gestation crates, stalls for veal calves, how you feed ducks and geese for liver, the ag piece, and it will be broilers next. And so I am just suggesting that the language that we have written into the Farm Bill now that prohibits the states from regulating the means of production of ag products as an important piece of language and legislation that must go into law or we will see in the United States trade wars by regulating the means of production that are worse than the trade competition that you have testified to here today.

So I thank all of the witnesses, and I thank the Chairman for calling this hearing. And I yield back the balance of my time, even realizing it is a minus 14 seconds.

Chairman TIPTON. Thank you, Mr. King.

Mr. Keating, I would like to be able to yield to you, and we can see how much time we have left.

Mr. KEATING. Not much, but thank you, Mr. Chairman.

Thank you for your comments on infrastructure improvements, particularly seaport infrastructure improvements. I think the same thing could be said for rail, as well. That would be helpful in our country, not just for agriculture but for manufacturing.

Now, I come from a huge cranberry growing area, and I was going to ask you—I am also on Foreign Affairs—have you been helped at all by any of the U.S. missions or any diplomacy? I notice in cranberries, in Turkey there is a market but they do not even have a word for cranberries. And in Italy just recently they just were still calling it red fruit. So have you had any help from the U.S. missions in terms of trying to take some of the informal barriers, not the strict ones, but the ones that are just very real but maybe sometimes unintended?

Mr. MIX. With potatoes, in Mexico, where we have been helped down there mostly is the retailers and the wholesalers trying to get their point across to their government that there is a market for

the United States' potatoes going in there. So we are working through that avenue to get them on board with us to relay their point of view in their own country that there is a market for United States' fresh potatoes in Mexico. So we are not using missions but other avenues.

Mr. KEATING. Okay, quickly, the Import-Export Bank, are all of you utilizing that? How effective is that? We just reauthorized that. Is it helpful?

Mr. MIX. I am not aware of any help on that.

Mr. KEATING. Mr. Boyer.

Mr. BOYER. I think any influence that we can see from our federal government to help us open these other countries to our exports which, you know, in fact, increases our bottom-line and helps us is appreciated.

Mr. KEATING. Great. Thank you. With the seconds ticking I will yield back the rest of my time. And I thank all of you for coming.

Chairman TIPTON. Thank you, Mr. Keating. And I would like to thank all of our witnesses again for taking the time to be able to appear before us today. We do apologize for having to move a little quicker than we would like in regards to the votes that we have coming up. You have all provided insight to this Committee, and we pledge to be able to work with you to ensure that American exports, agricultural products and otherwise, receive fair treatment in international markets.

I would like to be able to ask for unanimous consent that members have five legislative days to be able to submit statements and supporting materials for the record. Without objection, so ordered. The hearing is now adjourned.

[Whereupon, at 10:53 a.m., the Subcommittee was adjourned.]



Statement of

James Boyer, Owner, Boyer Farms

On behalf of the

National Pork Producers Council

Presented to the

House Committee on Small Business
Subcommittee on Agriculture, Energy and Trade

Market Closed: Foreign Trade Barriers Facing Small Agriculture Exporters

July 26, 2012

The National Pork Producers Council (NPPC) appreciates the opportunity to present its views on the application by foreign nations of non-science-based sanitary and phytosanitary (SPS) measures that restrict market access of U.S. farm products and adversely affect small producers. We also appreciate the interest the Subcommittee on Agriculture, Energy and Trade has in efforts to ensure that future trade agreements include more robust and effective dispute resolution mechanisms to address the misuse of SPS.

NPPC is an association representing a federation of 43 state producer organizations and represents the federal and global interests of 67,000 U.S. pork operations that annually generate approximately $15 billion in farm gate sales.

To fully appreciate the significance of unfair foreign SPS measures, it is essential to understand the importance of exports to the U.S. pork industry and the considerable value they add to both the agriculture economy and the overall U.S. economy. An estimated $21 billion of personal income from sales of more than $97 billion and $34.5 billion of gross national product are supported by the U.S. hog industry. Iowa State University economists estimate that the U.S. pork industry is directly responsible for the creation of nearly 35,000 full-time equivalent jobs and helps generate an additional 515,000 indirect jobs such as in veterinary services, input supplies and other local business support.

For each 1 percent increase in the size of the U.S. pork industry, the U.S. economy creates 920 direct full-time jobs and 4,575 jobs in total. And for each additional 1 percent of U.S. pork production that is exported, live hog prices increase by approximately $3 per hog. Currently, pork exports account for 27 percent of U.S production. This level of exports added $55 to each hog marketed by U.S. pork producers, significantly adding to their bottom-line. Higher prices eventually stimulate additional pork production, and the industry expands to meet the new opportunity, thus creating more jobs.

Last year, U.S. pork exports were valued at $6.2 billion, almost $1.5 billion more than the year before. Through May of this year, they are on a pace to grow by another 14 percent, or an additional $870 million, which could, however, be affected by the drought across much of our nation. The U.S. Department of Agriculture estimates that each $1 billion in additional agricultural exports generates approximately 8,400 new U.S. jobs, but in the meat sector, USDA puts the job-creating number at more than 12,000. So, the increase in pork exports in 2011 created about 18,000 new U.S. jobs, with an additional 11,000 or so possibly added again this year.

This export growth has been achieved despite significant barriers to our products in the form of unjustified health or sanitary measures. However, as SPS barriers continue to multiply in our many export markets the cost to our industry is in the billions of dollars. Some of the more significant ones are described below and are also covered in the National Trade Estimates Report on SPS measures prepared each year by the Office of the U.S. Trade Representative.

The National Trade Estimates Report, which is 89 pages long and covers 46 countries, offers clear evidence that the use of such measures to restrict trade has become almost common practice. As trade agreements have reduced or eliminated traditional forms of import protection, such as tariffs and tariff-rate quotas, governments that wish to accommodate protectionist pressures from domestic industries have increasingly turned to sanitary and phytosanitary restrictions. Although such measures are often unjustifiable on the basis of sound science and are thereby inconsistent with the World Trade Organization (WTO) Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement), governments know that if they are challenged, the dispute resolution process is likely to allow them at least two years of continuing protection.

The United States has, by our count, taken advantage of the SPS Agreement to challenge unfair measures in four instances since 1995 and was successful in each case. USTR is currently pursuing an SPS case against India on poultry restrictions. Although bilateral consultations with offending governments can sometimes result in favorable outcomes and should be pursued initially in all cases, NPPC is of the view that formal dispute settlement action must be taken more frequently than has been the case in the past. Not only are such cases generally successful, it is the threat of such action that provides the leverage necessary to make bilateral consultations more likely to succeed. Moreover, and most important, a successful dispute resolution outcome can have global benefits by signaling to other nations employing the same or similar measures that they are also subject to challenge and by preventing additional countries from mimicking such measures.

NPPC has also seen our trading partners attempt to help justify specific SPS measures by suggesting to other countries that they adopt similar restrictions or by lobbying in international standards-setting bodies against the adoption of standards that would call into question the legitimacy of their restrictions on the basis of sound science and risk assessments. The plain fact is that an unfair SPS measure that is left unchecked is bound to spread to other countries seeking relief from import competition in the same type of product.

NPPC has worked constructively with officials at USTR and USDA to resolve SPS problems bilaterally, and we have been successful in restoring pork trade in some critical situations. The widespread and totally unjustified bans on pork imports erected during the H1N1 outbreak is a case in point.

We have also supported efforts to take advantage of trade agreements to gain acceptance by our trading partners of the U.S. meat inspection and certification system as equivalent to their own, thereby reducing the likelihood of differences in meat inspection regimes being used as a justification for restricting imports from the United States. These efforts have been successful in some cases but not in all.

