

IDAHO

AGRICULTURE

TRADE ISSUES

REPORT



August, 2007

Marketing Idaho Food and Agriculture
Idaho State Department of Agriculture
Market Development Division
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INTRODUCTION

The Trade Issues Report began as the result of a Trade Issues Workgroup that was formed in February 1999 to address trade barriers for Idaho agriculture. The report is now published annually by the Idaho State Department of Agriculture to identify sanitary and phytosanitary procedures (SPS), tariffs, quotas, animal health requirements and other trade barriers that face Idaho agriculture.

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

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

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

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

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

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INDEX

INDEX: BY PRODUCT	v
IDAHO PRODUCTS OVERVIEW	1
IDAHO CROPS	1
IDAHO LIVESTOCK	1
IDAHO'S RANK IN THE NATION	2
U.S. TRADE AGREEMENTS	3
AGRICULTURAL ISSUES	4
WORLDWIDE	4
ARGENTINA	8
AUSTRALIA	9
BRAZIL	10
CANADA	11
CHILE	14
CHINA (People's Republic of China)	14
CUBA	19
EUROPEAN UNION	19
INDIA	22
ISRAEL	23
JAPAN	24
KOREA	28
MEXICO	32
PHILIPPINES	37
TAIWAN (Republic of China)	37
THAILAND	39
VENEZUELA	40
VIETNAM	41
IMPORT ISSUES	42
COUNTRY OF ORIGIN LABELING, DAIRY, HONEY, AUSTRALIA, CANADA, CHINA	
RESOLVED ISSUES	45
WORLDWIDE, ARGENTINA, AUSTRALIA, BRAZIL, CANADA, CENTRAL AMERICA & DOMINICAN REPUBLIC, CHILE, CHINA, EUROPEAN UNION, JAPAN, KOREA, MEXICO, PERU, TAIWAN, U.S. (California)	
GLOSSARY OF TRADE TERMS	60

INDEX BY PRODUCT

All Products	CHINA	Undervalued Currency
All Products	THAILAND	Customs Valuation
All Products	VENEZUELA	Import Permits
All Products	WORLDWIDE	Byrd Amendment, Domestic Support, Export Subsidies, Food Safety, Labeling, Pesticide Harmonization, Sugar, Tariffs, Visa Issuance
Animal Health	CANADA	Animal identification, BSE, Disease Management in Feeder Cattle
Barley	KOREA	Tariff Rate Quotas
Beans	MEXICO	Import Permit Auctions
Beef	CHINA	Phytosanitary Ban
Beef	E.U	Phytosanitary Ban
Beef	JAPAN	Tariffs, Phytosanitary Ban
Beef	KOREA	Tariffs, Phytosanitary Ban
Beef and Cattle	MEXICO	Anti-dumping duties, BSE, Ban on Live Cattle
Cherries	CHILE	Phytosanitary Restrictions
Dairy	BRAZIL	Tariffs
Dairy	CANADA	Tariff Rate Quotas
Dairy	JAPAN	Tariff Rate Quotas
Dairy	KOREA	Tariff Rate Quotas
Dairy	MEXICO	Milk Powder – Tariff Rate Quotas
Fruit	ARGENTINA	Tariffs, Export Rebates, Phytosanitary Ban
Fruit (apples & pears)	AUSTRALIA	Phytosanitary Ban
Fruit	BRAZIL	Tariffs and Miscellaneous Charges
Fruit (apples & pears)	CHINA	Phytosanitary Restrictions
Fruit (apples & pears)	CUBA	Phytosanitary Restrictions
Fruit	E.U.	Tariffs, Entry Pricing System
Fruit	INDIA	Tariffs
Fruit	ISRAEL	Tariff Rate Quotas, Phytosanitary Restrictions on Cherries
Fruit (apples & cherries)	JAPAN	Phytosanitary Restrictions, Phytosanitary Ban, Tariffs
Fruit	KOREA	Phytosanitary Ban, Tariffs
Fruit	MEXICO	Safeguard Duty/Minimum Reference Price, Stone Fruit Onsite Inspections
Fruit and Vegetable	TAIWAN	Pesticide Tolerances, Phytosanitary Restrictions, Tariffs
Fruit	THAILAND	Tariffs, Plant Quarantine Regulations
Fruit	VENEZUELA	Tariffs
Fruit	VIETNAM	Tariffs
GMOs	E.U.	Excessive Regulations
Oats	E.U.	Export subsidies, Domestic Support
Onions	KOREA	Tariff Rate Quotas
Peas	CHINA	Phytosanitary Restrictions
Peas, Lentils, Chickpeas	CHILE	Fumigation Requirements

Peas, Lentils, Chickpeas	INDIA	Phytosanitary Restrictions
Peas, Lentils, Chickpeas	THAILAND	Tariffs
Potatoes (Fresh)	CANADA	Anti-Dumping Penalties, Prohibition on Bulk Shipments
Potatoes (Fresh)	CHINA	Phytosanitary Ban
Potatoes (Fresh)	JAPAN	Phytosanitary Ban
Potatoes (Fresh)	KOREA	Phytosanitary Restriction, Tariff Rate Quota
Potatoes (Fresh)	MEXICO	Potato Cyst Nematode
Potatoes (Fresh)	TAIWAN	Phytosanitary Restrictions
Potatoes (Processed)	INDIA	Tariffs
Potatoes (Processed)	KOREA	Tariff Rate Quotas
Potatoes (Processed)	TAIWAN	Tariffs
Potatoes (Processed)	THAILAND	Tariffs
Potatoes (Processed)	VIETNAM	Tariffs
Potatoes (Seed)	MEXICO	Phytosanitary Protocol Procedures
Processed Foods	JAPAN	Ingredient Restrictions
Processed Fruits and Vegetables	CHINA	Certificate Requirement
Seed	AUSTRALIA	Alfalfa & Sweet Corn - Phytosanitary Restrictions
Seed	CHINA	Protection of Proprietary Varieties, Corn - Phytosanitary Ban
Seed	E.U.	Alfalfa - Unreasonable Recordkeeping Requirements
Seed	ISRAEL	Import Permits for warm season species
Seed	JAPAN	Phytosanitary Restrictions
Seed	KOREA	Phytosanitary Restrictions
Seed	PHILIPPINES	Grass -- Pests and Diseases
U.S. Trade Agreements	CHINA	U.S.-China Agreement on Agriculture
U.S. Trade Agreements	WORLDWIDE	TPA, WTO, CAFTA, Chile FTA, FTAA, Singapore FTA, Others
Wheat	AUSTRALIA	State Trading Enterprise - Australian Wheat Board
Wheat	CANADA	Canadian Wheat Board

IDAHO PRODUCTS OVERVIEW

Idaho's agriculture is plentiful and diverse. Idaho produces 144 crops and livestock commodities, and ranks in the top 10 in the U.S. in over 20 products.

IDAHO CROPS

<i>Idaho Crops (2005)</i>	<i>Acres Harvested</i>	<i>Cash Receipts (1,000)</i>
Potatoes	323,000	\$ 522,629
Wheat	1,200,000	\$ 336,145
Hay	1,410,000	\$ 332,103
Sugar Beets	167,000	\$ 204,421
Barley	600,000	\$ 155,508
Greenhouse/Nursery	NA	\$ 85,534
Onions	9,500	\$ 63,902
Dry Beans	98,000	\$ 41,328
Corn	230,000	\$ 19,674
Alfalfa Seed	16,000	\$ 13,382
Mint	14,600	\$ 17,375
Garden Seed Beans	17,000	\$ 11,716
Apples	3,100	\$ 12,503
Lentils	63,000	\$ 6,804
Hops	3,287	\$ 8,787
Sweet Corn for processing	NA	\$ 7,746
Dry Peas	46,000	\$ 3,379
Peaches	1,000	\$ 7,735
Cherries	850	\$ 3,313
Canola (Oilseed)	19,500	\$ 3,214
Plums and Prunes	480	\$ 1,948
Oats	20,000	\$ 1,172
Red Clover Seed	1,700	\$ 928
Other	NA	\$ 39,517
Total 2005	4,244,017	\$ 1,900,763
Total 2004	4,411,313	\$ 1,848,783

IDAHO LIVESTOCK

<i>Idaho Livestock (2005)</i>	<i>Total Head</i>	<i>Cash Receipts (1,000)</i>
Milk Cows/Milk	455,000	\$ 1,418,060
Cattle and Calves	2,060,000	\$ 1,056,592
Trout (#sold)	44,000,000	\$ 35,316
Sheep and Lambs	260,000	\$ 22,821
Poultry/Eggs	860,000	\$ 11,492
Hogs and Pigs	21,000	\$ 4,752
Other	NA	\$ 34,478
Total Receipts 2005		\$ 2,583,511
Total Receipts 2004		\$ 2,538,343
IDAHO TOTAL CASH RECEIPTS 2004: \$4,484,275		

IDAHO'S RANK IN THE NATION



<i>Product</i>	<i>Rank (2005)</i>	<i>Percent of U.S.</i>
Potatoes	1	28
Trout	1	73
Austrian Winter Peas	2	29
Barley	2	25
Prunes & Plums	2	22
Wrinkled Seed Peas	2	19
All Cheese	3	8
Hops	3	10
Mint	3	17
Onions (Summer Storage)	3	16
Sugar Beets	3	16
Alfalfa Hay	4	6
Dry Edible Peas	4	4
Lentils	4	11
Milk Cows	5	5
Milk Production	5	6
Spring Wheat	5	6
Dry Edible Beans	6	7
Sweet Cherries	6	1
All Wheat	7	5
Winter Wheat	7	4
Sheep and Lambs	8	4
Wool	8	5
Honey	11	2
Apples	11	1
All Hay	12	4
All Cattle & Calves	15	2

UNITED STATES TRADE AGREEMENTS

TRADE NEGOTIATIONS

Over the past decade, U.S. exports accounted for about a quarter of the country's growth. One in three acres of American farms is planted for sales overseas and 25 percent of gross farm income comes from exports. With 96 percent of the world's consumers living outside the U.S., foreign trade is becoming increasingly important to expand the U.S. economy.

Trade agreements create an opportunity to exchange goods and services more easily. Presidential negotiating authority, Trade Promotion Authority (TPA), lapsed in 1994 and was returned to the President under the Trade Act of 2002, but subsequently lapsed on July 1, 2007. The U.S. is party to a number of free trade agreements (FTAs): Israel (1985), Mexico and Canada (1993 NAFTA), Jordan (2001), Chile (2003), Singapore (2003), Australia (2004), Morocco (2004), Bahrain (2006), and Oman (2006) with negotiations concluded (but ratification pending) on FTAs with Korea, Peru, Columbia and Panama.

The U.S. is currently negotiating free trade agreements with Malaysia and Thailand. Regional free trade agreements currently being negotiated are the Free Trade Agreement of the Americas (FTAA), and the U.S.-Southern African Customs Union (SACU). The United State-Central America Dominican Republic Free Trade Agreement (CAFTA-DR), which includes Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua, has been completed and ratified by every signatory except Costa Rica. The Supreme Electoral Tribunal in Costa Rica decided that the issue will be put to popular vote on September 11, 2007. Costa Rica's Constitutional Chamber of the Supreme Court announced that it will review the trade agreement to determine if it is unconstitutional. If it is ruled unconstitutional, it is unclear whether it will go to a public vote. The agreement will end 80 percent of the tariffs immediately for such products as apples, pears, peaches, nectarines and cherries, and the rest will be phased-out over 10 years. Under the agreement, all tariffs on potatoes will be eliminated over 15 years.

There are three programs to assist trade-impacted workers and companies. **Trade Adjustment Assistance for Farmers (TAAF)** was added in the Trade Act of 2002. USDA reviews petitions from producer groups (3 or more) which are negatively affected by trade based on decrease in prices and significant imports. Financial adjustment up to \$10,000 will be available for farmers/groups who qualify (www.fas.usda.gov/itp/taa/taaindex.htm.) The Idaho fresh potato growers qualified for this program for the 2002-2003 growing season because of Canadian imports. **Trade Adjustment Assistance (TAA) for workers** is managed by the U.S. Department of Labor (www.doleta.gov/tradeact/). The **TAA for firms and industries** is administered by the U.S. Department of Commerce's Division of Economic Development Administration (EDA), and has 12 Trade Adjustment Assistance Centers (TAACs) to assist affected companies (www.taacenters.org/). All three programs provide eligible workers with career counseling, up to two years of training, income support during training, job search assistance, and relocation allowances.

THE WORLD TRADE ORGANIZATION

In 1985, the World Trade Organization (WTO) came into being as the successor to the General Agreement on Tariffs and Trade (GATT) that was established after World War II. The 1986-94 Uruguay Round was the last GATT trade negotiation/round, resulting in the creation of the WTO. The Uruguay Round was the first to address agriculture issues and also accomplished the Sanitary and Phytosanitary Agreement. The WTO has 150 members and 29 observer countries (www.wto.org).

The Sixth WTO Ministerial Conference was held in Hong Kong, China in December 2005. In general, ministerial conferences are the WTO's highest decision-making body, meeting at least once every two years and providing political direction for the organization. The main task before members in Hong Kong was to settle a range of questions that would shape the final agreement of the Doha Development Agenda, which members hoped to complete at the end of 2006. However, negotiations were suspended in July of 2006, and the deadlines set in Hong Kong were not met. Director-General Pascal Lamy urged a resumption of negotiations in May, 2007, noting that the goals are still full modalities in Agriculture and Non-Agricultural Market Access (NAMA) negotiations, and a commensurate level of progress in other areas of negotiation.

AGRICULTURAL ISSUES

WORLDWIDE

ALL PRODUCTS

Issue: Byrd Amendment & WTO Authorized Sanctions

In February 2006, Congress voted to repeal the Byrd Amendment, which provided for the distribution of antidumping and countervailing duties collected by Customs to the private sector. On April 2006, the President signed the measure, which is part of the Deficit Reduction Act of 2005. Repeal will restore these duties to the Treasury, but will not affect the assessment of the duties against unfairly traded imports nor will it affect the vigorous enforcement of the underlying U.S. trade remedy laws. The repeal becomes effective with imports after September 30, 2007.

The issue began in 2000 when the "Continued Dumping and Subsidy Offset Act of 2000" (Byrd Amendment) amended the Tariff Act of 1930, the principal U.S. trade remedy statute. Duties were previously deposited in the U.S. Treasury, but the Act provided for the anti-dumping and countervailing duties to be distributed to U.S. producers who supported those trade remedy actions. This provided the benefit of anti-dumping and countervailing duties on competitive imports as well as direct payments.

In 2001, eleven WTO members: Canada, the E.U., Australia, Brazil, Chile, India, Indonesia, Japan, Mexico, South Korea, and Thailand, challenged the Byrd Amendment at the WTO. In 2002, the WTO determined that the payments were not consistent with U.S. obligations under the WTO Agreements on Anti-Dumping and Subsidies and Countervailing Measures and constituted an additional measure against injurious dumping and subsidization. The U.S. appealed the decision, lost, and was given until December 27, 2003, to bring its measure into compliance. The U.S. failed to meet this deadline.

