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COUNTRY OF ORIGIN LABELING AND TRADE RETALIATION: WHAT IS AT STAKE FOR AMERICA'S FARMERS, RANCHERS, BUSINESSES, AND CONSUMERS

HEARING

BEFORE THE

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY UNITED STATES SENATE

ONE HUNDRED FOURTEENTH CONGRESS

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COUNTRY OF ORIGIN LABELING AND TRADE RETALIATION: WHAT IS AT STAKE FOR AMERICA'S FARMERS, RANCHERS, BUSINESSES, AND CONSUMERS

Thursday, June 25, 2015

UNITED STATES SENATE,
COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY,
Washington, DC

The committee met, pursuant to notice, at 10:04 a.m., in room G50, Dirksen Senate Office Building, Hon. Pat Roberts, Chairman of the committee, presiding.

Present or submitting a statement: Senators Roberts, Boozman, Hoeven, Ernst, Tillis, Sasse, Grassley, Thune, Stabenow, Brown, Klobuchar, Bennet, Gillibrand, Donnelly, Heitkamp, and Casey.

Chairman ROBERTS. Good morning. I call this meeting of the Senate Committee on Agriculture, Nutrition, and Forestry to order.

Before making my statement, I would like to yield to the distinguished Ranking Member for a very important statement.

Senator STABENOW. Well, thank you, Mr. Chairman. Just in the interest of all of the terrific Senate women who are here today, I just want to congratulate everyone who played and the color commentator last night, Senator Klobuchar, for having the Congressional women beat the press in the charity game that is really a terrific opportunity to raise money for breast cancer. It was labeled, "Beat the Press," and we did. I should not say "we." I was cheering. It is because I was cheering that that happened, but——

[Laughter.]

Senator KLOBUCHAR. Right, and the pitcher——

Senator STABENOW. —Senator Ernst—and the pitcher, yes, Senator Ernst and Senator Gillibrand did a terrific job. So, Mr. Chairman, it raised a lot of money for a very important cause. It was a beautiful night. Our team won, so congratulations.

Chairman ROBERTS. I am not speechless, I just——

[Laughter.]

Chairman ROBERTS. This is what happens when the Chairman is outnumbered——

Senator STABENOW. That is right. That is right.

Chairman ROBERTS. —with regards to—well, anything I would say would be not PC, so I will——

Senator STABENOW. That is true.

Chairman ROBERTS. —I will leave it alone.

Senator KLOBUCHAR. You could say congratulations.

Chairman ROBERTS. Yes, congratulations.
[Laughter.]
Senator KLOBUCHAR. That would be good. Madam Pitcher, yes.
[Laughter.]
Chairman ROBERTS. I do not know of any member of Congress who does not congratulate you on beating the press.
Senator STABENOW. That is right.
Chairman ROBERTS. With all due respect.
[Laughter.]

STATEMENT OF HON. PAT ROBERTS, U.S. SENATOR FROM THE STATE OF KANSAS, CHAIRMAN, U.S. COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Chairman ROBERTS. Today, the committee turns its focus once again to the issue of mandatory country of origin labeling, or COOL. Now, I have got a bit longer statement today and time will be extended for the distinguished Ranking Member, as well.

My statement is full of history and details, but if you take nothing else away, I hope it is this. Facts are stubborn things, and whether you support COOL or oppose COOL, the fact is, retaliation is coming and this committee has to fix it. This committee has a long history with COOL, a history that now spans three decades. Discussions began in the mid-to late-1990s.

Then in the 2002 farm bill, legislative language first appeared. Over the course of the next several years, the Department of Agriculture attempted to issue regulations implementing the program. After the Department experienced some difficulty, Congress continually moved the COOL implementation deadlines to allow the Department more time.

Now, with the passage of the 2008 farm bill, the Department of Agriculture received more direction from Congress on how to implement mandatory COOL, and in the late year of 2008, the Department proposed an interim rule. However, they later withdrew that rule due to criticism from proponents that the regulation was too weak, and it was not until 2009 that the mandatory COOL program as we know it was born. That is when we began to see mandatory labels appearing on meat that read, "Products of the U.S.," or "Product of the U.S. and Canada," for example. But, that is not the end of the debate.

Almost immediately upon implementation of the mandatory regulations, Canada and Mexico filed suit with the WTO, the World Trade Organization. They claimed that the COOL requirements were causing the U.S. beef and pork sectors to discriminate against Canadian and Mexican origin livestock.

In 2011, the WTO ruled in favor of Canada and Mexico, finding that the U.S. requirements were in violation of the WTO commitments by treating the Canadian and Mexican livestock less favorably than U.S. livestock. To use a baseball analogy, that was strike one.

Later that year, the U.S. appealed the ruling, but in 2012, the WTO affirmed that the United States was in violation. Strike two.

Then the USDA went back to the drawing board to create a new set of regulations to implement mandatory COOL, and in May 2013, they put forth a recommendation that in the eyes of the WTO

were much worse and much more trade restrictive by requiring labeling of meat based on where the animal was born and raised and slaughtered.

Despite the warnings of many in the livestock sector and in the Congress, the USDA implemented the regulation and Canada and Mexico again took us to the WTO in 2013. In 2014, the WTO came back with a decision affirming for the third time the claims of discrimination brought by Canada and Mexico.

Of course, the U.S. appealed that WTO ruling, but on May 18 of this year, the fourth and final ruling of the WTO compliance—that the panel, the WTO compliance panel, affirmed that the U.S. attempts to fix mandatory COOL fell short. Some would say, strike three.

Let us not forget that also occurring at this time, we were in the midst of the 2014 farm bill negotiations. Congress did have the opportunity to fix mandatory COOL in the 2014 farm bill. However, some stakeholders wanted to wait out the WTO process. My colleagues, that process has played out. There is no more time to wait.

I share this history so all can understand that the Congress, the impacted industries, and the regulators at the Department of Agriculture have put in endless efforts over the past three decades to make mandatory COOL viable. However, that objective has not been reached and has cost the U.S. billions of dollars.

Looking at my home state alone, a Kansas State University review of the current mandatory COOL regulations found that compliance has already cost Kansas $500 million. Despite the best of intentions of COOL supporters, the USDA estimated that mandatory COOL has cost the U.S. beef, pork, and chicken sectors approximately $1.8 billion. Furthermore, there have been no measurable increases in consumer demand to offset the losses inflicted on the livestock and the meat sectors.

These costs are in addition to the strain this policy has put on our relationship with two of our closest trading partners, Canada and Mexico. That in of itself is cause for serious concern. We know that the damages Canada and Mexico are seeking are immense. Over $3.2 billion in sanctions on U.S. products is possible if we do not repeal mandatory COOL, and these are not just ag products in the crosshairs. Listen to the list available in 2013. Products including beef, pork, cherries, ethanol, wine, orange juice, jewelry, mattresses, furniture, and parts for heating appliances are just some—some—of the targets of the Canadian retaliation. Mexico has yet to finalize their list, but we expect it to be just as damaging.

The U.S. economy cannot tolerate such economic injury. Now, the House has moved quickly to prevent retaliation by repealing mandatory COOL for meat. Now the responsibility falls on us. The Senate must act prior to the WTO's authorization of retaliation. The WTO stove is hot and we do not want to touch it.

One estimate from Iowa State University suggests that $2 billion in retaliation applied to U.S. exports would result in 17,000 lost U.S. jobs, yet we could face significantly higher retaliation damages of the $3.2 billion from Canada and Mexico, which would lead to many more lost jobs.

Canada has made repeated statements that they intend to proceed with retaliation should the U.S. Congress fail to repeal COOL.

Just yesterday, the Canadian Minister of Agriculture sent a letter to members of this committee stating, and I quote, "For Canada, legislative repeal of COOL is the only approach that will achieve this end." Another letter was sent on Tuesday by the Mexican Secretary of the Economy stating this, quote, "Retaliation is imminent and inevitable unless and until the U.S. takes action to repeal the underlying COOL statute."

I ask unanimous consent to include both of these letters in the record. Without objection, it is so ordered.

[The following information can be found on pages 76 and 88 through 90 in the appendix.]

Chairman ROBERTS. I want to emphasize—I really want to emphasize—I understand completely the concerns of some members of this committee. I have encouraged alternatives to be brought forth, or especially by our distinguished Ranking Member and other members of this committee.

But, as Chairman of this committee, I must emphasize to my colleagues and all of agriculture that retaliation is fast approaching and the responsibility sits squarely on our shoulders to avoid it. It is important to realize that regardless of what farm groups, the Department of Agriculture, or the USTR says, or regardless of what action Congress may take, regardless of what any member of this committee may say, Canada and Mexico—only Canada and Mexico—have the ability to halt retaliation.

So, this takes me back to the beginning of my statement. It does not matter if you are pro-COOL, and many are, or anti-COOL, and many are. You cannot ignore the fact that retaliation is imminent and we must avoid it. Repeal of mandatory COOL is the surest way to protect the U.S. economy.

The witnesses we will hear from today represent different perspectives in the agriculture and food production chain, all of whom stand to suffer immensely should retaliation go into effect. I want to thank each witness for providing testimony before the committee on such an important issue.

As you can imagine, there are a number of folks—quite a few—who would have liked to have testified today. Simply put, that was not possible, so as a consequence, I ask for unanimous consent to include in the record testimony and letters submitted by the companies, trade associations, and coalitions listed on the handout included in your materials, all of whom urge repeal of COOL to avoid retaliation.

[The following information can be found on page 81 in the appendix.]

Chairman ROBERTS. I now recognize our distinguished Ranking Member, Senator Stabenow, for any remarks she would like to make.

STATEMENT OF HON. DEBBIE STABENOW, U.S. SENATOR FROM THE STATE OF MICHIGAN

Senator STABENOW. Well, thank you very much, Mr. Chairman, and I appreciate very much your holding this hearing. I agree with you that we need to act together in a bipartisan way and appreciate your willingness to work together to be able to move something quickly, which is, I believe, overwhelmingly what we need to

do together. The question is being able to come together to determine the right way to do that.

I want to recognize all of the officials and the industry representatives for testifying today. It is really critical we hear from everyone involved so we can make sure we are coming to the right point.

COOL is a landmark law. It empowers consumers to know where their food comes from. It is supported by America's family farmers and ranchers who proudly raise the world's safest, most abundant, most affordable food, and we are proud of them for doing that.

This partnership is a big reason that COOL has always enjoyed broad bipartisan support in the Senate. Even so, we are facing a very significant trade compliance issue that demands our full attention.

As we know, the World Trade Organization has spoken decisively regarding COOL. They have spoken about the effects on the beef and pork trade with Canada and Mexico very specifically. Simply put, inaction from the Senate is not an option, not when the threat of retaliation is hanging over American agriculture and American manufacturing.

We both know—we all know that both sides of this debate, those who want to repeal COOL, those who want to keep COOL, have been dug in for a long time on this issue and that entrenchment has not produced a path forward. Now is the time to come together to do that. As many of you know, there were many conversations in the process of the farm bill to try to come together to do that. We were not successful. Now, we are here, and now is the moment to do that.

That is why today's hearing is so important, and that is why we need all of our colleagues involved in this discussion so that we can find a path forward that is bipartisan and that we can do quickly.

To help jump-start that process, Mr. Chairman, as you know, I am offering a discussion draft. I appreciate your comments regarding that draft as one option that I hope can be the basis for a bipartisan solution that can move quickly through the Senate and the House.

This approach includes two very simple components. First, the removal of beef and pork from the mandatory labeling provisions deemed noncompliant by the WTO. Second, the establishment of a completely voluntary "Product of US" label for beef and pork, similar to the voluntary Canadian label. It is my hope that this simple WTO-consistent approach to addressing this dispute will help us find a solution that benefits American consumers and American agriculture, while also finding a pathway forward between the United States and our neighbors to the north and south.

Now, as a Senator from Michigan whose state borders Canada—and we value that relationship, it is a working relationship every single day, many conversations not only on this issue, but many issues—I know firsthand the vital importance of protecting our North American trade relationships.

So, Mr. Chairman, I look forward to working with you and members of the committee. I believe there is a way forward that accomplishes the goal and one that we can do together and one that can move quickly, because I know that that is what we need to do. Thank you.

Chairman ROBERTS. I thank the distinguished Ranking Member for her comments.

We would like to welcome our panel of witnesses before the committee this morning. First, I would like to introduce Barry Carpenter of the North American Meat

Institute from Washington, DC Mr. Barry Carpenter is the President and CEO of the North American Meat Institute. He has been in a leadership role in the meat packing industry since 2007, when he became CEO of the National Meat Association, one of the predecessor organizations to the North American Meat Institute.

Prior to joining the private sector, Barry retired from an illustrious 37-year career as a public servant at the United States Department of Agriculture, where he headed up the Agriculture Marketing Services. The acronym for that, by the way, is AMS. He created the United States Beef Export Verification Program that was critical to reestablishing American beef export following the first U.S. case of BSE in 2003. Among many other impressive accomplishments while a government servant, Barry has received numerous governmental and industry awards, including the Presidential Rank Awards from President Clinton and President Bush, and is a member of the Meat Hall of Fame.

Barry was raised on a multifaceted farm in Central Florida that produced cattle, hogs, corn, peanuts, and melons. Talk about diversification. He graduated in 1969 from the University of Florida with a B.S. in animal science, and we look forward to Barry's testimony and insight.

Our next witness is Craig Hill, who is an Iowa Farm Bureau President, on behalf of the American Farm Bureau Federation. I yield to the distinguished Senator from Iowa for her introduction.

Senator ERNST. Thank you, Mr. Chairman, and thank you, Ranking Member. I appreciate this time to give a great introduction to a great Iowan. So, thank you to all of our witnesses here today, but I would like to take this time and introduce Mr. Craig Hill.

The World Trade Organization's ruling regarding the country of origin labeling dispute between the United States, Canada, and Mexico is an important issue that could have major impact on the U.S. economy and on Iowa, in particular. Iowa is home to over 20 million hogs. That is nearly six hogs for every person residing in Iowa. Our annual pork sales lead the nation, surpassing the next two states combined.

Additionally, our state boasts almost four million cattle and calves on feed scattered across the 88,000 farms in the state, almost all of which are family owned. Consequently, Iowa is home to a robust meat packaging industry to support all of this production.

Today, it is my great pleasure to introduce one of the leaders of our thriving agriculture industry. Mr. Craig Hill is a grain and livestock farmer from Milo, Iowa, and since 2011 has served as President of the Iowa Farm Bureau Federation. As President, Craig serves as Chairman of the Board of FBL Financial Group, Incorporated, and Farm Bureau Life Companies. Additionally, he serves on the American Farm Bureau Board of Directors.

Throughout his years with the Farm Bureau, Craig has been involved in a variety of projects. He was instrumental in the development of revenue assurance, a revenue-based crop insurance pro-

gram for corn and soybean farmers. He served as the first chairman of the Iowa Ag State Group, which consists of representatives from all sectors of Iowa's agriculture. Craig is on the Board of Directors for the Cultivation Corridor Project, which works to enhance the ag, bioscience, economic opportunities in Iowa. He is also on the Board of Trustees of the Council in Agricultural Science and Technology.

In addition to his successes in farm and business circles, he and his wife, Patti, have two children.

We are excited to have someone with his depth of knowledge and range of experience in the ag industry here with us today, and Craig, it is really great to see you again. It is always good to have you here. I appreciate having an Iowan on the panel with the type of knowledge and expertise that you do. So, thank you, Craig, very much for being with us today.

Thank you, Mr. Chairman.

Chairman ROBERTS. I thank the Senator from Iowa, and we welcome Mr. Hill.

Our third witness is Leo McDonnell, the Executive Officer and Director Emeritus for the United States Cattlemen's Association. The distinguished Senator from North Dakota is scheduled to introduce this witness and I yield to her at this time.

Senator HEITKAMP. Thank you, Mr. Chairman.

I am assuming, Leo, that is your hat.

Mr. MCDONNELL. Yes.

[Laughter.]

Senator HEITKAMP. I figured so. It fits with the description. I just want to make a point that you are one of those guys who are out there in North Dakota making this happen and continuing to diversify our opportunity in agriculture. We are number one in the nation in a lot of crops, big crops and little crops, specialty crops, but we definitely appreciate the cattlemen in our state, and so it is a great pleasure to introduce a rancher from North Dakota, Leo McDonnell, to testify on the importance of country of origin labeling to the ranchers of my home state, North Dakota.

Leo, along with his wife, Debra, ranch in the southern tip of the North Dakota Badlands, between Marmath and Rhame, and if you have not been there, it truly is God's country. Leo and Debra have four children and ten grandchildren. Leo's grandparents were natives of another great cattle town, Towner, North Dakota.

The McDonnell's run a registered Angus herd and have a bull sale in May in Bowman, North Dakota, along with Angus herds near McKenzie, North Dakota. Mr. McDonnell owned and operated Midland Bull Test, the largest genetically tested bull development and sale in North America, in Columbus, Montana, and has since turned that operation over to his son, Steve, as Leo and Debra spend more time developing their program in North Dakota.

He has been active in community and cattle groups over the years, probably longer than what he cares to remember, including as past member of the North Dakota Stockmen's Association and a member of the Independent Cattlemen's Association of North Dakota, otherwise known as IBAND. Mr. McDonnell has also served as Past Chairman of the Montana Cattle Feeders and sat on the

NCA, today NCBA, international marketing committee in the early 1990s.

Currently, Leo serves as Executive Officer and Director Emeritus for the U.S. Cattlemen's Association, USCA, and is a member of the Cattlemen's Beef Board, Director on the American Angus Association, and most recently stepped down from NCBA CBB Industry Long-Range Planning Committee, which has been tasked with setting the direction for CBB spending and various industry groups policies.

I think Leo knows a few things about ranching, knows a few things about the cattle business, and knows what is good for the cattlemen of our country and for the state and for the region.

Thank you so much for traveling to Washington, DC, Leo. We appreciate and look forward to your testimony.

Chairman ROBERTS. I thank the distinguished Senator from North Dakota. Thank you, Senator Heitkamp.

Our fourth witness is Jaret Moyer, President of the Kansas Livestock Association, a good friend. Jaret Moyer and his wife, Shawna, ranch in the Kansas Flint Hills, where they run a cattle backgrounding operation. Jaret is current President of the Kansas Livestock Association and serves on the KLA Executive Committee and its Board of Directors. He also serves on the National Cattlemen's Beef Association Board of Directors and is the Past Chairman of the Kansas Beef Council.

In addition to his many leadership positions in the beef industry, Jaret is also President of the Citizens State Bank and Trust Company. He is a graduate of Kansas State University, the home of the ever-optimistic and fighting Wildcats——

[Laughter.]

Chairman ROBERTS. —with a degree in animal science. Jaret also completed coursework at the Graduate School of Banking in Madison, Wisconsin.

I am very glad to welcome a fellow Kansan and a friend and a fellow Wildcat to our nation's capital.

Our fifth witness was to be introduced by Senator Gillibrand, but she had to leave, and so I yield to the distinguished Ranking Member.

Senator STABENOW. Thank you very much, Mr. Chairman, and Senator Gillibrand apologized. She wanted very much to introduce Mr. Trezise, but had to leave for another hearing and hopefully will be able to come back and join us.

Jim Trezise currently serves as the President of the New York Wine and Grape Foundation, a position he has held since the Foundation's creation in 1985. In addition to his role as President, Mr. Trezise is the founder and President of the International Riesling Foundation, a coalition of top riesling producers from around the world seeking to promote riesling and educate consumers.

He serves on the Presidential Council at FIBS, based in Paris. He is a member of the Executive Committee and Board of Directors of Wine America, the national organization of American wineries, as a board member of the National Grape and Wine Initiative, and as a board member of the Wine Market Council.

He has received numerous awards and recognitions, most recently the Grand Award of the Society of Wine Educators in 2014.

In short, he is one of the greatest champions of the New York wine industry and we welcome you today.

Chairman ROBERTS. Thank you, Senator Stabenow.

Our next witness is Mr. Christopher Cuddy, who is Senior Vice President and President of ADM's Corn Processing Business Unit and an officer of that corporation. In that role, he has responsibility for all commercial activity operations and production for the company's global corn business.

Previously, Mr. Cuddy served as President of the Sweeteners and Starches in ADM's Corn Processing Business Unit. He has also held a variety of merchandising and management roles prior to leading the Sweeteners and Starches Group, including time at an ADM joint venture based in Guadalajara, Mexico, roles in sales, marketing, and distribution of corn-based sweeteners and sugar, and North American Sales Manager for ADM Bioproducts. He began his career with the company as a Senior Commodity Trader with ADM Grain.

Mr. Cuddy holds a Bachelor's degree in business administration from Appalachian State University in Boone, North Carolina. He serves on the boards of the Corn Refiners Association and Red Star Yeast Company, LLC, an ADM joint venture. He is also a board member of the Mid-Illinois Chapter of the American Red Cross.

Mr. Cuddy, welcome, and I look forward to your testimony, as well.

We will start with the first witness.

[Pause.]

Chairman ROBERTS. Excuse me, Mr. Barry Carpenter. Mr. Carpenter.

STATEMENT OF BARRY CARPENTER, CHIEF EXECUTIVE OFFICER, NORTH AMERICAN MEAT INSTITUTE, WASHINGTON, DC

Mr. CARPENTER. Good morning, Chairman Roberts, Ranking Member Stabenow, and members of the committee. My name is Barry Carpenter and I am the President and CEO of the North American Meat Institute.

The Meat Institute members include 374 meat and poultry food manufacturers ranging from the nation's largest to the smallest. Collectively, they produce 95 percent of the beef, pork, lamb, veal products, and 75 percent of the turkey products in the United States. Among the Institute members, 80 percent are small family-owned businesses employing fewer than 300 people. These companies operate, compete, sometimes struggle, mostly thrive in one of the toughest, most competitive, most scrutinized sectors of our economy, meat and poultry packing and processing.

Make no mistake, the Meat Institute has opposed mandated country of origin labeling since the beginning. COOL for beef, pork, and chicken is a non-tariff trade barrier that adds great cost while providing no benefit. Further, USDA has repeatedly stated that COOL is not a food safety program and all credible parties have agreed.

Government-mandated COOL is not WTO compliant. Let me repeat that. Government-mandatory COOL is not WTO compliant.

This is a settled matter. In four separate decisions, WTO has ruled against the United States concerning COOL, putting the

United States on the brink of having its most important trading partners impose $3 billion in annual tariffs on U.S. products.

Let us be candid. The most vocal proponents of COOL for livestock have a single objective, to block the importation of livestock from our neighbors. The law has never been about distinguishing meat products in the market. It is simply a protectionist measure intended to exclude Canadian and Mexican livestock from the U.S. market. It is and always has been a non-tariff trade barrier. Anyone ignoring this fact is not a serious participant in this discussion.

COOL must be repealed now to bring the U.S. into compliance with its trade obligations and put an end to this protectionist nonsense. The U.S. has run out of opportunities to try to fix COOL. We should stop talking amongst ourselves to address COOL. We should be talking with the Canadians and Mexican governments. To do otherwise is a fool's errand. I can tell you, the Canadian and Mexican governments are very clear. Repeal is the only solution.

The House of Representatives recognized the gravity of the situation and 300 members of that body voted on a bipartisan basis to repeal COOL for beef, pork, and chicken. It is time to repeal government-mandated COOL for beef, pork, and chicken before Canada and Mexico levy a $3 billion annual retaliatory penalty that will cost jobs across the economy in virtually every State. We urge the Senate to move quickly and put this failed experiment behind us once and for all.

Thank you for the opportunity to participate in this hearing, and I would be pleased to answer questions.

[The prepared statement of Mr. Carpenter can be found on page 42 in the appendix.]

Chairman ROBERTS. Mr. Carpenter, I thank you very much. You made your point and you had two minutes remaining, which is very unusual for a witness before the Senate.

[Laughter.]

Chairman ROBERTS. I am not sure what kind of an award we will give you, but we will think about it.

Our next witness is Mr. Craig Hill, Iowa Farm Bureau President, on behalf of the American Farm Bureau Federation. Mr. Hill.

STATEMENT OF CRAIG HILL, PRESIDENT, IOWA FARM BUREAU FEDERATION, MILO, IOWA, ON BEHALF OF THE AMERICAN FARM BUREAU FEDERATION

Mr. HILL. Chairman Roberts and Ranking Member

Stabenow, members of the Senate Committee on Agriculture, it is a great opportunity for me to be here today and to stand before you today as you take the next steps forward to resolve this longstanding and contentious trade dispute between the United States and North American neighbors.

My name is Craig Hill and I am a grain and livestock farmer from Milo, Iowa. I currently serve as President of the Iowa Farm Bureau Federation, also a member of the Board of Directors of the American Farm Bureau, as well as a member of their Trade Advisory Committee. I am pleased to present Farm Bureau's views today regarding the hearing on "Country of Origin Labeling and Trade Retaliation: What is at State for America's Farmers, Ranchers, Businesses, and Consumers."

Farm Bureau policy clearly states, set by our grassroots members, that we support country of origin labeling for a wide variety of agricultural products. Our policy states we support country of origin labeling, COOL, that conforms to the COOL parameters and meets WTO requirements.

The American Farm Bureau has consistently supported the efforts of the U.S. Government to resolve the World Trade Organization, WTO, rulings that found in favor of Canada and Mexico regarding their challenge of the U.S. beef and pork COOL programs. With the latest WTO decision that rejected the U.S. appeal in the COOL case, it is clear. It is clear now that it is time to act, time to prevent Canada and Mexico from imposing retaliatory sanctions that will negatively impact U.S. agriculture and other goods and commodities.

The WTO determination that provisions in the U.S. mandatory country of origin labeling for beef and pork is illegal under international trade rules and allows Canada and Mexico to impose these tariffs against U.S. ag commodities and other goods until the case is finally resolved between the parties. The WTO has consistently ruled against both the original USDA regulations and the revised regulations set forth by the Department in implementing mandatory COOL in accordance with farm bill provisions.

To be clear, Farm Bureau supports the repeal of COOL requirements for beef and for pork which have been found do not comply with the WTO rules, and we also support the action taken by the House Ag Committee to repeal COOL for chicken. We appreciate the support this approach has given and also the effect of keeping and maintaining our COOL programs in place for other crops and commodities, including lamb, goat meat, and et cetera.

The key factor in our position is the fact that WTO's final ruling opens the gate for retaliation by Canada and Mexico against the United States. As you are no doubt aware, after Canada presented its request, the WTO dispute settlement body on June 17, 2015, for retaliatory tariffs equaling $2.52 billion worth of trade. The U.S. objected to the amount requested and this objection triggers a 60-day arbitration process.

Mr. Chairman, 30 percent of Iowa's economy is predicated upon agriculture. Twenty percent of Iowa's workforce is either directly related to agriculture or indirectly related to agriculture. Eighty-thousand jobs in Iowa are export dependent with a whole array of products.

Senator Ernst mentioned that we had lots of hogs in Iowa. Well, actually, our sales are $44 million a year of $144 million that are produced nationally. Twenty-five percent of America's corn is produced in Iowa. Canada is Iowa's number one export market. I understand number two in the U.S., but number one for Iowa. Iowa State University, as you mentioned, claims that 17,000 jobs nationally would be lost if this retaliatory effort began.

So, to echo your remarks, it is intolerable and we urge the repeal of COOL. Thank you.

[The prepared statement of Mr. Hill can be found on page 49 in the appendix.]

Chairman ROBERTS. Well, thank you, Mr. Hill. You also made a concise statement, very clear, with about a minute to go. So, we

have three minutes to the good. We will put that in the bank, Senator Stabenow.

Our next witness is Leo McDonnell, the Executive Officer and Director Emeritus for the United States Cattlemen's Association. Senator Stabenow and I said it was a close race between you and Mr. Trezise, but you have the sharpest tie of all the witnesses.

[Laughter.]

Chairman ROBERTS. Simply put, we see you coming.

[Laughter.]

Chairman ROBERTS. Please.