NPPC also supports efforts to strengthen international rules governing the uses of SPS measures as part of trade agreements. In the ongoing Trans-Pacific Partnership negotiations, NPPC, along with other agricultural organizations, is calling for a WTO-

plus chapter that would improve on WTO rules in a number of areas and would provide a dispute resolution process to allow enforcement of those rules.

Below are some examples of sanitary measures that are being unfairly employed by countries to restrict imports of U.S. pork products. We would be pleased to provide any additional information on these matters that Committee members might require on the examples enumerated herein or the other SPS problems that we face, which are not discussed in this statement. We are convinced that if we sit passively by while these and other such measures are erected and maintained, we will see our exports rapidly erode. Our producers understand that the future of our industry depends on adopting new and safe technologies and in increasing exports to reach the vast majority of the world's population, which resides outside our borders. We must protect our current access from unfair barriers or such expansion will be impossible.

Trans-Pacific Partnership (TPP) and Participating Countries

The Trans-Pacific Partnership (TPP) Agreement is an Asia-Pacific regional trade agreement that includes the United States, Australia, Brunei, Canada, Chile, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam. NPPC enthusiastically supports the TPP negotiations. Pork producers expect a 21st century outcome with a robust market access outcome similar to that of the U.S.-Korea and U.S.-Colombia FTAs that will include the elimination of all SPS barriers in each TPP nation.

Mexico and Canada were invited to join the TPP negotiations in June 2012 and will begin to participate in the negotiations later this year. Additionally, Japan expressed an interest in joining TPP negotiations in November 2011, but a membership decision has not yet been made. NPPC and virtually all other U.S. food and agriculture organizations strongly support Japan's entry into the TPP, which would move TPP from being a very important potential trade deal to being the most important trade negotiation ever for U.S. food and agriculture.

NPPC and many other food and agricultural organizations have been working with USTR since the early stages of the TPP negotiations to gain acceptance of a "WTO-plus" agreement – i.e., an agreement with disciplines that go beyond those in the WTO *Agreement on the Application of Sanitary and Phytosanitary Measures*. Our proposals to USTR reflected the priorities of the industry coalition:

- Strengthening and elaborating requirements regarding risk assessment and risk management.
- Reinforcing the WTO rule that requires regulators to select the least-trade-restrictive of available risk management options.
- Granting importers the automatic right, in the case of an adverse test result, to a confirmatory test in a competent laboratory that uses validated testing methods.
- Enhancing transparency in regulatory decision making.
- Promoting better adherence to international standards.

As a result of these efforts, USTR submitted a proposal that covered all of our key issues, but it has not yet agreed to press to make the new rules enforceable through dispute settlement. We continue to push for a change in the U.S. position on this issue. A strong SPS chapter with improved disciplines and a strong enforcement provision must be part of the TPP and would enable U.S. agricultural interests to better challenge unfair SPS measures, such as those enumerated below, by TPP member countries:

Vietnam

Of the countries currently participating in the TPP negotiations, Vietnam offers the most potential for expanded U.S. pork exports. The U.S. pork industry will only support a final TPP agreement if there is a robust market access outcome on pork in Vietnam, including the elimination of all SPS barriers. Vietnam's domestic pork consumption is 1.8 million metric tons (MT) a year, bigger than Mexico, which is currently the top export market for U.S. pork, in terms of volume. In 2008, the year following Vietnam's WTO accession, U.S. pork exports rose to a record 16,777 MT. However, since that time, U.S. pork sales to Vietnam have plummeted to a total of only 3,571 MT in 2011. The steep decline in U.S. pork sales to Vietnam can be attributed almost entirely to a series of sanitary barriers, outlined below, that Vietnam has placed on pork imports over the last two years. These restrictions cannot be justified on any legitimate food safety basis and are clearly designed to protect Vietnam's producers from imports. It is imperative that these restrictions be removed as soon as possible.

> ***Pork Offal Ban.*** In July 2010, Vietnam instituted a complete ban on the importation of all pork offals. No explanation was given for the import ban. As a result of the ban, U.S. pork offal sales to Vietnam plummeted from 5,943 MT in 2008 to 679 MT in 2011. In March 2011, Vietnam lifted the import ban on "red offals" (heart, liver, kidney) but left the ban on "white offals" in place. Again, no reason was given for lifting the import ban on red offals while leaving it in place for white offals. The United States is a significant exporter of so-called white offal products to other Asian markets; hence, the ban on white offals is doing real damage to U.S. pork sales to Vietnam.
>
> ***MRLs on Pork Offals.*** Vietnam refuses to recognize the scientific process of applying a "reference" maximum residue level (MRL) for compounds in pork offals. This process is recognized by the Codex Alimentarius and is used by the United States and most other countries. In lieu of establishing a reference MRL, Vietnam has instead established non-science-based MRL requirements for individual pork offal products. Thus, even if the import ban on white offals is lifted, this practice will continue to inhibit U.S. exports of offals.
>
> ***Zero Tolerance for Pathogens on Pork Products.*** Vietnam also appears to be enforcing a zero-tolerance policy for pathogens on raw meat products, including pork. No country in the world, including Vietnam, can guarantee the complete absence of pathogens on raw meat products. The United States and many other countries use the Hazard Analysis and Critical Control Points (HACCP) process

to ensure product safety as it relates to pathogens. Vietnam's zero-tolerance policy for pathogens is not based on science, and it likely violates numerous provisions of the WTO's Agreement on the Application of Sanitary and Phytosanitary Measures.

Plant Registration Requirements. In May 2010, Vietnam issued "Circular 25," which requires U.S. exporting establishments to provide the Vietnamese government with company-specific information that is administratively burdensome and irrelevant to ensuring food safety. Both USDA and U.S. exporting companies have worked with Vietnam to supply the requested plant information, but because of the extensive nature of Vietnam's information requests, only a fraction of interested U.S. companies are currently eligible to export pork to Vietnam.

Australia

Australia has implemented an unreasonable and unscientific approach to two commonly managed diseases that are endemic in the United States and other major pork producing countries in the world, including the European Union and Canada. The two diseases of concern are Porcine Reproductive and Respiratory Syndrome (PRRS) and Post Systemic Wasting Syndrome (PMWS), neither of which is a food-safety issue and neither of which poses a risk to human health. The majority of all U.S. trading partners do not impose restrictions on U.S. pork and pork products because of these diseases. In fact, Australia is only one of three countries in the world that impose restrictions because of PRRS and the only country in the world to impose restrictions because of PMWS. The World Organization for Animal Health (OIE) does not include the trading of pork as a risk of spreading PRRS. The OIE emphasizes that the main risk of spreading PRRS is through trade in live animals and semen and does not list measures to control pork trade in its recommendations on prevention and control of the disease. Australia's barriers to trade are not scientifically justified and must be eliminated in the Trans-Pacific Partnership.

Malaysia

Although Malaysia is a Muslim country, there is a large ethnic Chinese population in the country, estimated at 10 million people, and very good potential for increased demand for imported pork. Malaysia has recently instituted a series of SPS and other measures that seriously restrict imports of pork. These restrictions cannot be justified based on any legitimate food-safety concerns and are clearly designed to protect Malaysia's producers from imports.

Pork Products Banned for Import. Malaysia's Department of Veterinary Services (DVS) maintains a list of pork products that are allowed entry into Malaysia. Until recently, the allowable import list included bellies, pig feet, spare ribs and intestines for the fresh market and hams and other cuts for further processing. However, on May 18, 2011, DVS issued a decree banning imports of pork bellies and spare ribs. Malaysia has never provided an adequate explanation

of why it maintains an effective import ban on sales of these and certain other pork products, and the ban is clearly WTO illegal.

