



October 31, 2007

Marilyn R. Abbott  
Secretary to the Commission  
U.S. International Trade Commission  
500 E Street, S.W.  
Washington, D.C. 20436

Re: Investigation No. 332-488, "Global Beef Trade: Effects of Animal Health, Sanitary, Food Safety, and Other Measures on U.S. Beef Exports"

Dear Ms. Abbott,

Thank you for this opportunity to submit this brief regarding the investigation by the U.S. International Trade Commission (ITC) into the effects of global animal health, sanitary, food safety, and other measures against U.S. beef exports.

The United States Cattlemen's Association (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 require a global trading system in which cattle producers from around the world live by a common set of rules. Thus, we seek a trade policy designed to confront and resolve the regulatory disparities that inhibit fair competition in global beef trade.

The beef trade between the United States and its major trading partners is deeply distorted by a wide variety of foreign measures. These distortions include a growing disparity in the respective regulatory regimes between major importing countries, particularly with respect to bovine spongiform encephalopathy (BSE). These distortions also include a diverse array of tariff and subsidy policies that influence global trade flows. Global trade in beef will remain distorted until these regulatory disparities, and the diverging trade policies of major trading partners, are

harmonized. Recovery of U.S. export markets should be a chief priority of U.S. trade policy, but fairness in global beef trade will be difficult to achieve until regulatory and trade-based disparities are eliminated.

The following comments will first describe the recent history of global trade in beef and cattle, illustrating in economic terms the struggles experienced by U.S. cattlemen. Second, our comments will consider the other various foreign measures -- including BSE-related export barriers -- that distort global trade in beef and cattle, noting how the aggregate burden of these distortions falls primarily on U.S. producers. Finally, we offer ideas on how to fix the problem.

## **I. Recent History of Global Trade in Beef and Cattle**

On December 23, 2003, the U.S. Department of Agriculture announced that a single cow imported from Canada had been stricken with BSE. Global reaction was swift. Foreign governments in 58 countries, comprising virtually every U.S. export market of any significance, closed their borders to U.S. beef and cattle. U.S. exports fell to virtually zero overnight. A gradual re-opening of trade to some markets as 2004 progressed offered little comfort.

A brief review of global and U.S. statistics tell a grim story. Today, as global production and consumption rises, U.S. exports of both beef and cattle are barely more than half of 2002 levels. In contrast, U.S. imports of beef already exceed 2002 levels and are still rising. Meanwhile, though total cattle imports are lower than in 2002, imports from Canada -- the source of BSE in North America -- are rising and rapidly regaining their 2002 levels.

In 2002, U.S. exports of fresh, chilled, and frozen beef reached more than 1.1 million metric tons, accounting for approximately 18% of global exports.<sup>1</sup> U.S. exports of live cattle reached 244,000 head, accounting for nearly 5% of global exports.<sup>2</sup>

In 2007, U.S. beef exports are expected to reach only 680,000 metric tons, accounting for roughly 9% of global exports.<sup>3</sup> U.S. producers are expected to export 60,000 head of live cattle, accounting for barely 1% of global exports.<sup>4</sup>

In the meantime, over the same period, global beef production rose -- from 51.24 million tons in 2002, to 54.72 million tons in 2007.<sup>5</sup> Global herd sizes were relatively flat, but beef

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<sup>1</sup> *Livestock and Poultry: World Markets and Trade*, U.S. Department of Agriculture, Foreign Agricultural Service, Circular Series DL&P 2-06, October 2006, at 9.

<sup>2</sup> *Id.* at 17.

<sup>3</sup> *Livestock and Poultry: World Markets and Trade*, U.S. Department of Agriculture, Foreign Agricultural Service, Circular Series DL&P, April 2007 (October revised), at 10.

<sup>4</sup> *Id.* at 15.