All countries chose arbitration except Australia, Indonesia and Thailand. In August 2004, the WTO arbitrator ruled that Canada, Brazil, Chile, European Union, India, Japan, Mexico, and South Korea could retaliate against the U.S. on up to 72-percent of the annual level of U.S. anti-dumping and countervailing duties collected on their respective exports and disbursed under the Byrd Amendment. According to U.S. Customs, total Byrd disbursements to U.S. producers amounted to US\$231 million in 2001, US\$ 330 million in 2002, US\$240 million in 2003, and US\$284 million in 2004.

In November 2004, Brazil, Canada, Chile, the E.U., India, Japan, Korea and Mexico received final retaliation authority by the WTO to impose sanctions on U.S. imports due to the U.S. government's failure to repeal the "Byrd amendment." On May 1, 2005, Canada implemented a 15-percent surtax on imports of live swine, cigarettes, oysters, and certain specialty fish. The E.U. implemented retaliatory duties as well.

Issue: Domestic Support

Thirty WTO members committed to reduce their trade-distorting domestic supports (WTO category called the amber box) from 1995-2000. These price supports or subsidies are directly tied to production

Country	Actual AMS 00	AMS 00 Ceiling Commitment
E.U.	\$ 40.0 billion	69.5 Euros (1.17 xc ~ \$ 81.3 B)
Japan	\$ 6.5 billion	41.39 Yen (.0087 xc~ \$60 M)
USA	\$ 16.8 billion	\$ 19.1 billion
All Others	\$ 1.8 billion	NA

Source: USDA-ERS and WTO reports

quantities. The reduction commitments are based on "Total Aggregate Measurement of Support" (AMS). The USDA-ERS has a WTO commitment database at www.ers.usda.gov/db/wto/.

Additional negotiations on reductions began in 2000 at the WTO Doha Round. The U.S. proposed reducing domestic support to 5 percent of total agricultural production, resulting in a \$100 billion reduction in worldwide trade-distorting subsidies.

Country	2002 levels (billions)	E.U. proposal ceilings in 2008	U.S. proposal ceilings in 2008
E.U.	\$62	\$33	\$12.5
U.S.	\$19	\$10.45	\$10
Japan	\$31	NA	\$4

In 2003, the E.U. began reform on their Common Agricultural Policy (CAP) created in 1957 to safeguard food supplies and stabilize prices. The CAP previously linked subsidy payments with production and had been blamed for encouraging massive surpluses that are then dumped on world markets. Reform components focused on cutting the link between production and direct payments.

In 2005, Canada sent US\$826 million to producers and processors in all agricultural sectors, changing the aid structure which previously only went to the beef sector. Canadian domestic support directly impacted the Idaho potato industry in 2002/2003 contributing to the Heyburn potato processing plant closure. Additionally, the most recent U.S. International Trade Commission investigation (1997) into the potato industry identified low-or zero-interest loans to processing and packing operations, financial assistance for construction of wastewater recovery facilities, grants or zero-interest loans to build potato storage facilities, low-cost land leasing arrangements and development of irrigation facilities programs. Idaho farmers are left at a competitive disadvantage in both the U.S. and international markets, resulting in significant rural community impacts. As a result, Idaho fresh potato growers qualified for relief under the Trade Adjustment Assistance for Farmers for the 2002-2003 growing season.

Issue: Export Subsidies

Export Subsidies (\$US millions)							
Country	1995	1996	1997	1998	1999	2000	2001*
E.U.	6496	7470	4857	5989	5854	2517	2297.1
Switzerland	455	355	295	293	269	188	0.0
Norway	84	78	100	77	116	44	32.0
U.S.	26	122	112	147	80	15	54.6
Rest of World	267	226	195	162	177	443	41.3
Total	7327	8253	5558	6668	6496	3206	2425.0

* Not all countries have notified as yet for this year.

Export subsidies are special incentives provided by governments to encourage increased foreign sales. Under the Uruguay Round Agreement, developed countries agreed to reduce the volume (21 percent)

and value (36 percent) of their export subsidies from 1995-2000. Further reductions will be addressed at WTO negotiations.

Issue: Food Safety

Food safety is an increasingly important issue. In 2006, the U.S. Food and Drug Administration banned Chinese honey that was found to be contaminated with potentially harmful antibiotics. Then in 2007 the FDA traced a tainted supply of pet food to a Chinese supplier of wheat gluten. U.S. inspectors have also banned or turned away a growing number of Chinese exports, including monkfish containing life-threatening levels of pufferfish toxins, drug-laced frozen eel and juice made with unsafe color additives. The U.S. Food and Drug Administration has also stopped all imports of Chinese toothpaste to test for a potentially deadly chemical reportedly found in tubes sold in Australia, the Dominican Republic and Panama.

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

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

Issue: Labeling

Labeling changes have been and will continue to be an issue for U.S. exporters to accommodate. Possible and upcoming label requirements can be found at the USDA-FAS website: www.fas.usda.gov/scripts/attacherep. Labeling change categories include allergens, biotechnology, health claims, meat labeling, minimum residue levels (MRLs), nutrition, recycling and origin.

Regarding Protected Geographic Indications (PGIs) and Protected Designation of Origins (PDOs), the U.S. had filed a complaint in the WTO stating discriminatory practices in which the E.U. does not allow non-E.U. entities to register their PGI/PDOs. There are over 600 registered PGI/PDOs in Europe (not counting those for wine and spirits), and none are from non-EU countries. Protected Geographical indications or Protected Designation of Origins designate the geographic origin of a product, where the product has some attribute or reputation associated with that origin. They are source identifiers, quality identifiers, business interests (marketing tools), and intellectual property (under the Trade-Related Aspects of Intellectual Property Rights-TRIPS- Agreement). Examples include "Florida" for oranges, "Idaho" for potatoes, "Washington State" for apples, "Roquefort" for cheese, "Bordeaux" for wine, "Parma" for ham, and "Vidalia" for onions.

In March 2005, the WTO ruled that:

1. Europe's regulation for protecting "PGI/PDOs" discriminates against U.S. products and producers, and is therefore contrary to WTO rules.
2. Europe could not, consistent with WTO rules, deny U.S. trademark owners their rights.
3. The panel stated that any exceptions to trademark rights for the use of registered GIs were narrow, and, for instance, limited to the actual GI name as registered.

The E.C. (European Commission), the United States, and Australia (which pursued a parallel case) agreed that the E.C. would have until April 3, 2006, to implement the recommendations and rulings. In

April 2006 the E.C. complied with the agreements. They set up an office in Brussels, Belgium to handle the applications for PGI/PDO's. Their website is http://ec.europa.eu/comm/agriculture/foodqual/protec/thirdcountries/index_en.htm.

The U.S. system for protecting geographical indications is primarily through the U.S. trademark system which gives access on a non-discriminatory basis while the E.C. has a special regulatory regime for geographical indications, separate and apart from its trademark system, which depends in significant part on government intervention.

The legal issues developed as the E.U. had been using PGI/PDOs as exclusive labeling rights. The E.U. had not honored trademarks originating from other regions, in opposition to the TRIPS agreement which protects intellectual property/trademarks. The E.U. has two classes of names:

- Protected geographical indication (PGI): meaning the name of a region, specific place or country describing a product originating in that region, specific place or country and possessing a quality or reputation which may be attributed to the geographical environment with its inherent natural and/or human components;
- Protected designation of origin (PDO): meaning the name of a region, specific place or country referring to a product originating in that region, specific place or country and whose quality or other characteristics are essentially or exclusively due to a particular geographical environment.

<http://www.uspto.gov/web/offices/dcom/olia/globalip/geographicalindication.htm>

Information on Country of Origin Labeling (COOL) can be found in the import section of this document.

Issue: Pesticide Harmonization

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

Issue: Sugar

More than 120 countries produce sugar and every country has some form of government intervention that affects costs of production. The U.S. sugar industry is the 4th largest producer worldwide and is very efficient. U.S. production cost is below the world average once adjustments are made for government intervention.

There are only two trade agreements worldwide that include sugar: NAFTA and DR-CAFTA. The U.S. sugar industry asked President Bush, Congress and all other involved parties to negotiate all sugar agreements in the WTO. Domestic support levels are negotiated only in the WTO arena, and the negotiating away of tariff quota levels in bi-lateral free trade agreements (FTAs) without addressing government support, makes the U.S. sugar support system unworkable.

Issue: Tariffs

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

United States	12%
European Union	30%

Japan	58%
Canada	21%
Global average	66%

Source: wto agricultural trade policy commitments database, USDA-ERS, www.ers.usda.gov/db/wto/

In addition, mega tariffs (100 percent or higher) play a major role in industry protection in Japan and the E.U. The E.U. has 141 mega tariffs, specifically in meat and dairy products, and Japan has 142, specifically in grains and dairy products. The U.S. has 19, mainly in dairy and nuts.

Issue: Visa Issuance

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

ARGENTINA

FRUIT

Issue: Cherries - Phytosanitary Ban

The government of Argentina prohibits the importation of Pacific Northwest cherries into the country due to concerns over cherry fruit fly and other insect pests. The governments of the United States and Argentina have not been able to agree on a protocol concerning the procedures for exporting U.S. cherries to Argentina. The U.S. has proposed an intensive inspection protocol to verify that the fruit is free of known quarantine pests; however, this protocol has yet to be reviewed by Argentina.

Issue: Tariffs and Export Rebates

Argentina has a tariff, tax and rebate system that makes it difficult to import fruit because of increased costs which are transferred to the buyers. Tariffs, taxes and rebates for 2007 are:

<i>Countries outside of Mercosur</i>	<i>Countries within Mercosur (Argentina, Brazil, Paraguay, Uruguay)</i>
Import tariff: 10%	Import tariff: 0%
Statistical tax: 0.5%	Statistical tax: 0%
Rebate: 5%	Rebate: 5%
Export tax: 10%	Export tax: 10%

AUSTRALIA

FRUIT

Issue: Apples & Pears – Phytosanitary Ban

Australia prohibits imports of U.S. apples and pears primarily due to the possibility of introducing fire blight. Apples from New Zealand (NZ) had been banned due to fire blight risks as well. Australia allows for import exceptions from China and Japan that are subject to a yearly review and disease survey, as fire blight is not officially reported in these countries. The U.S. position, upheld by a World Trade Organization Dispute Panel Proceeding (U.S. vs. Japan), is that this disease is not transmitted on mature, symptom-less apples, which is the only kind of apples the U.S. exports.

In 2000, the Northwest Fruit Exporters (NFE) submitted information to Australian officials regarding pest and disease information so Australia could initiate an Import Risk Assessment (IRA). In 2000, Australia published a draft IRA for NZ apples and then a revised draft in 2004, proposing a system of risk management measures for fire blight. The risk assessment and proposed risk mitigation measures for NZ apples have major implications for U.S. apple access, since APHIS has been advised that Australia's policy decision regarding NZ apple access would also open a door for U.S. apples. In November of 2006, Biosecurity Australia released its final risk assessment ruling that New Zealand apples could be imported. The government quarantine department has approved a recommendation to allow the apple import under strict guidelines. However, the borders have not yet been opened. To read the latest details on the NZ IRA process, see reports at www.aph.gov.au/Senate/committee/rrat_ctte/apples04/.

The U.S.-Australia Free Trade Agreement established a Working Group on Animal and Plant Health Measures for cooperation on the development of science-based measures. In February 2005, access for apples was added to the agenda.

SEED

Issue: Alfalfa Seed – Phytosanitary Restrictions

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

Issue: Sweet Corn – Phytosanitary Restrictions

Idaho is the only U.S. state allowed to ship sweet corn seed to Australia according to protocols established in 2002. The requirements include export field registration, field sanitation and pest control measures, export crop inspection and testing, packing house registration and procedures, pre-export seed inspection, packing and labeling requirements, and on-arrival inspections. Issues developed in 2003 regarding biotech seed which delayed shipments. Clarification was made that biotech seed is prohibited, unless it has an import permit. Even with this permit, shipments were not made in 2003 due to concerns by Biosecurity Australia. In 2004, APHIS assisted the Idaho seed industry in obtaining clarification and five shipments were made. In 2005, Australia announced that they were interested in sending sweet corn seed to the United States. With the help of APHIS, the Idaho-Eastern Oregon Seed Association sent a letter to Australian officials stating that any sales would need to be reciprocal.

WHEAT

Issue: State Trading Enterprise - Australian Wheat Board International (AWBI)

Australian Wheat Board International (AWBI) is the exclusive manager and marketer of all Australian bulk wheat exports through what is known as the Single Desk system. AWBI also markets and trades a range of other grains including barley, sorghum and oilseeds. Although AWBI is a publicly traded organization, it is a sole marketer which restricts the right of other entities to export. In the US-Australia Free Trade Agreement, Australia committed to work with the U.S. in WTO negotiations to develop export competition disciplines that eliminate restriction on the right of entities to export.

The U.S. Wheat Associates, the National Association of Wheat Growers, and the Wheat Export Trade Education Committee did not support the U.S. - Australia Free Trade Agreement as it “was a missed opportunity to correct one of the major unfair trade issues impacting U.S. producers” in failing to remove the AWBI monopoly status. The organizations continue to seek meaningful reform of wheat export monopolies as they are incompatible with free market operations.

Issue: Australian Wheat Board (AWB) and “oil-for-food scandal”

In October 2005, the U.S.-instigated Volcker report into alleged corruption in the UN-supervised “oil-for-food” program revealed that the Australian Wheat Board (AWB) paid US\$222 million in kickbacks to Iraq’s former ruling Baath Party between 1999 and 2003.

More than 2,200 international companies were involved in the payment of a total of US\$1.8 billion in bribes and kickbacks to the former Iraqi government. The AWB was the single largest company involved, contributing 14 percent of the total.

The Iraqi government forced the AWB to pay an annual fee to a Jordanian-based trucking company, Alia. Alia was partly owned by Iraq’s Ministry of Transportation and acted as a collection agent for the Government of Iraq’s inland transportation payments from humanitarian good suppliers.

The payments violated the UN-enforced sanctions against Iraq, which barred any direct financial transactions between the Iraqi government and international companies involved in the oil-for-food program.

In November 2005, USDA suspended AWB from the Supplier Credit Guarantee program but it was announced a few days later that the decision was reversed after Australia’s foreign minister spoke to an under secretary at the U.S. State Department. Industry has asked that the suspension be reinstated.

BRAZIL

DAIRY PRODUCTS

Issue: Tariffs

Brazil has high tariffs on dairy products, 14 - 33 percent depending on the product, in addition to a value added tax. Tariff increases are a concession to local dairy producers, who contend domestic processors are importing whey to blend with UHT (Ultra High Temperature) milk. The government’s attempt to deregulate the dairy industry has resulted in rapidly increasing production. The weakening of the Brazilian Real since 2001 and higher tariffs make U.S. whey less competitive.