STATEMENT OF LEO MCDONNELL, OWNER/OPERATOR, MCDONNELL ANGUS AND MIDLAND BULL TESTS, RHAME, NORTH DAKOTA, ON BEHALF OF THE UNITED STATES CATTLEMEN'S ASSOCIATION

Mr. MCDONNELL. Thank you, Mr. Chairman, Ranking Member Stabenow, and members of the committee. I am Leo McDonnell. I am owner and operator of McDonnell Angus and Midland Bull Tests based out of North Dakota and Montana and I appreciate the invitation to be here today on behalf of the United States Cattlemen's representing cow-calf producers, backgrounders, and feed lot operators, and also representing the largest segment of the cattle and beef complex as it has to do with investments, the largest segment who, consistently with every poll, supported country of origin labeling.

American cattle producers provide the highest quality cattle and beef in the world. U.S. producers are recognized worldwide for having the highest and most rigorous standards when it comes to how we produce cattle and beef, from our conservation practices to having the most respected food safety inspection system and to having the highest quality product. U.S. beef is considered number one globally, which is why both producers and consumers are behind the effort to keep COOL and be able to identify our product.

Efforts to strip this program through a blanket repeal approach is unwarranted and unprecedented at this point of the process in arbitration. This issue is personal for me, as it is for ranching families across the country. My wife and I ranch in the south western tip of the North Dakota Badlands, just five hours from where my grandparents called home and homesteaded in Towner. We run multiple registered herds.

We also run the largest genetic seedstock test station and bull sale in North America, with sales in Montana, a three-day sale in Montana and one in North Dakota. We genetically measure about 2,500 to 3,000 bulls. As I noted before, we are, I think, the largest seller of breeding bulls in North America. I do not know that for a fact. It is not the way we measure our business.

But, we sell bulls into Canada, Mexico, Brazil—we actually partner with one of the largest ranchers in Brazil—Argentina, Australia, and New Zealand. We were also involved in very large shipments of breeding females to Turkey and Russia as they started up their agriculture industries in recent years and was involved in the very first shipment of breeding bulls quite a while back to Uruguay.

I note all that because my family and I have never seen a problem with being both pro-COOL and pro trade, and I take a little offense to having people call COOL as a protectionist act, because nothing is protectionist about it. We do it on 90 percent of the other products we bring into the United States.

COOL was founded, though, as much to address deception in the marketplace as it was to address something so simple as the consumers deserving the right to know where their beef products come from. Since the late 1980s, we have been told by experts that those in the ranching business need to learn how to compete in the global market. You tell me how we can compete if we are not allowed to differentiate our product. That does not work in a capitalistic society.

In other words, COOL is a program designed to promote choice and COOL also initiated a historic partnership between cattle country and consumers, and I would sure hate to lose that during the Information Age.

The WTO has found some problems with COOL, but do not forget, one of the problems was that it did not go far enough, that it excluded some segments of our industry; such as, food service and wholesale. That was one of the early discoveries. That it is only perceived, the segregation costs that they found were discriminatory. They have not provided an economic analysis and they so admitted it in the last ruling. All other sectors of the ag industry have origin labels—"avocados from Mexico."

You know, we should be stepping forward to meet those interests from consumers wanting to know where their food comes from instead of stepping backwards in trying to repeal this law and going back to deceptive practices.

There is no question, we have hit a roadblock at the WTO, legitimate or otherwise. The global market is demanding U.S. beef and this ongoing case threatens the ability of our producers to seize these opportunities to compete.

These differences have made it tough for us to address this issue. Unsubstantiated retaliatory tariffs—and I say unsubstantiated, because the arbitration process we are going through today, has shown in the past that in other cases where foreign countries have threatened $3 billion tariffs, and at the end of the day, such as in the gambling cases, got $25 million. Nonsense.

I want to thank you all for considering looking at voluntary. We want to be able to keep what we have invested in so far. We want to have that opportunity if the arbitration fails. We want to preserve the integrity of the "U.S. beef" label and preserve our opportunity to truly compete in a global market. Thank you.

[The prepared statement of Mr. McDonnell can be found on page 53 in the appendix.]

Chairman ROBERTS. Mr. McDonnell, you have a very impressive background. Senator Heitkamp, when she introduced you, said she had not seen you for a while, but that is your hat. In Dodge City, we have an expression, a big hat, no cattle. In your case, big hat, lots of cattle.

[Laughter.]

Chairman ROBERTS. We have a lot of bull around this place, but you seem to have exceeded even our level of production. I thank you for your statement, sir.

Mr. Moyer.

STATEMENT OF JARET MOYER, PRESIDENT, KANSAS LIVESTOCK ASSOCIATION, EMPORIA, KANSAS

Mr. MOYER. Mr. Chairman, thank you for the opportunity to be here today to continue the discussion on COOL. I appreciate your leadership on this issue. In my opinion, COOL is a failure and the best solution is full repeal.

I am President of the Kansas Livestock Association, a 5,200-member trade association representing all segments of the cattle industry. KLA members have long opposed COOL because we feel it is a cost to us without any benefits. Proponents of COOL have long said mandatory labeling would increase demand for U.S. beef. After six years of implementation, it is clear that is not the case.

Kansas State University published a comprehensive study in November of 2012. Their study utilized multiple methods to gauge consumer perception in the use of COOL and came away with several findings. The study determined demand for beef has not been positively impacted by COOL. In addition, typical U.S. consumers are unaware of COOL and do not look for origin labeling. USDA's own economic analysis provided to you in May supports these findings.

While proponents of COOL say they have surveys that show Americans want to know where their beef comes from, the K State study actually measures how Americans vote, and Americans vote with their pocketbooks by purchasing beef. As the study found, they do not consider COOL in their purchasing decision. Why, then, would we incur the costs of a program that the consumer is not demanding?

For a Kansas perspective, we sought input from Glynn Tonsor, Associate Professor of Agricultural Economics at Kansas State and a primary author of several studies on COOL. In the April 2015 report to Congress, Dr. Tonsor and his colleagues identified the industry costs of the COOL rules, totaled $8.5 billion—billion—dollars. The sum of the adverse impacts from the rules on all segments in Kansas, as, Mr. Chairman, you mentioned earlier, is $500 million. That is $500 million out of the pockets of Kansas producers, processors, and consumers for a program providing no value.

COOL is a failed experiment. The WTO has ruled against the U.S. four times. The next step is for Canada and Mexico to retaliate. We continue to hear some pro-COOL groups and members of Congress suggest that the process is not over and, therefore, it is too early to act. We disagree.

We have two options, repeal or face retaliation from two of our largest export customers. Both countries are very clear about this. The only outstanding question is at what monetary level Canada and Mexico will be able to retaliate, damaging our economy and costing jobs.

The Secretary of Agriculture has stated repeatedly there is nothing else USDA can do to fix this and that Congress must act. He

also reports to you in a letter in May that repeal is a way to prevent retaliation. On both of these points, we agree. The solution is for Congress to repeal COOL now. Three-hundred House members demonstrated in a strong bipartisan vote that the time has come to stop this madness. We encourage the Senate to exhibit the courage to do the same.

Mr. Chairman, thank you for this opportunity to be here today.

[The prepared statement of Mr. Moyer can be found on page 68 in the appendix.]

Chairman ROBERTS. I appreciate that, and we are 45 seconds ahead. This is a great panel.

[Laughter.]

Chairman ROBERTS. Mr. Jim Trezise, President of the New York Wine and Grape Association. Please proceed.

STATEMENT OF JIM TREZISE, PRESIDENT, NEW YORK WINE AND GRAPE FOUNDATION, CANANDAIGUA, NEW YORK

Mr. TREZISE. Chairman Roberts, Ranking Member Stabenow, members of the committee, thank you for allowing me to provide testimony today on behalf of the New York grape and wine industry about the potential retaliatory tariffs on New York and other American wines exported to Canada.

My name is Jim Trezise. I am President of the New York Wine and Grape Foundation, which represents grape growers and wineries statewide. New York is the third-largest grape and wine producing state, with 37,000 acres of grapes owned by 1,600 farming families, over 400 wineries in 59 of 62 New York counties, and an economic impact annually of $4.8 billion for the state economy.

I also serve on the Board of Directors of Wine America, the national organization of American wineries, which does such a great job representing us in Washington in collaboration with our California colleagues from Wine Institute. There are now wineries in all 50 states, which means all 100 Senators represent wineries and wine has become an all-American farm product and art form. Nationwide, the wine industry is growing strongly, especially in states like Michigan, Ohio, and Virginia, as well as New York, providing opportunities and challenges, as well.

The COOL issue has become one of great importance and urgency for the wine industry. We did not really have a strong opinion about this until we were forced into the debate because of potential retaliatory tariffs on American wines, which would have a devastating effect. The urgency is that unless this issue is resolved before the August recess, those tariffs would take effect in September. Subject to a total appeal, which may take two years, American wine would be an innocent victim paying a huge price.

Our New York wine industry has exploded during the past decade and especially the past five years. In 2010, there were 296 wineries, today, 401, and those 105 new wineries represent 26 percent of all wineries created in the 175 years of our industry's existence. This is all great news for New York's economy because it means new investment, businesses, jobs, tourism, and taxes.

But, the explosive growth also means we must expand our markets. Wine country tourism continues to grow, and so do the markets in New York State, but not enough to keep up with the num-

ber of new wineries, as well. So, we have to expand into the export markets and Canada is our number one export market.

In 2014, the value of wine shipments to Canada originating in New York State was over $5.5 million. That income is important now, but will be increasingly so as our industry continues to grow. The market for all American wine in Canada has increased 78 percent since 2010, with wine exports totaling $487 million and translating into retail sales of $1 billion, representing a 16 percent market share. We are just doing great.

For many years, we and our colleagues in California, Oregon, and Washington have benefited from USDA's Market Access Program to build key export markets, with Canada right at the top. Our program includes many small wineries throughout the state. In addition, three large companies are major exporters and vitally important to New York's 1,600 grape farming families, since among them they purchase more than 90 percent of all the grapes grown in New York. In other words, the impact is statewide and extends from grape farms to wineries both small and large.

The wine industry worldwide is highly competitive and extremely price sensitive. The potential tariff increase by the Canadian government would roughly double the price of American wines to Canadian consumers overnight, drying up our sales and opening the door to competitors from throughout the world. Even if the increased tariffs were later dropped, the shelf space and restaurant wine listings would be long gone, requiring years of effort and millions of dollars to regain them. This would be a huge surplus—I mean, the huge surplus of American wine which, in turn, would depress grape prices for farm families as early as this fall.

In closing, let me say how grateful we have been to have MAP funding to help build export markets for New York and other American wines. I hope that investment will not be jeopardized by increased tariffs that would make our fine wines unaffordable.

We know there are many facets to this issue and appreciate you weighing them carefully. We are here because we feel a need to protect our investments, businesses, employees, and especially our families.

So, on behalf of the New York grape and wine industry and my colleagues in other states, I respectfully request that our industry's future in all 50 states be carefully considered as this process moves forward. Thank you very much.

[The prepared statement of Mr. Trezise can be found on page 72 in the appendix.]

Chairman ROBERTS. We thank you, Mr. Trezise. You finished about a minute and 20 left in your statement. Senator Stabenow, I cannot remember a panel where each and every one finished well ahead of the time period.

Senator STABENOW. I cannot, either, Mr. Chairman. I think this is great, and we will just take the time that you have, extra time for questions.

Chairman ROBERTS. I think if we quit talking, why, they can finish——

[Laughter.]

Chairman ROBERTS. —and we can recognize those who have persevered and been here.

Mr. Cuddy, you are on deck. No, you are at bat. I am sorry.
Senator STABENOW. That is right.

STATEMENT OF CHRISTOPHER CUDDY, SENIOR VICE PRESIDENT AND PRESIDENT, CORN PROCESSING BUSINESS UNIT, ARCHER DANIELS MIDLAND COMPANY, DECATUR, ILLINOIS

Mr. CUDDY. Thank you, Chairman Roberts, and thank you, Ranking Member Stabenow and all honorable members, for this opportunity to share ADM's views on the current country of origin labeling rule.

As you said, Mr. Chairman, my name is Chris Cuddy and I am the Senior Vice President at ADM and the President of our Corn Business Unit. Earlier in my career, I was President of the company's Sweetener and Starch Business, and before that, I ran an ADM joint venture in Guadalajara, Mexico, where we manufactured corn syrups.

ADM is one of the world's largest agricultural processors and food ingredient providers, with more than 33,000 employees and customers in more than 140 countries. We play a vital role in feeding the world by buying millions of tons of farmers' crops each year, including corn, soybeans, wheat, rice, edible beans, and peanuts, transporting these crops to our 300 processing facilities and transforming them into a wide range of food ingredients, animal feeds, and other renewable products.

Here in the United States, we employ 17,000 colleagues in our various processing plants, grain elevators, transportation and logistics operations, and export facilities. Last year, we spent a total of $40 billion with U.S. businesses in all 50 states. That figure includes farmers and businesses of all sizes.

ADM's ability to generate this kind of economic activity depends in no small part on our export businesses. Last year, we exported $18 billion worth in crops and finished products to markets around the world, including Canada and Mexico. Companies in those two countries represent a sizeable portion of our customer base. We provide them with everything from crops, like corn and rice, to ingredients, like sweeteners, soy proteins, wheat flours, and bakery mixes.

If these valued neighbors and trading partners follow through on their threat to retaliate against U.S. products over the COOL rule, the economic impact across the food production, agriculture, and manufacturing sectors could come to billions of dollars. We at ADM have calculated that the cost to our company alone would exceed $700 million per year. Retaliation would render our exports, from ethanol to soy proteins to corn sweeteners, completely uncompetitive.

As a company and as an industry, we have gone down a similar road before and paid a heavy price. Between 1997 and 2001, Mexico imposed countervailing duties on corn sweeteners imported from the United States. It has been estimated that direct cost to our industry came to about $800 million and that the ripple effect on corn sales amounted to another $400 million in direct losses. In addition, if we account for the cost of industry capacity that went unused during this period, the idle time generated another $400 million in indirect losses. That is $1.6 billion for one industry.

As unfortunate as that dispute was, the current situation involving COOL will have much more serious economic consequences if Congress does not act to prevent retaliation. The impact will be felt by ADM and our employees. It will take a tremendous toll on American agriculture more generally, particularly on farmers and their communities.

So, Mr. Chairman, honorable committee members, on behalf of my colleagues around the world, in the interest of farmers, businesses, and communities who will suffer tremendous losses if this matter is not resolved immediately.

I would respectfully ask you to act quickly and decisively to prevent retaliation by Canada and Mexico. Rescind the COOL requirement for muscle cuts of meat, respect our country's obligation as a WTO member; reinforce the United States' standing as a responsible trade partner, and return us to business as usual right away.

Thank you for your time, and thank you in advance for taking action.

[The prepared statement of Mr. Cuddy can be found on page 47 in the appendix.]

Chairman ROBERTS. Mr. Cuddy, thank you very much for your comments, and once again, you finished way under time. We will see if we can do the same thing when we ask questions.

This is for the entire panel. We will just move down from Mr. Carpenter down to Mr. Cuddy. Canada and Mexico will soon be authorized by the WTO to retaliate against the United States. Once that happens, it does not matter if the Congress, the USTR, and the Department of Agriculture all agree that a certain labeling approach satisfies the WTO rules, not to mention members of the Senate. If Canada and Mexico disagree, they can keep any authorized retaliation in place until we get a ruling from the WTO. During this time, we expose our farmers, our ranchers, our businesses and consumers to pay the price. Are you willing to risk any period of retaliation so we can test whether another approach to labeling works?

Mr. Carpenter.

Mr. CARPENTER. None. Very clearly, we are already incurring tremendous cost to implement the program and lost market opportunities. To put on top of that additional tariffs is totally unacceptable.

Chairman ROBERTS. Mr. Hill.

Mr. HILL. The short answer is "unwilling," Senator. American farmers are committed to rules-based fair trade practices, and there is an issue of good faith here. North American partners need to be treated fairly. It has not been brought up a lot today, but these obstacles of trade and barriers to trade affect all of us and we should be good trading partners and repeal this mandatory COOL.

Chairman ROBERTS. Mr. McDonnell.

Mr. MCDONNELL. If I understand you correct, you are asking, are we willing to preempt the arbitration process?

Chairman ROBERTS. The question was, are you willing to risk any period of retaliation so we can test whether another approach to labeling works.

Mr. MCDONNELL. Oh. I do not think that is necessary, to go that direction, sir. I think we can go through arbitration, see where we are at, see where those levels of retaliatory tariffs are at, which so far have never been documented. Even our own courts here, when AMI and others challenged COOL, said that they were not able to prove damages. So, I would like to see it go through the process as we have always done before. When we get to the end arbitration, if for some reason they get these "sky are falling" tariffs, then be ready to make a move to the voluntary.

> [As a preliminary matter, this Committee should consider the troubling implications of the WTO's decisions on COOL. Though the WTO acknowledged that providing consumer information is a legitimate government objective, it also found that any labeling regime which alters the conditions of competition to the detriment of imports violates WTO rules, even if that detrimental impact results solely from legitimate regulatory distinctions. As all origin labels necessarily convey different information about products of different origins, this case could have much broader negative impacts beyond our cattle and beef sectors.
>
> On May 29, the U.S. Trade Representative expressed these concerns before the WTO:
>
> Paradoxically however, it would appear from those findings that there is no clear way under the covered agreements for a Member to achieve that legitimate objective (of consumer information).
>
> When examined as a whole, the Panel and Appellate Body findings appear to mean that the United States cannot require U.S. retailers to inform consumers of beef and pork about where the animals were born, raised, and slaughtered. This is a conclusion with which the United States strongly disagrees.
>
> USTR concluded that the Appellate Body had failed to address these and other "serious and systemic concerns" raised in the dispute. These concerns should give Congress pause.]

Chairman ROBERTS. Mr. Moyer.

Mr. MOYER. Senator, as you know, or maybe have heard in the Flint Hills of Kansas, there is the saying that good fences make for good neighbors. Now, I do not want to get into other issues that that may lead to in this town, but part of that saying is the fact that it is the respect of your neighbors, and the fence law in Kansas, each one is responsible for their half of the fence. So, if I do my part, they are willing to do their part. We have a good fence. We have good neighborly relations.

I think it is a farce to try to go down this road of trying to see if they are serious when we know they are serious and that full repeal would be the best answer, sir.

Chairman ROBERTS. Mr. Trezise.

Mr. TREZISE. Mr. Chairman, no, we would not want to see any period where the tariffs would be into effect because it would basically unravel the whole wine market system that we have worked so hard to develop in Canada. Once it starts going, it is gone, and

our wines would be replaced by wines from competing regions around the world. So, we would not want to take that risk.

Chairman ROBERTS. Mr. Cuddy.

Mr. CUDDY. As you stated earlier, Chairman Roberts, we have lost four times at the WTO. I think we have gone down the path correctly, but it is time to respect our obligations as a WTO member. So, the answer is no.

Chairman ROBERTS. This question is for Jaret. Jaret, as you know, Kansas is the third-largest cattle producing state in the U.S. You certainly emphasized that in your statement. Further, our state has a wide variety of cattle producers, from cow-calf producers with a couple dozen cows to some of the largest feedlots in the country. Being from Dodge City, I certainly know that. We smell the money.

Do you believe Kansas beef producers have options available to them when it comes to pursuing ways to differentiate their high-quality beef in the marketplace? If so, what are some of those options?

Mr. MOYER. Senator, I really do believe they have those options, and I think part of letting them fully realize those options is letting them differentiate their products out in the marketplace. Like it was said in my testimony, there is a sector of the consumer population that wants to buy the U.S. beef. That is their main purchasing reason. But, that is a very small percentage, and I think we need to allow the producers out there to supply that at a premium that they can realize instead of supplying it at a cost that they realize.

Chairman ROBERTS. I appreciate that. My time is up.

Senator Stabenow.

Senator STABENOW. Well, thank you very much to all of you, and Mr. Trezise, let me just say that we are very excited about the Michigan wine industry. We are winning some awards on rieslings, as well, so we are willing to compete with you in New York and what you are doing.

Let me first start, Mr. Trezise and Mr. Cuddy, I am assuming, and I certainly understand this, we have a lot of food industry, a lot of others in Michigan very concerned about resolving this, and so I would ask each of you, if we have a solution that can move quickly, bipartisan support, WTO compliant, that would include a voluntary label similar to Canada, would you object to that? Mr. Trezise.

Mr. TREZISE. I think the question, Senator, is whether Canada and Mexico would agree to that and suspend retaliatory tariffs——

Senator STABENOW. Of course.

Mr. TREZISE. —for a time that it would take a look at. We do not necessarily have a position on the shape of a bill. What we have a position on is we really must avoid any kind of retaliation for even one day.

Senator STABENOW. Absolutely. So, yours is about getting this resolved, and I agree with you. We all know the position, what is going on with Canada and Mexico. I have been talking to them in a lot of different conversations over time, and they are looking at the politics and trying to get the best position. I understand that. But, I also know what can be done, if people want to do it.

So, Mr. Cuddy.

Mr. CUDDY. I concur with Mr. Trezise. If it is compliant with WTO and it keeps Canada and Mexico from retaliating, then we are open to those options.

Senator STABENOW. Thank you.

I would like to now turn to the folks representing our hard working ranchers and ask each of you, Mr. Hill, Mr. Moyer, and Mr. McDonnell—and, by the way, Mr. McDonnell, congratulations. It is five on one today, and I think you are doing pretty well, so appreciate your position.

But, I guess I would ask each of you, and Mr. Hill, first of all, would the producers you represent support a purely voluntary country of origin label for meat derived from animals born, raised, and slaughtered in the United States if the label were consistent with WTO rules? I should underscore that I understand at some point, each of the rancher organizations actually have supported voluntary COOL measures, so I am wondering if you would still support a version of a volunteer effort. Mr. Hill.

Mr. HILL. I guess those discussions subsequent to full repeal of mandatory COOL could be held. First, we need to repeal completely this very egregious—what is determined to be a very egregious trade violation. After that, I think commercial interests, suppliers, can avail themselves today of voluntary labeling that indicates country of origin. We have got the best ag industry in the world and we have got a great food safety system. If people are seeking that label and there is a commercial value to it, I think everyone should be capable of producing a label that indicates that.

Senator STABENOW. Okay. Mr. McDonnell, you indicated that you are representing the largest segment of the industry today. How do you and your organization come to the conclusion that a voluntary COOL process would be an acceptable path for ranchers looking to resolve the dispute, again, assuming this is WTO compliant and, obviously, supported by our partners. But, why do you think that a voluntary COOL process is acceptable from your perspective and the ranchers you represent?

Mr. MCDONNELL. Well, I would like to take it back to early in my talk where I said one of the reasons—and, by the way, I helped Senator Johnson write the COOL law when Senator Daschle was in there, and Senator Enzi, and we would sit around the table. But, I was in there right at the start, and Barry is aware of that.

Half the reason we want country of origin labeling is because prior to the COOL law you could bring in a Canadian-fed steer, a Canadian cow, a Mexican cow, I could bring in loins from other countries, and if they were processed, slaughtered, or even just season them with salt and pepper, then you could call that U.S. beef. There were no definitions for U.S. beef except point of transformation.

So, at the very minimum, I would hope that if we could go to voluntary—and I do not think we need to start a new law and go through all that process and waste that time and money—simply change "mandatory" to "voluntary," preserve the integrity of the U.S. beef label, because I do not think anybody wants to vote for repealing it when that means we are going back to the old way of deceiving consumers. Simply do that and address the few WTO

concerns that we did not go far enough in other segments of the industry, such as restaurants. It is very simple. Everybody walks away a winner. Nobody gets harmed. How often does that happen in D.C.?

Senator STABENOW. Thank you very much, and——

Mr. MCDONNELL. Good solution.

Senator STABENOW. Finally, Mr. Moyer, I know your organization, as well, at various points has supported voluntary COOL measures, and so I am wondering, within the confines of, as I described them, is that a solution if we can get this done quickly, with bipartisan support?

Mr. MOYER. I think, Senator, that is something that we could not support, and if you hear hesitation in my voice, it is that I am thinking of a story where I would have to admit on the Congressional record that my wife was right——

[Laughter.]

Mr. MOYER. —and that comes—I am thinking of a piece of farm equipment that I a while back purchased at an auction. I told her it was going to solve a problem, make our life easier. I ended up putting more parts, more time, more work and ended up taking it to the salvage yard. She was right. I was wrong. I think that is where we are at with the COOL issue, that it is time to go ahead and repeal it, allow industry to realize premiums and not make industry realize costs.

Senator STABENOW. It is interesting. Do you think we should challenge Canada for their voluntary label?

Mr. MOYER. That would be up to people much wiser than I in the trade areas, but I think that a purely voluntary labeling done by industry to realize premiums is a much better way than even one brought up through this body.

Senator STABENOW. Okay. Thank you very much.

Chairman ROBERTS. Senator Ernst.

Senator ERNST. Thank you to the Ranking Member and Chairman, and I will direct my question to Craig. Thank you again for being here.

Senator Grassley sends his regrets. He did have to leave for another meeting.

But, as you know, Craig, farmers in Iowa and all across the United States are facing low commodity prices, and especially those producers in Iowa and those around the Midwest that are now facing the outbreak of avian influenza, which has been very devastating. In your opinion, how devastating an impact would these retaliatory measures from Canada and Mexico have? What would the effect be on an already faltering ag economy?

Mr. HILL. Well, as I mentioned, 80,000 jobs in Iowa are export dependent. The estimate has been given that 17,000 jobs in America would be lost, and a considerable amount of those jobs would be Iowa jobs. So, there has been some studies. An ISU study has been mentioned. There was also another study that was published in Feedstuffs that indicated a $1.3 billion economic impact to Iowa annually. So, that is a very, very significant impact.

We value our relationship with Canada. They are our number one trading partner and we just believe it is time, it is time to give up on this failed concept that has been determined to be illegal.

Senator ERNST. Thank you, Mr. Hill.

Mr. McDonnell, I know you have stated you do not want to go this far, you do not want to see this happen. Maybe it is the sky is falling. But, I do not think the fourth time is a charm here coming from the WTO, and Canada and Mexico have the go ahead to retaliate. I think they will retaliate. I do think that.

You know, you are saying that you want to keep the labeling in place, but I think we have not seen—there is no evidence that people are actually using that American labeling when making their selections. So, do you think that American shoppers are actually using that label to make their decisions, or maybe expound a little bit on that statement.

Mr. MCDONNELL. Okay. Is there any value to COOL, is what you are asking——

Senator ERNST. Well, are American shoppers actually using this labeling——

Mr. MCDONNELL. Sometimes it is pretty dang hard to read the label. I do not know if you have ever grabbed a package of meat, but it is in small print in the back. But, again, COOL was not meant to promote. COOL was implemented to allow us to be able to differentiate our product. It is up to the industry to promote.

I sit on the Cattlemen's Beef Board. I also sit on the Global Growth Committee. We are approving $8 to $9 million annually, Barry, in export targeted Checkoff funds which are then matched by another $8, $9 million from the USDA. Our number one directive to U.S. MEF is to promote U.S. beef in the global market arena. The only market where we have ever tested the value of promoting U.S. beef. It was reported to us in January that U.S. beef brings $3.37 a pound, and the next closest competitor is Canada at $2.50. We have never been given that opportunity in the U.S. to promote and market U.S. beef with our Checkoff. But, where we have been given that opportunity in the international market, people go after U.S. beef, and it is not surprising because you are able to differentiate it and we are able to promote it and we are able to market it. That is the way capitalism works.

I do not want to go back to the dark ages, and I do not want the government's money to promote it. But, I do not want other downstream industry segments using beef from a foreign country and being able to use our label as U.S. beef, and I do not think you all do, either.

So, I would like to see it go to voluntary if needed to preserve the law. Preserve the integrity of the label, which we did not have before. We will take it from there. I can promise you, as American ranchers, we will take it from there. But, give us the opportunity first. Do not take it away.

Senator ERNST. Okay. Thank you very much for your opinion. Thank you, Craig, again, for being here today. We appreciate it very much.