Plant Inspection and Registration Requirements for Export to Malaysia. Until last May, Malaysia recognized the U.S. plant inspection and approval system as equivalent to its own, allowing imports from all USDA-approved plants. DVS informed the U.S. embassy at that time that all U.S. plants would have to fill out a lengthy application form and submit it to DVS after which U.S. plants would be inspected by DVS officials. U.S. plants had to pay the costs of Malaysian officials' travel to the United States as well as for their time in-country. Each plant was also required to pay a processing fee to DVS of $1,660. All of this had to be completed by July 1, 2011, and any resulting plant approvals would be good for a maximum of two years. Having no basis for rescinding its "equivalence" determination for U.S. plants, this action was obviously designed to restrict the flow of U.S. product to Malaysia.

Canada

Canada requires testing for pseudorabies and brucellosis testing of breeding hogs imported from the United States. The United States has one of the healthiest commercial swine herds in the world. Based on the results from ongoing national disease surveillance programs, USDA Veterinary Services recognizes all states as being free of pseudorabies and brucellosis in commercial production swine. Canada should recognize the U.S. swine herd as free from pseudorabies and swine brucellosis for commercial breeding animals. Canada does not require testing for these animal diseases in swine exported to Canada for slaughter and should not require it for breeding animals exported from the United States to Canada.

New Zealand

New Zealand restricts market access for U.S. pork based on unscientific concerns about the transmission of porcine reproductive and respiratory syndrome (PRRS). PRRS is not a food-safety issue and does not pose a risk to human health. In fact, a group of international experts reviewed the New Zealand risk assessment and determined that even though it took an overly conservative approach, the likelihood of transmission of PRRS is 1 in every 1,227 years. The World Organization for Animal Health (OIE) does not include the trading of pig meat as a risk of spreading PRRS. The OIE emphasizes that the main risk of spreading PRRS is through trade in live animals and semen and does not list measures to control pork trade in its recommendations on prevention and control of the disease. The legal importation of fresh, chilled and frozen pork from PRRS-endemic countries has never resulted in any outbreak of PRRS in countries that are known to be PRRS-free.

A New Zealand Import Health Standard (IHS) has been proposed that would permit imports of consumer-ready cuts of uncooked pork of less than three kilograms, and that proposal was upheld by New Zealand's High Court in May 2012. However, the New

Zealand pork industry has filed an appeal of that ruling, and it is uncertain how long the High Court will take to make a decision on the appeal. In the meantime, no U.S. pork can take advantage of the access the IHS would provide. New Zealand should remove all PRRS -related trade restrictions and provide full access for U.S. pork and pork products as a result of the TPP negotiations.

Chile

Chile currently requires that U.S. fresh/chilled pork shipped to Chile be tested for trichinosis and that frozen pork meet specific time/temperature requirements for freezing. These mitigation requirements are costly and unnecessary. There is negligible risk of trichinosis in the U.S. commercial swine herd because of improved biosecurity and feeding regulations. There has not been a single detection of trichinosis in the U.S. commercial herd in over a decade, and U.S. animal disease experts estimate the chance of a human getting trichinosis from the consumption of U.S. pork is nearly 1-in-300 million. Chile's trichinosis mitigation requirements for U.S. fresh/chilled and frozen pork are not based on any legitimate food-safety concerns and significantly reduce U.S. pork exports to Chile. Therefore, Chile should remove all trichinae risk mitigation requirements as a result of the TPP negotiations.

Peru

Peru currently requires that U.S. fresh/chilled pork shipped to Peru be tested for trichinosis and that frozen pork meet specific time/temperature requirements for freezing. These mitigation requirements are costly and unnecessary. There is negligible risk of trichinosis in the U.S. commercial swine herd because of improved biosecurity and feeding regulations. There has not been a single detection of trichinosis in the U.S. commercial herd in over a decade, and U.S. animal disease experts estimate the chance of a human getting trichinosis from the consumption of U.S. pork is nearly 1-in-300 million. Peru's trichinosis mitigation requirements for U.S. fresh/chilled and frozen pork are not based on any legitimate food-safety concerns and significantly reduce U.S. pork exports to Peru. Therefore, Peru should remove all trichinae risk mitigation requirements as a result of the TPP negotiations.

Singapore

Like other countries in Southeast Asia, Singapore is a market ripe for U.S. pork export expansion. But the country has erected barriers to pork imports. U.S. pork and pork exports to Singapore peaked in 2008 at 11,468 MT and totaled 10,392 MT in 2011.

> ***Trichinae Mitigation.*** Singapore currently requires that U.S. fresh/chilled pork shipped to Chile be tested for trichinosis and that frozen pork meet specific time/temperature requirements for freezing. These mitigation requirements are costly and unnecessary. There is negligible risk of trichinosis in the U.S. commercial swine herd because of improved biosecurity and feeding regulations. There has not been a single detection of trichinosis in the U.S. commercial herd in

over a decade, and U.S. animal disease experts estimate the chance of a human getting trichinosis from the consumption of U.S. pork is nearly 1-in-300 million. Singapore's trichinosis mitigation requirements for U.S. fresh/chilled and frozen pork are not based on any legitimate food-safety concerns and significantly reduce U.S. pork exports to Singapore. Therefore, Singapore should remove all trichinae risk mitigation requirements as a result of the TPP negotiations.

Pathogen Reduction Treatments. Despite a strong body of scientific research to support the safety of pathogen reduction treatments (PRTs) in meat production, Singapore maintains a ban on the use of PRTs in meat production, including pork.

PRTs are approved for use in the United States as a means of reducing or eliminating bacterial contamination and improving product safety for meat products, including pork. The use of PRTs in pork production was subject to rigorous risk assessment by the U.S. Food and Drug Administration (FDA), which found the use of these treatments in accordance with recommended manufacturing practices to be a safe and effective way of eliminating bacterial contamination on pork products. The *Codex Alimentarius* has also recognized the safety of PRTs in meat production when used in accordance with good manufacturing practices. Several U.S. meat exporting companies in the United States currently make use of PRTs for pork, including the use of lactic acid, acetic acid and peroxyacetic acid.

We are not aware of any science-based risk assessment conducted by Singapore, nor can it point to scientific evidence indicating that the use of PRTs in meat production is unsafe. The Singapore PRT ban thus violates fundamental principles of the WTO SPS Agreement and acts as a significant impediment to U.S. pork exports to Singapore. Singapore should remove the ban on the use of PRTs as a result of the TPP negotiations.

Russia

In November 2011, the World Trade Organization (WTO) approved Russia's request for accession to the WTO, and Russia will formally accede to the WTO on August 22, 2012. Although Russia established zero-duty tariff rate quotas for pork products totaling 430,000 MT as part of its WTO Accession commitments, it is highly unlikely that the U.S. pork industry will be able to take full advantage of these TRQs because of a long list of Russian SPS barriers to meat imports. Russian food safety officials have recently made statements that they intend to leave these unjustifiable and trade-restrictive SPS measures in place after Russia's accession to the WTO and that they may even soon add additional SPS restrictions affecting trade in pork.

Following are Russian SPS measures that severely restrict U.S. pork imports and that cannot be justified on the basis of any legitimate food-safety concerns.

Equivalence. In recent years, Russia has delisted a large number of U.S. pork plants from eligibility to export pork for Russia. These delistments have taken

place for a variety of reasons, ranging from violations of Russia's unjustifiable, effective zero-tolerance policy for the antibiotic tetracycline (see details below) to minor administrative errors by U.S. plants in filling out Russian plant approval forms. Virtually none of the delistments that have taken place are based on legitimate food-safety concerns. At present, U.S. pork plants representing 50 percent of U.S. pork production capacity have been delisted from shipping to Russia. Russia did make a commitment as part of its WTO Accession that it would conduct an equivalence review for all WTO members expressing an interest. However, high-ranking Russian government officials have recently told groups in Moscow that they have no intention of granting equivalence to countries such as the United States that have had frequent violations of Russian SPS rules.

