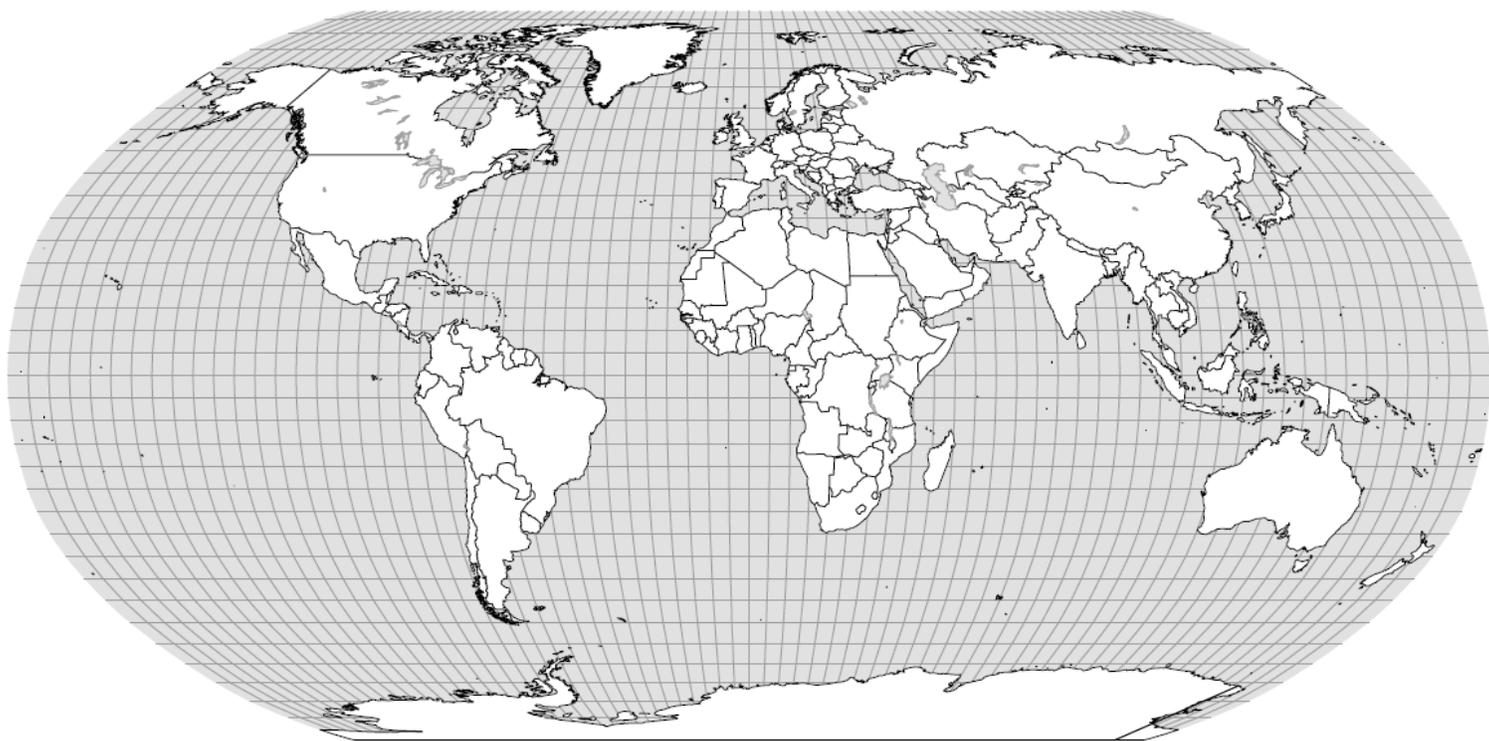


# IDAHO

## AGRICULTURE TRADE ISSUES REPORT

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# 2016



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 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 measures (SPS) not based on science, tariffs, quotas, animal health requirements and other trade barriers that face Idaho agriculture exports.