Thank you, Mr. Chairman.

Chairman ROBERTS. Senator Heitkamp.

Senator HEITKAMP. Thank you, Mr. Chairman, and I thank Leo. I mentioned your hat on the table, and I think everybody now knows you are not a guy who is all hat and no cattle, right? We

are pretty clear about what you do for a living and how you feel about it.

But, we do have a situation that we are in right now, and I am sure you are sympathetic to what you heard from the wine growers and the fact that their business could be, in fact, affected by some of the things that the WTO could do, some of the things Canada and Mexico are requesting, and so I would like to look forward, because we are where we are. What are the opportunities to meet the challenges that you have, to accomplish what you hope can be accomplished in the cattle market, but also recognizing that we need to have some processes, some step forward?

So, I would say we have had mandatory COOL for several years. I think the consumers out there have been used to and look for that "Product of the United States" label at the meat counter, contrary to what a lot of people have said here. I think that the movement in grocery shopping, if I can put it that way, has really been to read labels. It has really been to understand sourcing of food. That is an ongoing concern and an ongoing issue all across the board in America and we are proud of what we do in the beef industry in this country.

But, how can we maintain that market and build on it, given what has happened before the WTO? Do you have any suggestions? I think you know Senator Stabenow has proposed a discussion draft which we have been very intimately involved in, my office. But, I am curious about kind of steps forward as you see them, not defending the old system, but looking at what might work to accomplish the purpose.

Mr. MCDONNELL. Well, and I appreciate that, and I may very well be the one that brought up voluntary here about two months ago as we were going through this process. I do hate to see us cut and run before we finish arbitration, and I will guarantee, I sympathize with our U.S. neighbors who are being targeted with these unsubstantiated threats. I remember Tom Brokaw and his Greatest Generation as he talked about those folks coming back from the Depression and the World War, working together for family, for community and country, and it truly was the Greatest Generation. I hope that I honor them in my share of concern for our neighbors.

But, I hope they also honor those who went before us, too, and do not preempt the process we are in today. Certainly, with these high retaliatory tariffs, we need to address it. But, let these Canadians and our Mexican friends finally put their chips on the table and the facts, because so far, it is all unsubstantiated scare tactics. They cannot prove it in our courts. They cannot prove it in the WTO, that there has been any harm.

If they do, and it is something we cannot live with, then just simply go to voluntary, okay, preserve the integrity of the label so our friends cannot deceive our consumers. Who wants to vote for that? Let the American rancher figure out how to promote it, and I guarantee you, we will. But, preserve that label and our investment and all the time we have spent on this to date.

Senator HEITKAMP. So, I know you are——

Mr. MCDONNELL. But, simply going to voluntary. Just change one word, "mandatory" to "voluntary," for cattle and beef. We are there. How much easier and painless can it be?

Senator HEITKAMP. Well, I share your interest in kind of looking at how we can continue to provide the consumers with a path forward to recognizing where the source of their food is, how we can, in fact, continue to the good work that you all are doing in terms of sourcing your food.

But, we are in a situation here where there is a tremendous amount of pressure to not wait, a tremendous amount of pressure to move forward, and I am assuming that you have had a chance—I understand, and I had this argument with your colleagues in the industry in my office. You know, sometimes we do not always get 100 percent of what we want. So, recognizing that, I think the Chairman and a number of people here are very interested in moving forward.

Have you had a chance to look at Senator Stabenow's discussion draft and do you have any comments you can share with us?

Mr. MCDONNELL. Well, I appreciate very much your work on that, and I support it. I mean, I think the voluntary approach is a very reasonable approach. It takes care of the people that are scared of the threats, and reasonably, and may have a right to be scared of them. No, I think it is a good approach. I would like to see it go a little bit farther in addressing the WTO concerns that we exempted. Where we failed by exempting some segments, such as food service and wholesalers. I mean, if somebody is going to label U.S. beef in the United States of America, whether it is wholesale or retail, by golly, I think we can all agree it better be U.S. beef, and I hope we can all agree on that.

Senator HEITKAMP. Thank you——

Mr. MCDONNELL. So, I think it is a big step and I congratulate you, and if we can find a way to move forward and satisfy everyone's concern, how nice would that be in D.C.

Senator HEITKAMP. Well, you fill me with pride, Leo. You have spoken like a true North Dakotan, just straight up. Thank you so much.

Chairman ROBERTS. Thank you, Senator Heitkamp.

Senator Tillis.

Senator TILLIS. Thank you, Mr. Chair. I am sorry I was running late. I had to preside.

Gentlemen, I am from North Carolina and I am deeply concerned with the economic impact that retaliation will have in my state. About a third, 33 percent of our exports in 2014 were to Canada and Mexico.

I hear the discussion, and actually, Mr. McDonnell, you made a reference to having maybe Mexico and Canada put the chips on the table, and I think that is probably an interesting analogy, because I think all of our chips are on the table and Canada and Mexico have an ace in the hole. We have no leverage in this. The risk that we have for not repealing COOL is significant.

I think your suggestion about voluntary policies, those sorts of things, may need to be looked at, but if they were going to happen, they needed to happen long before now because the clock is ticking, and I feel like we need to provide certainty.

The thing that concerns me with my producers is we are talking about, well, we have got a few more weeks. We can work this out. Producers do not think that way. They have product that they are

thinking about now, and how it is going to end up in the supply chain based on whether or not they actually have to endure these retaliatory measures.

I completely agree with what virtually everything you have said to consider policies going forward to make sure consumers know they are getting meat produced in the United States. That is great. But, I do not necessarily think the time is now to do that. The time is now to provide certainty to the agriculture industries and a number of other industries that can be affected if retaliation, which I am completely convinced, after meeting with people from Mexico and Canada, is going to go into place.

I also agree that even a day will have a dramatic impact. We have estimates of almost a half-billion dollar economic impact in North Carolina alone at a time when we are negotiating trade agreements and the agriculture industry is getting excited because they see great potential for growth. I think it would be very helpful for us to set the stage for certainty and always look for other opportunities to take care of our farmers, our cattlemen, our pork producers, and our poultry producers.

But, I, for one, think we have to start by making the difficult decision. I understand some of the concerns on the other side of this issue. Repeal, and then continue to look for ways to take care of my favorite industry in North Carolina, an $80 billion industry, two-and-a-half times bigger than the next closest industry. This is a very important industry for me, and it is because I know the negative impact that this could have. I, for one, think we need to repeal COOL and then work on other policies going forward.

Do many of you agree that we need to understand that even the discussion of maybe waiting a week or two or a month to see if we can come up with some compromise has an immediate impact because of the uncertainty that it creates?

Mr. MOYER. Senator, I definitely agree. Time is of the essence, and if we can get our fence fixed between our neighbors now, that is better than next week. I think I definitely agree with you.

Mr. TREZISE. Senator, this is Jim Trezise, and yes, I agree wholeheartedly as well, and the reason really has to do with, as someone said, the supply chain. If there looks to be some more delay in terms of resolving this issue instead of repealing it, then the importers in Canada are going to stop making orders for American wines going up there because there is going to be a lot of uncertainty about whether our wines are going to continue to sell or not, because if there were the tariffs, the wine prices would double. So, a $15 wine now would become $30. The consumer is not going to buy it. The store is not going to stock it. The importer is not going to buy it, and so forth. That does not start at the time the tariff is imposed. That starts when the threat of a tariff is in the air, which it is now.

Senator TILLIS. That is my greatest concern. You have got buyers making decisions today based on the most likely probability of the economic environment or the regulatory environment that exists in August, and that is why I am a real proponent of going ahead and just doing what we need to, what I believe many people think that we need to do, to just move forward.

Any other comments? Mr. McDonnell.

Mr. MCDONNELL. First of all, I appreciate your understanding of agriculture and your concern about the uncertainty that we have. If you are in production agriculture, which Mr. Hill and I may be the only two at this table whose primary income is from that, we deal with that every day, sir. We have got a load of fat cattle we are trying to sell this week and the market has dropped by about seven dollars a hundred weight in the last ten days, which is a considerable drop. We learn to live with that.

I have a concern that if we ever scrap COOL or repeal it, it is going to be a battle to ever bring it back because it has left a bad taste in some folks' mouth. It is going to be a battle to get the description of what U.S. beef should be again.

I will say again, simply take "mandatory" out, put "voluntary" in, problem solved and everybody walks away a winner and we all understand where we are at when we walk away instead of bringing it back up. But, I do very much appreciate your concerns.

Senator TILLIS. Thank you, Mr. Chair.

Chairman ROBERTS. Senator Boozman.

Senator BOOZMAN. Thank you, Mr. Chairman, and again, I apologize to you and Senator Stabenow for being late. We have another hearing going on where Senator Hoeven and myself, were actually voting on an appropriations bill.

Mr. Carpenter, both Canada and Mexico have said they would retaliate unless the United States repeals COOL. You have been working on the issue for a long time. I guess my question is, do you think they are bluffing or do you think they are really serious?

Mr. CARPENTER. The indication I get is they definitely are not bluffing. They have been in this battle for quite a few years, five or six years at least. They have invested a lot in it. They have had a lot of economic damage, and they are very serious.

I think it is—as we move forward, if there is a market demand for country of origin labeling, the industry will respond to that. We have historically done that. If you look at the programs USDA has and other voluntary programs, they have over 100 programs that do just that. If they get a signal from the marketplace that says, we need information, they step up and do it, whether it be grassfed, hormone-free, certified Angus beef. The system is there. USDA has that power right now.

So, I think we need to take the Canadians and Mexicans serious. They are going to retaliate, and I think we can address the marketplace needs that are there through systems that already exist.

Senator BOOZMAN. So, does mandatory COOL have any food safety benefits, or is it entirely a marketing program?

Mr. CARPENTER. It is not a marketing program and it has no food safety value. In fact, USDA at least five times in the regulation for country of origin labeling made it very clear that it is not a food safety regulation, and also other parties that have looked at it confirm that.

Senator BOOZMAN. Mr. Hill, in your testimony, you reference a report by the USDA that studied whether mandatory COOL had any economic benefits. What were the results of that study? Did the benefits outweigh the costs?

Mr. HILL. There were very slim marginal benefits and great cost. Senator, if I could indicate a personal experience I had as a pro-

ducer, we on occasion would buy about 1,200 isowean or feeder pigs every few months, and I recall talking to a buyer looking at the market to see where I could acquire these pigs. He said, "Well, Craig, I have got some Canadian pigs for you, but they can be bought a little cheaper, $5 to $8 a head cheaper. Some guys have trouble getting them killed. Would you want them?" I asked about the health quality and they said it was superior. They said everything was great, but recognizing you are going to have a hard time getting them killed because of country of origin labeling, the disruption, the segregation, the discrimination.

So, that was a real event that occurred for me and gave me that understanding of the economic impact.

Senator BOOZMAN. Thank you.

Mr. Moyer, in your testimony, you mentioned the cost of complying with the 2009–2013 mandatory COOL rules. What were the estimated costs of compliance for both of the rules?

Mr. MOYER. The study that I was quoting was from Dr. Tonsor at K State, where he said that the total cost was $8.5 billion to the industry.

Senator BOOZMAN. Thank you, Mr. Chairman.

Chairman ROBERTS. Senator Hoeven.

Senator HOEVEN. Thank you, Mr. Chairman. I appreciate you holding this hearing.

I would like to thank all of you for being here. I would particularly like to thank Mr. McDonnell from North Dakota for being here, and also I think it is good to hear from you, being a producer yourself directly. My family—my grandfather raised Hereford cattle, registered Hereford. I am guessing yours are black cattle, probably Angus, nowadays. But, we have got a lot of great cow-calf operators in our state and it is great to have you here and to hear from and from our other witnesses, as well.

My question is that given that there are producers and organizations that favor COOL, is there some form of a voluntary COOL program that would both meet the requirements of the WTO and Canada and Mexico and still, on a voluntary basis, allow those to participate that want to?

So, I am going to start with Mr. McDonnell, being a fellow North Dakotan, but, essentially, I am going to ask each of you that same question. Is there a voluntary program that could work? So, yes, we would repeal mandatory, but you would still have a voluntary form so that both sides, both the people that favor COOL can still have an option that they think works, but we meet the requirements of WTO, and we obviously cannot be in a position where our producers face tariffs. You know, we cannot have countervailing duty. That is not acceptable.

So, that is the solution I am asking about, and Mr. McDonnell, if you would start, I would sure appreciate it.

Mr. MCDONNELL. Sure, and I appreciate your concerns. Again, I am going to go back, and I do not think you were in here——

Senator HOEVEN. Yes, I apologize. We were in an appropriations hearing.

Mr. MCDONNELL. Sure.

Senator HOEVEN. They fell at the same time. I wanted to be here, but—so, I may have missed some of the testimony, obviously.

Mr. MCDONNELL. Yes. I understand. You know, I think this whole thing is much simpler than we are giving it credit for. But, I think we might all be so entrenched in the different ways we are going that we are not hearing.

I think a very easy out that lets everybody walk away a winner on both sides, consumers and producers, and that is simply take the existing law where it concerns cattle and beef and change it from "mandatory" to "voluntary," because if you do that, then you still preserve the integrity of the "A" label, or the "U.S. beef" label, which says it has to be born, raised, and slaughtered, which, again, is half the reason we started COOL, because we had people importing product into the U.S., throwing our name on it if they processed it, salted it, or cut it up, or slaughtered it, they could call it U.S. beef prior to COOL. Did you all know that? Yeah.

So, just preserve the integrity. That is half the reason we want it. Make it voluntary if needed. We will go market it. We have proven the value of U.S. beef in the international market when we have invested money into it, and that is where KSU missed the boat. They never looked at whether it had ever been marketed or ever been promoted. They just said there is no value. Well, of course, there is no value. You can have the best gadget in the world, but if you do not market it, who is going to buy it? Preserve that integrity. Make it voluntary. Preserve the law. It should be WTO compliant, because it is voluntary. You do not have to repeal it. Let us go market it ourselves.

Very simple, everybody wins.

Senator HOEVEN. Let me ask the other panel members their thoughts along that line. Mr. Carpenter.

Mr. CARPENTER. Yes. First of all, there is a simple answer. We have to start with the priorities. First, we need to repeal so we satisfy our concerns about retaliatory tariffs. Get that out of the system.

USDA has significant ability to develop any type of marketing program that the marketplace desires. In fact, in my earlier career at USDA, we actually in the late 1990s put together a program specifically for born, raised, and slaughtered U.S. beef products.

The marketplace has not used it—did not use it—because the demand was not there. It may be there now. But, USDA has numerous of these voluntary marketing programs. It has the full authority to do them. They do them for grassfed. They do them for Angus beef. They do them for over 100 different programs.

So, the program is there. USDA could tomorrow develop a program and put it out there. They cannot make the consumers want it, they cannot make them buy it, but they can sure put it out there, and if the industry wants to get out there and push it, they can do that. It is pretty simple and it is market-driven and that is what this is all about.

Senator HOEVEN. Mr. Hill.

Mr. HILL. I would concur with Mr. Carpenter. He said exactly what I would say, but much better, and he is the expert in this area. The first threshold would be, is it WTO compliant, and if you can cross that threshold and then look to USDA and what is permitted, what is available today, I think we should look at those and have discussions around that. I think those opportunities are avail-

able today through USDA and I do not see any harm in pursuing that.

Senator HOEVEN. Mr. Moyer, you are a producer, too, I understand.

Mr. MOYER. I am.

Senator HOEVEN. You have got a moustache, so that is another plus.

Mr. MOYER. Okay. I agree.

[Laughter.]

Mr. MOYER. Sir, as a beef producer, I would definitely agree with Mr. Carpenter in the fact that I do not believe it is worth the risk of any type of retaliation and the effect that it will have not just on my industry, the beef industry, as well as others that have got drug into this.

I do believe, and I agree with Mr. McDonnell, that if you give the producers the ability to go out and market through something like what Mr. Carpenter brought up, I think we will see results. But, then it is producers like myself working with people up the processing chain from me and trying to work out premiums and discounts, not just the discount that the industry is seeing right now.

Senator HOEVEN. Mr. Trezise.

Mr. TREZISE. Senator, yes, thanks for the question, and I must say that for us in the wine industry, it is a bit surreal to be talking about this.

Senator HOEVEN. You look like a cattle guy for a guy in the wine industry.

[Laughter.]

Mr. TREZISE. I am the wine guy.

Senator HOEVEN. I do not know——

Mr. TREZISE. Wine and beef. But, it is surreal because wine has been COOL before there was COOL. I mean, every bottle of wine that you buy in the United States or around the world has a country of origin on it.

In fact, the vast majority of them also have a region of origin—Napa Valley, California, Finger Lakes, New York, Barossa Valley, Australia, Champagne, France, and so forth—because we are very, very proud of where we grow the grapes or make the wine from.

So, we obviously do not have an issue with the idea of letting consumers know where our product comes from, for sure. We are not certainly going to demand that other products have the same type of system.

But, it is very interesting, and I do agree with Mr. Carpenter, as well. I think the first order of business must be repeal, just so we can make sure that we are not going to get retaliated against.

If the industry and the Congress and our trading partners want to work on some other voluntary solution or something, then I do not know that we would even be involved with that. But, I think repeal is number one.

Senator HOEVEN. Mr. Cuddy.

Mr. CUDDY. Thank you for the question. This is all great dialogue about what we could do next. The problem is, it is too late. We have been found in violation four different times by WTO. We do not have time to act on a new policy. We must repeal COOL today

or we risk billions of dollars worth of retaliation. As I mentioned in my testimony, for ADM, $700 million annually.

I think, going forward, any bipartisan right-to-know policy would be fantastic. But today, the number one goal is to prevent retaliation from Canada and Mexico.

Senator HOEVEN. Mr. Chairman——

Mr. CUDDY. We have to do that by rescinding COOL.

Senator HOEVEN. Excuse me. Thanks, Mr. Cuddy.

Mr. Chairman, thanks for your indulgence on the time. I appreciate it very much, sir.

Chairman ROBERTS. Well, in previous testimony by the witnesses, they finished five minutes under time, so it is their bank that you were using, which I appreciate.

Senator HOEVEN. I would like to thank all the witnesses.

[Laughter.]

Chairman ROBERTS. I am not calling you a bank robber, now. Do not say that.

[Laughter.]

Chairman ROBERTS. Senator Klobuchar.

Senator KLOBUCHAR. Thank you very much, Mr. Chairman. Thank you to the witnesses. I am sorry, I had a Commerce Committee markup, so I just came back. I was here at the beginning.

I am someone that supported country of origin labeling. I think it is good for consumers and it has been helpful to some of our producers. I also have companies on the other side of this and we have tried to work this out, and I also understand the danger of the retaliation.

But, the one thing I did want to talk about as I look at a common sense solution here is just the fact that Canada, the country of Canada, has voluntary labeling. So, in reality, do you think that Canada and Mexico would actually object if we put in place—and I understand your concern, Mr. Cuddy, that there would not be time or—but, let us just say that Congress got its act together and put in place voluntary labeling. Do you think that they could actually object to it when they have it themselves? If you could all answer that—and say that it was retaliation if their own country has it.

Mr. Carpenter.

Mr. CARPENTER. Thank you. Canada and Mexico both made it very clear that we need to repeal. If you do not take it out of the statute, I do not believe they are going to consider it has been repealed. Regarding voluntary——

Senator KLOBUCHAR. No, no. I was not saying not to take it out of the statute. I was saying, if you change the statute and then you also put in its place the voluntary labeling, do you think they would really object to that when they have that policy themselves?

Mr. CARPENTER. I think their policy is not the same as having it as a part of our statute, which otherwise is mandatory. The simplest resolution is to repeal it from there and then develop a voluntary program, but to try to put something quasi-voluntary into what is perceived and in real from the Canadian's perspective a mandatory program, I think, puts us at great risk.

Senator KLOBUCHAR. So, putting in place the same policy that Canada has, you think they would actually object to that?

Mr. CARPENTER. The same policy they have, probably not.

Senator KLOBUCHAR. Okay. Mr. Hill.

Mr. HILL. Senator, I am just not familiar with the Canadian policy. I really cannot speak to it.

Senator KLOBUCHAR. Okay. Thank you.

Mr. McDonnell.

Mr. MCDONNELL. I am not, either. I am presuming maybe Canada uses the old Codex kind of rules, where if it is transformed in any way, it becomes a product of Canada. So, if we have Montana calves up there and they are slaughtered up there, they can make it a product of Canada—I mean, that is what we used to have in the U.S. That is what we do not want to go back to.

Senator KLOBUCHAR. Well, I think all they have is voluntary labeling——

Mr. MCDONNELL. Yeah, but——

Senator KLOBUCHAR. —and you are right, we can look at the details of it.

Mr. MCDONNELL. Right.

Senator KLOBUCHAR. But, they have a voluntary label system as opposed to the mandatory, where if retail wants to have in their stores labels that say, "Made in America"—this would be our label—they can do it. I mean, that is all it is. It does not—it is not required.

Mr. MCDONNELL. Right. But, I think that brings up the problem of going back to a rulemaking for a voluntary system, such as Barry suggested. I mean, you all know what Black Angus cattle are? So, you all know what Angus beef is. Under USDA and this voluntary kind of program and the PVPs that go with it, they only have to be 51 percent black hided. It does not even have to be Angus. If you make us go through that system of USDA, the opponents to COOL will beat us to death to get rid of born, raised, and slaughtered, and go to the system of voluntary that they are using in Canada and that we had prior to COOL. We will lose the integrity of the U.S. beef label.

I say, just change the wording in the statute. Once it is no longer mandatory, I do not even think it is a WTO concern, or they can make it a concern. Thank you.

Senator KLOBUCHAR. Mr. Moyer.

Mr. MOYER. Senator, I just do not believe it is worth the risk. You know, as mentioned earlier, we have already been found uncompliant, not just once, but four different times by the WTO.

I think we really have to go above and beyond what might just be acceptable to those countries, and I really do not want you to risk dollars that I have got invested, that Mr. McDonnell has invested, that the grape growers in New York have invested in their products and the price impacts these retaliation efforts will have.

Yes, it may be a case that we could just get by and make them happy, but boy, I just hate to take that risk, because where we have already been caught in the wrong four different times, I think we have to go and——

Senator KLOBUCHAR. It just seems really odd that they would object to something they have themselves, but——

Mr. MOYER. Well, I——

Senator KLOBUCHAR. That our country would have to have—that we could not do what they are doing——

Mr. MOYER. I would——

Senator KLOBUCHAR. —that will not really sell with our citizens, I do not think.

Mr. MOYER. I would be cautious of trying to out-guess what another government can do. I have a hard time guessing what my own will do sometimes.

[Laughter.]

Mr. MOYER. Thank you.

Senator KLOBUCHAR. Yes.

Mr. TREZISE. Yes. I basically agree with Mr. Moyer, and I do not know what they would be thinking of, but to me, the first order of business is repeal, and then perhaps to explore something like that.

Senator KLOBUCHAR. Okay.

Mr. CUDDY. The risk of retaliation is just too great at this point, and the WTO has given Canada and Mexico permission to retaliate. It would be a complete disruption of our food supply chain for—across all sectors, frankly. So, the number one goal has to be to repeal this law, and then if we want to work on something after the fact, I think that is perfectly well and good.

Senator KLOBUCHAR. Okay. Thank you for all your answers.

Chairman ROBERTS. Let me point out, before I recognize—well, look who is here, Senator Casey. Senator Casey, I apologize for this, but I want to put this in the record at this point.

With regards to replicating the Canadian COOL system, there are several important distinctions to keep in mind regarding that system. The only mandatory labeling in Canada is for the meat that is imported from a foreign country in consumer-ready packaging. All other labeling of meat is voluntary. It allows feeder cattle that have been in Canada for at least 60 days prior to slaughter to be labeled as "Product of Canada." Here is the key. It does not require labeling indicating where the animal is born, raised, and slaughtered, thus, there is no segregation requirement.

Senator Casey.

Senator CASEY. Mr. Chairman, thank you very much. Knowing that I am the last to question here, or potentially so, I will make sure I stay within the time.

This is a tough issue, and I know there is a great deal of difference here and Mr. McDonnell has a tough job today. I am in the camp of supporting what our Ranking Member, Senator Stabenow, is trying to do with what I would call, and I think what—and, in fact, I know what Mr. McDonnell called in his testimony a common sense compromise. We have heard that before. But, wow, do we need more of those around here on a lot of issues.

I am sorry I was in and out of here. We had a Finance Committee hearing today on another big problem, transportation, in particular in my state, a real problem, just repairing bridges, so repairing and replacing bridges. So, we need common sense compromises all over this town.

But, Mr. McDonnell, I wanted to highlight something you said in your testimony. I am quoting, because I think it is a good, or an important point to make. You said, and I am quoting, "U.S. cattle

producers want the integrity behind the 'A' label to remain intact. In no circumstance should a product not born, raised, and harvested in the U.S. be granted a," quote, "U.S. label, '1A'" unquote. "Through a voluntary program, we ask that this label be maintained and not commingled with other products originating in Canada or Mexico," unquote.

That makes a lot of sense to me, and I would hope that we could get as close as possible, maybe not today, but in the near term, to that standard.

You also said, and it is both by way of your testimony, but I think you said this just in your summation of your testimony—you were not reading, I do not think, at this point, but I wanted to go back to it. You talked about the challenge of, quote, "differentiating your product." Can you talk about that, because I thought that was an important point that needed to be highlighted.

Mr. MCDONNELL. You are talking about the early challenges prior to COOL of differentiating our product, right. At that time, they had a system much like we see up in Canada, where it was point of transformation.

If the animal was processed in the United States or beef was imported and cut up, ground, or salted, anything, it became a product of the U.S. It is especially troubling with cattle because nobody eats cows.

You eat beef, everybody knows the end product is beef, and to let such deceptions go on in the marketplace, especially in the period we are in today, where consumers want to know where their food comes from, we are talking about taking a step backwards, ladies and gentlemen; I just do not think repeal is acceptable, and I know I have gone past your question.

My apologies.

Senator CASEY. I appreciate that.

I also wanted to ask about the issue of cattle exporting countries like Canada, both Canada and Mexico, have actually experienced a period of record high profits, consistent profit margins and stabilization of their herd sizes following the implementation of COOL. So, I would ask you, can you elaborate on why you think this increase in profit margins may have occurred?

Mr. MCDONNELL. Well, I do not know if I can tell you why it has occurred, but I would like to include in this a response to Mr. Cuddy saying the WTO had granted retaliatory tariffs to Canada and Mexico. They certainly have not done that. We are in arbitration. What the arbitration process now has said is you boys now have to prove your scare tactics and put this on the table before we can even look at what level of retaliatory tariffs you are going to have.

Part of that, to me, includes what you have asked, Senator Casey. It is, how has it hurt Canada? It has not hurt their price, because their price has more than doubled since the country of origin labeling went in place. The value of their cattle imports into the U.S. has more than doubled since country of origin labeling went in place. Today, where both of those herds were in severe contraction in the early 2000s, in 2009, when COOL went in place, the contraction slowed down. In fact, today and in recent years, we

take a higher percent of their cattle and beef production, based on their cow herd, a higher percent than we have ever taken before.

Now, is that harmful? How did it damage them? The fact is that prices doubled and we are taking a higher percent of their product. Now, I would love for somebody to do that for me. Thank you for the question.

Senator CASEY. I am out of time. Thank you very much, though. I thank the panel. Even where we disagree, we are grateful you are here. Thank you.

Chairman ROBERTS. Senator Stabenow.

Senator STABENOW. Well, thank you, Mr. Chairman. I do not have questions at this point. I know as we wrap up, I just want to thank you for this hearing and indicate that I think for everyone listening, you see there is a difference of opinion and we have got to come to the middle so we can act. I would suggest that everyone who does not have a dog in this fight, or maybe I should say a steer or a pig, that if you are not in the steer business, the hog business, if you are not directly involved in this but you face retaliation, I would urge you to come down on the side of urging us to work together to find a bipartisan solution so that we can get this done quickly.