Tetracycline. Russia currently maintains an effective zero-tolerance policy for the presence in imported pork of tetracycline, a product found to be safe for use in pork production by both the Food and Drug Administration and the *Codex Alimentarius*. The United States has sought Russian adoption of either the U.S. maximum residue level (MRL) or the *Codex* standard for tetracycline. Numerous U.S. pork plants have been delisted as a result of Russia's zero-tolerance policy for tetracycline, and Russian government veterinary authorities have indicated that the zero-tolerance policy will remain in place after Russia accedes to the WTO.

Pathogens. Russia maintains a zero-tolerance policy for pathogens on meat products. No country in the world, including Russia, can ensure the complete absence of pathogens on meat. Acceptable practices for the mitigation of pathogens on meat products are outlined in the *Codex Alimentarius* "Code of Hygienic Practices for Meat." The United States system for mitigation of risk of pathogens adheres to the *Codex* code, and Russia should recognize that fact.

Trichinae Mitigation. Russia currently requires that U.S. fresh/chilled pork shipped to Russia be tested for trichinosis and that frozen pork meet specific time/temperature requirements for freezing. These mitigation requirements are costly and unnecessary. There is negligible risk of trichinosis in the U.S. commercial swine herd because of improved biosecurity and feeding regulations. There has not been a single detection of trichinosis in the U.S. commercial herd in over a decade, and U.S. animal disease experts estimate the chance of a human getting trichinosis from the consumption of U.S. pork is nearly 1-in-300 million. Russia's trichinosis testing requirements for U.S. fresh/chilled pork are not based on any legitimate food-safety concerns and significantly reduce U.S. pork exports to Russia.

Possible ractopamine ban. Recent reports out of Moscow indicate that Russia may impose a ban on imports of pork produced with ractopamine even before it joins the WTO. It is already reportedly taking action against Brazil related to its use of ractopamine in pork production. Russia worked actively with the European Union in its unsuccessful effort to defeat a vote on the establishment of an MRL

standard for ractopamine in the *Codex* this year. As a result of that vote, the *Codex* now recognizes ractopamine as being safe for use in livestock production, as does the U.S. Food and Drug Administration and many other countries that make use of the product. Russia has no food-safety reason for implementing a ban on ractopamine. If it were to do so, it would seriously disrupt U.S. pork sales to Russia.

The European Union

At the November 28, 2011, U.S.-EU Summit, President Obama, European Council President Herman Van Rompuy and European Commission President Jose Manuel Barroso announced that the Transatlantic Economic Council (TEC) was being directed to establish a joint High Level Working Group on Jobs and Growth. The new working group is to explore options to generate jobs and economic growth, as well as to improve competitiveness. Included in these options will be the possibility of negotiating a U.S.-EU free trade agreement. NPPC is strongly supportive of this initiative. However, any trade deal with the EU must be a comprehensive, 21st century agreement. Nearly all of the EU's trade agreements are preferential trade agreements and exclude agriculture and SPS issues. Current EU SPS measures have resulted in the U.S. pork industry exporting more pork to Honduras than to the EU. The inclusion of agriculture will allow for the following SPS barriers to be addressed, opening a market that should be one of our largest markets for U.S. pork products.

Ractopamine. Ractopamine hydrochloride is a protein synthesis feed ingredient that improves weight gain and feed efficiency in livestock. The U.S. Food and Drug Administration approved the use of ractopamine in livestock production in 1999, following an extensive risk assessment.

The EU bans the use of ractopamine in pork production and the import of pork produced with ractopamine despite the lack of a science-based risk assessment to justify its actions. As a consequence, the United States has been forced to implement a costly and administratively burdensome Pork for the EU (PFEU) program, designed to ensure that only U.S. pork produced without ractopamine is shipped to the EU. The EU ban on ractopamine means that only a small fraction of U.S. pork, which can be clearly shown to be produced without ractopamine, can be shipped to the EU.

In July 2012, the *Codex Alimentarius* voted to establish a recommended maximum residue level (MRL) for ractopamine, thus recognizing the safety of the product in livestock production. Formal recognition by the *Codex* of the safety of ractopamine came in spite of the adamant opposition of the EU and allied countries, which for many years have attempted to block *Codex* approval of the product. In recognizing the safety of ractopamine, the *Codex* joins the U.S. Food and Drug Administration and numerous other countries that have approved the product for use in livestock production or that allow the import of pork produced with ractopamine.

The EU, on the other hand, has never conducted a science-based risk assessment for ractopamine in livestock production, nor has it cited any legitimate food-safety concerns related to use of the product. The EU ractopamine ban thus violates fundamental provisions of the WTO Agreement on Sanitary and Phytosanitary Measures.

As noted, the EU's ractopamine ban severely restricts U.S. pork sales to the EU market. Economist Dermot Hayes of Iowa State University has estimated that if the EU removed the ractopamine ban, the United States would be in a position to fill the EU's 75,000 MT tariff rate quotas, translating into increased U.S. pork exports of 60,000 MT valued at roughly $180 million.

Trichinae Mitigation. The EU currently requires that U.S. fresh/chilled pork shipped to the EU be tested for trichinosis and that frozen pork meet specific time/temperature requirements for freezing. These mitigation requirements are costly and unnecessary. There is negligible risk for trichinosis in the U.S. commercial herd. There has not been a single detection of trichinosis in the U.S. commercial herd in over a decade, and U.S. animal disease experts estimate the chance of a human getting trichinosis from the consumption of U.S. pork at 1-in-300 million. The EU's trichinosis testing requirements for U.S. fresh/chilled pork are not based on legitimate food-safety concerns and are a significant barrier to U.S. pork sales to Europe.

Pathogen Reduction Treatments. Despite a strong body of scientific research to support the safety of pathogen reduction treatments (PRTs) in meat production, the EU maintains a ban on the use of PRTs in meat production, including pork. Current EU regulations require that food producers not use any substance other than potable water in removing contamination from meat products. In June 2008 the European Food Safety Agency (EFSA) reversed an earlier finding that PRTs were safe for use in meat production, and in December 2008, the EU Agriculture Council rejected a request by the EU Commission to approve the use of four PRTs in U.S. poultry production.

In January 2009, the United States requested WTO consultations on the EU ban on PRTs in poultry production, and in November 2009, the WTO approved the formation of a panel on the issue. Thus far, the panel has not met.

PRTs are approved for use in the United States as a means of reducing or eliminating bacterial contamination and improving product safety for meat products, including pork. The use of PRTs in pork production was subject to rigorous risk assessment by the U.S. Food and Drug Administration (FDA), which found the use of these treatments in accordance with recommended manufacturing practices to be a safe and effective way of eliminating bacterial contamination on pork products. The *Codex Alimentarius* has also recognized the safety of PRTs in meat production when used in accordance with good manufacturing practices.

Several U.S. meat exporting companies in the United States currently make use of PRTs for pork, including the use of lactic acid, acetic acid and peroxyacetic acid.

The EU has not conducted a science-based risk assessment, nor can it point to scientific evidence indicating that the use of PRTs in meat production is unsafe. The EU PRT ban thus violates fundamental principles of the WTO SPS Agreement and acts as a significant impediment to U.S. pork exports to Europe.

Plant Approval Requirements. The EU requires approval of third country meat plants for them to be eligible to export meat to the EU. Even though there have been improvements in recent years in EU requirements for plant approval, such as the removal of cove molding requirements and wall coloring requirements, the EU still maintains at least two requirements for plant approval that impose burdens on U.S. pork plants seeking approval for export to the EU: 1) a requirement that meat exported to the EU not be comingled with other product in slaughter plants, and 2) a pig heart incision requirement. Neither of these two requirements can be justified based on legitimate food-safety concerns. It has been estimated that these requirements add an additional $132 per MT to U.S. exporter costs.