FRUIT

Issue: Tariffs and Miscellaneous Charges

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

CANADA

ANIMAL HEALTH

Issue: Animal Identification

The National Animal Identification System (NAIS) has been in development for years by USDA and industry, including the National Institute for Animal Agriculture and the U.S. Animal Health Association. NAIS is a voluntary system designed to protect animal health, protect producers' businesses, protect access to markets, and protect neighbors who share the rural landscape. The NAIS goal is to be able to identify all animals and premises that have had contact with a foreign or domestic animal disease of concern within 48 hours after discovery. This will help limit the scope of outbreaks and ensure quick containment and eradication (www.usda.gov/nais).

Key program components are premises identification, animal identification and animal tracking, with the program guiding principles of uniformity, flexibility, inclusiveness, cooperation and confidentiality. Only information necessary to track and identify suspect animals will be maintained in NAIS data repositories. Officials will not have access to proprietary production data collected by industry organizations. There have been some industry concerns regarding the NAIS.

USDA and Congress provided \$11.6 million for NAIS projects with 29 administering agencies that include the Idaho State Department of Agriculture (ISDA). The Northwest Pilot Project (NWPP) is a USDA supported, seven-state, producer-driven coalition working in the states of California, Hawaii, Idaho, Nevada, Oregon, Utah, and Washington to influence the National Animal Identification System (NAIS) and develop a positive solution that is workable, reasonable, functional and cost effective for the producers in the Northwest. Through the course of the project, the NWPP is working to test multiple identification processes, including both group/lot and individual identification systems that will allow the tracking of enrolled livestock (including beef and dairy cattle, bison and sheep) from birth to death. At the same time, the NWPP is striving to meet USDA's goal of 48-hour traceability using real-world production scenarios to test the various identification methods. The NWPP has compiled the results (<http://www.washingtoncattlemen.org/NWPP%20Year%201%20Results%20Summary.doc>) in report and continues to collect feedback from producers about their experiences with this system.

For U.S. feeder cattle to enter Canada, they must be accompanied by a U.S. Origin Health Certificate issued by an accredited veterinarian and endorsed by a Veterinary Services (VS) veterinarian. The certificate must include the following: a) the name and address of the importer, b) the location of the importing feedlot if other than that of the importer, c) the name and address of the exporter, d) the Canadian Food Inspection Agency (CFIA) import permit number, e) individual animal identification which must include the USDA ear tag number, age in months, breed, color and markings if any, and sex, and f) any other identification present on the animal including brands and registration number (if any). An NAIS program may assist in meeting the age verification requirement for export to Canada.

DAIRY

Issue: Tariff Rate Quota

Canada protects its domestic cheese industry through a tariff rate quota system. The 1998 U.S. - Canadian Free Trade Agreement (CFTA) eliminated many tariffs, but the preferential duty rate only applies to imports within the quota. The quotas are small, resulting in the higher duty rate utilization. Imports of cheese are limited to 20,412 tons. Any imports above that level are made through the Import for Re-Export Program.

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

Issue: Tariff on Processed Dairy Products

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

Customs Tariff Schedule (As of Jan. 1, 2007)

H.S. Number	Description	Unit of Measure	MFN Tariff
2106.90.93.00	50% or more by weight of dairy content, within access commitment	KGM	7%
2106.90.94.00	Containing 50% or more by weight of dairy content, over access commitment	KGM	274.5% but not less than \$2.88/kg

POTATOES – FRESH

Issue: Anti-dumping penalties

Since 1984, Canada has imposed an anti-dumping duty on fresh potato imports from Washington, Oregon and Idaho into British Columbia, excluding imports from May 1 to July 31, for allegedly selling potatoes below cost of production. Fresh potato floor price is determined by the Canadian government and varies by state of origin. Any imports below those prices are impacted with the importer paying the difference between the floor price and the actual sale price to Revenue Canada. The Pacific Northwest potato industry contested the allegations of dumping and the methodology used by Canadian authorities in calculating the dumping margins during reviews of the dumping order held in 1984, 1986, 1990, 1995, and 2000. Each time, the Canadian authorities refused to revise the dumping order.

In 2005, the Pacific Northwest industry participated in formal Canadian review procedures to challenge the normal value amount. On September 12, 2005, as the result of an Expiry Review of the Canadian Antidumping Order, the Canadian International Trade Tribunal (CITT) removed long-standing antidumping duties on imports from the U.S., but only for reds, yellows, and exotic fresh potatoes, regardless of their packaging, and for 40 to 80 count- size whites and russet potatoes imported in 50-pound cartons. Unfortunately, the CITT continued to find that the rescission of the antidumping duty order on all other white potatoes “would likely cause injury to the domestic industry,” thus keeping in place the antidumping duty order for a significant volume of trade. The next review will take place in July of 2010 in Vancouver, B.C.

Issue: Prohibition on Bulk Shipments

Canada's Standard Container Law prohibits U.S. fresh potato exports from processing in bulk quantities (over 50 kilograms or 110 pounds) unless a special Ministerial Exemption (ME) is granted. Exemptions are to be reviewed and granted in a timely fashion and are not to be used as a barrier to trade. However, MEs have been denied even though the potato supply was needed. Through the years, various solutions have been considered such as harmonizing grade standards, establishing MEs for Canadian exports to the U.S., eliminating the U.S. State and Federal Marketing Orders, or eliminating the U.S. marketing order in conjunction with the elimination of Ministerial Exemptions. Some processors and growers in Canada have pushed for changes and are supporting the U.S. efforts to change the system.

Industry sees the artificial trade barrier as a clear violation of WTO rules. The U.S. industry position is that all potato (fresh, seed, processed) systems need to be harmonized, and all protocols and procedures need to be fair, transparent and equivalent. The prohibition on bulk shipments and the exemption requirements restrict U.S. growers' access to the large potato processing market in Canada. In contrast, low-priced potatoes from Canada enter the U.S. market with no similar restrictions.

Efforts by USTR in 2005 to persuade Canada to remove the bulk shipment prohibition for potatoes through formally requested consultations have resulted in numerous reform proposals, but none have been adopted and none have led to a change in Canada's policy. Apparently Canada and the U.S. have made progress on an agreement to resolve this issue but no details have yet been released.

WHEAT

Issue: Canadian Wheat Board

The CWB is collectively owned by farmers and receives financial backing from the federal government (including low interest rates and guaranteed payments). A CWB taskforce wrote a report proposing to scrap the current board, which is composed of 15 members elected by farmers and five government representatives, and replace it with a board appointed entirely by the federal government. The move away from a farmer-controlled board is troubling for Canada's National Farmers Union. The CWB argues that this move will shift control of the Board away from farmers and into the hands of shareholders. According to a statement issued by the CWB on November 6, 2006, "In the share-capital model, farmers are inevitably forced into the position of being a supplier instead of an owner."

Over the years, there have been numerous disputes by the U.S. regarding the Wheat Board's unfair trading practices. In March 2003, the WTO agreed to an American request to convene a panel to hear a dispute about monopolistic wheat trading practices of the Canadian Wheat Board.

In March 2004, the World Trade Organization (WTO) panel agreed with the U.S. that:

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

The panel ruled against the U.S. in that it did not find that:

- The Canadian Wheat Board (CWB) export regime violates Canada's obligations under GATT Article XVII governing the behavior of state trading enterprises.

In April 2004, the panel released its report, in which it ruled that the Canadian Wheat Board is not violating WTO rules governing state trading enterprises. The WTO panel recognized the potentially harmful and trade distorting effects of state trading enterprises, but determined that the WTO Agreement as currently written does not provide an adequate remedy. USTR sought relief for farmers by filing a WTO challenge. As a result, Canada passed legislation (May 19, 2005) that rectified its grain import and marketing system practices to bring them into compliance with the WTO panel's recommendations.

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

Canadian current conservative Prime Minister, Stephen Harper, has promised to dismantle the Canadian Wheat Board but is facing stiff opposition in his efforts.

CHILE

FRUIT

Issue: Cherries - Phytosanitary Restriction

Chile prohibits northwest cherry imports due to alleged phytosanitary issues. In 2002, an inspection team visited Idaho, Oregon and Washington to view production and testing facilities. Chilean phytosanitary officials proposed a protocol for qualifying shipments that was rejected by the northwest industry. Chile requires mitigation measure through expanded inspections that will prove overly restrictive and costly, and result in little if any commercial trade.

PEAS, LENTILS, & CHICKPEAS

Issue: Phytosanitary Restriction

Chile requires fumigation for any U.S. pea, lentil, and chickpea imports. Domestic researchers have found that the U.S. does not have significant insect numbers to prompt the fumigation requirement. Additionally, Chile does not require fumigation from the U.S.'s largest competitor, Canada. The Canadian-Chile Free Trade Agreement strengthened Canada's competitive advantage in the Chilean market for special crops. Canada currently supplies almost all of Chile's lentil imports and most of its dried pea imports. The Bruchidae family, commonly called storage seed weevils, is the prominent group of pests that are of concern in Chile. The U.S. continues to press Chile to implement and enforce WTO-consistent sanitary and phytosanitary requirements.

The U.S.-Chile Trade Commission convened in December 2005 to review the progress of the U.S.-Chilean Free Trade Agreement. The Commission committed to accelerate the rule-making process on sanitary and phytosanitary issues to allow for greater market access for crops such as peas and lentils that have been limited by these restrictions.

CHINA (People's Republic of China)

China's WTO admission in 2001 should have strengthened the global economy and the international rule of trade law. However, agricultural trade with China remains among the least transparent and

predictable of the world's major markets. China's economic growth outlook is positive for the medium term, barring any major financial or political crisis. The 2008 Olympics in Beijing will help propel growth and domestic spending on infrastructure.

U.S. – CHINA AGREEMENT ON AGRICULTURE

In 1999, the U.S. and China signed a bi-lateral agreement as part of China's WTO accession package that contained China's commitments to provide greater market access for U.S. goods and services. Specific tariffs of interest to Idaho include:

Product	Original duty	Duties 2007
Apples, Peaches & Cherries	30%	10%
Beef	45%	26.6% (effective rate with VAT)
Malt barley	35%	10%
Milk product: Cheese	50%	12%
Milk product: Ice cream	45%	19%
Milk product: Lactose	35%	10%
Milk product: Skim milk powder (SMP)	25%	10%
Milk product: Yogurt	50%	10%
Potatoes: Dehydrated flakes and granules	30%	15%
Potatoes: Flour, meal and powder	27%	15%
Potatoes: Fresh or chilled & Potatoes: Frozen	13%	13%
Potatoes: Prepared/preserved, frozen	25%	13%
Potatoes: Prepared/preserved, not frozen	25%	15%
Wheat: The TRQ is divided among State Trading Enterprises and the private sector	Quota: 7.3 mil MT Duty: within quota: 1%, over quota:80%	Quota: 9.6 mil MT Duty: within quota: 1%, over quota: 65%

A Value Added Tax (VAT) is charged by China on imported products. The U.S. industry asks for equal trading standards, specifically that the VAT be applied to both imports and domestic products or not at all. China's WTO compliance reports are found at www.ustr.gov/World_Regions/North_Asia/.

ALL PRODUCTS

Issue: Undervalued Currency

In July 2005, the Chinese government announced that it would make small changes to the country's currency policy, including fixing the exchange rate against a basket of currencies. The Yuan or renminbi (RMB) was also allowed to rise from 8.28 per U.S. dollar to 8.11.

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

countries, from Japan to India, from letting their currencies rise against the dollar for fear of losing competitive position against China.

Under the present circumstances of nearly full employment and capacity utilization in the United States, continued currency intervention by the Chinese government could push up U.S. inflation and interest rates, severely affecting the housing and equity markets, and potentially triggering a recession. A recession in the United States could, in turn, trigger a global recession as many countries rely on U.S. imports to fuel their economies.

The United States continues to work actively with China in identifying and overcoming impediments to greater exchange rate flexibility. The Chinese government has insisted it will not resort to any simplistic revaluation of the currency but pledged instead to gradually improve the exchange rate forming mechanism. A June 2007 report by the U.S. Treasury Department declined saying the undervalued RMB is a deliberate manipulation of trade policy. However, members of the U.S. Congress are threatening tariffs on Chinese imports and other remedies if the Chinese government does not address the currency valuation issue.

Over the longer run, China should adopt a more flexible exchange rate that will respond primarily to market forces. These forces would clearly have pushed the renminbi to much higher levels in the absence of China's official intervention.

BEEF

Issue: Phytosanitary Ban

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

In September 2004, after numerous meetings, technical discussions, and a visit to U.S. bovine facilities by Chinese food safety officials, China announced a lifting of its BSE ban for low-risk ruminant bovine products. The ban lifting was conditional upon agreement for a protocol which would establish technical and certification parameters for incoming low-risk bovine products.

In November 2004, U.S. and Chinese officials finalized and signed protocols that would resume exports of U.S.-origin bovine semen and embryos, along with non-ruminant origin feeds and fats. Exports of bovine semen and embryos are contingent on facility certification by Chinese regulatory authorities. However, U.S. and Chinese officials were unable to reach agreement on provisions that would resume exports of U.S.-origin protein-free tallow to China, and trade in low-risk bovine products. Demand for U.S. beef remains strong in China, but trade has not resumed as of June, 2007. As evidence of the sales potential, the trade believes the annual flow of U.S. beef into China through "indirect channels" is probably equal to or greater than the 2003 pre-BSE ban import levels.

FRUIT

Issue: Apples – Phytosanitary Restriction

China prohibits imports of U.S. apples other than Red and Golden Delicious varieties due to quarantine concerns over the bacterial disease fire blight. Only three states are approved to export these two varieties: Idaho, Washington and Oregon. Despite APHIS' requests for China to authorize the importation of six additional apple varieties (Fuji, Gala, Granny Smith, Rome, Jonagold, and Braeburn),

the Chinese Administration of Quality Supervision, Inspection, and Quarantine (AQSIQ) has maintained current import restrictions on U.S. apples.

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

In a related matter, the WTO ruled in favor of the U.S. that Japan's quarantine measures for fire blight imposed on U.S. apples were maintained without scientific justification. APHIS is now better placed to press China for movement on U.S. apples in light of the WTO ruling.

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

Issue: Pears – Phytosanitary Ban

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

The U.S. industry and government have been actively seeking access for pears to the PRC since 1991. Twice APHIS has submitted to China's Administration of Quality Supervision, Inspection and Quarantine (AQSIQ) a pest list and requested a pest risk assessment for U.S. pears. Negotiations with AQSIQ were on-going from 1995 to 2000, but progress has not been made in technical bi-lateral meetings in 2002, 2003 or 2004 due to conflicting negotiations on other issues. In 2003, the Northwest Horticultural Council (NHC) began evaluation of the potential association of fire blight bacteria with mature pear fruit. Markets that could benefit from research information are Australia, China, Japan, and South Korea.