<sup>5</sup> *Livestock and Poultry* (October 2006), *supra* note 1, at 8; *Livestock and Poultry* (April 2007) (October, revised), *supra* note 3, at 9.

consumption grew - from 50.23 million tons in 2002, to 52.58 million tons in 2007.<sup>6</sup> U.S. producers are largely shut off from the growth in global consumption, due to the current BSE-related export barriers.

Behind these aggregate numbers, the economic effects of BSE can be more clearly seen. Although global markets have shown signs of warming up to renewed U.S. exports, the effects of the BSE-related barriers continue to stifle U.S. export prospects. Japan and Korea, the two largest U.S. export markets by value, remain largely closed to U.S. beef.

In the days and weeks following December 23, 2003, importers in Japan, Korea, and Mexico -- three of the top four U.S. export markets -- turned to suppliers from Australia, New Zealand, and South America, despite the fact that most of these competing supplies are grass-fed and of lower quality.<sup>7</sup>

By the end of 2006, exports had begun a slow climb, due mostly to resumed trade with Mexico. Data for 2007 and forecasts for 2008 reflect a continuing but very slow recovery in exports.<sup>8</sup>

In the United States, the collapse in exports triggered an increase in domestic beef supplies and a fall in domestic prices.<sup>9</sup> Monthly updated estimates of average quarterly prices for U.S. cattle in the weeks following the December 23 announcement fell four percent for cows and fifteen percent for Choice steers, despite historically low domestic supplies.<sup>10</sup> Yet, even these price reactions fail to reveal the full extent of the impact. Resilient demand from U.S. customers helped mitigate downward pressure on domestic prices, and thus masked the price effects of the export barriers.<sup>11</sup>

Interestingly, livestock producers in Canada -- where BSE first emerged in North America and where it has been most prevalent, by far -- have enjoyed a more rapid recovery than producers in the United States. This has been largely because of the quick U.S. response to

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<sup>6</sup> *Livestock and Poultry* (October 2006), *supra* note 1, at 8; *Livestock and Poultry* (April 2007) (October, revised), *supra* note 3, at 9.

<sup>7</sup> Mathews Jr., Kenneth H. *et al.*, *An Economic Chronology of Bovine Spongiform Encephalopathy in North America* (Electronic Outlook Report from the Economic Research Service, U.S. Department of Agriculture, June 2006) at 4,6.

<sup>8</sup> *See Outlook for U.S. Agricultural Trade* (Electronic Outlook Report from the Economic Research Service and the Foreign Agricultural Service, U.S. Department of Agriculture, August 31, 2007) at 4,5.

<sup>9</sup> Mathews Jr., Kenneth H. *et al.*, *An Economic Chronology of Bovine Spongiform Encephalopathy in North America*, *supra* note 4, at 4.

<sup>10</sup> *Id.* at 8. An atypically long period of inventory liquidation, extended by drought in the late 1990s, translated into low supplies heading into 2003.

<sup>11</sup> *Id.*

resume trade with Canada. The quick U.S. response aided a quicker recovery for Canadian producers, despite the fact that BSE has been detected in ten Canadian animals. The result for U.S. ranchers has been rising imports of beef and cattle from Canada without a commensurate recovery in U.S. exports.

In 2002, the United States imported 1.7 million head of live cattle from Canada.<sup>12</sup> This number fell sharply in 2003, due to the detection of BSE in May. It reached a nadir in 2004, and then began a swift resurgence. In 2006, the United States imported 1.032 million head from Canada,<sup>13</sup> and through the first quarter of 2007 was on pace to grow another 8%, a trend that would put imports at 1.115 million head.<sup>14</sup>

If this pace continues, then by the end of 2007, Canadian exports of live cattle would reach a level roughly equal to 66% of level in 2002. Canadian exports of beef should reach 440,000 tons, roughly equal to 72% of the level in 2002.

By comparison, U.S. exports of live cattle in 2007 will reach a level equal to less than 25% by volume of 2002 levels. Beef exports will be equal to roughly 61% by volume of 2002 levels. The United States is thus more open to a Canadian system that has produced at least ten cases of BSE than the rest of the world is to a U.S. system that has produced only three cases. It is troublingly ironic that of the three U.S. cases, one was actually a Canadian cow while the other 2 cases involved atypical BSE prions. This is significant since the Canadian and European BSE cases involved typical prions, which are the greater concern.