China

China is a large and fast growing market for U.S. pork exports. However, U.S. pork exports are constrained by the fact that China maintains a ban on imports of pork produced with ractopamine. This means that only a limited number of U.S. meat plants can export to the Chinese market.

U.S. concerns about bans on the import of pork produced with ractopamine can be found in the EU section above. The U.S. FDA and the *Codex Alimentarius* recognize the safety of ractopamine in U.S. pork production, as do numerous other countries. There is no science-based food safety reason for China's ractopamine ban, and in fact, data provided by China on residue studies of ractopamine actually supported the international standard set by the *Codex*.

There have been rumors that the Chinese government may be considering changes to its current ractopamine policy. Given the size of the market and rumors that China may be showing signs of flexibility on ractopamine, we believe it prudent to show some patience with regard to China's ractopamine policy.

Taiwan

Taiwan has maintained a ban on the import of pork produced with ractopamine for four years. As is the case with the EU and China, Taiwan's ractopamine ban significantly impedes U.S. pork exports. Despite years of discussion with the Taiwanese government and multiple indications that it was considering removing the ban, the ractopamine ban remains in place to this day. As noted in the description of ractopamine bans in the EU

and China, both the U.S. FDA and the *Codex Alimentarius* recognize the safety of ractopamine in livestock production. Taiwan maintains the import ban even though it has no science to indicate that use of the product is unsafe and no risk assessment to support its ban. Taiwan is thus in violation of fundamental principles contained in the WTO SPS Agreement. Following the establishment of a recommended maximum residue level for ractopamine at the *Codex Alimentarius Commission*, Taiwan publicly stated it would not recognize the international standard. Iowa State economist Dermot Hayes has estimated that if Taiwan's ractopamine ban were lifted, U.S. pork exports would increase by about $417 million within 10 years. Taiwan has shown interest in joining TPP. Countries that so blatantly ignore science to block imports should not be admitted to the TPP.

South Africa

On May 31, 2012, South Africa notified the WTO Committee on Sanitary and Phytosanitary Measures of its intention to impose new requirements on the import of pork from other WTO members. These new requirements are related to concerns on the part of the South African government about the possibility of introducing Porcine Reproductive and Respiratory Syndrome (PRRS) into the South African herd though imported pork.

As a country that is not free of PRRS, the United States will presumably be subject to South Africa's PRRS-related import restrictions when they are implemented in July 2012.

In more than 20 years of exporting pork originating from PRRS-endemic countries to PRRS-free countries, there has been no evidence to indicate a single case of PRRS being conveyed though imported pork. This is the case in numerous PRRS-free countries, including but not limited to Switzerland, Norway, Sweden and Finland. As indicated in earlier comments, the OIE does not include the trading of pork as a posing a risk for spreading of PRRS. The OIE emphasizes that the main risk of spreading PRRS is through trade in live animals and semen.

There are numerous reasons trade in pork poses almost no risk of PRRS transmission, including that: 1) most fresh/chilled pork would be held at least seven days from the time of slaughter to the time of retail sale, during which time 90 percent of infectivity is lost; 2) the infection rate from consumption by livestock of PRRS-infected meat is inefficient in conveying the disease; 3) most countries, including South Africa, ban the garbage feeding of pork waste to commercial herds; and 4) survival of the PRRS virus is highly sensitive to heat and to changes in pH levels.

In other words, the chance of a South Africa-based PRRS infection from the import of U.S. pork is extremely unlikely. In light of this fact, South Africa should not impose PRRS-related restrictions on imports of U.S. pork.

Thailand

Thailand is another country that maintains a ban on the import of pork produced with ractopamine. In discussions with the U.S. government and the U.S. pork trade, Thai government officials have said that they would consider removing their ractopamine ban if the *Codex* established a recommended MRL for the product. As noted, the *Codex* did establish a recommended MRL for ractopamine in July 2012. The U.S. government and U.S. pork industry should give careful scrutiny to Thailand to determine whether it follows up on previous hints that it would remove its ractopamine ban if the *Codex* established a standard for ractopamine.

India

India requires that a country be free of High Pathogenic Avian Influenza as a condition for exporting pork. This may be a concern in developing countries where pigs, birds and humans live in close proximity, but it is not a concern in modern U.S. pork production, which includes high levels of biosecurity and sanitary practices. U.S. pork is safe to eat and handle, and any restrictions related to High Pathogenic Avian Influenza or other influenzas as a barrier to trade are not scientifically based.

The India pork export certificate requires that meat not have any residues of pesticides, drugs, mycotoxins or chemicals above the maximum residue limits (MRLs) prescribed internationally. It is uncertain to which compounds and their corresponding MRLs India is referring. India should adopt MRLs based on its own sound scientific risk assessments, the exporting country's MRL or international standards. The process should be transparent and based on a sound scientific process and should work toward reducing barriers to trade.

One of the most onerous challenges to exporting pork to India is the country's import permit system. India's International Sanitary Certificate for Import of Pork contains vague and restrictive animal health requirements that are not based on science. There are nine requirements that exporting countries be free of a variety of diseases and parasites. For example, as a condition for trade, a country must be free of porcine reproductive and respiratory syndrome (PRRS), trichinae and anthrax, which are not scientifically supported reasons to prohibit trade.

India's pork export certificate also requires plant-by-plant inspections of U.S. pork processing facilities. This is contrary to the principle of equivalence, which is a fundamental WTO SPS requirement that is based on a systemic audit process, not plant-by-plant approvals. NPPC strongly urges India to accept all USDA federally inspected plants as eligible to export to India.



ALLEN F. JOHNSON
& ASSOCIATES

Testimony Before the Committee on Small Business
Subcommittee on Agriculture, Energy, and Trade
July 26, 2012

My name is Jason Hafemeister. I am Vice-President of AFJ & Associates, a Washington, D.C based international trade consulting firm that focuses on promoting agricultural trade and development. AFJ & Associates provides consulting services to companies, trade associations, and international institutions, including designing strategies to overcome SPS barriers. Prior to this position I served for over 15 years at the U.S. Department of Agriculture and the Office of the U.S. Trade Representative as an agricultural trade negotiator. Among other responsibilities, I was the lead negotiator for agriculture in the Doha round of negotiations at the WTO, the CAFTA-DR, and China's accession to the WTO. I also was part of the negotiating team in the WTO's Uruguay Round, including work on the Agreement on the Application of Sanitary and Phytosanitary (SPS) measures.

U.S. agricultural exports are forecast to reach over $130 this year, providing a healthy trade surplus for the sector. Thanks to trade agreements that have lowered tariffs and the competitiveness of U.S. farmers and ranchers, ag exports continue to make a positive contribution to the U.S. economy and balance of payments. Promising fundamentals, such as growth in international demand for agriculture and food products, the strong competitive position of the United States, and the process of greater economic integration, all suggest exports will continue to create opportunities for the farm and ranch families and food processors that are at the backbone of our agriculture system.

However, the persistent use of unjustified import restrictions related to health or safety concerns, sometimes sincerely but also sometimes disingenuously, is one of the most serious constraints on U.S. exports. In too many cases U.S. exporters are facing requirements in foreign markets that are

- not based on scientific evidence or risk assessments;
- developed without the taking into account comments from trading partners;
- implemented without adequate time for exporters to meet new standards;
- inconsistent with science-based international standards;
- not implemented using trade-facilitating policies (such as recognition of systems-based approaches that deliver equivalent levels of health and safety protection or not implementing harmonized export certificates); and
- enforced using questionable testing practices and methodologies.

These measures threaten, if they remain unchecked, to close entire markets to U.S. products. This threat is a particular problem for small businesses – farm and ranch families, small food processors, brokers, and others that lack the resources and the contacts with foreign governments to complete a sale when a government official makes an arbitrary decision to reject a shipment.