POTATOES - FRESH

Issue: Phytosanitary Ban

Idaho table stock potatoes are prohibited entry into China because of claimed phytosanitary concerns. China's State Administration for Quality Supervision, Inspection and Quarantine (AQSIQ) has committed to complete a pest risk assessment (PRA) for Northwest fresh potatoes since 2000.

In 2000, AQSIQ committed to conduct a PRA to develop protocols for imports of U.S. potatoes from Alaska, Idaho, Oregon and Washington. In 2001, a Chinese technical delegation visited the Northwest, gathering information on potato production areas, packing facilities, potato pests, mitigation measures, pesticide use, sprout inhibitors, phytosanitary inspections and plant quarantine measures (specifically on viruses, diseases, nematodes and insects) as well as an overview of all aspects of the U.S. potato industry from planting, growing, and harvesting, to packing and shipping. In 2002, the Alaskan PRA for seed potatoes was commenced. It was completed in 2003, and as a result of the SPS bi-lateral meetings in September 2003, APHIS and AQSIQ signed a work plan in December 2003, authorizing the shipment of Alaskan seed potatoes to China.

China agreed to make immediate progress in completing pest risk assessments (PRA) for Pacific Northwest and Alaska table stock potatoes that would provide a basis for negotiating a market access agreement or protocol with China. AQSIQ asked APHIS for additional information on Potato Mop Top Virus, Potato Rot Nematode, Columbia Root Knot Nematode, Skin Spot and bio-engineered potatoes.

The industry, researchers and USDA/APHIS prepared and delivered a timely response. At subsequent bi-lateral meetings, AQSIQ identified the PRA completion as a high priority to be accomplished as soon as possible. A bi-lateral meeting was held in Orlando in December 2005 but, at that time, the Chinese did not have any additional information. The PRA is still not complete as of June 2007. USDA sent a letter with responses to further AQSIQ questions in December 2006. USDA and industry are continuing to push for access to the Chinese market.

SEED

Issue: Corn -- Phytosanitary Ban

Corn seed to China is prohibited because of *Erwinia stewartii* or Stewarts Wilt. In 2000, the American Seed Trade Association (ASTA) and the National Agro-Technical Extension and Service Center Ministry of Agriculture-China (NATECS) signed an interim agreement to collaborate on a framework for a U.S.-China Pest Risk Analysis (PRA). Agreement on the framework was stalled as it appears that NATECS is authorized to conduct PRAs on "domestic" quarantine issues and is only authorized to conduct "field surveys" (not PRAs) on issues of quarantine importance. In 2002, ASTA met with the Chinese Quality Supervision, Inspection and Quarantine (AQSIQ) and confirmed the industry has the ability to conduct Step 1 and 2 of a PRA, but Step 3 involving final decision making is the exclusive responsibility of APHIS and AQSIQ. At ASTA's request, APHIS broached the corn seed PRA during the 2002 bi-lateral meetings. As progress was not made, ASTA urged APHIS to readdress the issue with AQSIQ in the 2003 discussions. Corn seed was not addressed at the 2003 bi-laterals, and industry has asked that APHIS address the issue in future bi-lateral meetings. Secretary Johanns traveled to China in October of 2005 to sign a Memorandum of Understanding (MOU) with the director of China's AQSIQ to improve bilateral cooperation on animal and plant health and food safety. The MOU will provide a forum to seek resolution of bilateral technical food safety issues and promote scientific exchange to resolve technical barriers to trade. As of June 2007, this issue has not been resolved and a time frame has not been set for resolution.

Issue: Protection of Proprietary Varieties

The International Union for the Protection of New Varieties of Plants (UPOV) is designed to protect new varieties of plants by an intellectual property right. UPOV sets guidelines and uniform principles for protecting plant material. Without plant breeders' rights, there is nothing to prevent others from propagating and selling proprietary plant material. Although China joined UPOV in April of 1999, there continues to be difficulty in protecting seed. China has not yet implemented a complete set of rules governing seed protection and is only a party to the first two UPOV Acts (1961 and 1978). China is not a party to the latest Act. The annual number of applications for intellectual property protection in China has exceeded 1,000 for the past three years, ranking it number one among members of the International Union for the Protection of New Varieties of Plants (UPOV).

In 2003, China released its new plant variety protection list that provides the most current available seeds and seedlings afforded Plant Breeders' Rights by the State Forestry Administration (trees) and the Ministry of Agriculture (crops and plants). Several planting seed companies report problems with IPR infringement in China, yet many companies experiencing problems had not registered their trademarks or copyrights in China. Without registration the company has little legal recourse if products are counterfeited or their IPRs otherwise infringed. However, several companies that have registered their product's brand name, trade name, and logo nevertheless report that although they may receive favorable court rulings, it is very difficult to receive compensation from the offending party.

Seed sold in counterfeit packages identical to legitimate brand name is the most frequent problem for seed companies. Other crimes include theft of seed/germplasm from production fields or facilities which is then bred and marketed by other companies. Seed companies also report demands for

restitution for “inferior quality” seed sold by counterfeiters. Local courts also can award damages to growers even when poor crop management or weather borne problems, not seed quality, reduce yield. However, the country has yet to improve testing technology to support its examination of applicants' compliance with the conditions for new plant varieties

PROCESSED FRUITS & VEGETABLES: Certificate Requirement

Until 1998, China had required phytosanitary certificates for processed potato products including frozen and dehydrated potatoes. USDA authorizes the issuance of federal phytos that certify plant products free of pests and diseases. However, the manufacturing process of heat treatment and/or cold temperatures renders the likelihood of processed products harboring plant pests negligible. International Standards for Phytosanitary Measures under the International Plant Protection Convention (IPPC) provides that importing countries should not require phytos for plant products that have been processed so they have no potential to introduce regulated pests. USDA prohibits federal phytosanitary certificates from being issued on processed products.

In the early 1990s, to assist with customs clearance, the Idaho State Department of Agriculture (ISDA) created a state phyto to meet the needs of Idaho exporters. ISDA asked USDA to add “Frozen and Dehydrated Fruits and Vegetables” to the list of items that can be certified for export using the Processed Plant Products Export Certificate, PPQ Form 578. In 1998, the USDA-APHIS addressed the issue and China officials agreed that phytos would not be required. However, exporters continued to be asked for the certificates.

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

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

In regard to other processed fruits and vegetables, USTR seeks to limit the use of this AMS document to only processed potatoes. Documentation issues have occurred on other processed fruits and vegetables exported to China. Currently, exporters are using the CQC for all processed fruits and vegetables being exported to China.

PEAS

Issue: Phytosanitary Restriction

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

CUBA

FRUIT

Issue: Apples and Pears - Phytosanitary Requirements

The Northwest Horticultural Council (NHC) sought Cuban access for Idaho and Oregon fruit. In 2002, at the request of Cuban officials, the NHC hosted a site visit for Cuban officials in Washington State. Originally apples were discussed, and NHC representatives worked to include pears. The U.S. and Cuban officials have subsequently signed an agreement allowing for the export of Washington apples and pears. The current protocols allow for shipments of apples and pears with an import license.

Until 2001, Cuba's market was closed to U.S. exporters for political reasons. In 2000, the Trade Sanctions Reform and Export Enhancement Act was signed, relaxing certain U.S. economic sanctions against Cuba. Some prohibitions remain, but generally cash sales of U.S. agricultural products are allowed but financed sales are not. The market is opening gradually as industries meet documentation and scientific requirements.

EUROPEAN UNION

BEEF

Issue: Phytosanitary Ban

The E.U. bans all U.S. beef that is produced with growth hormones (imposed in 1989), maintaining it is a health issue and hormones pose a risk to human health. Numerous medical studies, including several European-based studies, have shown that there is no health risk. In 1998, the WTO found in favor of the U.S. and Canada by ruling that the E.U. had not provided enough scientific evidence to justify the ban. The E.U. chose not to conform to the WTO ruling and in 1999 the U.S. imposed *ad valorem* duties on a list of E.U. products. Following two years of debate, European governments and the EU Parliament passed legislation amending its embargo on beef produced with growth promotants in July 2003. In November 2004, the EU requested WTO consultations with the U.S. The U.S. maintains its WTO-authorized sanctions on EU products and does not agree that the EU is in compliance with the WTO ruling as the EU's position remains unsupported by any scientific rationale. Duties remain in place.

FRUIT

Issue: Tariffs and Entry Pricing System

The European Union imposes an excessively complicated tariff and quota system used to protect domestic production at different times of the year. The entry pricing system negatively impacts U.S. exports as it exposes importers to financial uncertainty and creates major disincentives to import U.S. fresh fruit.

OATS

Issue: Export Subsidies and Domestic Support

Despite commitments under the Uruguay Round Agreement, the E.U. continues to heavily subsidize oat production. USDA estimates indicate E.U. subsidies total \$67.00/ton. E.U. exports to the U.S. continue

to increase and U.S. oat planting has significantly diminished. Over the last 50 years, the U.S. has gone from 45,000 acres of oats to 4,500 acres.

SEED

Issue: Alfalfa - Unreasonable Recordkeeping Requirements

The E.U. requires a ten-year field history. Further, exports are limited to alfalfa seed from fields in their second and third years of production. A letter was sent to USDA in 1992. Follow-up has occurred but there has been no movement on this issue.

GENETICALLY MODIFIED FOODS AND ORGANISMS

Issue: Excessive Regulation on GMOs

The U.S., Canada, and Argentina filed a complaint with the WTO in May 2003 over the E.U.'s ban on allowing imports of genetically modified foods and organisms (GMO). While the E.U.'s regulatory body has expressed that GMOs are one of the greatest hopes for food production, the EU has created barriers, legal and regulatory, for the full importation of GMOs.

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

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

On February 7, 2006, the WTO dispute panel issued a preliminary ruling that said the E.U.'s approval process is in violation of the WTO's Agreement on the Application of Sanitary and Phytosanitary Measures (SPS). This ruling was only on the E.U.'s failure to properly apply its own procedures.

On November 21, 2006, the Dispute Settlement Body adopted final panel reports stating that the EU acted inconsistently with its obligations under the SPS agreement. The panel found that the previous moratorium on imports between 1999 and 2003 was a violation of obligations, as were the undue delays in the approval of 24 out of 27 biotech products identified by complaining parties.

With the recognition of the illegality of the E.U.'s excessive approval period, the time for acceptance of specific GMOs will be drastically reduced and exporting countries will have greater access to the E.U. market.

In June 2007, the Ministers of Agriculture in the European Council decided threshold for acceptable level of unavoidable and adventitious presence of approved GMOs in certified organic food will remain the same as conventional which is currently set at 0.9%.

INDIA

FRUIT

Issue: Tariffs

India currently imposes import duties of 50 percent on the CIF value (Cost of Insurance and Freight) of apple imports and 30.6 percent on pears, as well as 30.6 percent of the aggregate applied duty rate on cherries, seriously limiting the imports of Idaho fruit.

Issue: Food Safety Restriction

On Aug. 13, 2003, the Indian Ministry of Health & Family Welfare (MOHFW) issued a Gazette Notification G.S.R. 656(E) amending food regulations prohibiting the sale of fresh fruits and vegetables coated with waxes, mineral oils, and colors. Although this amendment has not been enforced, it threatens U.S. apple, pear, and other horticultural exports to India as the U.S. industry uses coatings of carnauba wax and shellac to maintain the quality and shelf life of fresh horticultural products. India has not authorized the use of carnauba wax and shellac on U.S. fresh fruits and vegetables despite Codex Alimentarius Commission (Codex) agreements on the safety of these products and numerous requests for approval by the United States. A new regulation, effective January 1, 2008, is in place permitting the use of white and yellow beeswax and carnauba wax, not to exceed Good Manufacturing Practices. Each package must be labeled with the type of wax with which the product is coated. Shellac wax is not approved for use on fruit. Industry continues to work with the U.S. government to change India's regulation.

PEAS, LENTILS, & CHICKPEAS

Issue: Phytosanitary Restriction

India requires fumigation for any U.S. pea, lentil, and chickpea imports, although currently there is a waiver allowing fumigation upon arrival in India. This current waiver is valid until March 31, 2008. Although the U.S. and Canada received the current waivers at the same time, earlier waivers created shipping gaps which gave Canada a significant advantage. The U.S. industry asks for equal treatment and implementation of WTO consistent sanitary and phytosanitary requirements.

POTATOES - PROCESSED

Issue: Tariffs

Amendments to India's Balance of Payment (BOP) restrictions announced in 1999 removed the restrictive licensing requirements for processed potato products including frozen fries and potato flakes, granules and flour. However, high duties continue to prohibit trade.

On April 15, 2000, as part of GATT Article XXVIII tariff negotiations, India reduced and bound its tariff on frozen fries (H.S. 2004.10.09) to 35 percent. Subsequently, India has applied a 30 percent duty. The reduction has been nullified to some extent by the addition of a special 4 percent auxiliary tax calculated on top of the 30 percent rate. In 2004, a 2 percent special education tax applied to imports replaced the auxiliary tax. Although this tax is apparently being applied to both domestic and imported product, according to importers, they must pay the tax twice, which is WTO inconsistent.

During a November 2003 visit to India, the U.S. potato industry, in coordination with the U.S. Embassy in New Delhi, requested that India significantly lower its 30 percent duty on frozen potatoes and 30

percent duty on dehydrated potatoes in upcoming budget cycles. Likewise, the U.S. potato industry requested that only the tariff (and not the additional taxes) be applied on potato imports. The potato industry sought a reduction in India's tariff in the WTO Doha agricultural negotiations until the negotiations were suspended in July 2006.

ISRAEL

FRUIT

Issue: Tariff Rate Quotas

The Idaho industry supports the Northwest Horticulture Council which has asked USTR to negotiate duty free access along with a significant expansion of the duty free quota volumes during the tariff phase out time period.

In 1985, the U.S. and Israel signed a Free Trade Agreement (FTA), providing phytosanitary safeguards and import restrictions for agriculture products. In 1996, the U.S. and Israel signed an Agreement on Trade in Agricultural Products (ATAP) which provides a schedule of tariff rates, quotas and reference prices. The ATAP which expired in 2001 was renegotiated to expire at the end of 2008.

Imports of U.S. apples and pears may enter duty free under a tariff rate quota (TRQ) from November through May 31. The TRQ is measured in metric tons.

	2004	2005	2006	2007	2008
Apples	2700	2781	2864	2950	3039
Pears	1212	1248	1285	1324	1364

Issue: Phytosanitary restrictions on cherries

Israel prohibits U.S. sweet cherry imports due to phytosanitary concerns. In 2005 APHIS submitted a list of pests associated with the Pacific Northwest and California to allow Israel to initiate a pest risk assessment (PRA). The PRA will be conducted by Israel to determine which pests are of quarantine concern. Once the PRA is complete, APHIS will review the PRA and propose mitigation measures. Israel also imposes bound-duty rates of over 80 percent on sweet cherry imports.