I would also just put forward that I understand why our Canadian and Mexican partners are saying what they are now. I have had multiple conversations and different conversations over the last couple of years. I get it. We all get it. It is great negotiating. But, we also understand what we can do and should do together to get things done to move forward in a way that both recognizes what Mr. McDonnell is talking about in terms of standing up for our own ranchers, our own farmers and ranchers and consumers, but also meeting the needs of the industry more broadly.

Mr. Chairman, I look forward to working with you, because I believe we can do this. We need to do it quickly. I honestly believe if we cannot come to an agreement, it will not be done quickly. I would urge everyone to work with us in terms of finding a common sense solution. Mr. Chairman, you and I do that on a regular basis and I look very much forward to working with you to be able to get this done. Thanks.

Chairman ROBERTS. I thank the distinguished Ranking Member. It would not be a real conclusion to the hearing without a PowerPoint. Once, when I was chairman of another committee, I outlawed PowerPoints, which is the best thing——

Senator STABENOW. You have a PowerPoint? Oh, my gosh, you have——

Chairman ROBERTS. No. Well, it is sort of a PowerPoint. It is just a poster being held up here by one of my brilliant staff members. Why do we not just put it right there. That is what we are talking about.

Now, I hate to use the allegory or the example of my wife, because it is going to get me in a lot of trouble, but here is some Smithfield St. Louis style pork spareribs. When she goes into the grocery store, she first looks at the product. Well, that is the product. The next thing she looks at is right here, at the price, and that is what probably every consumer does, whether it is my wife or me.

Well, to tell the truth, I look at the product and I do not really care about the price. If I want it, I am going to get it.

But, having said that, what all this is about—if I can find it—here is the mandatory COOL label the WTO has deemed non-compliant, right here. Very hard to read. But right up here, what most consumers will say is a current voluntary program by the industry themselves, by the people who have provided, in this case, the Smithfield rib product. It says right here, "Keep frozen. Product of the United States. USDA processed verified." That is what they look at. Then they have, really, a lot of confidence with regards to this product, and this is why we are selling a lot of meat.

This one has cost us, according to the studies by Kansas State University and others and as testified by Jaret, about $8 billion. That is a lot of money. Consequently, I wanted to point that out. We already have voluntary labels applied by companies, should COOL be repealed, similar labels indicating the origin of U.S. raised pork and beef could be still available. We have another one that says, "Rancher Reserve." I do not know if that is effective or not.

Senator STABENOW. Mr. Chairman, I would just note that Smithfield is now a Chinese company, so——

[Laughter.]

Senator STABENOW. Excuse me.

Chairman ROBERTS. Well, I wanted to show this for Mr. McDonnell.

Senator STABENOW. Yes.

Chairman ROBERTS. I think his tie is getting a little tight here. At any rate, this is Rancher's Reserve tender beef, 100 percent U.S. beef. So, you can have a voluntary label. On this particular product, you have to look up here and it is about eight-point, I think, or 12-point—I am an old newspaper guy—"Product of USA."

With all due respect, I do not think many consumers can actually see that, but they see this and it is already a voluntary label. This cost us $8 billion.

I will go again to my original statement—end of the PowerPoint—just yesterday, the Canadian Minister of Agriculture sent a letter to every member of this committee, and this is what the Canadian Minister of Agriculture said. For Canada, legislative repeal of COOL is the only approach that will achieve this end.

Another letter sent by the Mexican Secretary of the Economy, retaliation is imminent and inevitable unless and until the U.S. takes action to repeal the underlying COOL statute.

Now, I know that the distinguished Ranking Member and myself and other members are going to be meeting, trying to get to a conclusion, but at the same time, Canada and Mexico are making this statement, and it is imminent. There is no way that I can see the WTO is going to reverse their decision, all of a sudden, okay, U.S., you can go ahead and do this. This is the fourth time. Three strikes, you are out. The fourth time, we hit the battle. We do not need to be hit.

So, as Chairman of the committee, I have to emphasize again to my colleagues and all of agriculture that retaliation is fast approaching. It is imminent. The responsibility sits squarely on our shoulders to avoid this kind of a problem.

Mr. Cuddy has already pointed out it is costing him $800 million. Things are already taking place with regards to many things that the witnesses have stated.

So, this takes me back to the beginning of my statement. It does not matter if you are pro-COOL or anti-COOL. You cannot ignore the fact that retaliation is imminent and we must avoid it, and repealing the mandatory COOL is the surest protection to the U.S. economy.

Senator Sasse, I welcome you back to the committee. I know you have been busy with other committees, as well. Your statement and any question that you may want to ask is welcome at this time. Thank you, sir.

Senator SASSE. Mr. Chairman, I just thank you for holding this important hearing and your staff for the very useful materials and putting it together. I will not detain our witnesses any longer. Many of us have been double-booked at a hearing on the cybersecurity attacks that have been ongoing over recent months. But, just thank you to you for scheduling this hearing, and to the witnesses for your insights.

Chairman ROBERTS. Do you have any updates on OPM and the cyberattacks?

Senator SASSE. I want to make jokes about your cell phone ringer, but that would not be appropriate at this time.

[Laughter.]

Senator SASSE. The clarity of what would come from your—I am trying to come up with the name of the tune, the cartoon that——

Chairman ROBERTS. Just let it go.

Senator SASSE. "Frozen." Thank you.

Chairman ROBERTS. Just let it go.

[Laughter.]

Senator SASSE. It would be more insightful——

Chairman ROBERTS. Let it go.

Senator SASSE. —than much of what we are hearing about the reality and magnitude of the OPM breaches.

Chairman ROBERTS. Well, maybe the other ring tone would be appropriate. It is by Johnny Cash that says, "I Walk the Line." Every one of these witnesses have to do that.

To my fellow members, we would ask that any additional questions you may have for the record be submitted to the Committee Clerk five business days from today, or by 5:00 p.m. next Tuesday, June 30.

This concludes our hearing. Thank you so much for the witnesses.

The committee stands adjourned.

[Whereupon, at 12:07 p.m., the committee was adjourned.]

A P P E N D I X

JUNE 25, 2015

Senate Committee on Agriculture, Nutrition and Forestry
Hearing on Country of Origin Labeling
Thursday, June 25, 2015

Thank you Mr. Chairman for holding this important hearing on Country of Origin Labeling. I would also like to thank Craig Hill, President of the Iowa Farm Bureau, for testifying here today.

I have supported COOL since it was first adopted during the 2002 Farm Bill. My support for COOL stems from wanting to provide consumers additional information about the meat they consume. If we can know the country of origin for every T-shirt in this country, we should also be able to know where our meat is coming from.

We must be true to our obligations at the World Trade Organization. The WTO has ruled against the current COOL law four times. I think we are past the point of debating IF our COOL law is going to change.

The question we are debating is HOW the current COOL law is going to change. I'm not ready to eliminate COOL altogether for pork and beef. I think we can find a way forward on COOL that ends the mandatory segregation under current law which is the key point of the WTO case.

As proof that there is a way forward on COOL, I would simply point out that Canada has a voluntary "Product of Canada" label. That label even has its own qualifying statement outlining the fine details that must be met in order for the product of Canada label to be used.
I fail to see how Canada can have a voluntary program with clear stipulations but we cannot.

Beyond that point. I have heard rumblings that a voluntary program is not flexible enough. To people with those concerns I simply ask- how do you get more flexible than voluntary?

A voluntary program for beef and pork is something we need to consider. There are undoubtedly details to be worked through, but I must say I find it hard to believe we cannot set some basic criteria for a voluntary label.

Chairman Roberts, Ranking Member Stabenow, I look forward to working with you all to resolve this issue before August recess.

Statement of Senator Patrick Leahy (D-Vt.),
Senate Committee on Agriculture, Nutrition and Forestry
Hearing on Country of Origin Labeling
June 25, 2015

A recent ruling from the World Trade Organization concerning the United States' Country of Origin Labeling (COOL) practices has drawn considerable attention here in the U.S., and with our two largest trading partners, Canada and Mexico.

The U.S. trades hundreds of billions of dollars in goods with both Canada and Mexico every year, including tens of millions of dollars in trade for cattle and hogs. This industry benefits each country, and ongoing collaboration and communication is essential to successful and prosperous relationships across our borders.

While these trading relationships are critical to our economies, I believe that consumers have a right to know where the meat they consume is born, raised and slaughtered. That is why I have long supported COOL. Country of Origin Labeling provides consumers with transparent information about where their meat comes from, enabling consumers to make informed choices at the grocery store. In fact, consumer surveys show consistent and overwhelming support for Country of Origin Labeling of meat.

Because of my strong support for a consumer's right-to-know, I not only support Country of Origin Labeling, but I am the proud author of the Organic Farm Bill, now celebrating its 25th anniversary, and which resulted in a multibillion dollar industry in the United States. Most recently, I have voiced my strong support for addressing misleading labels on fake maple syrup, and am supportive of the labeling of foods produced using genetically modified ingredients.

I hope that we can work together to find a way to provide consumers with this important information so that they know what they are putting on the table to feed their families, while protecting our trade relationships.

Testimony of Barry Carpenter

On Behalf of the North American Meat Institute

Regarding Mandatory Country-of-Origin Labeling

Thursday, June 25, 2015

Senate Committee on Agriculture, Nutrition, & Forestry

Senator Pat Roberts – Chairman

Good morning Chairman Roberts, Ranking Member Stabenow, and Members of the Committee. My name is Barry Carpenter and I am President and Chief Executive Officer of the North American Meat Institute. The Meat Institute came into being on January 1st of this year as a result of the merger of the American Meat Institute and the North American Meat Association. We are the successor to a line of organizations that have been representing the nation's meat and poultry industries for more than 100 years.

The Meat Institute's members include 374 meat and poultry food manufacturers, ranging from the nation's largest to the smallest. Collectively, they produce 95 percent of the beef, pork, veal, and lamb products and 75 percent of the turkey products in the U.S. Among the Meat Institute's member companies, 80 percent are small, family-owned businesses employing fewer than 300 people. These companies operate, compete, sometimes struggle, and mostly thrive in one of the toughest, most competitive, and most scrutinized sectors of our economy: meat packing and processing.

The Meat Institute's involvement in mandatory country-of-origin labeling, COOL, goes back many years. While the law applies to retailers, it is the Meat Institute's members who bear a lion's share of the regulatory burden that falls upon producers, packers, processors and retailers. And, make no mistake, the Meat Institute has opposed mandatory COOL legislation since it was originally debated in Congress in 2001 and through this very day. That opposition has been founded on the fact that mandatory COOL for beef, pork, and chicken is a non-tariff trade barrier that adds unnecessary costs to the food supply, while providing little, if any, benefit to consumers, livestock producers, or the meat packing industry. Through the entire debate, the U.S. Department of Agriculture has repeatedly stated that COOL is not a food safety program,[i] and all credible parties have agreed.

That mandatory COOL is costly and burdensome is beyond dispute. USDA has repeatedly said, including in the January 2009 final COOL rule, "the economic benefits will be small and will accrue mainly to those consumers who desire country of origin information." On the other hand, USDA's calculations about the costs of COOL have been specific – with implementation costs for the beef and pork industries of more than $1.5 billion and lost productivity exceeding $200 million annually.

In an April 2015 Economic Analysis of COOL, USDA's Chief Economist reiterated there was "little to no evidence of a measurable increase in consumer demand for beef or pork as a result of COOL requirements" and that the economic losses incurred by the beef and pork industries over a 10 year period were in the billions of dollars. USDA's report reflects the findings of previous consumer research conducted by Kansas State University. The Kansas State study showed no evidence of a demand increase for meat products after the labels went into effect, and found the majority of U.S. consumers are not aware of COOL for meat.

As we stated when COOL was first considered, COOL does not comply with World Trade Organization (WTO) requirements. Not once, not twice, not three times, but in four separate decisions the WTO has ruled against the United States concerning COOL, putting the United States on the brink of having two of its most important trading partners, Canada and Mexico, impose retaliatory tariffs in excess of $3 billion on American made products exported to those countries.

Let's be candid. When the COOL debate began, the most vocal proponents of COOL for meat had a single objective: to block the importation of livestock from Canada and Mexico. Despite the current arguments offered by COOL proponents, the law has never been about distinguishing meat products in the market by country-of-origin – the Federal Meat Inspection Act has always required the labeling of imported meat. COOL is simply a protectionist measure intended to exclude or diminish the presence of Canadian and Mexican livestock from the U.S. market. It is and always has been a non-tariff trade barrier. Anyone ignoring this fact is not a serious participant in this discussion.

Moreover, COOL means that for meat derived from animals that were slaughtered or processed in American plants, by American workers, under the watchful eye of USDA inspectors, if the animals were born in either Canada or Mexico, then meat from those animals can't be labeled as "Product of the U.S." This is ludicrous, and I don't understand the antipathy for products coming from American meat packing and processing businesses. It is time to put aside the goal of injuring our North American neighbors and recognize the good work of our employees in American packing and processing plants by allowing their work to be labeled as the American products they truly are.

It is time to face facts: COOL is a failed experiment that has already cost the American livestock, packing, and processing industries billions of dollars and countless jobs – American jobs, in American packing and processing plants. COOL for beef, pork, and chicken must be repealed now to immediately bring the U.S. into compliance with its trade obligations, and put an end to this protectionist nonsense. Three hundred Members of the House of Representatives recently did just that when they voted to repeal COOL.

It is critical to understand that at this stage in the WTO process, if the U.S. Congress amends the COOL statute, Canada and Mexico must agree that the amendment brings the U.S. law into compliance with our nation's WTO obligations; otherwise, retaliation will occur. The U.S. has run out of opportunities to try to "fix"

COOL. We are no longer talking among ourselves to address COOL, in fact we are talking with the Canadian and Mexican governments. To do otherwise is a fool's errand. Canada and Mexico have said that they support repeal of COOL, making repeal the one, guaranteed path to prevent retaliation.

As I mentioned, the House of Representatives recognized the reality and gravity of the situation when 300 Members of that body voted on a bipartisan basis to repeal COOL for beef, pork, and chicken. The United States' credibility as a reliable international trading partner is at stake. The U.S. is outspoken and aggressive when we face unfair trade barriers that violate the WTO rules, but COOL proponents have clung to this problematic law for years and USDA's claimed "fixes" to the implementing regulations have only made the situation worse. It's simple, the United States cannot just talk the trade talk, we must walk the trade walk.

It's time to repeal mandatory COOL for beef, pork, and chicken before Canada and Mexico levy a $3 billion annual retaliatory penalty that will cost jobs across multiple sectors of the economy in virtually every State. We urge the Senate to move quickly and vote for repeal so the President can sign the bill and put this failed experiment behind us.

Thank you for the opportunity to participate in this hearing. I would be pleased to answer questions.

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[1] See 74 Fed. Reg. 2658 (Jan. 15, 2009):
"The COOL program is not a food safety program." Page 2670

"COOL is a retail labeling program and as such does not provide a basis for addressing food safety. Food products, both imported and domestic, must meet the food safety standards of the FDA and FSIS and are subject to any recall requirements imposed by those agencies." Page 2677-78

"As previously stated, the COOL program is neither a food safety or traceability program, but rather a consumer information program. Food products, both imported and domestic, must meet the food safety standards of the FDA and FSIS. Food safety and traceability are not the stated intent of the rule and the COOL program does not replace any other established regulatory programs that related to food safety or traceability." Page 2679

"As was the case in the interim final rule for fish and shellfish, a few commenters suggested that mandatory COOL would provide food safety benefits to consumers. As discussed in the IRIA, mandatory COOL does not address food safety issues." Page 2683

See 78 FR 31370 (May 24, 2013):
"The Agency considers that this rule brings the United States into compliance with its international trade obligations. In the COOL dispute, the WTO affirmed that WTO Members have the right to adopt country of origin labeling requirements, in that providing such information to consumers about the products they buy is a legitimate government objective. However, the WTO had concerns with specific aspects of the current COOL requirements. In particular, the WTO considered that the current COOL requirements imposed record keeping costs that appeared disproportionate to the information conveyed by the labels. This final rule addresses those concerns of the WTO."

Remarks for delivery by Christopher Cuddy, senior vice president and president, ADM Corn
"Country of Origin Labeling and Trade Retaliation: What's at stake for America's Farmers, Ranchers, Businesses, and Consumers"
Hearing before the Senate Committee on Agriculture, Nutrition and Forestry
G50, Dirksen Senate Office Building
June 25, 2015, 10 a.m.

Thank you, Chairman Roberts.

And thank you, Ranking Member Stabenow and all honorable members, for this opportunity to share ADM's views on the current Country of Origin Labeling rule.

As you said, Mr. Chairman, my name is Chris Cuddy, and I am a senior vice president at ADM, and the president of our Corn business unit.

Earlier in my career, I was president of the company's Sweeteners & Starches business.

And before that, I ran an ADM joint venture in Guadalajara, Mexico, where we manufacture corn syrup.

ADM is one of the world's largest agricultural processors and food-ingredient providers, with more than 33,000 employees and customers in more than 140 countries.

We play a vital role in feeding the world by buying millions of tons of farmers' crops each year, including corn, soybeans, wheat, rice, edible beans and peanuts...

... transporting those crops to our 300 processing facilities ...

...and transforming them into a wide range of food ingredients, animal feeds and other renewable products.

Here in the U.S., we employ 17,000 colleagues in our various plants, grain elevators, transportation and logistics operations, and export facilities.

And last year, we spent a total of $40 billion dollars with U.S. businesses in all 50 states. That figure includes farmers and businesses of all sizes.

ADM's ability to generate this kind of economic activity depends in no small part on our export business.

Last year, we exported $18 billion in crops and finished products to markets around the world, including Canada and Mexico.

Companies in those two countries represent a sizable portion of our customer base. We provide them with everything from corn and rice to corn syrup, soy proteins, flours, bakery mixes and other items.

If these valued neighbors and trade partners follow through on their threat to retaliate against U.S. products over the COOL rule, the economic impact across the food production, agriculture and manufacturing sectors could come to billions of dollars.

We at ADM have calculated that the cost to our company alone would exceed $700 million per year.

Retaliation would render our exports—from ethanol to soy protein isolates to corn syrup—completely uncompetitive.

As a country and as an industry, we've gone down a similar road before, and paid a heavy price.

Between 1997 and 2001, Mexico imposed countervailing duties on high-fructose corn syrup imported from the U.S.

It has been estimated that direct costs to our industry came to about $800 million, and that the ripple effect on corn sales amounted to another $400 million in direct losses.

In addition, if we account for the cost of industry capacity that went unused during this period, the idle time generated another $400 million in indirect losses. That's $1.6 billion for one industry.

As unfortunate as that dispute was, the current situation involving COOL will have much more serious economic consequences if Congress doesn't act to prevent retaliation.

The impact will be felt by ADM and our employees. It will take a tremendous toll on American agriculture more generally—particularly on farmers and their communities. I know that other witnesses will speak directly to those serious impacts.

So Mr. Chairman, honorable committee members...

> ...on behalf of my colleagues around the world...
>
> —and in the interest of farmers, businesses and communities who will suffer tremendous losses if this matter isn't resolved immediately—
>
> ...I would respectfully ask you to act quickly and decisively—to prevent retaliation by Canada and Mexico.

Rescind the COOL requirement for muscle cuts of meat.

Respect our country's obligations as a WTO member.

Reinforce the United States' standing as a responsible trade partner. And...

Return us to business as usual...right away.

Thank you for your time, and thank you in advance for taking action.

Statement of the American Farm Bureau Federation

TO THE SENATE COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTY

RE: COUNTRY OF ORIGIN LABELING AND TRADE RETALIATION: WHAT'S AT STAKE FOR AMERICA'S FARMERS, RANCHERS, BUSINESSES, AND CONSUMERS

JUNE 25, 2015

Presented by:
Craig Hill
President of Iowa Farm Bureau Federation on behalf of
American Farm Bureau Federation

600 Maryland Ave. SW | Suite 1000W | Washington, DC 20024 | p. 202.406.3600 | f. 202.406.3606 | www.fb.org

Chairman Roberts, Ranking Member Stabenow and members of the Senate Committee on Agriculture: Thank you for the opportunity to testify before you today as you take the next steps forward to resolve the long-standing trade dispute between the United States and our North American neighbors.

My name is Craig Hill. I am a grain and livestock farmer from Milo, Iowa. I currently serve as the President of the Iowa Farm Bureau Federation. I am also a member of the Board of Directors of the American Farm Bureau Federation (AFBF) and serve on the AFBF Trade Advisory Committee.

I am pleased to present Farm Bureau's views regarding today's hearing on *Country of Origin Labeling and Trade Retaliation: What's at Stake for America's Farmers, Ranchers, Businesses and Consumers.*

Farm Bureau policy, set by our grassroots members, supports country of origin labeling for a wide variety of agricultural products. Our policy states that – *"We support Country of Origin Labeling (COOL) that conforms to COOL parameters and meets WTO requirements."*

AFBF has consistently supported efforts by the U.S. government to resolve the World Trade Organization (WTO) rulings that found in favor of Canada and Mexico regarding their challenge of the U.S. beef and pork COOL programs. With the latest and final WTO decision that rejected the U.S. appeal in the COOL case, it is clear that now is the time to act to prevent Canada and Mexico from imposing retaliatory sanctions that will negatively impact U.S. agricultural and other goods and commodities.

The WTO determination that provisions of the U.S. mandatory country of origin labeling (MCOOL) for beef and pork is illegal under international trade rules allows Canada and Mexico to impose retaliatory tariffs against U.S. agricultural commodities and other goods until the case is finally resolved between the parties. The WTO has consistently ruled against both the original USDA regulations and the revised regulations set forth by the Department in implementing MCOOL in accordance with farm bill provisions.

To be clear, Farm Bureau supports the repeal of COOL requirements for beef and pork, which have been found to not comply with WTO rules, and we also support the action taken by the House Agriculture Committee to also repeal the COOL program for chicken. We appreciate and support this approach because it also has the effect of keeping the remaining COOL programs in place for the crops and commodities, including lamb and goat meat, that have not been challenged.

The key factor in our position is the fact that the WTO's final ruling opens the gate for retaliation by Canada and Mexico against the Unite States. As you are no doubt aware, after Canada presented its request to the WTO Dispute Settlement body on June 17, 2015, for retaliatory tariffs equaling $2.52 billion worth of trade, the United States objected to the amount requested. This objection triggers a 60-day arbitration process.

Mexico is expected to present its request for retaliation on $713 million worth of trade with the United States to the WTO on June 29. Again, we expect their retaliation request will trigger arbitration as well, and will likely be combined with the U.S./Canadian process that will begin on June 29.

Retaliation will have direct impacts on U.S. farmers and ranchers. Canada is our #2 agricultural export destination with over $21.7 billion in trade over a wide variety of farm goods delivered in 2014. Mexico is our #3 agricultural export destination with over $19 billion in trade in 2014. Maintaining this trade is of critical importance to U.S. agriculture. The level of sanctions both countries seek could be devastating to some commodity sectors and, at the very least, cause harmful disruptions with attendant economic consequences that will hurt farmers, ranchers and our industry sector partners.

U.S. agriculture has experienced trade retaliation firsthand in recent years. In 2009 Mexico imposed retaliation on U.S. farm and other goods as a result of the cross-border trucking dispute. Retaliation was imposed on over $2 billion of U.S. exports, including many agricultural products. This retaliation caused harm to U.S. producers and created uncertainty in export markets until it ended in 2011. And I would be remiss if I did not also mention the tough decisions this Committee, your colleagues in the House and certainly our nation's cotton farmers had to make to bring the Brazil cotton case to a conclusion as part of the new Farm Bill.

These experiences, as well as a review of the draft COOL retaliation list Canada published in 2013, give strong evidence that the products on Mexico's and Canada's final COOL retaliation lists will negatively impact a wide variety of agricultural products covering a large share of the U.S. agricultural landscape.

A May 1, 2015, report by the U.S. Department of Agriculture to Congress concluded that the economic benefits of implementing COOL regulations for beef, pork and poultry would be insufficient to offset the costs of the program and that the measurable benefits for mandatory COOL would be small. In his letter accompanying the report, USDA Secretary Tom Vilsack said that a resolution would depend on the relevant findings of the Appellate Body and could include statutory changes such as repeal of the COOL requirements. It is clear that this is where we collectively find ourselves today.

The American Farm Bureau Federation supports H.R. 2393, legislation that addresses the WTO ruling against the United States with regard to certain provisions of the U.S. beef, pork and poultry COOL programs. This legislation passed the House by a 300-131 vote on June 12, 2015.

H.R. 2393 amends the Agricultural Marketing Act of 1946 to repeal COOL requirements with respect to beef, pork and chicken while preserving the program for other U.S. commodities, including lamb and goat meat. By acting quickly and in a bipartisan fashion, the House of Representatives has taken the first key steps in making the tough choice to repeal the challenged COOL provisions and, in turn, prevent potential retaliatory actions by Canada and Mexico against U.S. agricultural and other commodities and products as allowed under the WTO rules.

Again, Farm Bureau clearly hoped the WTO would rule in favor of the United States on the regulatory changes made to COOL in recent years. But the writing on the proverbial wall is clear – that was not the outcome. It is time to bring this challenge to a final resolution that prevents harm to U.S. agricultural exports.

We appreciate the actions this Committee has initiated and we urge the Senate to act quickly to repeal the COOL requirements for beef, pork and chicken and prevent Canada and Mexico from taking retaliatory actions that will impact farmers and ranchers all across the nation.

Thank you.

Testimony of Leo McDonnell
Owner/Operator of McDonnell Angus and Midland Bull Test
On Behalf of the United States Cattlemen's Association

Submitted to the U.S. Senate
Committee on Agriculture, Nutrition, and Forestry

"Country of Origin Labeling and Trade Retaliation: What's at Stake for America's Farmers, Ranchers, Businesses, and Consumers"

June 25, 2015
Washington, D.C.

Introduction

Mr. Chairman, Ranking Member Stabenow and Members of the Committee, I am Leo McDonnell, owner-operator of McDonnell Angus and Midland Bull Test, based in Rhame, North Dakota and Columbus, Montana respectively. I appreciate the ability to be here today and provide a voice to U.S. producers and consumers on the issue of country of origin labeling.

I am here today on behalf of the United States Cattlemen's Association (USCA). USCA represents cow-calf producers, backgrounders, and feedlot operators from across the country. USCA was founded on the idea that a grassroots effort by U.S. cattlemen can work positively and effectively with the U.S. government to reform U.S. agriculture policy and thus ensure a fair, competitive marketplace. We believe in a marketplace based on transparency, strong competition, and sound science. Moreover, we strive to provide the highest quality cattle and beef for our consumers at home and abroad. These high standards are the basis behind the effort to maintain country of origin labeling (COOL) and the integrity behind the current "A" label, which distinguishes those products born, raised and harvested in the U.S.

USCA members strive every day to produce a high quality product which reflects the health standards and continued feed efficiency and genetics programs developed by U.S. producers. The ability for U.S. cattle producers to distinguish their product in the marketplace is seemingly an inherent right which has, over recent years, been misconstrued and attacked by our trading partners.

Background on COOL

Congress enacted COOL in the 2002 and 2008 Farm Bills in response to a growing call from producers and consumers for more transparency and information regarding the origin of food products. Since its initial implementation, COOL has provided consumers and producers with the ability to distinguish and choose products in the marketplace with origin information readily available. COOL was founded on the idea that consumers deserve the right to choose their meat products based on origin and that producers deserve the right to support and distinguish their own product in the marketplace. COOL is a program based on choice, the efforts to strip this program through a blanket repeal approach is unfounded and unwarranted and I am here today to provide a voice to all of those who have fought for, and continue to fight for, COOL.

In 2008, the World Trade Organization began weighing a dispute against the United States raised by Canada and Mexico. In what has been a succession of decisions on COOL, the WTO ultimately ruled that origin labels are legitimate but that the implementation of the program was inconsistent. Inconsistencies were initially brought to light regarding the actual implementation of the labels, with the WTO ultimately reaching the decision that the labels did not go far enough in providing accurate information to consumers. Specific concerns raised focused on the absence of ground meat products in the labeling system in addition to the lack of application to restaurants and the food-service industry.