Specific health and safety barriers that currently unjustifiably restrict U.S. exports include the following drawn from the 2012 USTR report on SPS Measures:

- Indian restrictions on U.S. dairy imports that lack scientific justifications for onerous certification requirements.
- Restrictions on crops developed through modern biotechnology or genetic engineering techniques in China, Croatia, Ethiopia, the European Union, Norway, Peru, the South African Development Community, Korea, Sri Lanka, Switzerland, Turkey, Ukraine,
- Beef restrictions due to bovine spongiform encephalopathy (BSE) in Argentina, Australia, Bolivia, Brazil, China, Dominican Republic, Ecuador, El Salvador, Hong Kong, Israel, Japan, Korea, Mexico, Morocco, Russia, Singapore, South Africa, Sri Lanka, Taiwan, Thailand, Turkey, Uruguay, Venezuela, Vietnam.
- Restrictions on beef and pork for use of beta-agonists, including in China, the European Union, Russia, Taiwan, and Thailand.
- Continued restrictions on accessing the EU market for beef, despite a WTO decision against the EU hormone ban over 10 years ago, and related restrictions on U.S. pathogen reduction practices for other meats.
- Restrictions on U.S. poultry access purportedly because of avian influenza concerns in Argentina, China, India, Japan, and Venezuela.
- Restrictive standards for salmonella in Central America, China, Colombia, and Vietnam.
- Restrictions on U.S. pork exports purportedly for trichinosis concerns in Argentina, Chile, Colombia, European Union, Kazakhstan, Peru, Singapore, and Ukraine.
- Russia's restrictions related to plant inspections, health certificates, pathogen reduction treatments, and use of veterinary drugs that restrict exports of a number of U.S. agricultural products.
- Unjustified bans due to hog diseases in Australia, Jamaica, New Zealand and South Africa.
- Pesticide residues set at unreasonably low levels, or not set at all, effectively banning any imports of products with trace residues, including in the European Union, Japan, Korea, and Taiwan.
- Discriminatory export certifications setting unreasonable standards for wheat, dairy, meat, and other exports to China, India, Egypt and other countries.

Trade rules are in place to discipline the use of health and safety measures. The WTO Agreement on the Application of SPS Measures establishes a number of foundational principles for balancing the rights of importing countries to maintain measures to protect health and safety and obligations of these countries to remove unjustified measures that

restrict trade. Fundamental principles of the agreement include requirements that importing countries:

- measures be based on scientific evidence and backed up by scientific risk assessments;
- not discriminate against products from other countries when the same health situation exists from permitted suppliers;
- recognize products from pest- and disease-free areas in exporting countries;
- recognize systems in exporting countries that meet health and safety standards through equivalent measures;
- employ measures that are least-restrictive to trade; and
- meet specific transparency and procedural fairness standards.

These rules, and the application of the dispute settlement procedures of the WTO, have been a game changer, in a positive way, for international agricultural trade. Prior to the Uruguay Round, the mere declaration that an import barrier was maintained to protect animal, plant or human life or health was enough to justify the most restrictive trade ban. Now, new SPS measures that deviate from international standards must be notified and subject to public comment and discussion before the technical experts at the WTO. When U.S. exports face a new barrier purportedly protecting health and safety, U.S. officials can request information on the scientific basis and ensure U.S. products are being denied access if products from the importing country or other trading partners that pose the same risk are allowed onto the market. Importantly, disputes can be taken to a panel of WTO experts to determine if an SPS measure is consistent with WTO provisions.

The United States has used this process to successfully challenge the EU's ban on beef treated with growth promoting hormones, Japan's restrictions on certain horticultural products, Japan's onerous testing requirements, Korea's restrictive shelf-life requirements, Australia's restrictions on salmon imports, and the EU's import ban on biotechnology products. In addition, cases against India for restrictions on U.S. meat exports and the EU for unjustified restrictions on U.S. poultry exports are currently pending in the dispute settlement process. These cases have reopened markets for U.S. products and have sent powerful signals to other countries that if they maintain unjustified health and safety measures they runt he risk of losing a WTO dispute, and then either must remove the offending measure or face retaliatory tariffs on its exports to the United States.

As useful as the WTO rules have been for U.S. exporters, health and safety measures in other countries still unjustifiably restrict exports of food and agricultural products. The United States should pursue a multi-prong approach to address these barriers, including the steps outlined below.

Strengthen U.S. Response Capacity: To address technical restrictions on U.S. exports, the United States relies on experts in technical agencies, in particular USDA and FDA, to assess requirements and develop arguments against them. In addition, officials posted in

foreign countries provide a key resource to assess the situation and develop the appropriate response. The United States needs to invest in its staffing and other resources to stay on top of restrictions imposed on U.S. agricultural exports. In addition, challenging these measures needs to be make a priority, including by having the Administration assign appropriate resources to trade resolution activities, financing data gathering and research, and providing personnel and travel budgets to allow U.S. officials to argue the strongest case in foreign capitals and before dispute settlement panels. Importantly, the United States must be comfortable to follow the scientific evidence – if a product is safe the U.S. should press for other countries to allow for imports and similarly if a foreign product is safe for the U.S. market our regulators should allow access.

Be Aggressive in International Institutions: Standards developed by the CODEX Alimentarius, the World Organization for Animal Health, and the International Plant Protection Convention have increasing importance in international trade. Countries that use these standards are protected from challenge in the WTO, and many countries that cannot conduct their own research rely on the process of international organizations to establish their domestic standards. The United States should press for these organizations to set more standards, and ensure they are based on the best scientific information. This includes working to overcome resistance from other countries that are resisting the establishment of standards, as the United States successfully managed in the case of setting residue standards for growth promoting hormones in the 1990s and more recently for the use of veterinary drugs in animal production.

Provide Technical Guidance to Developing Countries: Some countries lack the resources to conduct thorough scientific assessments, or are unaware of standards and practices in the United States that are effectively protecting health and safety. As a consequence, they may erect unnecessary trade barriers. The United States should engage with these countries and provide technical assistance to help them implement appropriate standards and to provide a counter-weight to protectionist countries that are encouraging the establishment of restrictive measures that will reduce U.S. exports.

Strengthen Trade Rules: Current WTO rules are a helpful framework of principles, but do not provide adequate guidance to address current trade barriers. The United States should take advantage of trade negotiations currently underway or planned for the future to strengthen disciplines on SPS measures. In particular, in the Trans-Pacific Partnership negotiations the United States has an excellent opportunity to work with like-minded countries to

- strengthen and elaborate requirements regarding risk assessment and risk management;
- reinforce the WTO rule that requires regulators to select the least-trade-restrictive of available risk management options;
- promote trade-facilitating measures such as equivalence, recognition of inspection systems and harmonization of export certificates;
- require parties to provide an adequate grace period before implementing new, non-emergency measures;

- enhance transparency;
- strengthen the role of science-based international standards and promote the harmonization of standards;
- grant importers the automatic right, in the case of an adverse test result, to a confirmatory test in a competent laboratory that uses validated testing methods; and
- establish a pro-active committee agenda that encourages partners to collaborate on specific issues in order to facilitate trade.

Importantly, any new trade rules must be fully enforceable under the agreement, or else risk being ignored by our trading partners.

STATEMENT OF ROGER MIX
MIX FARMS – CENTER, COLORADO
BEFORE THE
UNITED STATES HOUSE COMMITTEE ON SMALL BUSINESS
SUBCOMMITTEE ON AGRICULTURE, ENERGY AND TRADE

JULY 26, 2012

Chairman Tipton, Ranking Member Critz, and other members of the Committee, thank you for inviting me to testify before you today. It is an honor and privilege to be here.