SEED

Issue: Import Permits for warm season species

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

JAPAN

BEEF

Issue: Phytosanitary Ban

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

After the U.S. BSE detection, U.S. officials immediately engaged Japan at a technical level and provided extensive documentation and initiated numerous additional measures to further ensure the safety of U.S. beef for both domestic and export consumption. At a high-level effort, U.S. officials made numerous trips to Japan and organized visits of Japanese officials to Washington, D.C. as well as trips to U.S. feedlots, laboratories and processing plants. President Bush and Prime Minister Koizumi discussed this issue on several occasions.

In October 2004, the U.S. and Japan announced a shared view that under specific conditions and modalities based upon science the two countries would resume two-way trade in beef and beef products, subject to their respective domestic approval processes. The U.S. trade resumption framework included:

- A special marketing program, the Beef Export Verification (BEV) Program for sales of beef and products from animals 20 months old or younger (81 percent of the 35 million animals that are slaughtered annually in the U.S.);
- And, removal of specified risk materials (brain and spinal cord tissues) from animals of all ages.

Before the BEV could be implemented, the U.S. was required to conduct a study to examine the correlation between chronological age and physiological characteristics. The study results were used to define the USDA grading criteria to be used in determining animal eligibility for export.

In February 2005, a Japanese Expert Panel accepted the U.S. study demonstrating that the A40 Maturity grading will effectively eliminate meat from animals of 21 months of age and older from export to Japan. In March 2005, Japan's (FSC) Prion Committee approved regulations allowing exemption for cattle 20 months of age and younger from 100-percent testing at slaughter.

In December 2005, following the close of the public comment period, the Japanese Food Safety Commission issued its final report, which formalized its conclusion that U.S. measures under the proposed export program for Japan were effectively equivalent to those measures in place in Japan. With this determination, no regulatory barriers to resume imports remained. On December 12, 2005, the government of Japan announced that the ban on U.S. beef was formally lifted.

On January 19, 2006, a shipment of veal products from the U.S. arrived in Japan. Upon arrival, an inspection revealed that three of the 41 boxes contained vertebral columns which were prohibited under the Export Verification Program. On January 20, 2006, USDA FSIS received notification that Japan had suspended importation of all beef products from the United States.

On February 17, 2006, USDA released its report on the investigation of the shipment. The report concluded that mistakes were made by the plants involved with the shipment and by USDA inspection personnel. Those mistakes resulted from a lack of understanding of which products were eligible for shipment to Japan. The ineligible product included veal with the vertebral column intact and veal offal.

In addition, the report concluded that FSIS inspection program personnel at the establishment were not sufficiently aware of the Agricultural Marketing Service (AMS) Export Verification program and should not have certified or approved the shipment of ineligible product to Japan.

USDA took several actions in response to the findings of this report including certifying plants to ship specific products instead of issuing blank export certifications; requiring extra training for in-plant inspectors; notification to USDA inspectors of change to a plant’s eligibility three separate times in the certification process; and a second signature on shipments of beef for export unless a trading partner indicates that a second signature is not necessary for U.S. exports to that country.

As of June 2007, trade has resumed for U.S. beef from animals aged 20 months or younger. The Japanese policy is not based on sound science and is not consistent with international standards.

Issue: Tariffs and Safeguard

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

However, Japan continues to have a safeguard in place for beef. If cumulative beef imports on a quarterly basis exceed the imports of the previous corresponding period by 17 percent then the beef tariff “snaps back” to 50 percent. In 2003, the safeguard was triggered and beef tariffs became 50 percent on August 1, 2003. The U.S. argued against the tariff increase, claiming that the most recent year’s imports appeared to be artificially high when compared to the previous year when BSE cases were confirmed in Japan, driving beef consumption and imports to low levels. U.S. pressed at the highest levels of the Japanese government to recognize the non-typical market conditions due to BSE and to review the application of the beef safeguard, which was lifted in March 2004.

In Japanese Fiscal Year (April – March) 2007, the Japanese government announced that the years used for comparison to determine tariff levels will again be Japanese fiscal years 2002 and 2003, which represent the periods before the ban of U.S. beef imports. Although industry supports the complete elimination of the tariff, this is a step that will ensure that imports will not appear artificially high thus triggering the 50 percent tariff.

DAIRY PRODUCTS

Issue: Tariff Rate Quotas

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

<i>H.S. Code</i>	<i>Product description</i>	<i>Quota</i>	<i>Tariff</i>
0404.10.1110	Whey with added sugar (6.48)	137,202 MT	35%
0404.10.1191	Whey without added sugar (6.48)		25%
0404.10.121	Whey, mineral concentrated with added sugar	14,000 MT	35%
0404.10.122	Whey, mineral concentrated without added sugar	14,000 MT	25%
0404.10.129	Mineral concentrated whey outside quota		29.8% + 425 ¥ /kg
0404.10.131 0404.10.141	Whey for animal feed	45,000 MT	0

0406.20.200	Grated or powdered cheese (not processed)	0	26.3%
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FRUIT

Issue: Apples – Phytosanitary Restriction

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

In 2005, the WTO upheld the decision that Japan has unfairly used unscientific restrictions to block U.S. apple exports. As a result, on August 25, 2005, Japan issued regulations removing the restrictive measures dealing with fire blight including orchard registration, bugger zones, and orchard inspection. The new protocol keeps in place the inspection of packed apples and also requires tests for maturity on shriveled fruit. In addition, the new protocol allows imports of California apples. Approved apple varieties are Braeburn, Fuji, Gala, Granny Smith, Jonagold, and Red and Golden Delicious.

The new protocol keeps the post-harvest treatment provisions that are aimed at killing codling moth and its larva. These provisions include the holding of apples in cold storage rooms dedicated to the Japan export program. U.S. and Japanese inspectors check the monitoring equipment, and then seal the apples in the storage room for 55 days of cold treatment to kill codling moth. Once apples are removed from cold storage, they are fumigated with methyl bromide. Apples are required to be fumigated in field bins instead of in packed cartons. These requirements remain obstacles to trade and shipments have not been made in the past two years. Because of the severe restrictions, there has been no effort to include Idaho in the protocol.

Issue: Cherries – Phytosanitary Restrictions

U.S. cherry exports to Japan have required fumigation with methyl bromide to control codling moth and western cherry fruit fly since the export program began in 1978. Japan is unwilling to eliminate a costly fumigation requirement and inspection program despite evidence demonstrating minimal risk of transmitting codling moth.

Based on new USDA research that demonstrates that cherries are not a suitable host for codling moth, the U.S. has requested that Japan remove the specific treatment requirement for sweet cherries. In its place the U.S. government has submitted a systems approach to the Japanese government for consideration, which combines post harvest commodity inspection with good orchard pest management practices. The industry has supplied documentation that the proposed systems approach provides quarantine security, which is equivalent or better than that provided by methyl bromide fumigation. The Japanese government has responded to the U.S. proposal, but only to raise additional questions and propose an alternative protocol, components of which are not justified by cherry’s status as a non-host for codling moth. The Pacific Northwest industry conducted a pilot program in 2005 at the request of MAFF to demonstrate the efficacy of a systems approach. This project continued in 2006 with the California cherry industry. Unfortunately, Japan is insisting on a codling moth trapping program in candidate cherry orchards for export. Industry has been unwilling to agree to this requirement and continues to explore possibilities.

Issue: Tariffs

Japan imposes import duties of 17 percent ad valorem on apples and 8.5 percent on cherries.

POTATOES – FRESH TABLE STOCK

Issue: Phytosanitary Ban

Japan prohibits imports of U.S. fresh table stock potatoes, allegedly to prevent the introduction of golden nematode and potato wart into Japan. Potato wart is not found in the U.S. and golden nematode is not found in the Pacific Northwest, California and other U.S. potato exporting areas. The U.S. urges Japan to recognize disease-free U.S. areas for golden nematode and potato wart. As U.S. chipping potatoes received market access in 2006 and again in 2007 following potato cyst nematode detection (except Idaho, see below), it is hoped this will lead to market access for table stock potatoes going forward.

POTATOES – FRESH CHIPPING

Issue: Phytosanitary Restrictions

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

Although processed potatoes are not considered a source for infection because nematodes cannot survive the cooking process, Japan immediately banned shipment of chipping potatoes from the United States. USDA APHIS forwarded a letter to Japan further explaining the potato cyst nematode situation and asking that the ban be lifted. Japan's Ministry of Agriculture plans to conduct a pest risk assessment on the situation.

Unfortunately, the market had just opened to U.S. chipping potatoes. In an effort to ensure Japan has a sufficient supply of potato chips throughout the year, the Japan Potato Chip Association (JPCA) and the U.S. Potato Board lobbied the government of Japan to allow processing facilities to import fresh chipping potatoes. Under an agreement announced on February 2, 2006, imports of potatoes to be processed into potato chips are allowed on approved plants during the February to June period when Japanese processors experience supply shortages. Potatoes are being shipped under a strict protocol that covers seed, field inspections, storage, soil removal, packing and shipping.

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

Japan re-opened to chipping potatoes in February 2007. Chipping potatoes from Idaho were not included in the initial re-opening of the Japan market. Market access for chipping potatoes from Idaho, from outside the regulated area is on the priority list for upcoming bilateral negotiations between Japan and USDA.

PROCESSED FOODS

Issue: Food Additive Restrictions

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

Export Service Center
1207 NW Naito Parkway, Suite 204 Portland, OR 97209-2851
Ph# 503-872-6630, FAX# 503-872-6615

SEED

Issue: Phytosanitary Restrictions

Japan has become extremely strict on soil detection in shipments. MAFF has set a standard of .03% as the residue level.

KOREA

BARLEY - MALT

Issue: Tariff Rate Quota

In the past, South Korea has used quotas to encourage the purchase of domestic malting barley and discourage imports even though domestic barley may cost as much as four times that of imported malting barley.

<i>Year</i>	<i>Quota</i>	<i>Tariff in quota</i>	<i>Tariff outside of quota</i>
2007	30,000 MT	30%	513.0%

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

BEEF

Issue: Phytosanitary Ban

In December 2003, Korea imposed a ban on most products derived from cattle, sheep and goats, following the discovery of an imported cow with BSE in Washington State. The U.S. government

immediately engaged Korea at a technical level and provided extensive documentation on the situation. Additional measures to further ensure U.S. beef safety have also been taken. Multiple technical and political meetings and extensive negotiations have occurred.

On January 13, 2006, Korea and the United States agreed on an initial import protocol, an important step in re-opening the market. The agreement allowed the U.S. to export boneless beef from cattle less than 30 months of age under a Beef Export Verification Program.

In early June 2007, Korea suspended the issuance of import certificates after two shipments of U.S. beef were found to contain beef ribs. After an investigation by USDA, the suspension was lifted.

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

In May 2007, the World Organization for Animal Health (OIE) concluded that American beef poses a "controlled risk." The OIE says deboned beef from cattle under 30 months of age is safe, and with appropriate precautions in a controlled risk country, beef from older animals and bone-in meat can be consumed safely as well. Given the ruling, Seoul and Washington are planning to hold technical consultations on South Korea's beef import quarantine measures. US officials have been demanding Seoul fully resume the import of US beef if the Paris-based organization gives it such a classification.

Issue: Tariffs

High tariffs have been a significant impediment to beef trade with a 40 percent tariff.

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

DAIRY

Issue: Tariff Rate Quotas

Korea has restrictive tariff rate quotas on many dairy products.

<i>HS Code</i>	<i>Product description</i>	<i>Maximum Bound Quota</i>
0404.10	Whey and modified whey, whether or not concentrated or sweetened	54,233 MT Tariff under quota: 20% Tariff over quota: 49.5%
1702.11 .10	Lactose, containing by weight 99% or more lactose, expressed as anhydrous lactose, calculated on dry matter (moisture less than 5%)	9,400 MT Tariff under quota: 20% Tariff over quota: 49.5%

The Korea-U.S. Free Trade Agreement, currently awaiting Congressional approval, would significantly increase access. The agreement creates TRQs for dairy products that double the amount of current access. The TRQ established for cheese, with an initial duty-free quantity of 7,000 tons, grows 3 percent annually. Over-quota tariffs on cheddar cheese are eliminated over 10 years, and over-quota

tariffs on all other cheeses are eliminated over 15 years. The TRQ for skim milk powder, whole milk powder, and evaporated milk has an initial duty-free quantity of 5,000 tons, growing 3 percent annually in perpetuity. The over-quota tariffs on these milk products remain at the current MFN rates, ranging from 89 to 176 percent. The TRQ for food-grade whey has an initial duty-free quantity of 3,000 tons, growing 3 percent annually. The over-quota tariff for food-grade whey is reduced from the current 49.5 percent to 20 percent upon implementation of the agreement and is phased out over 10 annual reductions. The agreement establishes a TRQ of 200 tons for butter and a TRQ of 700 tons for infant foods, with both of these quotas growing at 3 percent, and becoming duty free in 10 years. The 36-percent tariff on whey blends is phased out through 10 annual reductions. Feed-grade whey becomes duty free immediately.

FRUIT

Issue: Apples – Phytosanitary Ban

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

Issue: Cherries – Phytosanitary Ban

Idaho cherries from Ada, Canyon, Gem, Payette, Twin Falls and Washington counties can be exported to Korea with methyl bromide fumigation to control codling moth. The industry has proposed a systems approach which provides quarantine security that is equivalent to that provided by methyl bromide fumigation. Recent research demonstrates that cherries are not a suitable host for codling moth.

Issue: Pears – Phytosanitary Ban

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

Issue: Tariffs

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

The Korea-U.S. Free Trade Agreement, currently awaiting Congressional approval, would decrease tariffs. Tariffs on U.S. fresh cherries will be eliminated immediately. Import tariffs of 45 percent on U.S. apples, other than the Fuji variety, will have a 10-year phase-out and tariffs on Fuji apples will have a 20-year phase-out. The agreement also includes an initial quantity safeguard of 9,000 tons that increases in year 5 to 12,000 tons, growing 3 percent annually thereafter to 20,429 tons in year 23 after which the safeguard no longer applies. Beginning in year 11, the safeguard only applies to Fuji apples. Korean tariffs on non-Asian pear varieties will be eliminated in 10 years, and in 20 years for Asian pear varieties.

ONIONS

Issue: Tariff Rate Quota

Korea restricts onion exports through high tariffs and limiting quotas. The 2007 tariff is 50 percent until the quota of 20,645 MT is met. At that time, the tariff jumps to 135 percent.

SEED

Issue: Phytosanitary Restrictions

Korea has restrictive regulations that inhibit U.S. seed exports. The country's list of harmful organisms is extreme and prohibitive.