It is abundantly clear that consumers are demanding more information on the origin of their food. Rather than rescinding and decreasing the information we are providing individuals, we should be readily looking to act on consumer demand and provide transparency in our industry. All other sectors of the agricultural industry have origin labels in place. Produce is clearly marked with its point of origin; marketing campaigns that tout "Avocados from Mexico" are the norm in grocery stores today. Our consumers want to know where their food comes from; by not willingly providing this information, we are taking a step back as an industry, and that is where the disagreement on this issue originates.

COOL Implementation: Fact or Fiction?

The main arguments against COOL have focused on the supposed impacts on cattle exports from Canada and Mexico into the U.S. Since 2009, the U.S. has experienced a historic high of imports from both countries as a direct calculation from their respective annual cow herd sizes[1].

Additionally, the disparities between the base price of Canadian and Mexican cattle vs. U.S. cattle prices has not been accurately portrayed. As reported through the U.S. Department of Agriculture's mandatory price reporting data, Canadian fed cattle prices have actually improved more in the past years than U.S. fed cattle prices[2].

As recently reported through a study conducted by Auburn University's Dr. Bob Taylor, there is no statistical difference in base prices from either Canada or Mexico to U.S. prices; the only exception being in 2013 due to the overall economic downturn experienced across the country[3]. All data utilized in the study was collected and analyzed via USDA's Mandatory Price Reporting information.

Another popular argument against COOL is a supposed contraction in the Mexico and Canada cattle industries. The herd sizes in both countries were in steep decline for several years leading up to 2009. Post-COOL implementation, each country's respective herd numbers have leveled off as reported in the attached CME report detailing the declining Canadian beef cow herd. Along similar lines, both country's industries have not been economically harmed by COOL. Rather, Mexican and Canadian cattle producers have experienced the highest profits in recent history, in addition to the longest periods of consistent profit margins. COOL has not had a disastrous effect on either market as has been portrayed.

This issue is where it is today due to great differences within our industry. Instead of coming to an agreement amongst all players, we have left critical decisions to the WTO and we are now reacting to our neighbors' retaliatory threats. Fortunately, for U.S. cattle producers, the signal is there pointing toward increased demand for origin labels. As a recent member of the Cattlemen's Beef Board (CBB) Long Range Planning Committee, our task was to determine the best interests of the industry. The committee included an industry wide group effort which

[1] Canadian and Mexican beef and cattle imports as a percent of their cow herd--historical analyses
[2] CME Group: Daily Livestock Report
[3] Impacts of COOL on Cattle Trade

brought in all segments of the industry from retailers, to packers, to feeders and cow-calf operators. The committee sought to identify the goals of the industry in order to promote and market U.S. beef in the years to come. The emphasis here being, "U.S. Beef". During the January 2015 meeting of the committee, analyses were presented on average prices of beef products across the globe. In the global marketplace, where U.S. beef and U.S. ranchers are touted as a component of the product, average prices reach $3.27/lb. For comparison, the second leading country, Canada, brought $2.53/lb.[4].

The global market is demanding U.S. beef. As discussions continue to move forward on such free trade agreements as the Trans Pacific Partnership (TPP), U.S. producers deserve the right and ability to differentiate their product and consumers deserve the right to choose.

Voluntary COOL

Through a series of WTO decisions, and subsequent unsubstantial threats from Canada and Mexico, the COOL program is now at risk. While USCA and I remain committed to COOL, we recognize the pressures facing Congress. Today, I come to you to propose a commonsense compromise. U.S. cattle producers want the integrity behind the "A" label to remain intact. In no circumstance should a product not born, raised and harvested in the U.S. be granted a "U.S. label". Through a voluntary program, we ask that this label be maintained and not comingled with other product originating in Canada and Mexico. Through a voluntary approach, only those packers willing would be subject to adhering to the policy behind the "A" label. The assurance provided by stipulating a product labeled as a "Product of the U.S." is truly that, is a basic right deserving of both consumers and those in the industry, from the cow-calf producer to the meat market owner. Through providing certainty on a voluntary label, the U.S. cattle industry is honoring a right that should inherently be given.

Conclusion

Today's global marketplace necessitates a robust labeling system to appeal to a growing public demand for transparency within the food production system. As a rancher, our industry has an opportunity through COOL to take a step forward in providing such information, and while we are instead now taking two steps back, those in support of COOL are committed to the program in both representing our country, our producers, our consumers, and our inherent rights to know where our food comes from.

This issue has been labeled as one focused on so-called "discrimination" of non-U.S. products. This is a dangerous precedent to set. A marketplace functions only as well as the demand for a product remains in place. In taking a top-down approach to this issue, packers are in essence dictating what a consumer's choice will be. As we review this issue and move toward a voluntary COOL system, we must be given the specific line-item costs that are actually

[4] Global Agritrends Report

associated with COOL in the realm of segregation. COOL is a marketing program by which to push a truly U.S. product to consumers. In the face of voluntary COOL we must be told what the actual costs are of the program as it relates only to the segregation process. This will allow those packers and markets the opportunity to continue with the valued program and be aware of all supposed costs ahead. Marketing programs, such as "Harris Ranch"; "Certified Angus Beef" and others all employ a labeling and segregation system in their supply chains to achieve desired results. This industry has the ability to implement and carry out an effective COOL program and I appreciate the opportunity to speak today before the Committee.

COOL is a program that represents much more than just a labeling system. COOL provides a means by which U.S. cattle producers may distinguish themselves in a growing global trade arena. Products are touted as "Made in the USA" on a daily basis. What better way to honor the hard work and heritage of the U.S. cattle industry than to provide the means by which producers can continue to identify and distinguish their products and consumers have the ability to choose. As a long standing supporter of COOL, USCA looks forward to your thoughts and comments on this matter as it moves forward to a successful conclusion for both producers and consumers in which we can celebrate, not disparage, those meat products "Born, Raised and Harvested in the U.S.".

Appendix

Footnote 1: Canadian and Mexican beef and cattle imports as a percent of their cow herd- historical analyses

year	cow nu	cattle imp	beef imp	Jan1 Dresssed Wts.	cattle eguiv	combined	new % cow herd	% of cow herd	based on 90% calf crop
2000	4.45	965,000	919,100	760	919,100				
2001	4.6	1,306,000	987,100						
2002	4.64	1,687,000	1,090,900						
2003	4.75	512,000	740,100						
2004	5.02	135	1,062,000						
2005	5.28	559,000	1,092,000	765	1,427,450	1,986,450		38	
2006	5.25	1,032,000	843,900	782	1,079,156	2,111,156		40	
2007	4.99	1,405,000	789,500	779	1,013,478	2,418,478		48	
2008	4.91	1,581,000	841,200	775	1,085,419	2,666,419		54	
2009	4.52	1,061,000	812,400	785	1,034,904	2,095,904		46	
2010	4.23	1,063,000	860,800	775	1,133,000	2,196,000		52	
2011	4.05	687,000	689,100	782	881,202	1,568,200		39	
2012	3.99	815,000	537,500	783	686,462	1,501,462		38	
2013	3.94	1,044,000	538,200	802	708,100	1,752,100		44	
2014	3.91	1,242,150	590,000	803	734,744	1,976,894		51	
	cow nu fro	CanSim in millions							
	beef imp are in 1000 lbs. carcass equivalent								
Mexico									
2000	10.8	1,228,000	10,100	760					
2001	10.8	1,130,000	12,200						
2002	10	816,000	16,700						
2003	9.5	1,240,000	15,900						
2004	9	1,370,000	19,500						
2005	8	1,256,000	26,700	765	34900	1,291,000		16	
2006	7	1,257,000	40,800	782	52,174	1,,309174		19	
2007	6.71	1,091,000	49,800	779	63,928	1,155,028		17	
2008	6.81	703,000	43,800	775	56,516	759,516		11	
2009	6.91	941,000	65,900	785	83,949	1,024,949		15	
2010	6.97	1,221,000	107,300	775	138,451	1,359,451		20	
2011	7	1,422,000	154,900	782	198,081	1,625,081		23	
2012	6.9	1,468,000	242,300	783	309,450	1,777,450		26	
2013	6.75	989,000	251,600	802	313,715	1,302,715		19	
2014	6.7	1,115,855	290,000	803	361,145	1,477,000		22	
	cow nu from Omundi Index/USDA								

Footnote 2

CME Group

Daily Livestock Report

Vol. 10, No. 37 / February 22, 2012

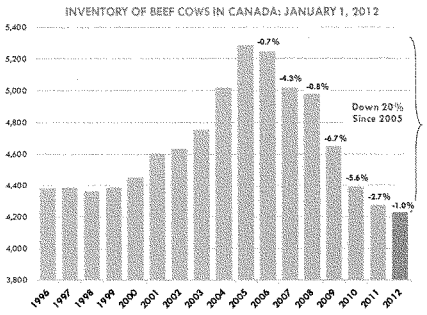
Market Comments

Canadian cattle supplies have been shrinking since 2005 and, in the short term beef supplies will likely be even tighter as producers try to hold back heifers and rebuild the herd. Statistics Canada released on Monday the results of its semi-annual survey of cattle operations and the data contained a sobering, although somewhat disorienting, view of current conditions. Probably the more surprising result from the survey was that the number of beef cows on January 1, 2012 was down 1% from the previous year. The Canadian beef cow herd is down 20% from its peak in 2005. The smaller beef cow inventory is a surprising result considering:

- Shipments of slaughter cows to the US in 2011 were down 24% from the year before;
- Canadian cow slaughter (based on weekly data) declined about 13% from the previous year
- Producers on January 1 2011 indicated heifer retention for beef cow replacement was up 2.9% from the previous year and in the Jan 1, 2012 beef cow replacements were up 4.3%.

So if the industry in Canada is slaughtering fewer cows, it is exporting fewer cows and it is holding back more females to replenish the herd, how is the beef cow inventory going down? The best answer we have is that the data is coming from different sources and year to year the numbers will not jive well. It is likely that the upcoming July and January surveys will capture the shift in cow numbers in Canada. Canada shipped a lot more breeding females to the US in 2011, some 7,500 more head (+170%) but that still does not explain the decline in the Canadian cow herd. For now, the latest numbers have us scratching our heads.

Total Canadian cattle inventories on January 1, 2012 were pegged at 12.515 million head, 58,000 head or 0.5% higher than the previous year. While the increase will likely capture some headlines, it is relatively small and mostly the result of fewer feeder exports to the US. The inventory of steers and bulls under one year old was up almost 66,000 head or 1.6% from the previous year. It is an inconsequential result



since overall North American cattle supplies remain limited and overall beef production in the continent will likely remain limited in the next few years. The combined US and Canada calf crop for 2011 is currently estimated at 39.975 million head, some 546,000 head or 1.3% smaller than a year ago. The Canadian calf crop for 2011 was estimated at 4.661 million head, 174,000 head or 3.6% smaller than a year ago. The decline in the Canadian calf crop accounted for about a third of the reduction in the combined calf crop, a significant number considering that the Canadian cow herd is only about 5.2 million head compared to about 40 million head in the US. The combined US and Canada calf crop has declined about 9% in the past 10 years, a dramatic change considering that both countries are striving hard to recover the beef export market share they lost after the outbreak of BSE. As trade normalizes and exports return to pre-BSE levels, this implies significantly less beef supply available for US and Canadian consumers. Beef demand in both countries struggled during the recession. A recovery in demand combined with the smaller supply will likely underpin significantly higher beef prices both in the US and Canada not just in 2012 but in the next few years.



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Impacts of COOL on Cattle Trade
C. Robert Taylor
Auburn University
Footnote 3

Footnote 3, cont.

Questions Addressed

- **Did the Price Basis (Canadian price minus Domestic price) Widen After COOL Was Implemented, as Asserted by Opponents?**
  - For Fed Cattle?
  - For Feeder Cattle?
- **Did COOL Negatively Impact Imports?**
  - Canadian Slaughter Cattle?
  - Feeder Cattle?
    - From Mexico?
    - From Canada?

Footnote 3, cont.

Data Sources

- **Mandatory Price Reporting (MPR) weekly data**, 9/2005 through 11/2014 (not analyzed in previous COOL studies)
- **Monthly U.S. Cattle and Trade data** from various government sources, 1995-2014
- **Monthly CanFax data** (limited)
  - Public distribution of detailed Canadian cattle market statistics is controlled by the Canadian Cattlemen's Association)
- **Canadian Price and Slaughter Weekly Data** Obtained from AMS/USDA, 2005-2014

Footnote 3, cont.

Price Basis

- **Economic theory: Higher segregation cost would widen the price basis**
- Claims by COOL Opponents:
  - Informa Economics
    - $15-$18/head under USDA's initial proposal
    - $10-$18/head under the final rule
  - Canadian Cattlemen's Association (CCA)
    - $90/head
- **Fact: The price basis narrowed, not widened, after COOL**
  - MPR data reported by the packers, 2005-2014

Footnote 3, cont.

Price Basis[a] Before and After COOL, U.S. dollars

	Purchase Arrangement	Before COOL (9/5/2005–3/9/2009)	After COOL (3/16/2009–12/15/2014)
Slaughter Cattle (Dressed weight)	Formula Net	-$3.30	-$2.04
	Forward Contract Net	-$4.78	-$0.38
	Negotiated Grid Net	-$1.03	-$0.72
Feeder Cattle	Alberta Steer compared to Nebraska	-$24.38	-$17.45

[a] Price basis is defined to be the price for imports minus the price for cattle of domestic origin. Averages based on paired comparisons excluding weeks where there were no transactions, domestic or import, under the stated purchase arrangement. Negotiated cash prices are not shown because few imported cattle are acquired in a cash transaction on a live weight basis.

Footnote 3, cont.

Price Basis[a] Before and After COOL, U.S. Dollars

- **Fed cattle price basis went down for most classes, grades and purchase arrangements**
  - An expanded Table is included in the report

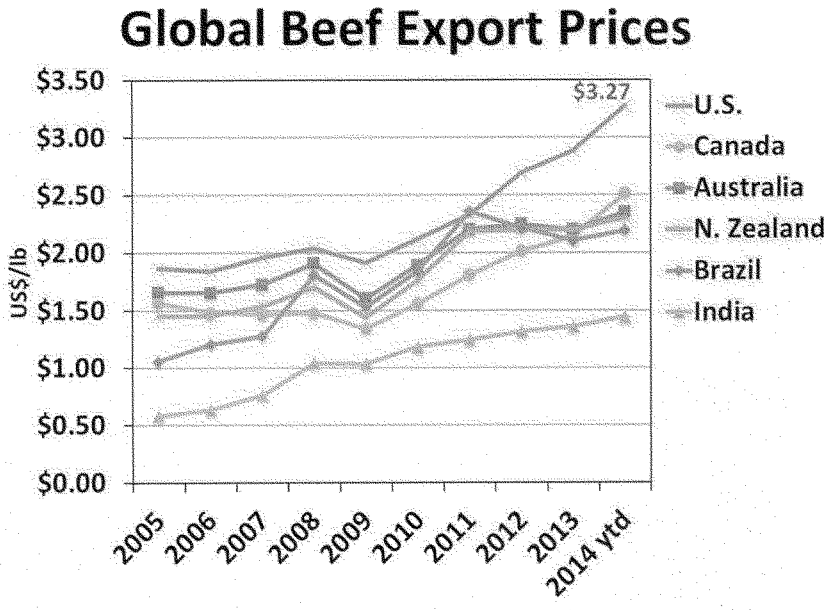
Footnote 3, cont.

Answers to Questions

(based on qualitative and econometric analyses)

- Did the Fed Cattle Price Basis Decline After COOL Was Implemented? **NO**
- Did the Feeder Cattle Price Basis Decline after COOL was Implemented? **NO**
- Did COOL Negatively Impact Imports of Feeder Cattle? **NO**
- Did COOL Negatively Impact Imports of Slaughter Cattle? **Unlikely**
  - Econometric evidence of a significant effect of COOL is weak; results depend on observation period, data source, and model specification
  - Likely omitted variable bias in other studies

Footnote 4: Global Agritrends Report



Source: GTIS, AgriTrends

Testimony of Jaret Moyer

On behalf of the Kansas Livestock Association

Regarding Country-of-Origin Labeling (COOL)

Thursday, June 25th, 2015

Senate Committee on Agriculture, Nutrition, and Forestry

Sen. Pat Roberts – Chairman

Mr. Chairman, thank you for the opportunity to be here today to continue the discussion of mandatory country-of-origin labeling better known as mCOOL. I appreciate your leadership on this issue. In my opinion, mCOOL is a failure and the best solution is full repeal of the mandatory program.

Along with my wife Shawna, I grow lightweight calves using a combination of our backgrounding facility and Flint Hills pastures. I also serve as President of Citizens State Bank and Trust Company with locations in Woodbine, Bremen, Gypsum and Reading.

I am President of the Kansas Livestock Association (KLA), a 5,200 member trade association representing all segments of the cattle industry, dairy producers and landowners. KLA members long have supported voluntary labeling programs, while opposing mCOOL. KLA members recognized the costs likely would outweigh any benefits of mCOOL. When combined with the potential damage to trade relationships, it was clear to our members mCOOL only would bring harm to U.S. producers. If only our members could as accurately predict the cattle market.

The mCOOL debate has plagued our industry for almost two decades. Proponents of mCOOL have long said mandatory labeling would cause the U.S. consumer to actively seek out and pay more for U.S. beef. Six years into implementation it is clear this is not the case. Kansas State University published a study titled "Mandatory Country of Origin Labeling: Consumer Demand Impact" in November of 2012. Their study utilized multiple methods to gauge consumer perception and use of mCOOL, and came away with several findings which did not surprise many of us in the beef industry. The study determined demand for covered meat products has not been positively impacted by mCOOL implementation. In addition, typical U.S. consumers are unaware of mCOOL and do not look for meat origin labeling. USDA's own economic analysis provided to you in May supports these findings.

While proponents of mCOOL say they have surveys that show Americans want to know where their beef comes from, the K-State study actually measured how Americans vote. Americans vote with their pocketbook by purchasing beef, and as stated above, the vast majority don't consider mCOOL in their purchasing decision. Why then would we incur the costs of a program that the consumer is not demanding? From burdensome record keeping, to line sorting and segregation, and to the actual label itself, all segments of the beef industry have been paying the costs of mCOOL since it went into effect in October 2008. All segments of the U.S. beef industry have been impacted negatively by mCOOL.

Cattle producers across the country, and of all sizes, are experiencing the same issues with compliance costs and discounts. As a result of the costs associated with the implementation of mCOOL, we have seen discounts paid on cattle which originate in either Canada or Mexico. Those discounts have ranged from $35 to $60 per head. These discounts are incurred for no other reason than mCOOL. The cattle can have the same quality characteristics as a similar animal of domestic origin, but will be discounted because of mCOOL. The discounts are not just borne by Canadian and Mexican producers. U.S. cattle producers and feeders are incurring these discounts as well.

Cattle producers routinely import feeder cattle from Mexico and finish them in the United States. We do this in Kansas. In fact, in the Flint Hills where I reside, many producers graze Mexican steers on the

native tallgrass prairie. At the end of the grazing season, the cattle then move to a Kansas feedyard for finishing. Kansas producers are able to add significant value to these cattle using their labor and feed. This system is disrupted by mCOOL because of the record keeping burden and segregation requirements.

For a Kansas perspective, we sought input from Glynn Tonsor, Associate Professor of Agricultural Economics at Kansas State University and a primary author of several studies on mCOOL. In the April 2015 report to Congress titled *Economic Analysis of Country of Origin Labeling*, Dr. Tonsor and his colleagues identified the impact of both the 2009 and 2013 mCOOL rules. Across all industry segments, they found costs totaled over $8 billion for the 2009 rule and an additional $495 million due to the 2013 rule.

We asked Dr. Tonsor to determine the impact of the rules on Kansas. Dr. Tonsor used relative population and industry prevalence in Kansas to assign the national aggregate values to determine the state impact. While this assignment exercise is far from perfect, it does provide a useful context of how Kansas has been impacted by both the 2009 and 2013 mCOOL rules. The sum of the adverse impacts from both rules on all segments is nearly $500 million. That's $500 million out of the pockets of Kansas producers, processors and consumers for a program providing no value.

Given all I've stated above, I again have to ask the question "why do we still have mCOOL?" That question is especially relevant when you look at the World Trade Organization (WTO) case filed by Canada and Mexico against our mCOOL program. The WTO has ruled against the U.S. mCOOL program four times. The next step is for Canada and Mexico to retaliate. We continue to hear some pro-COOL groups and members of Congress suggest that the process is not over and therefore it is too early to act. We disagree. We have two options, repeal or face retaliation. Both countries have been very clear about this. The only outstanding question is at what monetary level Canada and Mexico will be able to retaliate.

Canada and Mexico consistently have been two of our top five markets for the export of U.S. beef. In 2014, Canada imported over a billion dollars of U.S. beef and Mexico imported almost $1.2 billion. That is big money for our industry. In fact, it equates to approximately one third of our total beef export value. If we lose access to those markets, or have tariffs placed on them, it will have a negative impact on U.S. producers. All of our current global market access equates to approximately $350 per marketed head. Retaliatory tariffs certainly will target beef, reducing the current value of our exports. That is a cost in addition to all we have incurred with compliance.

As I mentioned above, we have been paying the costs of mCOOL domestically since 2008. Retaliation against our exports only would make our losses worse. The monetary losses are not all, though. The vigorous defense of mCOOL by our government does not send a pro-trade signal to the international community. The WTO keeps telling us that mCOOL violates our trade commitments, but our government keeps saying it doesn't, even though the majority of the industry regulated does not support the program. Future trading partners will look at this closely and use it before they ink any trade deals

with us. We would do the same if we saw that behavior from any of our trade partners. This anti-trade stance is contrary to the very pro-Trade Promotion Authority rhetoric we are hearing from this Administration and from here in the Senate.

Mandatory COOL is all about marketing and has absolutely nothing to do with food safety. Those who use that argument know nothing about the food safety protocols in this country. This is a red herring used by mCOOL proponents in a desperate attempt to hold on to their position. Mandatory COOL is a farce and its proponents obviously have no idea how modern beef production in the United States actually works. They have a simple and short-sighted view which already is costing our industry billions of dollars.

Mandatory COOL is a failed experiment. It has added costs to the production of beef and resulted in discounts borne by American ranchers; the U.S. has been found out of compliance with our WTO trade obligations four times; and our two closest trading partners are potentially months away from instituting retaliatory tariffs against multiple industries, damaging our economy and costing jobs. All of these negative consequences result from a program that the typical consumer does not even look for when buying their steaks or ground beef.

After the WTO ruled against the U.S. in 2012, USDA revised the mCOOL regulations. Today, we're seeing the result: a more burdensome mCOOL program for the meat industry; additional damages when calculating retaliation levels; uncertainty for U.S. exporters in multiple industries; and a label even less useful or meaningful to the consumer. This must stop. The Secretary of Agriculture has stated repeatedly there is nothing else USDA can do to fix this and that Congress must act. He also reported to you in a letter in May that repeal is a way to prevent retaliation. On both of these points, we agree. The solution is for Congress to repeal mCOOL now. Half-measures or other alterations to mCOOL will only bring more uncertainty and possible WTO challenges. That is unacceptable to the meat industry, as well as to the other industries forced to look over their shoulders, worried about potential retaliatory tariffs from Canada and Mexico. Three hundred House members demonstrated in a strong bi-partisan vote the time has come to stop this madness. We encourage the Senate to exhibit the courage to do the same.

Mr. Chairman, thanks for the opportunity to be here today.

Testimony of James Trezise
President, New York Wine & Grape Foundation
Before the
Committee on Agriculture, Nutrition, and Forestry
United States Senate
June 25, 2015

Mr. Chairman and Members of the Committee: Thank you for allowing me to provide testimony on behalf of the New York grape and wine industry about the potential impact of retaliatory tariffs on New York and other American wines exported to Canada.

My name is Jim Trezise, and I am President of the New York Wine & Grape Foundation, which represents the grape and wine industry statewide. New York is the third largest grape and wine producing state, with more than 37,000 acres of vineyards on over 1,600 family farms; over 400 wineries in 59 of New York's 62 counties—including Manhattan, Brooklyn and Queens; and annual economic benefits to New York State exceeding $4.8 billion—a value-added economic engine.

I also serve on the Board of Directors of WineAmerica, the national organization of American wineries which represents us so well in Washington in collaboration with our California colleagues from Wine Institute. There are now wineries in all 50 States, which means all 100 Senators represent wineries, and also makes wine truly an All-American farm product and art form.

Nationwide the wine industry is growing strongly, particularly in Michigan, Ohio, and Virginia, whose wineries face the same opportunities and challenges as we do in New York.

The Country of Origin Labeling issue has become important and urgent for us. The New York and American wine industry did not have a strong opinion about this until we were brought into the debate because of potential retaliatory tariffs on American wines, which would have a devastating effect.

The urgency is that unless this issue is resolved before the August recess, those tariffs could take effect in September. Subject to a total appeal which may take two years, American wine will be a victim paying a huge price.

Our New York industry has exploded during the past decade, and especially the past five years. In 2010, there were 296 wineries. Today there are 401—35% growth in just five years. The 105 new wineries also represent 26% of all wineries created in the past 175 years since our industry began. This is great news for New York's economy because it means more investment, jobs, manufacturing, tourism, and taxes.

That explosive growth also means we must expand our markets. Wine country tourism has grown, but not nearly by 35% in five years, which means fewer tourists per winery tasting room. The same is true of our markets in New York City and other urban areas of the State, and in

surrounding states where some New York wines are sold. As a result, building export sales is particularly vital at this time, and Canada is a key market.

In 2014, the value of wine shipments to Canada originating in New York State was $5,514,809. This income is important now, but it will be increasingly so as our industry continues to grow and needs new markets for its products.

The market for all American wine in Canada has increased 78% since 2010, with wine exports totaling $487 million and translating into retail sales of $1 billion, representing a 16% market share.

For many years, we and our colleagues in California, Oregon and Washington have benefited from USDA's Market Access Program to build key export markets, with Canada right at the top. Our program includes many small wineries from throughout the state.

In addition, three large companies are major exporters—and vitally important to New York's 1,600 grape farming families, since among them they purchase over 90% of all New York-grown wine grapes from independent growers.

In other words, the impact is statewide, and extends from grape farms to wineries both small and large.

The wine industry worldwide is highly competitive, and extremely price sensitive. The potential tariff increase by the Canadian government would roughly double the price of American wines to Canadian consumers overnight, drying up our sales and opening the door to competing wine regions from throughout the world.

Even if the increased tariffs were later dropped, the shelf space and restaurant wine listings would be long gone, requiring years of effort and huge investment to regain them, if that is even possible. This would mean a huge surplus of American wine, which in turn would depress grape prices for farming families.

In closing, let me first say how grateful we have been to have MAP funding to help build export markets for New York wines and other American wines. I hope that investment will not be jeopardized by increased tariffs that would make our fine wines unaffordable.

We know there are many facets to this overall issue, and appreciate your weighing them carefully. We are here because we feel a need to protect our investments, businesses, employees, and especially our families.

On behalf of the New York grape and wine industry, and my colleagues in other states, I respectfully request that our industry's future in all 50 states be carefully considered as the process moves forward.

Again, thank you.

DOCUMENTS SUBMITTED FOR THE RECORD

JUNE 25, 2015

Minister
of Agriculture and
Agri-Food

Ministre
de l'Agriculture et de
l'Agroalimentaire

Ottawa, Canada K1A 0C5

JUIN 23 2015

Quote: 213704

The Honourable Pat Roberts
Chairman of the Senate Committee on
Agriculture,
Nutrition and Forestry
United States Senate
109 Hart Senate Office Building
Washington, DC 20510-1605
USA

The Honourable Debbie Stabenow
Ranking Member
Senate Committee on Agriculture
United States Senate
731 Hart Senate Office Building
Washington, DC 20510-1605
USA

Dear Chairman Roberts and Senator Stabenow:

In advance of the June 25, 2015, meeting of the Senate Committee on Agriculture, Nutrition and Forestry, I would like to provide Canada's views on Country of Origin Labeling (COOL) and trade retaliation for the consideration of the Committee.