I am here today representing over 170 potato growers in the San Luis valley of south central Colorado. Colorado produced 21,000,000 hundredweight (cwt) of potatoes in 2011 with an approximate market value of $200 million. We produce over 100 varieties of potatoes with 95 percent marketed as fresh potatoes which ranks Colorado as the second largest producer of fresh potatoes in the nation. Colorado is the largest United States shipper of fresh potatoes to Mexico but access has been limited to a 26-kilometer deep area along the northern border of Mexico. The opportunity to expand this market represents a significant economic opportunity for Colorado and other U.S potato growers. Currently about one in every five rows of potatoes grown in the United States is exported but in Colorado it is only one in every 20.

I want to thank you for calling this hearing to examine the effects of the application of non-scientifically based sanitary and phytosanitary standards on agriculture products grown in the United States and exported to our valued trading partners. All too often the application of these standards has resulted in reduced market access for the agricultural goods grown by America's family farmers who operate small businesses across the country. As we all understand, these small businesses are the heart and soul of our economy.

In March 2003, the United States and Mexico signed a market access agreement that allowed for the shipment of U.S. fresh potatoes from all 50 states into a 26-kilometer deep area along the border of Mexico. The signed agreement called for increased access to the five

northern Mexican states in 2004 and for consideration of full access by 2005. Presently, the shipping of U.S. fresh potatoes to Mexico is limited to 26 kilometers. In 2011, U.S. potato growers exported $39 million worth of fresh potatoes to Mexico, making it our second largest export market behind Canada. If our products had full access to all of Mexico, we estimate that it would become our largest market for fresh U.S. potatoes with a value in excess of $150 million.

Many of the obstacles raised by Mexico to justify their failure to honor commitments in the 2003 agreement have been phytosanitary in nature but were not based in sound science and did not justify trade restrictions. For example, Mexican potatoes produced in areas of the country with identical pest profiles as those in U.S. production areas have been allowed to move throughout Mexico if they are washed or brushed and labeled for consumption only. Yet U.S. fresh potato exports to Mexico are not allowed to move in a similar manner. The application of a different standard for domestic production than for imports clearly violates the globally accepted principle of "National Treatment".

Mexico also argues that pest finds on U.S. potatoes entering Mexico have been excessive. U.S. growers and shippers apply rigorous production and testing protocols to ensure that shipments to Mexico are free from pests. According to USDA's Animal and Plant Health Inspection Service, legitimate pest finds on U.S. potatoes entering Mexico are at or below the levels of pest detections for many Mexican agriculture products entering the U.S. The lack of timely and accurate reporting of pest finds is used by Mexico to artificially inflate the number of pest finds.

Recently, U.S. and Mexican negotiators were able to reach agreement on a path forward to develop a market access agreement for U.S. fresh potatoes to Mexico. As Mexico, Canada and other key trading partners seek to become participants in the Trans Pacific Partnership we need to be vigilant in using that process to increase their commitment to science-based resolutions of phytosanitary issues. The trade agreement negotiating process provides an

opportunity to gauge our trading partners' commitment to the scientific evaluation of phytosanitary risk as well as to internationally accepted trade rules and standards.

We are encouraged at the progress toward expanded potato trade with Mexico. And as the TPP negotiations continue, America's family potato farmers believe there is a need for continued and visible progress on a final work plan that will give potato growers and shippers in Colorado and the rest of the U.S. the opportunity to export potatoes to Mexico. A lack of progress on the potato issue would call into question Mexico's commitment to be a responsible partner in the TPP agreement.

Thank you again for the opportunity to testify.

Testimony before

Committee on Small Business
Subcommittee on Agriculture, Energy and Trade

Trade Barriers for Agricultural Exports

July 26, 2012
Washington, D.C.

offered by
Carl T. Shaffer
President

Pennsylvania Farm Bureau

Chairman Tipton, Ranking Member Critz, and Members of the Committee – thank you for the opportunity to appear before you today. My name is Carl Shaffer; I own and operate a farm in Columbia County, where I raise corn, soybeans and wheat. In addition to being a full-time farmer, I have the privilege of serving as President of the Pennsylvania Farm Bureau, the Commonwealth's largest general farm organization.

Trade matters to Pennsylvania and America's farmers. As you well know, more than 95% of the global population lives beyond our borders. As such, the agriculture industry is constantly mindful of global markets, the opportunities they present and the numerous trade barriers that exist.

Trade barriers to U.S. farmers come in many forms. The most challenging trade barriers that are facing agriculture today are the unscientific sanitary standards and other non-tariff trade barriers. But our domestic infrastructure challenges also pose a significant barrier to competitive agricultural exporting that can be improved by consistent and effective investment in these necessary resources.

Non-Tariff Trade Barriers

Previously, barriers to U.S. agricultural trade were mostly confined to tariffs. As tariffs on many agricultural products have been reduced, other forms of barriers have increased – though they essentially serve the same function – restricting market access. These sanitary and standards measures serve to restrict exports of U.S. agricultural products.

Trade barriers on agricultural exports share these common features:

- Measures are not science-based and unnecessarily restrict market access;
- New measures are implemented without adequate time for compliance;
- Measures do not conform to international standards;
- Trading partners rely on questionable testing methods to enforce their standards.

There are many examples of U.S. agriculture facing specific barriers that can reduce or even halt export opportunities, such as:

1. Biotechnology rules that disrupt animal feed trade to the European Union (EU).
2. U.S. poultry is restricted entry into the EU due to the use of chlorine based processing washes that are deemed safe in the U.S.
3. Pork and beef products have been restricted in many countries due to the use of the growth additive ractopamine. The Codex Alimentarius, the international food standards organization, at the strong urging of the U.S., recently adopted a standard for ractopamine that will help open trade. The operations of international standards setting bodies, such as the Codex Alimentarius, must be viewed as crucial to U.S. agricultural trade.
4. Use of certain geographical indicators (GI's). We are concerned about the use of geographic indicators as a trade barrier by taking away common names, especially in the dairy foods market.

A report published by the Office of the U.S. Trade Representative, the *2011 Report on Sanitary and Phytosanitary Measures*, gives an account of the sanitary barriers maintained by nations against U.S. agricultural exports. Within this report, the primary concerns of Pennsylvania agriculture include restrictions on biotechnology, export health certificates for

poultry, pork, dairy and dairy products (specifically regarding Russia and India) and the increased use of geographic indicators.

Trade Negotiations

Formal negotiations between nations can act to reduce trade barriers. However, in negotiating these agreements, we must strive to benefit the entire agricultural economy, not just parts of it. For example, the North American Free Trade Agreement (NAFTA) did nothing to address the Canadian tariff on U.S. dairy products. Canada imposes out of quota tariffs on dairy products that exceed 200 percent, with some as high as 292.5 percent. This is particularly harmful to Pennsylvania's dairy industry in that we could be exporting cheese to our northern neighbors if NAFTA had eliminated or reduced this barrier.

As you know, the U.S. Government is currently engaged in one ongoing (Trans-Pacific Partnership) negotiation and one potential negotiation (European Union) that could reduce sanitary and standards barriers to U.S. agricultural exports. Farm Bureau is cautiously optimistic that these discussions will lead to improved and open access for American farmers with both new and old trading partners.

Trans Pacific Partnership

A principal goal to improving the conditions of trade for farmers is to reach an agreement in trade negotiations that strengthens and reinforces the rules and disciplines of the WTO's *Agreement on Sanitary and Phytosanitary Measures* (SPS) and supports the need and importance to agricultural trade of science–based food safety regulation.

The ongoing Trans Pacific Partnership (TPP) negotiation between the U.S., Australia, New Zealand, Brunei, Chile, Peru, Malaysia, Singapore and Vietnam, along with the addition of Canada and Mexico this fall, includes discussions to improve SPS disciplines that go beyond the current WTO Agreement.