And herein is the heart of the problem for U.S. producers. In 2007, despite the fact that the United States represents only 4% of the global population, U.S. imports of beef is expected to account for roughly 20.5% of all global imports, slightly down from the 2002 level of 23%.<sup>15</sup> U.S. imports of live cattle should account for a staggering 58.6% of all global imports, an increase from the 2002 level of just under 50%.<sup>16</sup>

In short, U.S. ranchers are shouldering the burden of distortions in the global market caused by BSE-related barriers as well as other tariff and non-tariff distortions.

## **II. Foreign Measures Distorting Global Markets**

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<sup>12</sup> *U.S. Beef and Cattle Industry: Background Statistics and Information*, U.S. Department of Agriculture, Economic Research Service, [www.ers.usda.gov/News/BSECoverage.htm](http://www.ers.usda.gov/News/BSECoverage.htm).

<sup>13</sup> *Id.*

<sup>14</sup> *Livestock, Dairy, and Poultry Outlook*, U.S. Department of Agriculture, A Report of the Economic Research Service, LDP-M-155 (May 21, 2007) at 5.

<sup>15</sup> *Livestock and Poultry* (April 2007) (October, revised), *supra* note 3, at 9.

<sup>16</sup> *Id.* at 17.

So why is this happening? Before 2003, the global beef and cattle markets were already awash in a variety of trade distortions. Unfortunately, the discovery of BSE exacerbated these problems. The ensuing BSE-related bans on U.S. exports, coupled with existing tariff and non-tariff barriers to U.S. exports, threw U.S. producers into a tailspin. In turn, an open U.S. market and high tariff and non-tariff barriers generally to all exports in other key consuming countries together ensured continued, even rising, import pressure on U.S. ranchers. While producers in other major producing countries, including Canada, enjoy growth in global consumption, U.S. ranchers are struggling to maintain production and compete in markets largely closed to U.S. product.

#### **A. BSE-related Barriers**

While the United States has worked hard to re-open its market to Canadian imports, the rest of the world has been reluctant to re-open their markets to U.S. imports. This disparity of treatment has existed from the beginning, since 2003, when BSE was first detected on both Canadian and U.S. soil. The first Canadian detection was discovered in May 2003. In August 2003, only three months later, the United States -- Canada's largest export market -- proposed a re-opening of the U.S. border to Canadian beef from animals under the age of 30 months.

In comparison, despite years of concerted and dedicated effort by U.S. negotiators, access to the key U.S. exports markets in Japan and Korea remain significantly impeded. Japan, the largest U.S. export market in 2003, waited nearly two years before taking concrete steps to re-open its market. Japan now allows U.S. exports of beef only from animals less than 20 months of age or younger. Still, despite the formal announcement of resumed trade with Japan, actual market access has been extremely slow in developing. The United States exported 920 million pounds of beef to Japan in 2003, but only 52 million pounds in 2006.<sup>17</sup>

Korea, the second largest U.S. export market by value in 2003,<sup>18</sup> has been even slower to act than Japan, only deciding this year even to consider resuming effective trade. The United States exported 588 million pounds of beef to Korea in 2003, but only *three* pounds in 2006.<sup>19</sup> Due in part to a series of inexplicable errors of U.S. inspection oversight, coupled with continued intransigence by Japanese and Korean authorities, U.S. exports to those countries for the foreseeable future will likely remain far below pre-BSE levels.

Of course, barriers to U.S. beef are not simply the result of the presence of BSE in the United States, but are also a reflection of fears abroad that the U.S. supply is commingled with

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<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

supplies from Canada. This concern deterred -- and continues to dampen -- the willingness of Korean officials, and undoubtedly others, to re-open their market.<sup>20</sup>

Thus, prospects for expanded exports of U.S. beef are stifled by global perceptions concerning the safety of *Canadian* beef. It is this disconnect -- between U.S. production and foreign fears of Canadian beef -- that bedevils the best efforts of the U.S. government to pry open our former export markets.