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

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

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

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

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

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The Idaho State Department of Agriculture would like to thank the following organizations for their valuable feedback and contributions to the Idaho Agriculture Trade Issues Report:

Idaho Potato Commission

Northwest Horticulture Council

U.S. Dairy Export Council

U.S. Grains Council

U.S. Meat Export Federation

U.S. Wheat Associates

United Nations Food and Agriculture Organization

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# UNITED STATES TRADE AGREEMENTS

Over the past few years, 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 32% of gross farm income comes from exports. With 96% of the world's consumers living outside the U.S., foreign trade is increasingly important to expand the U.S. economy. Trade agreements create an opportunity to exchange goods and services more easily. The presidential negotiating authority, Trade Promotion Authority (TPA), is the process by which Congress gives authority to the President and/or U.S. Trade Representative to enter into trade negotiations in order to lower U.S. export barriers. Once legislation has been submitted to Congress for approval, under the TPA, both houses of Congress will vote on the agreement without making any amendments. The TPA lapsed in 1994 and was returned to the President under the Trade Act of 2002, but subsequently expired on July 1, 2007. However, Congress re-authorized TPA under the Trade Act of 2015 and the act was signed by the President in July of 2015.

The U.S. is a member of various bilateral free trade agreements (FTAs): Australia, Bahrain, Chile, Israel, Jordan, Morocco, Oman, Peru, and Singapore. The U.S. trade agreement with Colombia was signed on October 12, 2011 and was implemented on May 15, 2012. The U.S.-Korea (KORUS) and U.S.-Panama Free Trade Agreements were signed on October 21, 2011. The U.S.-Korea FTA took effect March 15, 2012 and the U.S.-Panama FTA took effect October 31, 2012. Multilateral agreements include NAFTA with Canada and Mexico and CAFTA-DR with Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua.

The U.S. is currently awaiting congressional ratification of a regional, Asia-Pacific trade agreement known as the Trans-Pacific Partnership Agreement (TPP) with Australia, Brunei, Canada, Chile, Malaysia, Mexico, New Zealand, Peru, Singapore, Vietnam and Japan. Negotiations on the agreement were completed in October 2015. The TPP countries are the largest goods and services export markets for the U.S. with total U.S. exports exceeding \$698 billion in 2013, or over 40% of U.S. goods exported. South Korea has officially requested to join the TPP, but no formal admittance will be permitted until after full ratification by existing members. There have been rumors that China also wishes to join, but nothing has been officially declared. For more information on FTAs visit <http://www.ustr.gov/trade-agreements/free-trade-agreements>.

In 2013 negotiations for the Transatlantic Trade and Investment Partnership (TTIP), a trade pact between the U.S. and the EU, began. With the EU and the U.S. representing 47% of global GDP and 33% of world trade flows, the potential benefits and risks of this trade agreement are significant. The TTIP seeks to expand U.S.-EU trade flows by reducing U.S.-EU differences in product standards and regulations (i.e. discrepancies in U.S. and EU environmental, food safety, and chemical standards), and increasing investment across the Atlantic. One of the greatest stumbling blocks for agriculture includes differences in the treatment of geographical indicators (GIs). The eleventh round of U.S.-EU trade talks were hosted Miami in October 2015, and was one of the most productive rounds to date. Much progress has been made regarding market access with but the discussions on tariff rates are still being had. More details of the negotiations can be found at <http://trade.ec.europa.eu>.

The final provisions of the North American Free Trade Agreement (NAFTA) were fully implemented on January 1, 2008. With full implementation, the last remaining tariff barriers on a handful of agricultural commodities such as U.S. exports to Mexico of corn, dry edible beans, nonfat dry milk and high fructose corn syrup and Mexican exports to the United States of sugar and certain horticultural products were removed. However, many non-tariff barriers to trade remain including restrictions on fresh potatoes. In spite of NAFTA, cross border trade disputes continue to occur.

# THE WORLD TRADE ORGANIZATION

In 1995, the World Trade Organization (WTO) came into being as the successor to the General

Agreement on Tariffs and Trade (GATT). The WTO is the only global international organization dealing with the rules of trade between nations. The Uruguay Round, which took place in 1982 at a ministerial meeting of GATT, led to an Agriculture Agreement to promote order and fair competition and to decrease distortion through specific commitments by member countries. The Agriculture Agreement includes issues dealing with market access, domestic support, and export subsidies. The WTO has 161 members and 23 observer countries as of January 2016. Liberia and Afghanistan have completed their negotiations on terms of WTO membership and will formally join the WTO in 2016.