As you are both aware, the long dispute over COOL has caused significant harm to the integrated livestock industry on both sides of the border, and risks causing significantly more harm should Congress not repeal the legislation forcing Canada to impose retaliatory tariffs. The time has come to get a clean fix to resolve this issue once and for all.

Following a fourth consecutive, and final, decision siding with Canada, on June 4, 2015, Canada formally requested World Trade Organization (WTO) authorization to impose over CAN$3 billion in retaliatory tariffs on U.S. exports. As the WTO has previously found Canada's economic analysis, prepared by internationally recognized University of California Davis economist Dan Sumner, regarding COOL's discrimination to be robust, Canada is confident in its assessment. Added to this is Mexico's request to impose CAN$870 million (US$713 million). As you may be aware, Canada will soon be in a position to apply retaliatory tariffs on a range of U.S. goods such as beef, pork, ethanol, cherries, corn as well as manufactured products.

It is now up to the U.S. Senate to take constructive action to avoid imposing additional pain on U.S. exporters. The only way to avoid retaliation will be to end the segregation that discriminates against our livestock exports. For Canada, legislative repeal of COOL is the only approach that will achieve this end. Canada is supportive of Chairman Michael Conaway's bill (H.R. 2393) that received strong bipartisan support in the U.S. House of Representatives. Other approaches such as a legislated "voluntary" label or a generic label are not satisfactory outcomes for Canada and would force Canada to impose retaliatory tariffs, as early as late summer.

.../2

Chairman Roberts and Senator Stabenow

The United States Department of Agriculture has already recognized that COOL has cost the U.S. livestock and meat industry $1.8 billion with no benefit to consumers, and these costs will rise exponentially if this is not resolved by late summer. With this important finish line fast approaching, it is essential that the U.S. Senate repeal COOL for meat before the beginning of its summer recess in order to avoid any further economic impacts.

Thank you for your consideration of my letter, and please do not hesitate to let me know if you would like further information.

Sincerely,



Gerry Ritz, PC, MP

c.c.: Members of the Senate Committee on Agriculture, Nutrition and Forestry



Statement for the Hearing Record
United States Senate Committee on Agriculture
June 25, 2015

The Corn Refiners Association (CRA) is pleased to provide this statement for the official hearing record of the June 25, 2015 hearing on Country of Origin Labeling (COOL).

On May 18, 2015 the World Trade Organization (WTO) issued its fourth and final ruling that the U.S. COOL rule for muscle cuts of beef and pork violates U.S. trade obligations. This ruling allows America's two largest export markets, Canada and Mexico, to establish retaliatory tariffs that would cost the U.S. billions in export sales. While a 60-day arbitration time clock is ongoing, the current timeline still supports potential retaliatory measures to be taken as early as late summer 2015.

Refined corn products, like those produced by CRA's members, feature prominently on Canada's published list of retaliation targets. Mexico has not yet published a list of retaliation targets, but informal statements by Mexican officials make clear that HFCS and other corn products will be at the top of their list. After imposing anti-dumping duties in 1998 and imposing a stringent tariff rate quota in 2002, it would be surprising if Mexico would again attempt to block the sale of corn products.

Throughout the last year CRA and others in the COOL Reform Coalition have urged enactment of a contingency plan by Congress that would prevent retaliation should a final adjudication from the WTO permit Canada and Mexico to retaliate against U.S. products with export tariffs. Regrettably, those efforts fell short and the U.S. is now facing retaliation and a serious blow to our economy.

It is critically important that Congress act before the August recess to amend the COOL requirements and make them consistent with U.S. trade obligations. To that end, the House of Representatives passed H.R. 2393 on June 10, which would amend the Agricultural Marketing Act of 1946 to bring the U.S. into compliance.

We thank Chairman Roberts, Ranking Member Stabenow, and the other members of the Committee for their leadership on this critical issue. We continue to look forward to working with them to ensure that the U.S COOL law does not violate international trade agreements and the U.S. is not subject to retaliatory tariffs on billions of dollars of exports.

1701 Pennsylvania Ave., NW, Suite 950, Washington, D.C. 20006-5805
Phone: (202) 331-1634 • Facsimile (202) 331-2054 • www.corn.org



June 24, 2015

To the Senate Committee on Agriculture, Nutrition and Forestry:

On behalf of the National Foreign Trade Council (NFTC), I am writing to urge you to support the repeal of Country of Origin Labeling (COOL) requirements on beef, pork and chicken as soon as possible. The House has acted to pass repeal legislation, and I hope you will help in acquiring the support of the Senate Agriculture Committee in reporting the repeal of COOL favorably to the Senate.

Repealing COOL will ensure the United States remains in compliance with its multilateral commitments. The World Trade Organization (WTO) has on four separate occasions ruled against U.S. laws on COOL on beef and pork products, most recently on May 18, 2015. The WTO has repeatedly found that COOL laws violate our most-favoured-nation commitments at the WTO, and that specifically "recordkeeping and verification requirements of the amended COOL measure impose a disproportionate burden on producers and processors of livestock that cannot be explained by the need to provide origin information to consumers… . [COOL] has a detrimental impact on competitive opportunities for imported livestock."

The May 18 ruling against COOL makes it more important than ever for the United States to show its commitment to the multilateral trading system and the WTO. The potential for retaliatory tariffs by some U.S. trading partners were it to continue to ignore the WTO ruling is counterproductive to U.S. interests. Such retaliation would have immediate and widespread detrimental effects on companies, including those in food, agriculture and manufacturing.

More important, however, is the fact that the United States has a long history of compliance with WTO rulings, a record that helps us convince other countries they should do the same when they act in a way inconsistent with their obligations. The strength of the WTO lies in its effective dispute resolution system, which more often than not has resulted in rulings favorable to the United States. Were the United States to continue to ignore the decisions in the COOL case, the underpinnings of the global trading system would be called into question. That is simply too great a risk for both the American and global economies.

As the oldest and largest American business organization dedicated solely to international business issues, advocating a rules-based world economy and an open world trading system, the NFTC urges you to vote for the repeal of COOL.

Sincerely,



William A. Reinsch
President

National Foreign Trade Council
1625 K Street NW Suite 200 Washington, DC 20006 -- 202-887-0278
Serving America's Global Businesses Since 1914.
www.nftc.org

May 14, 2015

TO THE MEMBERS OF THE UNITED STATES SENATE:

The World Trade Organization is set to issue its fourth and final ruling regarding U.S. Country of Origin Labeling (COOL) of muscle cuts of beef and pork on or before May 18. COOL effectively requires that livestock from the U.S., Canada, and Mexico remain segregated from birth through meat labeling to assure the accuracy of origin labeling of each piece of meat sold to consumers. Canada and Mexico challenged the COOL requirements at the World Trade Organization (WTO), alleging that the required segregation hurts the value of livestock from their countries and violates our international trade obligations.

The WTO has ruled against the U.S. three times, consistently finding the COOL labeling law to be non-compliant with WTO rules. If the U.S. is found to be in violation of WTO rules in this final ruling, Canada and Mexico, America's two largest export markets, will promptly move to institute billions of dollars' worth of retaliatory tariffs on U.S. food, agricultural, and manufactured goods.

This calendar and previous experience indicates that WTO authorized retaliatory tariffs could be imposed as early as late summer. Further, necessities of supply chain contracting mean that likely targets of retaliatory tariffs will begin to experience a substantial drop in export sales upon the announcement in May. So, significant economic damage will start even before the retaliatory tariffs are implemented.

Likely targets of retaliatory tariffs are clear. Canada has already issued a preliminary retaliation list targeting a broad spectrum of commodities and manufactured products that would affect every state in the country. Mexico has not yet announced a preliminary retaliation list, but has implemented retaliatory tariffs in the past which may be indicative of future tariff actions.

If tariff retaliation is authorized, U.S. industries as a whole would suffer billions in lost sales and take years to recover lost export markets after the tariffs are lifted. Given the negative impact on the U.S. manufacturing and agriculture economies, we respectfully submit that it would be intolerable for the United States to maintain, even briefly, requirements that have been deemed non-compliant by the WTO. We expect the House of Representatives to pass legislation to repeal violative requirements of COOL promptly upon announcement of a final WTO adjudication of non-compliance. We are anxious that the Senate be well prepared to act on that legislation before the August recess.

The COOL Reform Coalition, co-chaired by the U.S. Chamber of Commerce and the National Association of Manufacturers, and undersigned stakeholders, urges compliance of COOL with our international trade obligations. The COOL Reform Coalition website (www.COOLReform.com) includes a state-by-state interactive map outlining possible retaliation targets.

Thank you for your consideration. We would be pleased to address any questions or concerns you may have regarding bringing COOL into compliance with U.S. trade obligations.

Sincerely,

Abbott

Agri Beef Co.

Altrius Group, LLC

American Bakers Association

American Beverage Association

American Chamber of Commerce of Mexico, A.C.

American Feed Industry Association

American Frozen Food Institute

American Fruit and Vegetable Processors and Growers Coalition

American Peanut Product Manufacturers, Inc.

American Seed Trade Association

American Soybean Association

Amway

Anheuser-Busch

Animal Health Institute

Appvion

Archer Daniels Midland Company

Auto Care Association

Bel Brands USA

Business and Institutional Furniture Manufacturers Association (BIFMA)

California Chamber of Commerce

California Cherry Export Association

California Pear Growers Association

California Table Grape Commission

Campbell Soup Company

Cargill, Incorporated

The Coca-Cola Company

ConAgra Foods, Inc.

Consumer Electronics Association

Corn Refiners Association

Dart Container Corporation

The Distilled Spirits Council of the U.S., Inc.

Dr Pepper Snapple Group

Emergency Committee for American Trade (ECAT)

Fashion Jewelry and Accessories Trade Association

Food & Consumer Products of Canada

Food Marketing Institute

General Mills

Georgia Food Industry Association

Glanbia USA

Grocery Manufacturers Association

Hawaii Food Industry Association

Herbalife Ltd.

The Hershey Company

Hills & Company

Hilmar Cheese Company Inc.

H.J. Heinz Company

Hormel Foods Corporation

Independent Bakers Association

Information Technology Industry Council (ITI)

Ingredion Incorporated

International Dairy Foods Association

International Fragrance Association, North America

International Franchise Association

International Sleep Products Association

JBS USA

Kellogg Company

Kraft Foods Group, Inc.

The Latino Coalition

Leprino Foods Company

Louisiana Retailers Association

Mars, Incorporated

Metals Service Center Institute

Midwest Food Processors Association

Mondelez Global LLC

National Association of Egg Farmers

National Association of Manufacturers

National Beef Packing Co., LLC

National Cattlemen's Beef Association

National Confectioners Association

National Corn Growers Association

National Council of Farmer Cooperatives

National Foreign Trade Council

National Grain and Feed Association

National Grocers Association

National Milk Producers Federation

National Oilseed Processors Association

National Pork Producers Council

National Renderers Association

National Retail Federation

Nestlé USA

North American Equipment Dealers Association

North American Export Grain Association

North American Meat Institute

Northwest Food Processors Association

Northwest Horticultural Council

NPES The Association for Suppliers of Printing, Publishing and Converting Technologies

Peanut and Tree Nut Processors Association

Penford Products Co.

Pennsylvania Food Merchants Association

PepsiCo

Pernod Ricard USA

Pet Food Institute

Produce Marketing Association

Red Gold, Inc.

Remy International, Inc.

Retail Association of Nevada

Roquette America

Sargento Foods Inc.

The Schwan Food Company

Seaboard Foods

Smithfield Foods

Snack Food Association

Sweetener Users Association

Tate & Lyle Americas

Texas Retailers Association

Transportation Intermediaries Association

Tyson Foods, Inc.

USA Rice Federation

Unilever

United Egg Producers

United Producers, Inc.

United States Council for International Business

U.S. Chamber of Commerce

U.S. Dairy Export Council

U.S. Hide, Skin and Leather Association

U.S. Premium Beef

Wal-Mart Stores, Inc.

The Walter Bagehot Council

WineAmerica

Wine Institute

MARS
Incorporated

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June 23, 2015

The Honorable Pat Roberts
Chairman, Senate Committee on Agriculture, Nutrition and Forestry
328A Russell Senate Office Building
Washington, DC 20510

Dear Chairman Roberts,

On behalf of Mars Incorporated, I respectfully submit the following comments for the record in support of the Committee's hearing entitled "Country of Origin Labeling and Trade Relations: What's at stake for America's Farmers, Ranchers, Businesses and Consumers."

Mars is a family-owned, US-based company with more than $33 billion in sales. Founded in 1911, we have more than 72,000 associates worldwide, with over a third of those employed in the 73 factories and offices in the United States. Our company includes six business segments: Petcare, Chocolate, Wrigley, Food, Drinks, and Mars Symbioscience, operating in 43 states. We make some of the world's most iconic brands, such as Snickers ®, Juicy Fruit ®, Uncle Bens ® and Pedigree ®. We are proud to have a presence in the state of Kansas with Mars Chocolate's facility in Topeka.

Mars has been a constructive player and leader in seeking a workable solution to the dispute over COOL labeling. While we do not have a direct stake in the labeling of muscle cuts of meat at retail, we are highly likely to have products and commodities on the retaliation list. We are active in the COOL Reform Coalition, which has worked since last year to ensure that the United States complies with its WTO obligations. We have been supportive of a number of proposed solutions to COOL over the past year, but the time for consideration of alternative proposals has passed.

Retaliation by our closest trading partners would have a direct economic impact on Mars both here in the US, and on our significant business operations in Canada and Mexico. Further, we fear the long term effects that retaliation would have on myriad US based suppliers of commodities that we use for production in these countries, particularly rice and bulk chocolate. *Therefore, we respectfully ask that the Committee and the Senate move swiftly and with certainty to avoid the impending retaliation by Canada and Mexico by repealing COOL.*

Once again, we are grateful for your leadership on this important issue and we thank you for the opportunity to comment.

Sincerely,

Shannon Campagna
Mars, Incorporated

SE
SECRETARÍA DE ECONOMÍA

"2015, Año del Generalísimo José María Morelos y Pavón".

OFICINA DEL C. SECRETARIO

Oficio No. 100.2015.00708

México, D. F., a 22 de junio de 2015

THE HONORABLE PAT ROBERTS
Chairman
Committee on Agriculture, Nutrition and Forestry
United States Senate
109 Hart Senate Office Building
Washington, DC 20510

Estimado Senador Roberts,

Mientras el Comité sobre Agricultura, Nutrición y Silvicultura del Senado estadounidense se prepara para considerar el proyecto de ley que busca derogar los requisitos de etiquetado de país de origen (COOL, por sus siglas en inglés) de productos cárnicos, me permito compartir con Usted la perspectiva del Gobierno de México en este importante asunto.

El 18 de mayo de 2015, el Órgano de Apelación de la Organización Mundial del Comercio (OMC) confirmó la decisión de un panel de cumplimiento que declaró que la medida modificada de COOL continúa violando las obligaciones de EE.UU. según lo prescrito en el Acuerdo sobre Obstáculos Técnicos al Comercio y en el Acuerdo General sobre Aranceles Aduaneros y Comercio, al establecer un trato menos favorable para el ganado importado.

Esta decisión constituye la cuarta y última decisión de la OMC en contra de EE.UU. y en favor de México y Canadá sobre los requisitos establecidos por COOL para productos cárnicos. México ha solicitado formalmente a la OMC la autorización para imponer medidas de represalia. Canadá también ha presentado una solicitud similar.

Es importante resaltar que la única cuestión pendiente por parte de la OMC es la determinación del monto de las medidas de represalia para México y Canadá, más no si éstas estarán disponibles. La aplicación de represalias es inminente e inevitable, a menos que EE.UU. derogue la legislación que estableció el sistema COOL.

En general, la OMC reconoce el derecho de los países miembros para imponer requisitos de etiquetado en general, pero en este caso se ha determinado que los requisitos fueron aplicados de tal manera que discriminan en contra del ganado mexicano, lo que genera costos innecesarios que recaen únicamente sobre los exportadores mexicanos, y distorsionan un mercado que previamente estaba integrado entre los socios del TLCAN.

SE
SECRETARÍA DE ECONOMÍA

"2015, Año del Generalísimo José María Morelos y Pavón".

OFICINA DEL C. SECRETARIO

Oficio No. 100.2015.00708

México, D. F., a 22 de junio de 2015

Entendemos que en este momento algunos regímenes alternativos de etiquetado podrían estar siendo discutidos. Para tener claridad sobre el tema, la derogación total de las medidas de COOL para productos cárnicos es la única opción que resuelve esta disputa. México aplaude la aprobación de la legislación que elimina los efectos discriminatorios de COOL por parte de la Cámara de Representantes, y espera que el Senado haga lo mismo. De ser así, se pondría fin a una disputa con los dos principales socios comerciales de EE.UU. en beneficio de la industria y los consumidores de los tres países.

El Gobierno de México espera con interés la pronta resolución de este irritante comercial, con el fin de proteger los derechos de sus productores de ganado, y fomentar el empleo y la prosperidad económica en la región de América del Norte.

Sin otro particular, aprovecho la oportunidad para reiterarle las seguridades de mi más alta y distinguida consideración.

Atentamente,
El Secretario

ILDEFONSO GUAJARDO VILLARREAL

C.c.p.- Embajador Michael Froman. Representante Comercial de los Estados Unidos.
Thomas Vilsack, Secretario de Agricultura de los Estados Unidos.
Enrique Martínez y Martínez. Secretario de Agricultura, Ganadería, Desarrollo Rural, Pesca y Alimentación.
Embajador Alejandro Estivill Castro. Jefe de Cancillería. Embajada de México en los Estados Unidos de América.

COURTESY TRANSLATION

Mexico City, June 22, 2015

THE HONORABLE PAT ROBERTS
Chairman
Committee on Agriculture, Nutrition and Forestry
U.S. Senate
109 Hart Senate Office Building.
Washington, DC 20510

Dear Senator Roberts

As the Senate Committee on Agriculture, Nutrition and Forestry prepares to consider legislation to repeal U.S. mandatory country of origin labeling (COOL) requirements for meat products, I write to share with you the Government of Mexico's perspective on this important issue.

On May 18, 2015, the World Trade Organization's (WTO) Appellate Body upheld a compliance panel's decision that the U.S. COOL measure, as amended, continues to violate U.S. obligations under the WTO Agreement on Technical Barriers to Trade and the General Agreement on Tariffs and Trade by according less-favorable treatment to imported livestock.

This was the fourth and final decision by the WTO against the U.S. and in favor of Mexico's and Canada's case against the COOL requirements for meat products. Mexico has now formally requested authorization to impose retaliatory measures. Canada has made a similar request.

It is important to note that the only matter left to be determined by the WTO is the amount of retaliation available to Mexico and Canada, not whether it is an available option. Retaliation is imminent and inevitable unless and until the U.S. takes action to repeal the underlying COOL statute.

The WTO recognizes countries' rights to impose labeling requirements in general, but in the case of COOL the requirements were found to be applied in a manner that discriminates against Mexican cattle, causing unnecessary costs to be borne solely by Mexican exporters, and distorting a previously well-integrated market among the NAFTA partners.

We understand that alternative labeling regimes may be under consideration. To be clear, repeal of the COOL measure for meat products is the only option that will resolve this dispute. Mexico applauds the U.S. House of Representatives for approving legislation to eliminate COOL's discriminatory effects and hopes the Senate will take similar action. Doing so would put an end to a needless dispute with the U.S. top two trading partners, to the benefit of industry and consumers in all three countries.

The Mexican government looks forward to the prompt resolution of this important trade issue in order to protect our farmers and ranchers, and maintain jobs and economic prosperity throughout North America.

Sincerely

Secretary of Economy

C.c. Ambassador Michael Froman. U.S. Trade Representative.
Thomas Vilsack, U.S. Department of Agriculture.
Enrique Martinez y Martinez. Secretary of Agriculture, Livestock Rural Development, Fisheries and Food
Ambassador Alejandro Estivill Castro. Deputy Chief of Mission, Embassy of Mexico.

NATIONAL ASSOCIATION OF Manufacturers

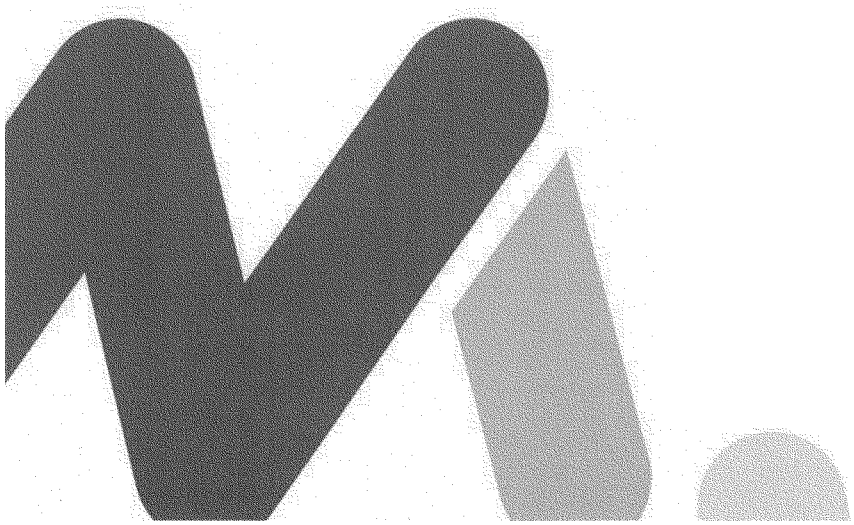
Leading Industries, Creating Opportunity, Powering Progress

Statement for the Record

National Association of Manufacturers
733 10th Street, NW, Suite 700
Washington, DC 20001

Senate Committee on Agriculture
on "Country of Origin Labeling and Trade Retaliation: What's at Stake for America's Farmers, Ranchers, Businesses, and Consumers"

June 25, 2015



Statement for the Record

Senate Committee on Agriculture

**Country of Origin Labeling and Trade Retaliation:
What's at Stake for America's Farmers,
Ranchers, Businesses, and Consumers**

June 25, 2015

The National Association of Manufacturers (NAM) is pleased to provide the following statement to the Senate Committee on Agriculture on "Country of Origin Labeling and Trade Retaliation: What's at Stake for America's Farmers, Ranchers, Businesses, and Consumers."

The NAM is the nation's largest industrial association and voice for more than 12 million women and men who make things in America. Manufacturing in the U.S. supports more than 17 million jobs, and in 2014, U.S. manufacturing output reached a record of nearly $2.1 trillion. It is the engine that drives the U.S. economy by creating jobs, opportunity and prosperity. The NAM is committed to achieving a policy agenda that helps manufacturers grow and create jobs. Manufacturing has the biggest multiplier effect of any industry and manufacturers in the United States perform more than three-quarters of all private-sector R&D in the nation – driving more innovation than any other sector.

The NAM is also submitting this statement as co-chair of the COOL Reform Coalition,[1] along with the U.S. Chamber of Commerce. Launched over a year ago, the COOL Reform Coalition includes companies and associations from across the U.S. economy, including a variety of manufacturing sectors, which advocate for U.S. compliance with the international obligations it has undertaken in the World Trade Organization (WTO) agreements.

U.S. manufactured exports are a critical source of growth for manufacturing and other industries throughout all 50 states. U.S. manufactured goods exports reached their highest level ever last year, totaling $1.4 trillion, which supports millions of U.S. jobs. That growth has been supported over the past decades by the creation of the WTO and other market opening trade agreements, under which the United States and other nations agreed to reduce tariff and non-tariff barriers.

The United States' continued failure to bring the Country-of-Origin Labeling (COOL) rules for muscle cuts of meat into compliance with its WTO obligations is threatening U.S. manufactured goods exports to our two largest trading partners, Canada and Mexico. The COOL rules, which were put in place more than six years ago, have already been found out of compliance with the WTO obligations that the United States itself helped create – not just once, but four times, including most recently on May 18.

With the threat of retaliation looming for our nation's manufacturers, we and the COOL Reform Coalition urge that Congress move quickly to avoid retaliation by eliminating these WTO-inconsistent provisions.

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[1] www.COOLReform.com

I. Background on the COOL Dispute

The challenge before us is not a new one. Indeed, it has been more than six years in the making, with attempts to impose COOL rules on muscle cuts of meat found to be out of compliance with international rules time and again.

The 2002 farm bill, subsequently amended by the 2008 farm bill, established U.S. Mandatory COOL rules that require most retailers to provide country-of-origin labeling for fresh fruits and vegetables, fish, nuts, meat and poultry, among other products. These provisions were implemented through an Interim Final Rule of the U.S. Department of Agriculture on July 28, 2008.

Less than five months later, Canada challenged the rule for muscle cuts of meat at the WTO, arguing that COOL has a trade-distorting impact by reducing the value and number of cattle and hogs shipped to the U.S. market. Mexico joined the complaint soon thereafter.

In November 2011, the WTO dispute settlement panel established to review the complaint found that the COOL rule violated U.S. commitments under the WTO Technical Barriers to Trade (TBT) Agreement because the rule treats imported Canadian cattle and hogs, and imported Mexican cattle, less favorably than domestic livestock. The United States appealed this ruling in March 2012 to the WTO Appellate Body. The WTO Appellate Body ruled in June 2012 and also found that the COOL rule violated U.S. obligations not to discriminate in its technical regulations.

The United States requested a reasonable period of time to bring the rule into international compliance and the U.S. Department of Agriculture published revised rules nearly a year after the WTO Appellate Body ruling in May 2013. The Canadian and Mexican governments objected to the revised rules, and in August 2013 sought yet another review – a so-called compliance panel – to determine whether the revised COOL rule was WTO compliant.

In October 2014, the WTO compliance panel report found the United States to be in continued violation of its WTO obligations under the TBT Agreement, but also in violation of the basic GATT 1994 agreement for discriminating against products imported into the United States. In fact, the WTO compliance panel found that the revised rule was even more discriminatory than the earlier version by requiring additional segregation. The United States appealed the decision in December, and the WTO ruled against the United States on May 18.

As a result, both Canada and Mexico may be authorized to retaliate against billions of dollars of U.S. exports. Earlier this month, Canada requested retaliatory measures of $2.5 billion against the United States, and Mexico announced that it is seeking $713 million in retaliatory measures. It is expected that WTO arbitration proceedings to authorize retaliatory levels will begin June 29, and that a final decision will be announced by August 28.

II. Impact of Retaliation on U.S. Exports, Industries and Jobs

This past year, the NAM and U.S. Chamber of Commerce joined with other broad industry groups and individual companies to form the COOL Reform Coalition to urge action to avoid WTO-authorized retaliation on a wide variety of U.S. non-agricultural exporting industries.

Canada and Mexico are by far the United States' largest export markets, and purchased a record $485 billion in manufactured goods in 2014. Those exports support millions of U.S.

jobs. WTO-authorized retaliation by two of the largest U.S. trading partners could result in more than $3 billion in tariffs affecting multiple sectors of the U.S. economy, threatening the livelihoods of American families.

Canada has put forward a proposed retaliatory list.[2] The list includes agricultural products such as beef, pork, cheese and fresh fruit. But the impact would be much broader: steel pipes, heating appliances, office furniture and mattresses are among the manufacturing products on the proposed list.

Mexico has not set forth what products could be included on its list. But the impact on U.S. companies is expected to be severe, if history serves as our guide. Mexico imposed tariffs as high as 45 percent on 99 U.S. products after a North American Free Trade Agreement (NAFTA) dispute settlement panel sided with Mexico on a dispute over cross-border trucking in March 2009. More than $2.5 billion of U.S. exports to Mexico were affected, resulting in lost sales and lost jobs. Agricultural and manufactured goods were both listed on Mexico's trucking retaliation list, ranging from potatoes, pork, cheese and red wine to office equipment and home appliances (refrigerators, dish washers, washing machines).[3] Many companies reported that once they lost sales to Mexico because of the retaliatory tariffs, they lost that customer for the foreseeable future. Those lost sales were devastating to businesses, workers and their communities across the U.S. economy.