POTATOES - DEHYDRATED

Issue: Tariff Rate Quotas

Korea has strict limitations on imports of dehydrated potato products through restrictive quotas and high over-quota duty rates. Product over the quota of 60 MT is effectively prohibited due to a 304 percent duty.

The American Potato Trade Alliance (APTA) has worked with USTR on this issue since 2000. In 2002, Idaho State Department of Agriculture (ISDA) officials discussed the issue during the Governor's trade mission to Korea. In 2005, Governor Kempthorne and officials from the ISDA again discussed the issue during a Governor's trade mission to Korea. Korean officials have communicated that Korean industry is interested in importing additional fresh U.S. potatoes. Industry is seeking expansions of the Korean quotas for fresh (26,110 MT) and dehydrated products.

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

POTATOES - FRESH

Issue: Phytosanitary Restriction

Korea has phytosanitary barriers which restrict U.S. fresh potato imports. In early 2005, NPQS detained 64 loads of chipping potatoes for reported finds of Columbia root knot nematode. NPQS confirmed a Korean regulation that would allow products detained for pests to be disposed of through processing once pest destruction was assured. The Korean processors requested assistance from the U.S. industry which worked with Oregon State University nematologists to confirm that frying the potatoes and boiling waste product was effective to destroy the pests. As the information was supplied to the Korean processors, NPQS announced the pest find, making it commercially impossible for the Korean processors to treat the shipments in question. Thus, all 64 loads had to be returned to the U.S. at great expense. The U.S. potato industry is working with APHIS to ensure such an event does not occur in the future and the Korean government is being urged to coordinate with APHIS to find an acceptable way to protect Korea's phytosanitary security without damaging the potential to commercially process imported potatoes.

Issue: Tariff Rate Quotas

Korea has strict limitations on fresh potato imports through restrictive quotas and high over-quota duty rates. Fresh potatoes are subject to a 30 percent tariff that jumps to 304 percent once the 18,810 MT quota has been reached. Potatoes can only be shipped from January to June unless a waiver is obtained from the Korean government.

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

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

MEXICO

BEANS

Issue: Import Permit Auctions

For dry bean trade, Mexico converted its import-licensing regime upon NAFTA implementation to a transitional tariff-rate quota (TRQ) to be completed in 2008.

Importers must have an import permit which is obtained at an auction that sells the right to import beans within the quota. The auctions have proceeded mostly on time, although a 2003 phytosanitary issue temporarily interrupted trade. The quota and auction program effectively creates an import tax, thereby increasing costs for Mexican buyers.

Negotiated TRQ and Over Quota Schedule

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

Previous negotiations in 2001 produced the following additions to the original NAFTA agreement:

- *Timing:* Mexico will hold two auctions per year, one on March 1 for 1/3 of the quota and one June 1 for 2/3 of the quota. The auction will be announced a minimum of 30-days in advance.
- *Validity:* Permits from March auctions will be valid until May 31. June auction permits will be valid from July 1-Sept. 30.

- *Transferability:* Mexico will allow permit holders to transfer up to 70 tons.
- *Eligibility:* Mexico will eliminate the dual requirement that a bidder, during the last year, have imported beans and purchased domestic beans. Rather, Mexico will require that a bidder must have imported OR traded domestic beans during the last year to be eligible to bid.

BEEF

Issue: Anti-Dumping Duties

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

In 1998, Mexican cattlemen requested an anti-dumping investigation, alleging that U.S. livestock and beef products were sold below cost of production. In 1999, the Mexican Department of Commerce (SECOFI) imposed dumping duties on U.S. beef and beef variety meat imports. The final decision announced in 2000, resulted in assorted anti-dumping duties that vary by product and range between zero and \$0.80/Kg. Product graded USDA Prime or certified by USDA as “Angus Beef” is exempt.

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

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

In April 2006, Secretary of Economy (SECON) decided to continue antidumping duties on imports of U.S. beef and beef by-products from certain U.S. exporters and producers for another five years, after completing a sunset review investigation. In addition, Mexico’s modification of the beef dumping duties in 2004 in response to the findings of a NAFTA Chapter 19 panel, which determined that SECON did not sufficiently demonstrate that U.S. beef imports had damaged Mexico’s beef industry, is pending the Chapter 19 panel’s approval. Mexican policies in this area have reduced the number of U.S. suppliers and altered product trading patterns. Industry representatives assert that \$100 million to \$500 million in revenue is lost each year due to antidumping duties in the beef sector. (Source: http://www.ustr.gov/assets/Document_Library/Reports_Publications/2007/2007_NTE_Report/asset_upload_file720_10964.pdf retrieved April 17, 2007).

Issue: Bovine spongiform encephalopathy (BSE)

Mexico’s Secretariat of Agriculture (SAGARPA) banned imports of bovine products in December 2003, following the bovine spongiform encephalopathy (BSE) detection in Washington State. In March 2004 SAGARPA resumed boneless beef imports, and in February 2006, bone-in beef imports resumed from cattle less than 30 months of age. Shipments are permitted into the 12 authorized crossing points as before.

Sanitary Certification requirements for boneless beef from the official authority of the country of origin must indicate that the:

- Product is of U.S. origin or legally imported from Australia or New Zealand from plants approved by the Secretariat of Agriculture, Livestock, Rural Development, Fisheries and Food.
- Animals from which the product was obtained were slaughtered in installations authorized by the USDA and are dedicated exclusively to the slaughter of animals under the age of 30 months

or that the plant has acceptable procedures for complete segregation that permits the USDA official to identify and select the products to be exported.

- Product was obtained from animals of 30 months or less of age, determined by means of records that demonstrate the age or through the postmortem inspection in which it must be verified that the animals from which the product was obtained have two incisive permanent teeth or fewer.
- Product country of origin has animal health regulations in force that prohibit the feeding of ruminants with meals made from meat and bone or skin rinds of ruminant origin.
- Animals from which the product was obtained were not stunned by means of gas injection in the cranial cavity or cutting of the spinal cord by laceration of the central nervous tissue, by means of introducing a sharp cutting instrument in the cranial cavity.
- Product to be exported does not contain meat trimmings, meat from advanced meat recovery, mechanically separated meat and ground meat.
- Shipment has been submitted for inspection by official personnel of the Office of Inspection of Animal and Plant Health to verify the fulfillment of that indicated in NOM-030-ZOO-1995 (“Specifications and procedures for the verification of imported meat, carcasses, viscera, and offal at animal health verification points”).
- Shipment and documentation must comply with the regulations established in article 24 of the Federal Law of Animal Health.
- Inspection of the merchandise will be performed by officials from SAGARPA.
- Imports of deboned meat will only be permitted from animals that have been slaughtered on or after March 5, 2004.

Issue: Live Cattle Exports

U.S. Beef cattle are banned from export to Mexico because of BSE. Breeding bulls for artificial insemination are permitted with special certification. Embryos (fertilized eggs), oocytes (unfertilized bovine eggs) and semen are allowed with health certificates. Rodeo bulls are allowed in on a temporary basis.

Dairy heifers, on the other hand, were allowed access to Mexico October 4, 2006. Animals must be equal to or less than 24 months of age and must originate from herds that have been registered by a purebred dairy breed association or by the Dairy Herd Improvement Plan (DHIP). The exporter has to provide proof of registration or membership in the DHIP to the Area Veterinarian In-Charge (AVIC) office. The AVIC will be responsible for checking the documents or records to make sure that this information is correct prior to endorsing the animal health certificate. There are additional requirements to exporting live dairy cattle that can be found at: <http://www.aphis.usda.gov/vs/ncie/iregs/animals/mx.html>.

DAIRY

Issue: Milk Powder – Tariff Rate Quotas

NAFTA established a tariff rate quota for milk powder that increases 3 percent per year to be completed in 2008. Until 1999, CONASUPO was the exclusive milk powder importer into Mexico. LICONSA is now the largest importer of dry milk. LICONSA is a parastatal company charged with distributing milk to the poor. Private companies import milk powders for production of various dairy products such as cheese and yoghurt. They are allowed to import a predetermined amount per year. This amount changes due to production levels in Mexico. For their remaining requirements, companies can offer closed bids to pay a fee per ton to obtain the necessary import permit (cupos) for an amount up to the maximum quantity allowed under the quota.

Skim Milk and Whole Milk Powder Import Duties and Quotas (Source: U.S. Dairy Export Council)

Year	U.S. Quota (tons)	Over Quota Duty (%)	Quota from all other countries (tons)	Over Quota Duty (%)
2004	53,750	46.98	120,000	128
2005	55,369	35.25	120,000	128
2006	57,030	23.52	120,000	128
2007	58,741	11.79	120,000	109
2008	60,504	0.06	120,000	109

Mexico regularly announces auctions and keeps with its commitments under the WTO agreement and NAFTA. Most U.S. dairy products ship to Mexico duty-free as a result of NAFTA tariff phase-outs, the lone exception being skim milk powder. Mexico regularly announces tariff rate quota (TRQ) addendums. These addendums address the duty rate if a country ships over their quota. Mexico is the number one market for U.S. dry milk powders. Mexico can only fulfill 70 percent of their needs domestically. After the quota is reached, Mexico will evaluate their need for the remainder of the year and announce an addendum. This addendum states the quantity of milk powder they will accept over the quota without a duty tax attached to it. This is expected to change in 2008 due to the elimination of the quota for NAFTA countries. In 2006 Mexico allowed an additional 13,000 MT of milk powder over quota.

FRUIT

Issue: Apples - Safeguard Duty/Minimum Reference Price

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

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

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

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

On April 18-19, 2006 meetings were held between the Northwest Fruit Exporters and the Ministry of Economia (with UNIFRUT in attendance). After making some headway, the negotiations deteriorated and

then fell apart. Ministry of Economia made a final determination of a 47.05 percent “all others rate” on November 2, 2006. More amparos and legal briefs have been filed against Mexico. A NAFTA panel was formed and a decision is due October 8, 2007.

The high tariffs have reduced U.S. exports by 25 percent, providing other international competitors who are not subject to the tariff an accessible market. The 2006 market was valued at \$130 million which represents 30 percent of all U.S. apples exports. The U.S. can ship varieties other than U.S. Red and Golden Delicious, but the Mexico market is dominated by these two varieties.

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

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

Slight program modifications were made in 2003 and 2004. Additional modifications will be needed to design a protocol for Idaho peach and nectarine exports to be allowed to Mexico. The Northwest Horticulture Council, USDA, and APHIS are working on a new protocol for stone fruit. This team is trying to negotiate agreement on a protocol similar to the established apricot protocol. Before the market opens up, Mexico needs to publish a Diario Oficial that updates their import requirements.

POTATOES – FRESH

On March 11, 2003, Mexico agreed to allow U.S. fresh potato imports into a 26-kilometer (16 miles) border zone in year one, to the seven northern states in year two, and to the remainder of Mexico in year three, based on bilateral talks. At this time, U.S. exports continue to be limited to the 26-kilometer zone and bilateral talks continue. USDA APHIS called for Mexico to adhere to the 2003 protocols and open trade to the nine northern states.

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

Issue: Potato Cyst Nematode

Idaho fresh potatoes must follow additional requirements due to a detection of Potato Cyst Nematode. The additional requirements for fresh potatoes are:

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

POTATOES – SEED

Issue: Phytosanitary Protocol Procedure

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

Negotiations have been ongoing and the U.S. submitted a suggested protocol which would allow Mexican pre-nuclear seed potatoes into the U.S. and allow U.S. pre-nuclear and field grown seed potatoes into Mexico. USDA completed a risk analysis in 2002 for a proposed rule to allow Mexico mini tuber potatoes into the U.S. and the risk analysis was published for comment in August 2002. No comments on the analysis were made on either side. This issue stagnated and has not been revisited in an official capacity.

PHILIPPINES

SEED

Issue: Grass Seed – Pests and Diseases

Certain grass seeds are prohibited entry. As requested, ISDA provided a list of pests and diseases of Bermuda and Zoysia grass to USDA to send to Philippine officials in 1999. USDA sent the list to the Philippines to be used to develop an acceptable protocol. No progress has been made as of 2006.

TAIWAN (Republic of China)

FRUIT

Issue: Apples – Phytosanitary Restriction

Idaho, California, Washington, and Oregon are currently authorized to export apples to Taiwan. However, if codling moth is detected, there is a “three strikes” program, which if three findings occur, closes the market for the season. The U.S. has requested that the Bureau of Animal and Plant Health Inspection and Quarantine (BAPHIQ) allow for fumigation at Taiwan ports-of-entry for U.S. apple shipments if codling moth is detected, as it is a viable and proven means of providing phytosanitary protection. BAPHIQ insists that non-compliant shipments of U.S. apples be rejected or destroyed. In contrast, APHIS maintains that fumigation, as a quarantine measure of last resort, would be less trade-restrictive, and provide Taiwan with an appropriate phytosanitary protection level as outlined in the SPS agreement. U.S. origin apples can be fumigated as a precautionary measure against codling moth before they leave the U.S. for Taiwan.

On November 7, 2002, after a single live codling moth was found in two separate U.S. apple shipments, BAPHIQ suspended the entire U.S. apple export program. During 2003 and 2004 work plan negotiations, U.S. concerns regarding BAPHIQ's overly restrictive import measures were discussed extensively. However, BAPHIQ refused to consider fumigation as a treatment option for live codling moth detected in shipments at port.

In 2004, the "three strikes" provision was negotiated. In December of 2004, Taiwan again closed its market to U.S. apple imports following a third strike. The market remained open throughout the 2005 season with no closures. In 2006 there were two finds. After 25 years of apple shipments Taiwan does not have codling moth. This might imply that either U.S. methods of shipping apples mitigate the risk to levels below quarantine concern, the codling moth cannot survive in Taiwan, or both.

Issue: Tariffs

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

FRUITS AND VEGETABLES – FRESH

Issue: Pesticide Tolerances

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

Taiwan now establishes its own maximum residue limits (MRLs) and many pesticides used in the United States have not been assigned Taiwan MRLs. The default MRL for a compound where a MRL has not been established is the smallest detectible amount – which is effectively zero. Violation of the standard generally results in the recall of the product. Provisional MRLs have been established for some fruit and vegetable crop-compound combinations for which an application to establish an MRL was made before the deadline, but provisional MRLs are no longer being granted. This is in spite of a backlog of almost 1,500 MRLs that are waiting to be established.

POTATOES - FRESH

Issue: Phytosanitary Restrictions

Exports of U.S. potatoes are limited to five states: Idaho, Oregon, Washington, Alaska and California. Other states must obtain an import permit which generally does not occur. Among many requirements, Taiwan requires that fresh potatoes be field inspected for late blight.