It is frustrating to producers, then, that while foreign governments have been slow to re-open their markets to U.S. beef, the United States has been quick to re-open its market to Canadian beef and cattle. This disparity exposes a serious failure in global efforts at the World Animal Health Organization (OIE) to establish a common set of standards for animal health and food safety.

The U.S. government has now announced a plan to open the U.S. market further by allowing Canadian shipments of cattle and beef derived from cattle over the age of 30 months. For its part, the United States wants to establish an animal health and food safety regime that is consistent with the “minimal risk” designation accorded to both the United States and Canada by the OIE. The plan to open the U.S. market to cattle and beef derived from cattle over the age of thirty months would ostensibly set a regulatory precedent for other countries to follow. Yet, so far, none of the key U.S. export markets appears willing to follow the U.S. lead. Instead, the rest of the world seems content to block beef from both the United States and Canada. As a result, the disparity of regulatory regimes between the United States and the rest of the world will widen, and the imbalance of foreign trade in beef and cattle -- by which more comes into the United States as little goes out -- will worsen.

## **B. Other Animal Health, Sanitary, and Food Safety Measures**

Unfortunately, BSE-related barriers are not the only regulatory barriers affecting U.S. exports of beef in cattle. The European Union (EU) has long banned U.S. exports of hormone-fed beef, despite a decision by the World Trade Organization (WTO) Appellate Body that the ban violates EU obligations under the WTO’s Agreement on the Application of Sanitary and Phytosanitary Measures. The EU has remained defiantly out of compliance on this since 1999. In the meantime, the United States has been forced to accept minimal access for shipments of hormone-free beef. The denial of access to the vast EU market severely inhibits U.S. export potential and is grossly unfair.

## **C. Tariff Barriers, Foreign Subsidies, and Other Distortions**

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<sup>20</sup> See “Delay in U.S. Beef Exports to South Korea Will Be Resolved ‘Within Weeks,’ USDA Says,” *Daily Report for Executives*, BNA (No. 113, June 13, 2006) at A-19. Singapore and Egypt also refuse entry to U.S. shipments of beef derived from Canadian cattle. Taiwan still refuses to allow any beef at all from Canada.

Global trade distortions, rooted in high tariffs and agriculture subsidies, have long inhibited global trade in beef and cattle. In turn, high import barriers in other key consumer markets have turned the open U.S. market into the export market of first resort. In addition, production subsidies in key producing countries artificially spur production, concealing true costs of production and encouraging a global over supply.

The United States maintains an open import market, through the use of a generous tariff-rate quota (TRQ) for beef. In-quota shipments of beef are subject to minimal tariffs. Over-quota tariffs face a 26.4% tariff. By comparison, tariffs elsewhere in the world average approximately 85%. Coupled with highly restrictive TRQs and non-tariff barriers, these high tariffs force excess global supply into the relatively open U.S. market.

Subsidies are also a major part of the problem. Several of the largest producing countries -- including Brazil, Australia, Canada, and the EU -- directly subsidize cattle and beef production. The EU has begun to reform its subsidy programs, but for years provided both production subsidies and export subsidies that drove down global prices and depressed U.S. export opportunities. In contrast, U.S. producers receive no subsidies, other than low levels of ad hoc disaster assistance.

Australia and Canada also operate state trading enterprises (STEs) that enjoy monopoly control over grain production. Through these STEs, cattle producers in both countries enjoy access to cheap feed grains that artificially lower their costs of production. U.S. producers, on the other hand, are denied access to these cheaper feed grains.