In order to improve disciplines on SPS measures future international agreements, including the Trans Pacific Partnership (TPP) should include provisions to:

1. Strengthen and elaborate requirements regarding risk assessment and risk management;
2. Promote trade facilitation measures such as equivalence, recognition of inspection systems and harmonization of export certificates;
3. Strengthen the role of science-based international standards and promote the harmonization of standards;
4. Enhanced protections under the WTO SPS Agreement must be fully enforceable under a new trade agreement. Rules that are not subject to effective dispute settlement procedures will have little beneficial effect.

Additionally, U.S. negotiators should use this round of negotiations to address Canadian tariffs on dairy products in an effort to expand market opportunities for America's dairy producers close to home. As you know, the dairy sector has taken several hits on the chin lately. Any effort we take to find long-term, reliable markets for dairy products will help decrease price volatility for our dairy farmers.

United States and European Union

In order to explore the feasibility of a future U.S.-EU Trade Agreement a 'High Level Working Group (Working Group) on Jobs and Growth', has been charged by the U.S. and EU governments with identifying policies and measures that will increase U.S.- EU trade and investment in support of mutually beneficial job creation, economic growth, and international competitiveness.

In 2011, the U.S. exported more than $10 billion in agricultural products to the EU and imported more than $15 billion in agricultural products in return. Agriculture wants the discussions to result in actions to increase agricultural trade flows and remove several major impediments to this flow that currently exist between the U.S. and the EU The Working Group should carefully consider the potential for enhanced regulatory cooperation through bilateral trade agreements as one possibility in addressing these issues. Further, it is crucial that all sectors of trade be included in any bilateral negotiations.

However, reaching a bilateral agreement should not take the place of actions resulting in real, measurable improvements in trade flows. The primary focus of the Working Group should be to address the existing substantive issues that impede agricultural trade between the EU and the United States, such as:

- EU actions that limit U.S. exports of products produced using biotechnology;
- Long-standing barriers against conventionally-raised U.S. beef;
- Ongoing EU restrictions against U.S. poultry and pork; and
- Use of product standards and geographic indicators to limit trade.

Moreover, regulatory cooperation on removing these barriers and developing uniform standards recognized on both sides of the Atlantic must adhere to sound, recognized, scientific principles. If science is not embraced as the core principle of the Working Group's efforts, acceptable resolution of existing issues will continue to inhibit development of agreements and standards that serve to improve the mechanics and flow of international trade.

The conversation about geographic indicators is an emerging and difficult challenge, particularly for the producers of dairy products like cheese. Pennsylvania dairymen and consumers alike will feel the brunt of restricted use of common names for dairy products like "Mozzarella" or "Feta" cheese, or any other geographic indicator (perhaps even "Greek yogurt"). Whether it's a conversation with the EU or any other trading partner, we are very concerned about any agreement that employs geographic indicators.

Transportation and Competitiveness

Affordable and reliable shipping of commodities and products from the farm or processing facility to foreign destinations (by truck, railroad, inland waterway and ocean transportation modes) is essential in delivering U.S. agricultural products to foreign customers and to compete in world markets. With more than one-third of U.S. agricultural production (valued at more than $136 billion) exported in 2011, the physical movement of commodities and foods is critical to agricultural trade and the prosperity of American farmers.

The global need for U.S. produced food is exposing the inadequacies of our transportation infrastructure. Our inland waterways are in need of continuing repair and maintenance to locks to preserve a major domestic shipping advantage that the U.S. has over other nations in the movement of agricultural goods. Our seaports need to be improved to take advantage of – and be ready for – the competition that will come from other nations after the expansion of the Panama Canal moves freight to even larger ships that require deeper harbors.

The interface of ports and roadways also needs to be improved. Congestion and delayed access to ports are ultimately passed along as increased costs for agricultural producers for shipping. Worse yet, congestion and delays could depress prices offered by buyers who would need to pay increased shipping rates.

Even though Pennsylvania is not often considered to be an agricultural exporter, port infrastructure is a major concern of our farmers. Several farmers in western Pennsylvania, including constituents of your Congressional District, Mr. Critz, have a direct stake in America's port infrastructure competitiveness. For example, Lone Maple Farms of New Alexandria (Salem Township, Westmoreland County) sells all the soybeans they grow to Agland Co-op in neighboring Ohio. There the beans are loaded on a barge, floated down the Ohio and Mississippi Rivers and trans-loaded onto ships headed into Asia. Unfortunately, Gulf Coast ports are not able to accommodate the largest of ships that will soon navigate the Panama Canal. The inability to dock, load and unload the post-Panamax ships in the Gulf Coast could limit the foreign markets currently enjoyed by Lone Maple Farms and several other Western Pennsylvania farms and businesses.

The recently passed surface transportation bill calls on the Department of Transportation to create a national freight transportation plan that includes highways and roads, but not inland waterways or railroads. Attention must be paid to maintaining and improving the systems that move our nations' agricultural goods. Foreign markets will only be unrealized opportunities to farmers if our goods are not able to be transported overseas in a timely, cost-effective and competitive manner.

Conclusions

American agriculture depends on export markets. Farmers and policy makers must remain committed to reduce the remaining tariff barriers and act against the use of sanitary and other standards that have the effect of closing markets to U.S. farmers.

Moreover, an efficient, reliable and export-oriented transportation system is necessary; our national priorities must include infrastructure improvement.

Farm Bureau urges your careful consideration of the necessary measures, including trade negotiations, to advance the goal of improved market access for the benefit of America's farmers.

Thank you for your time and consideration. I look forward to your questions.

Congress of the United States
House of Representatives
Washington, DC 20515

June 11, 2012

Ambassador Ron Kirk
United States Trade Representative
600 17th Street, NW
Washington, DC 20250

Dear Ambassador Kirk,

We respectfully request that you continue to press Mexico to uphold their existing treaty obligations to the United States in respect to the importation of U.S. potatoes.

Mexico currently prohibits fresh U.S. potatoes beyond a 26-kilometer zone from the U.S.-Mexico border due to Mexican claims that U.S. potatoes pose a pest risk. However, a Pest Risk Assessment conducted last year by Mexico found that potatoes grown in Mexico have a very similar pest profile to those grown in the U.S. Under existing treaty agreements, Mexico is required to treat U.S. potatoes the same as potatoes grown domestically. While the U.S. and Mexico signed a market access agreement that would have opened up all of Mexico to fresh U.S. potato exports by 2005, regrettably, they have failed to live up to this agreement. Following a mediation process conducted last year, Mexico continues to demonstrate its reluctance for a science-based mitigation plan.

The continued inaction by the Mexican government is costing U.S. growers significantly. In 2010, fresh potato exports from the United States to the 26-kilometer zone in Mexico were valued at $35.3 million. If this arbitrary boundary was lifted and Mexico's treaty obligations were honored, conservative industry estimates suggest that U.S. fresh potato exports to Mexico would have already reached $150 million per year.

U.S. growers have proven time and again that they can be very successful in competing in the international marketplace when they have a level playing field with their foreign competitors. In Fiscal Year 2011, agriculture exports generated $137.4 billion for our nation's economy. It is estimated that every billion dollars in agricultural exports creates 8,000 jobs.

However, in order for the success of our growers to continue, the United States must hold our trading partners accountable for violations to international trade laws. We understand that Mexico has submitted a request to join the Trans-Pacific Partnership negotiations. As you consider Mexico's request, we respectfully encourage you to continue to press Mexico to uphold

their existing treaty obligations with the United States and develop a policy governing the importation of U.S. fresh potatoes that is based on science. Thank you for your consideration.

Sincerely,

SCOTT TIPTON
Member of Congress

RICK LARSEN
Member of Congress

DOC HASTINGS
Member of Congress

CATHY MCMORRIS RODGERS
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