POTATOES - PROCESSED

Issue: Tariffs

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

THAILAND

ALL PRODUCTS

Issue: Customs Valuation

Officials from the US Department of Commerce have commented that Thailand's customs valuation procedures can constitute a serious import barrier. The Thai Customs Department keeps records of the highest declared prices of products imported into Thailand from invoices of previous shipments. Those prices can be used as check prices to assess tariffs on subsequent shipments of similar products from the same country. It is important to note that these valuation rules are applied to imports from all nations. However, Thai Customs may disregard actual invoiced values in favor of the check price for assessment purposes, a practice that can result in very high effective duties for agricultural products with seasonally fluctuating prices. For products shipped from other than the country of origin, the Customs Department reserves the option of using the check price of either the country of origin or the country of shipment depending on which has the higher price. Lastly, demands for unrecorded cash transactions are also an endemic part of the customs process.

Recently, the Thai Customs Department introduced a revamped exporter/importer-rating program. Importers or exporters with an excellent performance rating are exempt from inspection for pricing and tariff, and thus enjoy faster treatment and receive their value-added tax refunds quickly. These steps will not solve the problems in the Customs Department, but will make it easier for some firms to export to Thailand.

FRUIT

Issue: Tariffs

Tariffs are 10 percent for apples, 30 percent for pears and 40 percent for cherries (ad valorem). As a result of the ASEAN-China Free Trade Area, the U.S.'s largest competitor, China, has been able to export competitive products to Thailand duty free since 2003. The high landed price of U.S. fruit makes competition difficult, as China has duty free access to Thailand's market. Under the free trade agreement between Thailand and Australia, Australian apples and pears also have duty-free access. The U.S. fruit industry supports free trade discussions.

Issue: Plant Quarantine Regulations

On August 17, 2006, Thailand notified the World Trade Organization (WTO) of draft revisions to its Plant Quarantine Act. The new regulations seek to strengthen the quarantine practices for imported fresh fruits and vegetables from all exporting countries. The Thai government has indicated that the purpose of the new regulations is not to hinder established trade but to address a deficiency in the Thai quarantine system regarding the lack of a quarantine pest list. Nevertheless, they could potentially prohibit the import of a broad array of plant products based on their potential to act as a host to a quarantine pest. One of the major concerns is that in the prohibition list, deciduous tree fruit grown in parts of the U.S. is listed as a host of tropical fruit flies that do not exist in the growing areas. Prohibited articles that have previously been imported are exempt until the completion of a pest risk analysis.

POTATOES - PROCESSED

Issue: Tariffs

Thailand's 2007 bound duty is 30 percent on most processed potatoes including frozen French fries and potato flakes. The tariff is one of the highest in the region. The American Potato Trade Alliance (APTA) has requested that Thailand reduce its ad valorem tariff on HS 2004.1 to 10 percent or less. US-Thailand free trade agreement (FTA) negotiations began in 2004. APTA has stressed that any FTA agreement include an immediate reduction in the tariff.

PEAS, LENTILS, & CHICKPEAS

Issue: Tariffs

Although trial plantings have proven unsuccessful due to environmental and genetic limitations, Thailand continues to have high tariffs on pulses, specifically dry peas, chickpeas, and lentils. Tariffs have been at 30 percent. Thailand lowered tariffs for peas to 5 percent on an experimental basis in 2006. The 5% tariff rate is under review and is expected to be extended in August 2007.

VENEZUELA

ALL PRODUCTS

Issue: Import Permits

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

Import licensing practices prevent entry of \$200 million in U.S. agriculture products for goods including corn, dairy products, fruits, poultry and beef annually. Venezuela has failed to establish an open and predictable system for issuing import licenses, has continued application processing delays, and has failed to publish rules and information on licensing procedures.

Until 2004, there had been no published data regarding awarded import licenses since December of 2001 (which is required by Venezuelan regulations). In 2004, information for import licenses was published through the Ministry of Agriculture and Land's web page. The information posted in the website is only available between September and mid-October.

FRUIT

Issue: Tariffs

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

VIETNAM

FRUIT

Issue: Tariffs

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

	January 11, 2007	January 1, 2008	January 1, 2009	January 1, 2010	January 1, 2011	January 1, 2012
Apples	24%	21.2%	18.4%	15.6%	12.8%	10%
Pears	25%	22%	19%	16%	13%	10%
Cherries	35%	30%	25%	20%	15%	10%

POTATOES - PROCESSED

Issue: Tariffs

After years of work, the U.S.-Vietnam Bilateral Trade Agreement (BTA) went into effect on December 10, 2001. Vietnam agreed to lower the tariff on vegetables from 30 percent to 20 percent and lower the tariff on frozen fry type products from 50 percent to 40 percent in December 2004. The American Potato Trade Alliance (APTA) has encouraged USTR to request that Vietnam further lower tariffs to 10 percent. There are some variations on import duties charges and APTA is working with USTR to address this issue.

IMPORT ISSUES

COUNTRY OF ORIGIN LABELING (COOL)

ALL PRODUCTS: U.S. Country of Origin Labeling (COOL)

The 2002 Farm Security and Rural Investment Act amended the Agricultural Marketing Act of 1946 to require retailers to inform consumers of the country of origin for muscle cuts of beef, lamb, and pork; ground beef, lamb, and pork; farm-raised and wild fish and shellfish; fresh fruits and vegetables; and peanuts. Processed food items and food sold in restaurants and food chains are excluded.

Voluntary COOL went into effect in September 2002. On January 27, 2004, President Bush signed Public Law 108-199 which delayed the implementation of mandatory COOL for all covered commodities except wild and farm-raised fish and shellfish until September 30, 2006. On November 10, 2005, President Bush signed Public Law 109-97, which delays the implementation for all covered commodities except wild and farm-raised and shellfish until September 30, 2008.

Language in the 2007 House Agriculture Committee's farm bill legislation removes penalties, record keeping requirements, and also allows state and regional designations to be used for designation. As of August 2007, The Senate Agriculture Committee has yet to pass its version of farm bill legislation.

Estimated COOL implementation costs range from USDA's \$1.9 billion for all covered commodities to a high of \$5 billion estimated by the National Pork Producers Council. COOL opponents reason that mandatory labeling costs will increase production costs which will then be transferred to retailers, packers and finally consumers. The Food Marketing Institute argues that retailers would be required to inform consumers of the COOL for over 600 different "covered commodities" and that this would require information from thousands of suppliers. Proponents argue that U.S. products are the safest in the world and COOL is necessary to compete against foreign suppliers and imports.

DAIRY

MILK PROTEIN CONCENTRATES AND CASEINS: Tariffs

According to the U.S. National Milk Producers Federation (USMPF), importers used a loophole in the current laws that restrict the importation of milk products. Imports spiked in 2000 with 44,878 metric tons of Milk Protein Concentrate (MPC) and 74,230 metric tons Caseins. They were imported duty free. This created an unfair competitive market for U.S. dairy products producers. Imports have decreased slightly over the past few years. Senator Larry Craig introduced Senate Bill 1417 on July 18, 2005 to establish an import quota. The bill was referred to the finance committee. It was reintroduced as Senate Bill 1485 on May 24, 2007 and again referred to the finance committee. The bill seeks to impose a quota of 18,488 metric tons of MPC and 55,477 metric tons of Caseins per calendar year. The overrate quota tariff has not been determined.

HONEY

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

In September 2000, the American Honey Producers Association and the Sioux Honey Association filed a petition with the International Trade Commission and Commerce, alleging that the honey industry was

being injured by LTFV imports of honey from Argentina and China and that Argentina subsidized their industry's honey products. In November 2001, the ITC determined the industry had been injured and the USDOC issued antidumping and countervailing duty orders on imports of honey from Argentina and an antidumping duty order on imports of honey from China. Some of the duty orders have since been rescinded. On December 15, 2003, the U.S. Department of Commerce International Trade Administration concluded that dumping had occurred and reparations were negotiated. The U.S. International Trade Commission (ITC or Commission) determined in June 2007 that revoking the existing countervailing duty order on honey from Argentina and the existing antidumping duty orders on honey from Argentina and China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. Therefore, the existing orders remain in place.

AUSTRALIA

LAMB: Excessive Imports

In July 1999, the U.S. imposed safeguard measures on imports of fresh, chilled or frozen lamb meat from New Zealand and Australia in the form of tariff-rate quotas and duty rates. After consultations and an investigation, the WTO panel issued its report in December 2000, finding certain aspects of the U.S. safeguard measure to be inconsistent with WTO rules. In August 2001, the Administration decided to eliminate the tariff-rate quota effective November 15, 2001. On July 16, 2002, the tariff-rate quota was finally removed. The U.S. has provided up to \$42.7 million in additional assistance through FY 2003 to help the U.S. industry continue adjusting to import competition. Australian lamb imports into the U.S. have slowed, but continued to grow through 2003. Lamb imports and programs to assist U.S. product marketing will continue to be an issue.

CANADA

CATTLE: Bovine spongiform encephalopathy (BSE)

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

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

The USDA has proposed a new BSE minimal-risk rule that would allow Canadian cattle born after March 1999 into the United States for any purpose. The comment period for the proposed rule ended March 12, 2007. APHIS is reviewing comments and has no time line for acting on a final rule.

CHINA (People's Republic of China)

FRUIT: Dumping of Concentrated Apple Juice

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

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

In 2005, the antidumping order was set to expire and was reviewed by the U.S. International Trade Commission and the U.S. Department of Commerce. On September 19, 2005, the ITC "...determined that revoking the existing antidumping duty order on certain non-frozen concentrated apple juice from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time."

RESOLVED ISSUES

WORLDWIDE

CATTLE: Transshipment of Cattle into the U.S.

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

ARGENTINA

DAIRY: Export Certificates

In 2002, SENASA, Argentina's Department of Agriculture began requiring a new sanitary certificate. The U.S. industry asked USDA to assist in drafting text agreeable to all parties. USDA's Agricultural Marketing Service (AMS) and Animal and Plant Health Inspection Service (APHIS) along with SENASA finalized the wording for the Argentine Sanitary Certificate for Exports of Dairy Products from the U.S. The certificate is available for use. The AMS Dairy Grading Branch will provide the certificate for exporters shipping product from USDA or Interstate Milk Shippers-approved production facilities. The exporter or manufacturer must complete the "Worksheet for Sanitary Certificate for Exports" and then mail or fax the worksheet, along with the manifest, to the national field director for AMS in Glen Ellyn, Ill., which will issue the official certificate within three to four business days.

FRUIT: Phytosanitary Barrier on Pears

Until August 2002, Argentina banned the importation of pears from the states of Idaho, Oregon and Washington due to unspecified phytosanitary concerns. In 2002, a treatment protocol was enacted so that fruit with fire blight issues could be imported after specific treatment. Even though the protocols are in place for shipments, there have been no exports of pears to Argentina.

AUSTRALIA

FRUIT: Cherries- Fumigation

Under a fumigation protocol to protect Australian fruit from cherry fruit fly, cherry imports are allowed to parts of Australia from certain counties in California, Idaho, Oregon and Washington. No U.S. cherries are permitted into Western Australia, due to the possibility of introducing brown rot. In 2003, the fumigation protocols were changed to temperatures as low as 6°C (42.8°F) (versus 50-52 degrees) which is essentially the same protocols as for Japan and Korea. The ideal protocols would exclude fumigation treatment, as it is hard on fruit. Fumigation protocols are not expected to change.

SEED: Sweet Corn – Various diseases

Idaho is the only U.S. state allowed to ship sweet corn seed to Australia. In April 2002, the Idaho work plan was established requiring export field registration; field sanitation and pest control measures; export crop inspection and testing; packing house registration and procedures; and pre-export seed

inspection as well as packing and labeling requirements and on-arrival inspections. Details of the protocols can be obtained from USDA or ISDA. Australia prohibits the import of all biotech seed, unless it has an import permit.

BRAZIL

DAIRY: Ingredient Restrictions

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

DAIRY: Individual Plant Inspection and Approval

Since 1999, suppliers wanting to ship to Brazil had to have their plants individually inspected and pre-approved by Brazilian authorities. USDA, FDA and the U.S. Dairy Export Council (USDEC) worked with Brazil's Meat and Dairy Inspection System (DIPOA) to change the requirements. In 2001, a Brazilian plant inspector met with USDA and FDA officials, toured various dairy and meat facilities and reviewed the U.S. certification process. In 2002, Brazil initiated a new policy that allows plants listed in the AMS publication "Dairy Plants Surveyed and Approved for USDA Grading Service" or the U.S. Food and Drug Administration's Interstate Milk Shippers (IMS) to export to Brazil after completing the required paperwork. Plants approved only under state inspections will not be accepted. OAA/Brasilia and DIPOA jointly maintain a list of plants approved for export. DIPOA retained all previously registered U.S. dairy plants and are gradually de-listing facilities that no longer appear on AMS/IMS lists. U.S. dairy exporters expect to reap an estimated \$3 million a year from the change in policy.

FRUIT: Pears – Phytosanitary Requirements

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

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

PEAS, LENTILS, & CHICKPEAS: Fumigation Requirements

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

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

SEED: Seed Certifications Protocols

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

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

After five years of work, Brazil published the Normative (law) February 8, 2006 allowing access for U.S. seed potatoes. Currently, the U.S. Potato Board is conducting variety trials in different growing regions of Brazil to gather data to register varieties, a requirement prior to the occurrence of commercial sales. Currently, there are less than five U.S. varieties registered.

POTATOES - SEED

Issue: Potato Seed Certification Protocols

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

The U.S. Potato Board initiated work in Brazil in 2001 by bringing Brazilian growers, importers, and government officials to visit the U.S. and view seed production areas. In May 2002, APHIS requested that Brazil conduct a pest risk assessment (PRA) on U.S. seed potatoes. Brazil agreed, but because of Brazil's PRA legislation changes, a completion date was never provided.

Currently, the U.S. Potato Board is conducting variety trials in different growing regions of Brazil to gather data to register varieties, a requirement prior to the occurrence of commercial sales. Currently, there are less than five U.S. varieties registered.

CANADA

ALFALFA HAY: Cereal Leaf Beetle (CLB)

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

ISDA sent a request to USDA in February 1999 and to USTR in December 2000, asking for a resolution. In 2001, the situation was clarified that the Creston Valley in British Columbia is a quarantine area. Shipments of alfalfa hay may be shipped to that area from Idaho without fumigation. However, all products from the Creston Valley must be fumigated before shipment to other areas of Canada. This puts the U.S. on a level playing field with the producers in the Creston Valley area. Therefore, fumigation is still required for shipments of alfalfa hay to Canada (except the Creston Valley). In addition, the requirement for an in-field treatment has been dropped.