Lack of a meaningful and transparent country-of-origin labeling in the United States also distorts consumer preferences and undermines domestic opportunities for U.S. producers. Several recent surveys have shown a strong desire by U.S. consumers for U.S. beef. Studies have also shown similar desires for U.S. beef by consumers in Japan and Korea. Unfortunately, current standards usually conceal true origin. Yet, in the absence of country-of-origin labeling, U.S. processors can import feeder cattle, finished cattle, and beef to be further processed into the United States for immediate slaughter, and for the most part then ship the beef as U.S.-origin.

The U.S. failure to include adequate import safeguards for beef and cattle is also a major problem. The U.S.-Australia Free Trade Agreement (FTA) included a safeguard that ensures smooth trade flows and helps prevent import spikes. Congress included a negotiating objective for perishable, seasonal, and cyclical products, such as cattle and beef, in the Trade Act of 2002. The Australia FTA's beef safeguard reflects this concern. However, other, more recent U.S. bilateral FTAs were negotiated without including such a safeguard.

Finally, dozens of bilateral free trade agreements (FTAs) -- particularly between the EU and other countries -- fail to include agriculture tariffs, in violation of Article XXIV of the WTO's Uruguay Round Agreement, which requires that FTAs include "substantially all" trade between parties to the agreement. The failure to increase market access for beef and cattle trade in these bilateral agreements exacerbate in the closed nature of the global marketplace and further channel global exports to the open U.S. market that would otherwise be destined to FTA markets.

### **III. Fixing the Problem**

For nearly four years, the global beef market has suffered from deep disparities in the ways different countries protect their consumers and herds from BSE. This disparity constitutes the single greatest threat to fair competition in the global market. Harmonization of BSE standards -- both in practice and in law -- between the United States and its major trading partners is crucial to the recovery of the export markets lost by U.S. cattlemen and a rebalancing of global beef markets.

The animal health, sanitary, and food safety measures of our key trading partners remain stuck on the faulty premise that the U.S. beef supply is compromised. The United States has moved much faster than our trading partners to re-open its borders to cattle and beef from countries with a history of BSE.

U.S. negotiating resources should be devoted to addressing the regulatory disparities between the key beef trading countries. This issue should take pre-eminence over every other U.S. negotiating priority concerning the cattle and beef sector.

The United States should also modify its plan to allow imports from Canada of cattle and beef derived from cattle over thirty months of age, and instead allow only cattle and beef from cattle born after January 1, 2003. Five of the ten Canadian animals found to be stricken with BSE were born after 1999, despite the fact that the U.S. Department of Agriculture considers March 1, 1999 to be the effective date of enforcement of the Canadian ban on ruminant feed. Two of the Canadian BSE cases were in animals born in 2001, and one case is from an animal born as late as 2002. Clearly, the Canadian feed ban was not fully effective by March 1, 1999. Modifying the U.S. entry requirements to allow only cattle and beef from cattle born after January 1, 2003 better assures the integrity of Canadian shipments.

The United States should also consider additional methods, such as voluntary BSE testing of animals, to strengthen consumer confidence and establish beyond reproach a U.S. commitment to transparency.

The United States should implement mandatory country-of-origin labeling for beef. Providing transparency for consumers, enabling them to make informed choices, ought to be common sense.

Finally, the United States should also work to remove the multiple tariff, non-tariff, and subsidy-based distortions that undermine U.S. ranchers and inhibit a competitive market for beef and cattle.

### **IV. Conclusion**



The discovery of BSE inside U.S. borders in December 2003 triggered a massive global response blocking U.S. beef exports. The export markets lost by U.S. producers remain largely out of reach today, though slow progress has been made.

Unfortunately, the U.S. regulatory response to the presence of BSE in Canada has significantly diverged from the regulatory response adopted by our export markets. This inconsistency between the animal health, sanitary, and food safety measures adopted by our major trading partners and by the United States has contributed to a deeply distorted global beef market. Every effort should be made to harmonize global regulatory regimes.

Thank you again for the opportunity to submit this pre-hearing brief. We look forward to offering any assistance the ITC will need as it undertakes this investigation.

Sincerely,

Jon Wooster  
President