Even before retaliation is in place, U.S. exporters will lose sales, as we did during the cross-border trucking dispute with Mexico. Just as in the United States, customers oftentimes plan months in advance and once a decision is made will seek to import from countries that are not targeted for retaliation. As a result, America's exporters will start losing sales immediately, even if we allow a brief period of non-compliance after final adjudication.

As well, there are broader systemic concerns. The dispute is also about U.S. international leadership and whether the United States will meet the international obligations that it has voluntarily undertaken – and indeed created – as a founding member of the WTO.

Since the WTO was created in 1995, there have been about 490 complaints. The United States has brought over 113 complaints, most of which it has won or favorably settled. The United States has been the respondent in over 140 cases, of which it has been found out of compliance in about a third of the cases.[4]

It is very much in the long-term economic interests of the United States to live by the rules of the international trading system and to ensure that other countries do the same. The United States led the world in writing these rules first in the General Agreement on Tariffs and Trade (or GATT) in 1947 and then with the creation of the WTO in 1995, where binding dispute settlement was a primary U.S. objective.

Enforcement of the rules-based trading system has helped American workers, farmers, and manufacturing companies secure access to overseas markets and grow exports and jobs in the United States. From barriers to grain in the European Union, shelf life restrictions in Korea to

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[2] http://www.international.gc.ca/media_commerce/comm/news-communiques/2013/06/07a.aspx?lang=eng
[3] http://www.trade.gov/mas/ian/build/groups/public/@tg_ian/documents/webcontent/tg_ian_002692.pdf
[4] *See* Office of the United States Trade Representative (USTR), "Snapshot of WTO Cases Involving the United States" (May 22, 2014), https://ustr.gov/sites/default/files/Snapshot%20May.pdf.

automotive restrictions, discriminatory taxes, and raw material and rare earth export restrictions in China, the WTO dispute settlement system is vital to America's access to world markets.

As explained in the NAM's recent report, ***Trading up with TPA***,[5] growing U.S. manufacturing exports to win more of the nearly $12 trillion in annual world trade in manufactured goods will provide substantial new opportunities to our nation's manufacturers and help sustain and grow American jobs. To be successful globally, our exporters need a respected and enforced global trade system. If countries, including the United States, do not live up to their obligations, the system will be weakened and our exporters will face even more onerous barriers.

III. Conclusion

The NAM's primary objective, as a co-chair of the COOL Reform Coalition, has always been to avoid retaliation by Canada and Mexico and to prevent a loss of export sales by our nation's manufacturers. In that capacity, we have urged Congress to create a process to be able to quickly bring the U.S. into compliance with its international obligations by a final ruling. Congress has not acted.

With the threat of retaliation looming for our nation's manufacturers as early as August, time has run out. The NAM and the COOL Reform Coalition urge Congress to bring the United States back into compliance with its WTO obligations fully and quickly through the repeal of these WTO-inconsistent provisions. The NAM, therefore, strongly supports H.R. 2393, the Country of Origin Labeling (COOL) Amendments Act of 2015, which passed the House June 10 by a vote of 300 to 131 and would repeal the problematic COOL provisions.

In passing this legislation, the House took a critical first step toward bringing the United States back into compliance with its international obligations regarding COOL after years of inaction. With manufacturers targeted for retaliation from our two largest trading partners, it's now up to the Senate to pass legislation that can avoid retaliation.

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[5] NAM, *Trading up with TPA: Manufacturers Need New Trade Agreements for Jobs, Growth and Competitiveness* (February 2015), http://www.nam.org/Data-and-Reports/Reports/Trading-Up-With-TPA-(Full-Report).pdf.

Written Testimony Of
National Pork Producers Council

On

Country of Origin Labeling

United States Senate
Committee on Agriculture, Nutrition and Forestry

June 25, 2015

Introduction

The National Pork Producers Council (NPPC) is an association of 43 state pork producer organizations that serves as the voice in Washington. D.C., for the nation's pork producers. The U.S. pork industry represents a significant value-added activity in the agriculture economy and the overall U.S. economy. Nationwide, more than 68,000 pork producers marketed more than 112 million hogs in 2013, and those animals provided total gross receipts of $23.4 billion. Overall, an estimated $22.3 billion of personal income and $39 billion of gross national product are supported by the U.S. hog industry. Economists Daniel Otto, Lee Schulz and Mark Imerman at Iowa State University estimate that the U.S. pork industry is directly responsible for the creation of more than 37,000 full-time equivalent pork producing jobs and generates about 128,000 jobs in the rest of agriculture. It is responsible for approximately 102,000 jobs in the manufacturing sector, mostly in the packing industry, and 65,000 jobs in professional services such as veterinarians, real estate agents and bankers. All told, the U.S. pork industry is responsible for nearly 550,000 mostly rural jobs in the United States. The U.S. pork industry today provides 23 billion pounds of safe, wholesome and nutritious meat protein to consumers worldwide.

The U.S. Pork Industry is Dependent on Exports

Exports add significantly to the bottom line of each U.S. pork producer. U.S. exports of pork and pork products totaled 2.2 million metric tons in 2014, representing more than 26 percent of U.S. production, and those exports add more than $62 to the value of each hog marketed. Exports supported about 110,000 jobs in the U.S. pork and allied industries.

Mexico and Canada are the second and third largest foreign markets, respectively, for U.S. pork, with exports in 2014 totaling $1.6 billion and $905 million, respectively. U.S. exports to Canada since the implementation of the U.S.-Canada Free Trade Agreement in 1989 have grown by more than 20 times, while pork exports to Mexico since NAFTA in 1994 have grown by more than 12 times.

The U.S. pork industry and its allied industries cannot afford to have these exports disrupted. The loss of the Mexican and Canadian markets, valued at more than $2.5 billion, could cost more than 20,000 non-farm jobs. But those losses are only the ones related to pork exports.

COOL Jeopardizes U.S. Exports

Unfortunately, the U.S. pork industry and likely dozens of other sectors of the U.S. economy soon will suffer from restrictions – through tariffs – on their exports to Canada and Mexico. Those countries will impose the tariffs in response to the U.S. Country-of-Origin Labeling (COOL) law, which requires meat to be labeled with the country where the animal from which it was derived was born, raised and harvested. (It also applies to fish, shellfish, fresh and frozen fruits and vegetables and certain nuts.)

The World Trade Organization (WTO) has ruled that the meat labeling provisions of COOL violate international trade rules. Because the WTO does not and could never have an enforcement arm, sanctioned retaliation tailored to bring rights and obligations back into balance is the only permissible recourse to address trade measures that have been judged not to comply with internationally accepted rules if nations do not act to bring those measures into compliance.

Retaliation could result in a devastating blow to tens of thousands of people in the U.S. pork sector and others. Canada has published a list[1] of more than three dozen categories of products that could be hit. Mexico has not yet made public its list, but U.S. experience with retaliation by Mexico, resulting from its successful challenge to the U.S. ban on Mexican trucking, suggests that it will be at least as long as, and likely quite similar to, the trucking retaliation list, which included 99 products. It has been rumored that Mexican importers are already looking for alternative sources of supply for products on the list. There is no way the United States can compete with products from other countries when U.S. products are subject to steep retaliatory duties.

Regrettably for the U.S. pork industry, pork is on Canada's target list and likely will be on Mexico's. Because COOL applies to agricultural products, retaliation likely will fall heavily on U.S. agriculture. If the situation were reversed, the United States would retaliate against imported products in the same sector. When the European Union refused to lift its illegal ban on imports of U.S. beef in the hormone dispute, the United States retaliated against European food products. But that dispute, involving trade of $93 million[2], pales in comparison with the COOL case in terms of the scope of retaliation involved.

Because the damage to U.S. exports will be multiplied across the economy, the economic effect will greatly exceed whatever retaliation is ultimately authorized by the WTO and will hurt many Americans who had nothing to do with implementing the COOL law. Not only will innocent bystanders be harmed, the economy as a whole will suffer. Economist Dermot Hayes of Iowa State University calculates that the effect of $2 billion in retaliation would be 17,000 lost U.S. jobs. Retaliation of $4 billion would double this figure. (Estimates of state-by-state job losses are contained in Attachment 1.)

The U.S. Commerce Department recently reported[3] that nearly 30 percent of gross domestic product (GDP) growth over the past five years has been the result of export growth. Moreover, two of the three export markets that contributed the most to this export growth are Canada and Mexico. Retaliation by them would needlessly put a brake on an element of the U.S. economy that has been performing well.

Background

COOL became effective Sept. 30, 2008, under an interim final rule published by USDA. USDA published a final rule with several changes to the interim final rule in January 2009, and the final rule took effect March 16 of that year.

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[1] http://www.international.gc.ca/media_commerce/comm/news-communiques/2013/06/07a.aspx?lang=eng

[22] Congressional Research Service Report R40449

[3] "The Role of Exports in the United States Economy" The U.S. Department of Commerce, May 13, 2014

The following table provides an overview of the rule and its complexity with respect to determining the appropriate label at the retail level.

Muscle Cuts & Ground Meat Categories	COOL Statutory Definition	AMS Final Rule (January 2009)	COOL Label at Retail Level
UNITED STATES COUNTRY OF ORIGIN [Category A or Label A]	"beef [or] ... pork ... derived from an animal that was ... exclusively born, raised, and slaughtered in the United States"	For beef and pork, means: "(1) From animals exclusively born, raised, and slaughtered in the United States; (2) From animals born and raised in Alaska or Hawaii and transported for a period of not more than 60 days through Canada to the United States and slaughtered in the United States; ..	Product of the US(A)
MULTIPLE COUNTRIES OF ORIGIN [Category B or Label B]	"beef [or] ... pork ... derived from an animal that is— (i) not exclusively born, raised and slaughtered in the United States; (ii) born, raised or slaughtered in the United States; and (iii) not imported into the United States for immediate slaughter"	For muscle cuts of beef and pork "derived from animals that were born in Country X or (as applicable) Country Y, raised and slaughtered in the United States, and were not derived from animals imported for immediate slaughter [defined as "consignment directly from the port of entry to a recognized slaughtering establishment and slaughtered within 2 weeks from the date of entry"], the origin may be designated as Product of the United States, Country X, and (as applicable) Country Y." For muscle cuts of beef and pork "derived from animals born, raised, and slaughtered in the U.S. that are commingled during a production day with muscle cuts [of beef and pork from animals born outside the U.S., raised and slaughtered in the U.S., and not imported for immediate slaughter], the origin may be designated as Product of the United States, Country X, and (as applicable) Country Y." For muscle cuts of beef and pork "derived from animals that are born in Country X or Country Y, raised and slaughtered in the United States, that are commingled during a production day with muscle cut[s of beef and pork] derived from animals that are imported into the United States for immediate slaughter ..., the origin may be designated as Product of the United States, Country X, and (as applicable) Country Y." "In each case, the countries may be listed in any order. In addition, the origin declaration may include more specific information related to production steps provided records to substantiate the claims are maintained and the claim is consistent with other applicable Federal legal requirements."	Product of the US, Country X and Country Y (if applicable)
IMPORTED FOR IMMEDIATE SLAUGHTER [Category C or Label C]	"beef [or] ... pork ... derived from an animal that is imported into the United States for immediate slaughter"	"If an animal was imported into the United States for immediate slaughter [defined as "consignment directly from the port of entry to a recognized slaughtering establishment and slaughtered within 2 weeks from the date of entry"], the origin of the resulting [beef and pork] derived from that animal shall be designated as Product of Country X and the United States."	Product of Country X, US
FOREIGN COUNTRY OF ORIGIN [Category D or Label D]	"beef [or] ... pork ... derived from an animal ... not born, raised, or slaughtered in the United States"	"Imported [beef and pork] for which origin has already been established as defined by this law (e.g., born, raised, and slaughtered or produced) and for which no production steps have occurred in the United States, shall retain their origin, as declared to U.S. Customs and Border Protection at the time the product entered the United States, through retail sale."	Product of X

GROUND BEEF OR PORK	"notice ... for ground beef, ground pork ... shall include a list of all [or] ... all reasonably possible countries of origin of such ground beef, ground pork, ..."	"The declaration for ground beef, ground pork ... shall list all countries of origin contained therein or that may be reasonably contained therein. In determining what is considered reasonable, when a raw material from a specific origin is not in a processor's inventory for more than 60 days, that country shall no longer be included as a possible country of origin."	Product of US, Country X, [and as applicable] Country Y, Country Z

Source: Congressional Research Service Report RS22955

Canada and Mexico initiated separate dispute settlement cases in December 2008, and the cases were combined in May 2010 because of the similarity of the claims. (See Attachment 2 for a timeline of actions in the case. A summary of key findings by various WTO bodies can be found in Attachment 3 and at www.wto.org/english/tratop_e/dispu_e/cases_e/ds384_e.htm.)

In short, Canada and Mexico stated that they were not challenging mandatory country-of-origin labeling as such; they were arguing that COOL requirements, as implemented, act as a protectionist trade barrier that distorts competition between imported and domestic meat products. A major complaint involved the reservation of the "Product of the United States" label for animals that were born, raised and slaughtered in the United States. They argued that this unfairly denied the use of that label to products from animals that were exported to the United States at a young age and subsequently raised and slaughtered in the United States. Mexico pointed out that 70 percent of the weight and value of the feeder cattle it exports to the United States is added within U.S. territory.

In July 2012, the WTO ruled against the United States, with the WTO Appellate Body finding that COOL "does not impose labelling requirements for meat that provide consumers with origin information commensurate with the type of origin information that upstream livestock producers and processors are required to maintain and transmit." The United States then attempted to come into compliance with the ruling by amending the regulation and requiring the industry to provide more information. USDA issued the revised COOL rule in May 2013; it became effective in November 2013. (The table below compares the 2009 and 2013 rules.)

Category	2009 Label	2013 Label
A (U.S.)	Product of the United States	Born, Raised, and Slaughtered in the United States
B (Multiple)	Product of the United States and X; or, Product of the United States, X, and Y	Born in X, Raised and Slaughtered in the United States; or, Born in X, Raised in Y, Slaughtered in the United States
C (Immediate Slaughter)	Product of X and the United States	Born and Raised in X, Slaughtered in the United States
D (Foreign)	Product of X	Product of X
Commingled (A) + (B)	Product of the United States and X	Prohibited
Commingled (B) + (C)	Product of the United States and X; or Product of X and the United States	Prohibited

In August 2013, Canada and Mexico formally initiated WTO compliance proceedings to challenge USDA's amended COOL rule. Canada and Mexico stated that, like its predecessor, the new regulation discriminates against meat products derived from livestock from their respective countries and, therefore, violates WTO rules.

A WTO compliance panel Oct. 20, 2014, agreed with most of the Canadian and Mexican claims, finding that the amended COOL rule "accords imported [Canadian and Mexican] livestock treatment less favorable than that accorded to like domestic livestock." The United States subsequently appealed that ruling, and the WTO Appellate Body May 18, 2015, rejected the U.S. appeal.

Retaliation is Imminent

The WTO's May 18 rejection of the U.S. appeal allowed Canada and Mexico to seek authorization to place retaliatory tariffs on U.S. products going into their respective country.

Canada is asking for $3.1 billion (Canadian dollars, or about $2.4 billion U.S. dollars) a year in retaliatory tariffs against U.S. imports, and Mexico is seeking $713 million in retaliation. The United States has asked the WTO for arbitration on those amounts – and the international trade body ultimately will decide the actual number – but the total retaliation still is likely to be close to $3 billion.

The United States now has had four WTO rulings that COOL does not comply with international trade rules, with which the United States agreed to abide when it joined the WTO and with which it – rightly so – insists other countries comply.

While it's possible that Congress, which gets only about 5 percent of its thousands of bills enacted into law each year, could craft a COOL statute that U.S. trade lawyers agree is WTO legal, the United States would need to file a separate proceeding with the WTO to get that determination, a process that could take as much as two years. During that time, Canada's and Mexico's retaliatory tariffs would remain in place.

It has been suggested that COOL be made voluntary for meat, with mandated segregation of livestock in order to qualify for the voluntary label. Canada and Mexico – which have rejected voluntary labeling which mandates segregation of livestock in order to gain a voluntary designation– have indicated they would press forward with retaliation if Congress adopts such an approach to labeling. Indeed, Canadian Minister of Agriculture Gary Ritz has said that "legislative repeal of COOL is the only approach" that will stop Canada from retaliating. "Retaliation is imminent and inevitable unless and until the U.S. takes action to repeal the underlying COOL statute," according to Mexican Secretary of Economy Ildefonso Villarreal. Said John Masswohl, with the Canadian Cattlemen's Association, at a recent panel discussion on COOL and retaliation, "There's not a whole lot of time. ... We're here to seek repeal ... if the Senate thinks that there's a middle path on this, that's a very risky strategy to move forward."

In fact, the WTO could authorize retaliation as early as late August, a prospect made more likely with the recent appointment of a WTO arbitration panel consisting of the same members of the WTO appellate body that rejected the U.S. appeal.

The bottom line for the U.S. pork industry – and, no doubt, many other sectors of the U.S. economy – is: Nothing now can stop retaliation from being imposed except repeal of the COOL labeling provisions for beef, chicken and pork.

Cost of Retaliation Not Worth the Insignificant Benefits from COOL

So what does the United States gain from COOL?

- COOL imparts no useful health or safety information to consumers. No health or safety rationale for COOL ever has been advanced by USDA, because, quite simply, there is none. Imported meat products already are subject to the same strict sanitary requirements applied to domestically produced meat.

- COOL imposes additional costs on processors that are passed onto consumers. Moreover, the need for the Department of Agriculture to ensure compliance means COOL adds costs to the taxpayer. USDA's analysis of its final rule estimated first-year implementation costs to be approximately $2.6 billion for those affected. Of the total, each commodity producer would bear an average estimated cost of $370, intermediary firms (such as wholesalers or processors) $48,219 each and retailers $254,685 each.[4] When USDA announced the modification of the COOL rule in May 2013 in a vain effort to comply with the adverse WTO ruling, it said that change in the regulation alone would cost an estimated $123.3 million, with a range of $53.1 million to $192.1 million, and that 33,350 establishments owned by 7,181 firms would be either directly or indirectly affected by the new rule. Of those establishments/firms, USDA estimated that 6,849 qualified as small businesses.[5]

- COOL has caused trade tensions with two of the largest trading partners of the United States, and now it appears that retaliation by them will result in significant additional costs to the U.S. economy in lost exports and jobs.

U.S. Agriculture Has Seen This Movie Before

U.S. agriculture – and other U.S. industries – have experienced the pain of retaliation before.

In March 2009, after Congress cancelled a Cross-Border Trucking Demonstration Program that was in place to meet U.S. obligations under the North American Free Trade Agreement (NAFTA), Mexico announced it would retaliate against the United States. The action was taken as a result of a ruling by a neutral NAFTA dispute settlement panel, which found that the U.S. trucking restrictions were in breach of NAFTA. The Mexico placed tariffs on 89 different U.S. products, ranging from agriculture goods (pork, apples, soups and sauces, cheese, pears, pet food, potatoes, nuts, almonds, strawberries, onions, pistachios, peanuts, wine and various other fruits and vegetables) to manufactured goods, such as jewelry and skin-care products. These totaled $2.4 billion (2008 value) in U.S. exports.

Mexico revised the list of affected products Aug. 18, 2010, and raised the number of products to 99 valued at $2.03 billion (2009 value), with tariffs ranging from 5 to 25 percent. Sixteen products were dropped from the original list and 26 products were added to the revised list. This "carrousel" form of retaliation added additional uncertainty to markets and further harm to affected U.S. producers.

Perhaps no U.S. sector was hit as hard as the potato industry, which saw immediate losses in market share to Canada and prices to growers plummet. Potato producers learned the hard

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[4] Congressional Research Service RS22955

[5] http://www.gpo.gov/fdsys/pkg/FR-2013-05-24/pdf/2013-12366.pdf

way that once a market is lost to competitors, it's hard and takes time to recapture. Sometimes a market is lost for good.

The United States and Mexico in July 2011 signed a formal agreement, allowing Mexican trucks to operate in the United States as part of a new pilot program, which resulted in the Mexican government phasing out the retaliatory tariffs.

Conclusion

The United States has been the global leader in the creation of both a rules-based global trading system and a dispute settlement process within that system that is fair and balanced. The rules COOL has been found to violate are those the United States helped write and those the United States demands other countries abide by in their treatment of U.S. exports.

The United States is quick to applaud when panels find in its favor and quick to insist that U.S. trading partners bring offending measures into conformity with those rules.

The United States should be equally quick to do so itself.

Congress must repeal the offending parts of the statue to bring the United States into compliance with WTO rules. Congress should not allow retaliation against pork producers and other sectors of the U.S. economy.

Attachment 1

Estimated American Job Losses Due to Retaliation for COOL by Canada and Mexico

	Job Losses from $2 Billion Retaliation	Job Losses from $4 billion in Retaliation
Alabama	108	215
Alaska	0	0
Arizona	874	1749
Arkansas	130	260
California	828	1657
Colorado	230	460
Connecticut	141	283
Delaware	24	48
Florida	93	186
Georgia	227	454
Hawaii	1	2
Idaho	79	158
Illinois	406	812
Indiana	828	1657
Iowa	598	1197
Kansas	418	837
Kentucky	74	148
Louisiana	598	1197
Maine	34	68
Maryland	135	270
Massachusetts	307	614
Michigan	1473	2945
Minnesota	245	491
Mississippi	204	409
Missouri	287	573
Montana	14	28
Nebraska	437	874
Nevada	79	157
New Hampshire	74	147
New Jersey	249	497
New Mexico	44	88
New York	367	734
North Carolina	226	452
North Dakota	163	326
Ohio	460	920
Oklahoma	81	162
Oregon	63	125
Pennsylvania	382	764
Rhode Island	22	44
South Carolina	224	447
South Dakota	158	317

Tennessee	448	896
Texas	4234	8468
Utah	99	198
Vermont	52	104
Virginia	152	305
Washington	333	666
West Virginia	9	18
Wisconsin	283	565
Wyoming	4	8
Total	17000	34000

Source: Dr. Dermot Hayes, Iowa State University
Based on trade in products likely to be included in Canada's and Mexico's retaliation lists, as determined by the COOL Coalition.

Attachment 2

Major COOL Developments & WTO Dispute Settlement Case

May 13, 2002	COOL provisions are enacted in the 2002 farm bill to take effect on September 30, 2004 (P.L. 107-171, §10816).
October 30, 2003	USDA's Agricultural Marketing Service (AMS) publishes in the Federal Register the proposed rule on COOL. The comment period, initially to close December 29, 2003, is extended to February 27, 2004.
January 23, 2004	Implementation of COOL for covered commodities except fish and shellfish is delayed until September 30, 2006, per enactment of the FY2004 omnibus appropriations act (P.L. 108-199, Division A, §749).
October 5, 2004	AMS publishes in the Federal Register the interim final rule on COOL for fish and shellfish.
April 4, 2005	COOL labeling for fish and shellfish takes effect.
November 10, 2005	Implementation of COOL for all other covered commodities is delayed until September 30, 2008, per enactment of the FY2006 agriculture appropriations act (P.L. 109-97, §792).
May 22, 2008	Amendments to the 2002-enacted COOL provisions become law in the 2008 farm bill (P.L. 110-246, §11002), to take effect on September 30, 2008.
August 1, 2008	AMS publishes in the Federal Register the interim final rule to implement COOL for all covered commodities except fish and shellfish, to take effect on September 30, [illegible]
December 16, 2008	Canada, joined by Mexico, holds consultations on COOL with the United States.
January 15, 2009	AMS publishes the final rule to implement COOL for all covered commodities, to take effect on March 16, 2009.
February 20, 2009	Secretary of Agriculture sends letter to meat and food industry representatives urging the voluntary adoption of three labeling changes.
March 16, 2009	COOL's final rule for all covered commodities takes effect.
June 5, 2009	Canada holds consultations with the United States to resolve differences on COOL.
October 7, 2009	Canada requests the establishment of a World Trade Organization (WTO) dispute settlement (DS) panel to consider its complaint on the U.S. COOL program. Mexico follows with a comparable request on October 9.
November 19, 2009	WTO establishes a DS panel to consider complaints made by Canada and Mexico on the U.S. COOL program.
November 18, 2011	WTO DS panel releases final report that concludes that some features of U.S. COOL discriminate against foreign livestock and are not consistent with U.S. WTO trade obligations.
March 23, 2012	The United States appeals the WTO DS panel's conclusions.
March 28, 2012	Canada and Mexico also appeal some of the DS panel's conclusions.
June 29, 2012	The WTO's Appellate Body (AB) issues its report, upholding the DS panel finding that U.S. COOL does not favorably treat imported livestock but reversing the other finding that COOL does not provide sufficient information to consumers on the origin of meat products.
July 10, 2012	Canada, Mexico, and the United States withdraw consideration of the AB report from the Dispute Settlement Body (DSB) agenda to provide more time to consult on the 90-day reporting requirement that was missed by the AB.
July 23, 2012	WTO's DSB adopts the AB report and the DS panel report, as modified by the AB report.
August 22, 2012	30-day deadline for the United States to inform the DSB about how it plans to implement the WTO findings.

August 31, 2012	United States informs the DSB that it intends to comply with the WTO recommendations and rulings, and states its need for a "reasonable period of time" to do so.
October 4, 2012	With Canada, Mexico, and United States unable to agree on what a reasonable period of time should be and on who the arbitrator should be, the WTO's Director appoints an arbitrator to determine this.
December 4, 2012	WTO's arbitrator announces his determination that the "reasonable amount of time" for the United States to implement the DSB's recommendations and rulings is 10 months from when the AB and DS panel reports were adopted (i.e., May 23, 2013).
March 12, 2013	AMS issues a proposed rule to modify certain COOL labeling requirements for muscle-cut commodities to bring them into compliance with WTO's findings and to improve the COOL program's overall operation.
April 11, 2013	Deadline for interested parties to submit comments to AMS on proposed COOL rule.
May 23, 2013	Deadline for the United States to comply with the WTO's findings on U.S. COOL.
May 24, 2013	At the DSB meeting, the United States notifies that it had complied with the WTO findings on COOL by issuing a final rule on May 23. No compliance proceeding was initiated by Canada or Mexico.
June 7, 2013	Canada releases an itemized tariff list of products that could be targeted in a retaliatory action against the United States.
July, August, September 2013	In July, U.S., Canadian, and Mexican meat industry organizations file suit against USDA to block the May 2013 COOL rule. They file a motion for a preliminary injunction against implementing the rule in August. In September, the District Court for the District of Columbia denies the group's request to halt the implementation of the COOL rule.
August 19, 2013	Canada and Mexico notify the DSB that they will request the establishment of a compliance panel at the August 30 meeting of the DSB.
August 30, 2013	The United States objects to the establishment of a compliance panel. The request will be made again at the September DSB meeting on September 25, and the United States will not be able to object to its formation.
September 27, 2013	The DSB selects the members of the compliance panel, the same members that served earlier on the COOL dispute settlement panel.
February 18-19, 2014	The WTO's compliance panel hears the COOL case.
October 20, 2014	The WTO releases the compliance panel report. Parties have 60 days to appeal.
November 28, 2014	The United States appeals the findings of the compliance panel report.
February 16-17, 2014	Appellate Body hears the U.S. appeal of the compliance panel report.
May 18, 2015	Expected date of Appellate ruling on the U.S. appeal.

Main source: Congressional Research Service RS22955

Attachment 3

WTO Summary of Key Findings of the Dispute Settlement Panel, the Appellate Body
And the Compliance Panel

Summary of key findings of the initial dispute settlement panel report, November 18, 2011:

This dispute concerns: (i) the U.S. statutory provisions and implementing regulations setting out the United States' mandatory country of origin labelling regime for beef and pork ("COOL measure"); as well as (ii) a letter issued by the U.S. Secretary of Agriculture Vilsack on the implementation of the COOL measure ("Vilsack letter").