CATTLE: Exchange of Production Information

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

CATTLE: Bluetongue and Anaplasmosis

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

In April 2004, Canada increased access for U.S. feeder cattle from 39 states considered to have low or medium incidences of Anaplasmosis (AN) and Bluetongue (BT). Testing and treatment requirements were removed from U.S. feeder cattle imports, enabling year-round access to Canadian feedlots. As an additional risk mitigation measure, Canadian feedlots were required to segregate the imported U.S. feeder cattle from breeding stock and to identify, track and restrict movement of the animals. Based on disease surveillance data provided by USDA, restricted non-eligible (high incidence Bluetongue) states were Alabama, Arizona, Arkansas, California, Florida, Georgia, Louisiana, Mississippi, Nevada, South Carolina, and Texas. Prior to this change, exports to Canada were restricted to limited states and only allowed from April 1 – September 30.

In addition, the CFIA and the USDA have initiated discussions regarding the recognition of areas of equivalent health status for brucellosis and tuberculosis that may be applied against additional categories of cattle and other livestock.

DAIRY PRODUCTS: Export Subsidies on Milk Products and Quotas on Fluid Milk

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

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

FRUIT: Apples – Alleged Dumping of Red Delicious Variety

The Canadian International Trade Tribunal (CITT) ruled in 1995 that Red Delicious apples were being sold in Canada at less than the cost of production. A floor price was established at \$12.99 per carton.

If the FOB price fell below this floor price between October 1 and June 30, an antidumping duty was collected on the difference. The Canadian International Trade Tribunal rescinded the antidumping ruling on February 8, 2000.

FRUIT: Apple Maggot

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

POTATOES: Fresh - Phytosanitary Restrictions & Double Lab Testing

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

POTATOES – FRESH - Potato Cyst Nematode

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

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

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

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

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

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

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

SUGAR: Imports of Sugar Syrups

Sugar syrup imports (H.S. 1702.90.40) from Canada are duty free. Refined and raw sugar (HS 1701), on the other hand, face a heavy duty. The U.S. is importing significant quantities of sugar syrup from Canada. Although it was blended in Canada, the raw sugar was often imported from Brazil or Australia which uses the 1702 duty. This product was sold to the U.S. and the sugar was extracted.

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

WHEAT & BARLEY: Karnal Bunt

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

COSTA RICA

BEEF

Costa Rica lifted the ban on U.S. Beef on February 13, 2006. The export requirements for Costa Rica have been updated. Costa Rica will allow trade on boneless beef, tongues, kidneys, livers and hearts.

CHILE

FRUIT: Apple Maggot

Before 2001, Idaho apples were prohibited in Chile. In 2000, an import protocol was established for Washington, resulting in apple exports to Chile. ISDA worked with USDA APHIS and the Northwest Horticulture Council to negotiate similar protocols for Idaho. ISDA sent apple maggot information to APHIS and in August 2001, Idaho and Oregon producers were allowed to ship apples to Chile. Potential sales are estimated at more than \$1 million per year for the two states' fruit industries.

FRUIT: High Tariffs

Chile assesses a tariff of 6 percent ad valorem on the CIF value with an additional 18 percent value added tax. The 2003 passage of the U.S.-Chile Free Trade Agreement will provide U.S. horticulture better access to Chile's market as three-quarters of U.S. farm goods will enter Chile duty-free within four years (all duties will be phased out over 12 years).

CHINA

FRUIT: Cherries – Phytosanitary Barrier

In 2003, China approved a work plan for cherry exports from Idaho, Oregon and Washington. The work plan includes pest control measures for Mediterranean fruit fly through trapping and recording in orchards for three seasons. There are other specific requirements regarding inspecting, packing, labeling and exporting. In addition, if Cherry Fruit Fly or Codling Moth is found, the packing facility will be banned from exporting and the shipment will be either fumigated or destroyed. A phytosanitary certificate is required as is an additional declaration that, "All fruit in this shipment has been grown in accordance with relevant regulations of PRC and within the approved growing sites."

POTATOES: Dehydrated – Sulfite Tolerance

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

In the U.S., sulfites are "generally recognized as safe" with some very broad restrictions. Therefore, there is no standard specified for dehydrated potatoes and good manufacturing practices are applied. There is no Codex standard established for sulfites on dehydrated potatoes either. Some other countries have established standards for dehydrated potatoes specifically or dried vegetables in general. In all cases, they are significantly higher than the 30 PPM established by China.

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

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

WHEAT and BARLEY: TCK Smut

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

EUROPEAN UNION

ALL PRODUCTS: Bioengineered Foods

In May 2004, the E.U. ended a six year moratorium on new biotech crops by approving a variety of genetically modified corn for sale to consumers. Cultivation by farmers is still forbidden. The Traceability and Labeling Regulation requires that biotech products be traced throughout the commercial chain, and that food containing biotech products comply with certain labeling requirements for products with more than 0.9 percent biotech material. The Genetically Modified Food and Feed Regulation provides approval procedures for biotech food and feed products.

The biotech ban had been unsupported by scientific studies and was challenged in the World Trade Organization (WTO) by the U.S., Argentina, and Canada (supported by Australia, Chile, Colombia, El Salvador, Honduras, Mexico, New Zealand, Peru and Uruguay as third parties). The proof burden had been on the E.U. to demonstrate that the moratorium was necessary to protect human, animal or plant life or health and the proof had to be based on scientific principles and contain sufficient scientific evidence.

WHEAT and BARLEY: Tariff Rate Quotas

In 2002, the E.U. placed tariff rate quotas (TRQs) on all imported cereals, but agreed through negotiations to maintain the current margin of preference system for durum wheat, high-quality common wheat, corn, rye, and sorghum, while setting up TRQs for medium and low quality wheat and barley. The 2003 global import allowance was up to 2,981,600 MT of medium and low quality wheat per year at a duty of 12 Euros per MT. The country allocations were U.S.- 572,000 MT and Canada - 38,000 MT. The U.S. negotiated a specific quota of 50,000 MT for high quality malting barley exports (www.fas.usda.gov/gainfiles/200301/145785032.pdf).

JAPAN

DAIRY: Anticaking Agent

In 2002, the U.S. Dairy Export Council (USDEC) announced that Japan had finally changed their additive requirements to allow for the use of Sodium Sarcosinate, an anticaking agent used in salt. This allowance is beneficial to many industries, not just dairy, and has been well received by industry.

DAIRY: Labeling Restrictions on WPC

Industry has chosen to put the labeling restrictions on Whey Protein Concentrate (WPC) on hold as the current standard is not limiting exports of whey isolates. Before April 1998, whey proteins with a protein level over 65 percent were not classified as a dairy ingredient. After negotiations, the protein level was changed to 80 percent. Skim milk powder and other dairy ingredients are labeled simply as “dairy ingredient” on retail products. Many Japanese manufacturers do not use whey proteins of 80 percent and higher because they do not want to list whey proteins separately on the label as the listing could confuse consumers.

KOREA

BEEF: Import Quotas, Restrictions on Marketing and Distribution

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

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

DAIRY: pH Declaration

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

DAIRY: Food Standards

Korean food manufacturers would like to lower production costs by using whey and modified whey products. Whey Protein Concentrate (WPC) is not allowed as an ingredient in yogurt. Previously it was not allowed in frozen deserts, but this code was revised in 2001.

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

POTATOES: Dehydrated - Product Misclassification

Blended potato formulations that should enter under the tariff classification of HS 2005.2 are misclassified by the Korean Customs Service as HS 1105. The blended products are subject to the restrictive quota and excessive over-quota tariff of 317 percent. In order to qualify as a potato preparation, Korea requires that 10% of the product be additives. After many industry and government meetings, industry requested FAS remove this issue from discussions as product is moving without issue into Korea under the blended category.

SEED: Quality Standard Concerns

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

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

MEXICO

BARLEY, POTATOES-FRESH & PROCESSED: Tariff Rate Quotas

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

BEANS: Phytosanitary Restrictions

In January 2003, Mexico effectively closed its border to dry edible bean imports when SAGARPA imposed a temporary inspection suspension for U.S. and Canadian dry edible beans. USDA and USTR resolved this ban, leading to continued U.S. sales of \$42 million per year into the Mexican market.

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

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

- An International Phytosanitary Certificate must be issued by the corresponding authority in the country of origin and must state the province or state from which the product originated and that the product comes free of soil.
- A phytosanitary inspection must be carried out at the point of entry.
- A sample will be taken for testing at a laboratory approved for phytosanitary diagnosis. The samples will be tested for insects, weeds, fungus and bacteria. The costs for this testing will be borne by importers.
- Phytosanitary treatment in the country of origin or at point of entry into Mexico, in conformance with methyl bromide specifications.
- When the treatment is applied in the country of origin, the specifications must be noted on the International Phytosanitary Certificate.
- The containers and packages must be new, pre-printed with the name and variety of the product, net content of the container, names or trade name and fiscal address of the producer, packer or associated company, country of origin, identification of the lot and cycle of harvest.

CATTLE: Importer Registration

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

CANOLA

Issue: Phytosanitary Restrictions

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

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

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

FRUIT: Apples - Costly On-Site Inspection Procedures

Apple exports to Mexico are limited to Idaho, Washington, Oregon and Michigan. Although no listed quarantine pest has been detected at the border, the protocol requires apple exports to be supervised by an official of the Mexico Export Inspection Office (MEIO). The Yakima, Washington MEIO was closed, with oversight functions turned over to the USDA/APHIS.

FRUIT: Border Clearance

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

FRUIT: Tariff Rates

The 2003 apple tariff rate under NAFTA is 0 percent. No import duty is assessed on pears, apricots, plums or cherries from the U.S. Peaches and nectarines are assessed a 6 percent tariff. Mexico has a 15 percent value added tax (VAT) which is assessed on the FOB (Free on Board) invoice value plus the ad valorem duty.

MEAT: Inspection Points

In 2000, Mexico's Agriculture, Livestock, Rural Development, Fisheries and Food Ministry (SAGAR) implemented laws changing all "verification points" for inspection of meat products to be "in Mexican territory." The most important provision was the moving of import verification points from the U.S. side of the border to the Mexican side of the border. Transition has occurred but issues on processing time and meat quality have occurred.

POTATOES: Phytosanitary

Issue: Potato Cyst Nematode Detection

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

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

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

SUGAR: Excessive Imports

Mexico imposes a 20 percent sales tax on soft drinks and other beverages that use any sweetener other than cane sugar. Sugar-sweetened beverages are exempt from the taxes. The beverage taxes have sharply curtailed U.S. high fructose corn syrup (HFCS) producers' access to Mexico's market for soft drinks and other beverages. This affects sugar use and sugar production in the U.S. The U.S. negotiated with Mexico regarding these sales taxes, but did not create a change. As a result, in 2004, the U.S. filed a WTO case against Mexico over these taxes. On October 7, 2005, the WTO issued a

decision siding with the U.S. WTO Appellate Body, which ruled in favor of the United States in its challenge of Mexico's discriminatory beverage tax. In 2005, the U.S. and Mexico rejuvenated bilateral trade in sweeteners. The U.S. is allowed to export 250,000 MT of HFCS to Mexico. Mexico is allowed to ship 250,000 MT of cane sugar to the U.S. The tax remains in place, but many bottlers are able to use HFCS without being subject to additional taxes due to court injunctions allowing HFCS use in soft drinks without paying the tax.

The Mexican sugar industry has continually asked for expanded access to the U.S. market which the U.S. industry opposes. The U.S. sweetener market has transitioned from an all sugar market 30 years ago to a mixed market of sugar and high-fructose, downsizing production by over 58 sugar processing mills, factories, and refineries. There are currently no subsidies. Currently only 18 of the 58 mills are operated by the government-run national sugar authority.

WHEAT: TCK Smut

In November 1998 the Mexican government issued a new rule specifying zero tolerance for TCK in wheat. The rule disrupted the flow of Idaho wheat into Mexico. This issue has not been officially resolved. Although the requirement still exists, the government is not enforcing the ban. Thus Idaho wheat has been moving into Mexico uninhibited. Mexico has proposed a NOM regulation change that would repeal the zero tolerance, but the change is not final. The Idaho wheat industry is linking with other states that have similar phytosanitary issues with Mexico to negotiate together.

WINE

Issue: Import Tax

Mexico imposed a 12-30 percent import tax on U.S. wines under tariff code 2204, effective as of August 18, 2005, in retaliation to the U.S. Byrd Amendment. This resulted from a WTO ruling against the U.S. The tariff stayed in effect for 12 months, putting U.S. wine at a distinct disadvantage in the market, as Chile, the E.U. and Canada enjoy a 0 percent import tax. The tariff on wine from the U.S. has since been removed.

PERU

DAIRY: Export Certificates

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

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

PEAS, LENTILS, & CHICKPEAS: Fumigation

In 2002, Peru added fumigation as a requirement to the import permit for pulses. The USA Dry Pea and Lentil Council asked USTR and APHIS to investigate, and the Peruvians explained the change was to occur due to phytosanitary concerns. The Peruvians delayed fumigation requirements until further

investigation of the situation could occur. Although other solutions were discussed, fumigation requirements are in place. Exports to Peru have continued, falling in 2002 and then increasing in 2003.

TAIWAN

DAIRY: Whey – Bleaching Agents

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

POTATOES – DEHYDRATED: Sulfite Tolerance

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

POTATOES – FRESH: Tariff Rate Quotas & Tariffs

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

POTATOES – FRESH: Sprout Inhibitor Documentation

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

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

UNITED STATES, California

ALFALFA HAY: Cereal Leaf Beetle (CLB)

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

contaminated with grass (it is difficult to not have some grass). Now the alfalfa can have grass but as long as it is compressed, it does not need to be fumigated.

GLOSSARY OF TRADE TERMS

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

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

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

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

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

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

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

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

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

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

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

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

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

Harmonized code An international nomenclature developed by the World Customs Organization, which is arranged in six digit codes allowing all participating countries to classify traded goods on a common basis. Beyond the six-digit level, countries are free to introduce national distinctions for tariffs and many other purposes.

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

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

Incoterms Standard terms established by the International Chamber of Commerce which are used to define the specific responsibilities of buyers and sellers in international sales contracts. A version of the terms reviewed in January 2000 remains in force.

ISO (International Organization for Standards) The ISO is a worldwide federation of national standards bodies from some 130 countries. Its mission is to promote the development of standardization and related world activities, specifically to facilitate the international exchange of goods and services, and to develop cooperation in intellectual, scientific, technological and economic activities.

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

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

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

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

Price Pooling A price pooling system allows a State Trading Enterprise (STE– see below) greater flexibility in export pricing relative to private grain trading companies. Under the pool system, prices to

producers may be averaged across grades and quality differences, time of year, and in some cases, freight charges. The degree to which pools are segmented by grade, quality, marketing period and location defines how much flexibility the STE has in pricing products for export.

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

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

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

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

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

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

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

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

Union for the Protection of New Varieties of Plants (UPOV) The International Union for the Protection of New Varieties of Plants is an intergovernmental organization with headquarters in Geneva, Switzerland. UPOV was established by the International Convention for the Protection of New Varieties of Plants which was signed in Paris in 1961. The Convention entered into force in 1968 and has been revised in 1972, 1978 and 1991. Currently there are 64 member countries.

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

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

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