The Panel determined that the COOL measure is a technical regulation under the TBT Agreement, and that it is inconsistent with the United States' WTO obligations. In particular, the Panel found that the COOL measure violates Article 2.1 of the TBT Agreement by according less favorable treatment to imported Canadian cattle and hogs than to like domestic products. The Panel also found that the COOL measure does not fulfil its legitimate objective of providing consumers with information on origin, and therefore violates Article 2.2 of the TBT Agreement.

As regards the Vilsack letter, the Panel found that the letter's "suggestions for voluntary action" went beyond certain obligations under the COOL measure, and that the letter therefore constitutes unreasonable administration of the COOL measure in violation of Article X:3(a) of the GATT 1994. The Panel refrained from reviewing the Vilsack letter under the TBT Agreement, as it found that this letter is not a technical regulation under that agreement.

In light of the above findings of violation, the Panel did not consider it necessary to rule on the claims under Article III:4 of the GATT 1994 (national treatment) or on the non-violation claims under Article XXIII:1(b) of the GATT 1994.

Summary of key findings of the Appellate Body Regarding the U.S Appeal of the Panel Report

The appeal concerned primarily the COOL measure (the US statutory provisions and implementing regulations setting out the United States' mandatory country of origin labelling regime for beef and pork), and the Panel's findings that this measure is inconsistent with Articles 2.1 and 2.2 of the TBT Agreement. The United States appealed both findings. Canada appealed certain aspects of the Panel's analysis under Article 2.2, and requested the Appellate Body to complete the legal analysis in the event that it reversed the Panel's finding under Article 2.2. Canada also raised conditional appeals with respect to the COOL measure under Articles III:4 and XXIII:1(b) of the GATT 1994. Although Canada originally also sought to have the Appellate Body make certain rulings with respect to the Vilsack letter, Canada withdrew these requests following the United States' assertion that this measure had been withdrawn.

The Appellate Body upheld, albeit for different reasons, the Panel's finding that the COOL measure violates Article 2.1 of the TBT Agreement by according less favorable treatment to imported Canadian cattle and hogs than to like domestic cattle and hogs. The Appellate Body reversed the Panel's finding that the COOL measure violates Article 2.2 of the TBT Agreement because it does not fulfil its legitimate objective of providing consumers with information on origin, and was unable to complete the legal analysis and determine whether the COOL measure is more trade restrictive than necessary to meet its objective.

In its analysis under Article 2.1 of the TBT Agreement, the Appellate Body agreed with the Panel that the COOL measure has a detrimental impact on imported livestock because its recordkeeping and verification requirements create an incentive for processors to use exclusively domestic livestock, and a disincentive against using like imported livestock. The Appellate Body found, however, that the Panel's analysis was incomplete because the Panel did not go on to consider whether this de facto detrimental impact stems exclusively from a legitimate regulatory distinction, in which case it would not violate Article 2.1.

In its own analysis, the Appellate Body found that the COOL measure lacks even-handedness because its recordkeeping and verification requirements impose a disproportionate burden on upstream producers and processors of livestock as compared to the information conveyed to consumers through the mandatory labelling requirements for meat sold at the retail level. That is, although a large amount of information must be tracked and

transmitted by upstream producers for purposes of providing consumers with information on origin, only a small amount of this information is actually communicated to consumers in an understandable or accurate manner, including because a considerable proportion of meat sold in the United States is not subject to the COOL measure's labelling requirements at all. Accordingly, the detrimental impact on imported livestock cannot be said to stem exclusively from a legitimate regulatory distinction, and instead reflects discrimination in violation of Article 2.1. For these reasons, the Appellate Body upheld the Panel's finding under Article 2.1.

In its analysis under Article 2.2 of the TBT Agreement, the Appellate Body found that the Panel properly identified the objective of the COOL measure as being "to provide consumer information on origin", and did not err in concluding that this is a "legitimate" objective. The Appellate Body found, however, that the Panel erred in its interpretation and application of Article 2.2. This was because the Panel appeared to have considered, incorrectly, that a measure could be consistent with Article 2.2 only if it fulfilled its objective completely or exceeded some minimum level of fulfilment, and to have ignored its own findings, which demonstrated that the COOL measure does contribute, at least to some extent, to achieving its objective. The Appellate Body therefore reversed the Panel's finding that the COOL measure is inconsistent with Article 2.2, but was unable to determine whether the COOL measure is more trade restrictive than necessary to fulfil a legitimate objective within the meaning of Article 2.2.
As the conditions on which Canada's appeals with respect to Articles III:4 and XXIII:1(b) of the GATT 1994 were made were not satisfied, the Appellate Body made no findings under these provisions.

At its meeting on 23 July 2012, the DSB adopted the Appellate Body report and the panel report, as modified by the Appellate Body report.

Findings of the Compliance Panel with Respect to the Challenge by Canada and Mexico that the Revised U.S, Cool Regulation Complies with the Dispute Settlement Body Recommendations

The compliance panel found that the amended COOL measure violates Article 2.1 of the TBT Agreement because it accords to Canadian and Mexican livestock less favourable treatment than that accorded to like U.S. livestock. In particular, the compliance panel concluded that the amended COOL measure increases the original COOL measure's detrimental impact on the competitive opportunities of imported livestock in the U.S. market, because it necessitates increased segregation of meat and livestock according to origin; entails a higher recordkeeping burden; and increases the original COOL measure's incentive to choose domestic over imported livestock. Further, the compliance panel found that the detrimental impact caused by the amended COOL measure does not stem exclusively from legitimate regulatory distinctions. In this regard, the compliance panel followed the approach of the Appellate Body in the original dispute by taking into account the amended COOL measure's increased recordkeeping burden, new potential for label inaccuracy, and continued exemption of a large proportion of relevant products. These considerations confirmed that, as with the original COOL measure, the detrimental impact caused by the amended COOL measure's labelling and recordkeeping rules could not be explained by the need to convey to consumers information regarding the countries where livestock were born, raised, and slaughtered.

The compliance panel determined that the complainants had not made a *prima facie* case that the amended COOL measure is more trade restrictive than necessary within the meaning of Article 2.2 of the TBT Agreement. In reaching this conclusion, the compliance panel found that the amended COOL measure makes a considerable but, given the exemptions from coverage, necessarily partial contribution to its objective of providing consumer information on origin.

The compliance panel further found that the amended COOL measure had increased the "considerable degree of trade-restrictiveness" found in the original dispute. The compliance panel also assessed the risks non-fulfilment of the objective would create in terms of consumer interest in, and willingness to pay for, different types of country of origin information. Additionally, the compliance panel reviewed four alternative measures proposed by the complainants and concluded that either they would not make an equivalent contribution to the relevant objective as the amended COOL measure would, or they were not adequately identified so as to enable meaningful comparison with the amended COOL measure. As a result, the compliance panel was not able to conclude that the amended COOL measure is more trade restrictive than necessary in the light of the proposed alternative measures.

The compliance panel found that the amended COOL measure violates Article III:4 of the GATT 1994 based on its finding that the amended COOL measure increases the original COOL measure's detrimental impact on the competitive opportunities of imported livestock in comparison with like U.S. products. In this regard, the compliance panel relied on the same considerations that informed its finding of detrimental impact under Article 2.1 of the TBT Agreement. However, consistent with Appellate Body jurisprudence, it was not necessary in order to find a violation under Article III:4 of the GATT 1994 for the compliance panel to determine whether the detrimental impact stemmed exclusively from legitimate regulatory distinctions.

June 12, 2015

Dear Senator Roberts:

We write to urge your prompt action to ensure U.S. Country of Origin Labeling (COOL) requirements for muscle cuts of beef and pork comply with U.S. international trade obligations.

On May 18, 2015 the World Trade Organization (WTO) issued its final adjudication ending all doubt that COOL violates U.S. trade obligations. Already, America's two largest export markets are moving to institute retaliatory duties against U.S. products. To avoid retaliatory duties, it is imperative that Congress enact corrective legislation before adjourning for August recess.

Corn products are prominent on Canada's published list of retaliation targets. Mexico has not yet published a list of retaliation targets, but informal statements by Mexican officials make clear that corn products are at the top of their list.

Over the past two decades, Mexico repeatedly has taken illegal actions to block U.S. corn products that compete with the Mexican sugar industry. After imposing anti-dumping duties in 1998 and establishing a stringent tariff-rate quota in 2002, it would not be surprising if Mexico would again attempt to block sale of corn products. These past efforts to exclude U.S. High Fructose Corn Syrup from the Mexican market cost the U.S. over $3 billion in sales. As a result, farms and businesses were hurt, facilities were closed, and jobs were lost. Now, it appears Mexico is poised to take similar actions, only this time with express legal authority from the WTO.

Throughout the last year, we urged enactment of a contingency plan by Congress that would prevent retaliation should a final adjudication from the WTO rule the U.S. COOL requirements non-compliant. Regrettably, those efforts fell short and the U.S. is now facing a serious blow to our economy.

It is critically important to states with significant production of corn and corn products that COOL requirements be made consistent with U.S. trade obligations as quickly as possible. Your assistance in that regard would be greatly appreciated.

Sincerely,

John W. Bode
President & CEO, CRA

Chip Bowling
President, NCGA



FOR IMMEDIATE RELEASE
Contact: Meg Miller, mmiller@pma.com, +1 (302) 738-7100, ext. 3031
June 25, 2015

PMA Urges Senate to Act Quickly, Consider Country of Origin Labeling Amendments Act

Newark, Del. — Cathy Burns, president of Produce Marketing Association, issued the following statement today in reaction to the Senate Agriculture Committee's hearing on the potential impacts of trade retaliation as a result of the World Trade Organization dispute brought by Canada and Mexico regarding Country of Origin Labeling for beef, pork and poultry:

"Today's Senate hearing confirms the need for the Senate to act quickly and decisively to repeal legislation mandating country of origin labeling for beef, pork and poultry. Now is not the time to create further uncertainty in this process. Up to $1 billion in produce exports to Canada and Mexico are now in jeopardy as those countries continue to reiterate that anything short of repeal is unacceptable and they will pursue remedies in the World Trade Organization. Recent weeks have proven that the House and Senate can work in a bipartisan way to bolster international trade opportunities for U.S. exporters. No better example of these opportunities exist than in produce, where consumer demand for a diverse selection of fresh product year-round continues to grow. We urge Congress to act in a similar fashion to repeal COOL for meat."

Today, PMA wrote the Senate Agriculture Committee leadership as a part of the hearing record to urge passage of H.R. 2393, the Country of Origin Labeling Amendments Act of 2015. Produce Marketing Association is the largest trade association representing companies in the fresh produce industry globally with more than 2,700 member companies in 45 countries. The association's members operate at every level in the supply chain from growing to shipping, processing, distribution, wholesaling, retail, and foodservice. In the United States, PMA's members handle more than 90 percent of fresh produce sold to U.S. consumers.

About Produce Marketing Association (PMA)
Produce Marketing Association is the leading trade association representing companies from every segment of the global produce and floral supply chain. PMA helps members grow by providing business solutions that expand business opportunities and increase sales and consumption. For more information, visit www.pma.com.



June 25, 2015

The Honorable Pat Roberts
Chairman
Committee on Agriculture, Nutrition and Forestry
United States Senate
Washington, DC 20510

The Honorable Debbie Stabenow
Ranking Member
Committee on Agriculture, Nutrition and Forestry
United States Senate
Washington, DC 20510

Dear Mr. Chairman and Ranking Member Stabenow:

Produce Marketing Association is the largest trade association representing companies in the fresh produce industry globally with more than 2,700 member companies in 45 countries. Our members operate at every level in the supply chain from growing to shipping, processing, distribution, wholesaling, retail, and foodservice. In the United States, PMA's members handle more than 90 percent of fresh produce sold to U.S. consumers.

I am writing to urge the Senate Agriculture Committee to act quickly to pass H.R. 2393, the Country of Origin Labeling Amendments Act of 2015. Since the World Trade Organization issued its final ruling on the case brought by Canada and Mexico regarding mandatory country of origin labeling for beef, pork and poultry, those countries have made clear their intent to seek retaliatory tariffs on a range of exports from the United States.

Among the products identified or previously identified in past cases are up to $1 billion in U.S. fresh produce exports. Export sales are normally negotiated far in advance and rely on long-term relationships. The uncertainty that is created by just the possibility of retaliation is something that we believe should be avoided.

It is our understanding that the governments of Canada and Mexico have been unequivocal in stating that they will accept nothing less than repeal of the current labeling mandate. A broad cross-section of meat and other agricultural product organizations supports this course of action. We urge you to consider and pass H.R. 2393 in the Agriculture Committee quickly so that it may be considered by the full Senate.

Thank you for your consideration.

Sincerely,

Cathy Burns
PMA President

Statement of the U.S. Chamber of Commerce

ON: Country of Origin Labeling and Trade Retaliation: What's at Stake for America's Farmers, Ranchers, Businesses, and Consumers

TO: United States Senate Committee on Agriculture, Nutrition, and Forestry

DATE: June 25, 2015

1615 H Street NW | Washington, DC | 20062

The Chamber's mission is to advance human progress through an economic, political and social system based on individual freedom, incentive, initiative, opportunity and responsibility.

The U.S. Chamber of Commerce is the world's largest business federation representing the interests of more than three million businesses of all sizes, sectors, and regions, as well as state and local chambers and industry associations.

More than 96% of Chamber member companies have fewer than 100 employees, and many of the nation's largest companies are also active members. We are therefore cognizant not only of the challenges facing smaller businesses, but also those facing the business community at large.

Besides representing a cross-section of the American business community with respect to the number of employees, major classifications of American business—e.g., manufacturing, retailing, services, construction, wholesalers, and finance—are represented. The Chamber has membership in all 50 states.

The Chamber's international reach is substantial as well. We believe that global interdependence provides opportunities, not threats. In addition to the American Chambers of Commerce abroad, an increasing number of our members engage in the export and import of both goods and services and have ongoing investment activities. The Chamber favors strengthened international competitiveness and opposes artificial U.S. and foreign barriers to international business.

Positions on issues are developed by Chamber members serving on committees, subcommittees, councils, and task forces. Nearly 1,900 businesspeople participate in this process.

On the occasion of this hearing of the Senate Committee on Agriculture, Nutrition, and Forestry on "Country of Origin Labeling (COOL) and trade retaliation: What is at stake for America's farmers, ranchers, businesses and consumers," the U.S. Chamber of Commerce appreciates the opportunity to submit this statement for the record. The Chamber is the world's largest business federation, representing the interests of more than three million businesses of all sizes, sectors, and regions, as well as state and local chambers of commerce and industry associations.

The Chamber serves as co-chair—alongside the National Association of Manufacturers (NAM)—of the COOL Reform Coalition. Launched more than one year ago, the COOL Reform Coalition includes companies and associations from a wide variety of sectors—including agriculture, agri-food, and manufacturing—that are advocating for U.S. compliance with obligations our nation has undertaken in the World Trade Organization (WTO) agreements relating to the topic of this hearing.

Country-of-origin-labeling (COOL) requirements are common, and as promulgated in many countries and for many products, they are often fully compatible with the World Trade Organization (WTO) agreements. At least 70 countries have some kind of country-of-origin-labeling requirement. In the United States, mandatory COOL rules require most retailers to provide country-of-origin-labeling for fresh fruits and vegetables, fish, shellfish, peanuts, pecans, macadamia nuts, ginseng, meat and poultry.

The dispute under discussion today only involves muscle cuts of meat. It arose because, two decades after the North American Free Trade Agreement (NAFTA) entered into force, U.S. meat producers and their counterparts in Canada and Mexico have come to treat North America as an integrated market—just as U.S. manufacturers do.

It often makes good economic sense for cattle to be born, raised, and slaughtered in different places across the continent—north or south of the 49th parallel, or north or south of the Rio Grande. Taking these realities into account, the WTO has recognized the U.S. COOL rule for muscle cuts of meat imposes real economic costs on the meat industry by forcing segregation of cattle and hogs and requiring costly tracking systems and record keeping. These costs are real, and they make labeling requirements for meat different than for, say, almonds or apples, which are grown in one spot.

The WTO Dispute

This dispute has been unfolding for years, and it is now entering its final stage. The COOL rule for muscle cuts of meat is required by the 2002 farm bill as amended by the 2008 farm bill. In late 2009, less than one year after the COOL rule for muscle cuts of meat took effect, Canada and Mexico began the process of challenging it at the WTO. They argued that COOL reduces the value and number of cattle and hogs shipped to the U.S. market; by imposing new costs exclusively on Canadian and Mexican producers, it has a discriminatory, trade-distorting impact.

In July 2012, the WTO Dispute Settlement Body adopted an Appellate Body ruling that the COOL rule for muscle cuts of meat violated the WTO Technical Barriers to Trade (TBT)

Agreement because it treats imported Canadian cattle and hogs, and imported Mexican cattle, less favorably than domestic livestock.

A deadline of May 23, 2013, was set for the U.S. Department of Agriculture (USDA) to bring U.S. regulations into alignment with obligations the United States has undertaken in the WTO agreements. On that date, USDA published a revised rule. Government officials of both Canada and Mexico stated that the revisions were inadequate. On September 25, 2013, Canada and Mexico requested the establishment of a compliance panel to determine whether the revised rule is compliant with obligations the United States has undertaken in the WTO agreements.

On October 20, 2014, a WTO compliance panel report again found the United States had failed to comply with its WTO obligations. In fact, it found the revised rule was even more discriminatory than the earlier version. The following month, the United States appealed this decision, and the WTO Appellate Body on May 18 issued its final ruling—upholding its earlier finding against the United States.

In other words, this dispute has come to the end of a long and winding road. The pain for U.S. agriculture and industry, however, could be just beginning.

Trade with Canada, Mexico is Vital to U.S.

The importance of the U.S. trade relationship with Canada and Mexico for American workers, farmers, ranchers, and companies of all kinds is worth bearing in mind. A trade dispute with a minor commercial partner can be damaging; a trade dispute with the two largest markets for U.S. exports could be highly damaging. Consider the dimensions of our economic ties to Canada and Mexico today:

Trade

- Since the North American Free Trade Agreement (NAFTA) entered into force in 1994, trade with Canada and Mexico has risen nearly fourfold to $1.28 trillion in 2013, and the two countries buy about one-third of all U.S. merchandise exports.
- The trade boom continues. U.S. merchandise exports to Canada and Mexico rose by 66% over the past five years, reaching $552 billion in 2014. In fact, our North American neighbors provided 39% of all growth in U.S. merchandise exports in the 2009-2014 period.
- Canada (population 36 million) again edged the EU (population 500 million) as the top market for U.S. goods exports in 2014. U.S. merchandise exports to Mexico (population 125 million) were nearly double those to China (population 1.4 billion), which is the third largest national market for U.S. exports.
- In fact, the United States in 2014 had a trade surplus in manufactured goods ($21.6 billion) with Canada and Mexico, just as it has for the past four years. In 2013, the U.S. services trade surplus with Canada and Mexico reached $45 billion. The U.S. remains a significant net importer of petroleum from its North American neighbors.

Jobs

- Trade with Canada and Mexico supports nearly 14 million U.S. jobs, and nearly 5 million of these net jobs are supported by the increase in trade generated by NAFTA, according to a comprehensive economic study commissioned by the U.S. Chamber.
- The expansion of trade unleashed by NAFTA supports tens of thousands of jobs in each of the 50 states and more than 100,000 jobs in each of 17 states, according to the same study.

Manufacturing

- Canadians and Mexicans purchased U.S. manufactured goods valued at $486 billion in 2014, generating more than $40,000 in export revenue for every American factory worker. To put this in context, these export earnings are equivalent to about half the annual earnings—including pay and benefits—of the typical American factory worker ($77,500).

Agriculture

- NAFTA has been a bonanza for U.S. farmers and ranchers. U.S. agricultural exports to Canada and Mexico rose by nearly 50% between 2007 and 2013, increasing from $27 billion to nearly $40 billion. Canada was the largest agricultural export market of the United States until it was overtaken by China in 2013, and U.S. agricultural exports to Mexico have quintupled since NAFTA entered into force.

Services

- With new market access afforded by NAFTA, U.S. services exports to Canada and Mexico have tripled, rising from $27 billion in 1993 to $93 billion in 2013. Among the services industries that are benefitting are: audiovisual; finance; insurance; transportation, logistics, and express delivery services; and software and information technology services.

Small Businesses

- Canada and Mexico are the top two export destinations for U.S. small- and medium-size enterprises, more than 125,000 of which sold their goods and services in Canada and Mexico in 2011 (latest available).

The Consequences of Noncompliance

As noted, the COOL Reform Coalition is seeking U.S. compliance with its obligations under the WTO agreements. Our coalition is building on years of work by a variety of organizations representing ranchers, farmers, and food and agriculture businesses impacted by the COOL rule for muscle cuts of meat.

Broad industry groups such as the Chamber have joined in the debate over COOL to signal our concern about the broad impact retaliation could have on a wide variety of industries, including many well removed from agriculture. Now that the United States has lost its final appeal, the governments of Canada and Mexico have indicated they are fully prepared to proceed with WTO-authorized retaliation against U.S. exports of agricultural, agri-food, and manufactured goods as soon as this summer.

Together, Canada and Mexico are seeking authorization from the WTO to rescind trade concessions (i.e., to raise tariffs) on more than $3 billion worth of U.S. merchandise exports. Once the WTO Dispute Settlement Body has confirmed the precise dollar figure it will allow—a decision subject to arbitration with a ruling expected no later than mid-August—Canada and Mexico will be fully prepared to retaliate.

WTO-authorized retaliation by these two vital U.S. trading partners could result in losses across multiple sectors including, but not limited to, food production, agriculture, and manufacturing. Many U.S.-made products would be subjected to steep tariffs that would effectively bar them from the Canadian and Mexican markets. As noted, the stakes are especially high because these are by far our largest export markets.

Our coalition website (www.COOLReform.com) offers a map that shows the products likely to face retaliation and the states where these agricultural and manufactured goods are produced. It is based on information provided by the governments of Canada and Mexico, indicating their explicit intentions to retaliate should the United States fail to comply with its trade obligations, driving home the potential cost to communities all across the United States.

Earlier experiences underscore how painful retaliation could be for American workers, farmers, and companies. After a dispute settlement panel ruled in Mexico's favor in the cross-border trucking dispute several years ago, Mexico levied steep retaliatory duties on $2.4 billion worth of U.S. goods. The impact was devastating for tens of thousands of American workers and farmers. Many of the same products are likely to be targeted in the event retaliation goes forward in the COOL dispute.

The U.S. Must Meet its WTO Obligations

It is clearly in the long-term economic interests of the United States to comply with the rules of the international trading system. After all, our country did more than any other to write these rules, from the General Agreement on Tariffs and Trade in 1947 to the creation of the WTO in 1995.

A host of studies shows the United States derives tremendous benefits from the open international trading system. One recent study shows that trade liberalization under these rules has boosted the income of the average American household by about $13,000 annually.

As a nation, the United States flaunts its obligations under the rules-based trading system at our peril. Since the WTO was created in 1995, other countries have brought a number of disputes against the United States to the WTO, and the United States has lost a number of these. The United States has always (eventually) amended its laws or changed its practices to conform to these adverse rulings. The United States has done so because it is in the country's interest to do so.

Further, American workers, farmers, and companies rely on these rules to secure access to overseas markets. Just a few months ago, a WTO panel ruled against India in a dispute brought by the United States relating to Indian restrictions on the importation of U.S. agricultural

products. As U.S. Trade Representative Michael Froman said at the time: "This victory affirms the Administration's commitment to ensuring WTO Members play by the rules, and that America's farmers, workers and businesses get the fair shot they deserve to sell Made-in-America goods under WTO rules."

Today, the shoe is on the other foot. More than 95% of the world's consumers live outside our markets, but American farmers, workers, and companies will not be able to sell their goods and services to those consumers if we fail to live up to these rules ourselves.

The Goal of the Coalition

Congress must act before the August district work period to avert retaliation. As noted, the United States has lost its final appeal, and the WTO Dispute Settlement Body will establish the precise dollar value of U.S. merchandise exports against it will allow Canada and Mexico to apply retaliatory tariffs. This step will come no later than mid-August, and Canada and Mexico will be fully prepared to retaliate at that time.

As we learned in the U.S.-Mexico cross-border trucking dispute, export sales of products targeted for retaliation can be lost even before authorized retaliation goes into effect. Sourcing managers planning future purchases will take into account likely retaliation and shift to vendors in other jurisdictions in response to the mere possibility of higher tariff-related costs in their supply chains. Once these sourcing relationships are lost, it can be years for companies to recover lost market share.

Over the past several years, the avenues open to the United States to avoid retaliation have dwindled. Our coalition proposed and advocated for several approaches which are no longer feasible. Given that Canada and Mexico will be in a position to retaliate by mid-August, the only way to avert costly retaliation is for Congress to approve legislation repealing the COOL rule for muscle cuts of meat.

The Chamber urges the Senate to approve H.R. 2393, the "Country of Origin Labeling Amendments Act of 2015," which would amend the Agricultural Marketing Act of 1946 to repeal the COOL rule for muscle cuts of meat. The House approved this legislation on June 10 by the overwhelming bipartisan margin of 300-131. Approving this legislation is the only certain way to avert imminent, damaging trade retaliation. Failure to do so could cost tens of thousands of American jobs and jeopardize mutually beneficial trade relationships with our two closest neighbors and largest export markets.

The U.S. Chamber of Commerce and members of the COOL Reform Coalition appreciate the Committee's attention to this vital matter and look forward to working with the Committee to reach this goal.

Premier of Saskatchewan
Legislative Building
Regina Canada S4S 0B3

June 17, 2015

The Honourable Mitch McConnell
Majority Leader
United States Senate

The Honourable Harry Reid
Minority Leader
United States Senate

The Honourable Pat Roberts, Chairman
Committee on Agriculture, Nutrition & Forestry
United States Senate

The Honourable Debbie Stabenow, Ranking Member
Committee on Agriculture, Nutrition & Forestry
United States Senate

Dear Leaders, Chairman, and Ranking Member:

As Chair of the Western Premiers' Conference, which represents seven western Canadian provinces and territories, I write regarding the latest ruling from the World Trade Organization (WTO) on mandatory Country-of-Origin-Labelling (COOL). Western Canadian Premiers encourage Congress' expedient action to bring an end to COOL for beef and pork.

During our meeting on June 1, 2015, Western Premiers discussed the importance of trade to our economies, including trade with the United States (US) - with which we share the largest trading relationship in the world. The US is our largest and most significant trading partner and this importance is reciprocal, with almost $1.4 million in goods and services being exchanged every minute. The US sells more goods and services to Canada than it does to any other nation.

Over the years it has become clear that COOL rules have had an adverse impact on both our countries. Repealing COOL will only strengthen our trading relationship through greater integration of the North American livestock sector. This sector will become more efficient and more globally competitive while providing consumers with safe and affordable food products.

We remain hopeful that the US Senate will move to repeal COOL before the Canadian government is forced to impose retaliatory tariffs on goods destined to the Canadian market. We are encouraged by the passage of COOL repeal legislation in the House of Representatives and we urge for you to take similar action. We appreciate your support in encouraging a prosperous trading relationship between US states and Canadian provinces and territories through compliance with the WTO ruling on COOL.

Sincerely,

Brad Wall
Premier

cc His Excellency Bruce A. Heyman
Ambassador of the United States of America to Canada

His Excellency Gary Doer
Ambassador of Canada to the United States of America

Honourable Tom Vilsack
United States Secretary of Agriculture

Honourable Gerry Ritz, P.C., M.P.
Canadian Minister of Agriculture and Agri-Food

Honourable Christy Clark
Premier of British Columbia

Honourable Rachel Notley
Premier of Alberta

Honourable Greg Selinger
Premier of Manitoba

Honourable Darrell Pasloski
Premier of Yukon

Honourable Peter Taptuna
Premier of Nunavut

Honourable Robert McLeod
Premier of the Northwest Territories

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