The current round of negotiations referred to as the Doha Round began in November 2001. After failing to reach a compromise on agricultural import rules during the 2008 negotiations, trade ministers agreed in December 2011 to focus on a smaller package including “Trade Facilitation,” or reducing red tape at borders. After intense negotiations at the 2013 Ninth Ministerial the trade ministers agreed on a Trade Facilitation Agreement, the Bali Ministerial Declaration. The 10<sup>th</sup> Ministerial was held in Nairobi in December 2015 and the “Nairobi Package” was adopted. The package contains six Ministerial Decisions including three on agriculture: Special Safeguard Mechanism for Developing Country Members; Public Stockholding for Food Security Purposes and Export Competition. Significant progress was made within Export Competition including a commitment to abolish export subsidies for farm exports. Developed countries will immediately remove export subsidies, except for a handful of agriculture products, and developing countries will do so by 2018 with a longer time-frame in some limited cases. For more information, visit <https://www.wto.org/>

## AGRICULTURAL ISSUES

### WORLDWIDE



#### ALL PRODUCTS

Under the WTO Agreement on Agriculture, member countries agreed to reduce domestic policies that are considered to be trade-distorting. Every year countries are required to submit documents describing their expenditures on domestic government support to agriculture sectors. In 2011 the U.S. spent a little over \$5 billion in Aggregate Measure Support (AMS, domestic support for agriculture that is considered to distort trade and therefore subject to reduction commitments). It is important to note that the U.S. is limited by WTO commitment to not spend any more than \$19.1 billion dollars on AMS programs and the closest it has come to that cap was \$16.8 billion in 2000. The reduction levels in agricultural subsidies and tariffs that were agreed to in the Uruguay Round were:

	Developed Countries 6 years: 95-00	Developing Countries 10 years: 95-04	Domestic Support Ceiling Commitments	
	<b>Tariffs</b>		United States	\$19.1 billion
Average cut for all agricultural products	-36%	-24%	European Union	\$79 billion
Minimum cut per product	-15%	-10%	Japan	\$36 billion
	<b>Domestic support</b>			
Total AMS cut for sector (base period 1986-88)	-20%	-13%		

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

## **Issue: Export Subsidies**

Export subsidies are special incentives provided by governments to encourage increased foreign sales. In the WTO, 25 countries can subsidize exports on certain products. The U.S. is authorized to subsidize 13 products including wheat, wheat flour and dairy products; however, the U.S. has chosen not to exercise those subsidies. For a complete list, visit:

[http://www.wto.org/english/tratop\\_e/agric\\_e/negs\\_bkgrnd08\\_export\\_e.htm](http://www.wto.org/english/tratop_e/agric_e/negs_bkgrnd08_export_e.htm).

The U.S. proposed to the WTO in 2000 to eliminate export subsidies through progressive implementation of annual reduction commitments over a fixed period. At the Hong Kong WTO Ministerial Meeting in 2005, members agreed to the parallel elimination of all export subsidies to be completed by the end of 2013, with developing countries receiving an additional five years to fully eliminate their subsidies. In October 2013 ministers acknowledged a positive trend regarding decreased use of export subsidies. However the “parallel elimination of all forms of export subsidies and disciplines on all export measures with equivalent effect” could not meet the 2013 deadline. Ministers reaffirmed the parallel elimination of export subsidies as a final objective on export competition of the Doha Round.

Progress was finally made at the Tenth WTO Ministerial held in Nairobi in December 2015. The “Nairobi Package” included an agreement on export competition. Developed countries will immediately remove export subsidies, except for a handful of agriculture products, and developing countries will do so by 2018 with a longer time-frame for extenuating circumstances to continue until 2023. The package also limits export credits, export credit guarantees or insurance. More information about the specific timelines and exceptions in the package can be found at:

[https://www.wto.org/english/news\\_e/news15\\_e/mc10\\_19dec15\\_e.htm](https://www.wto.org/english/news_e/news15_e/mc10_19dec15_e.htm)

The European Union by far has been one of the biggest offenders in providing large agricultural subsidies to its farmers and producers. For example, the EU has been distorting world dairy markets for decades with export subsidies for dairy products. Prior to the Nairobi Package, EU was permitted to spend over 1 billion euros (\$1.08 billion dollars) a year on dairy export subsidies: 724 million euros on other dairy products, 346 million on cheese, and 298 million on skim milk powder.

## **Issue: Food Safety**

Food safety is an increasingly important issue. FDA is responsible for the safety of 80% of all food consumed in the U.S., including the entire domestic and imported food supply; however, meat, poultry, and liquid eggs are under the authority of USDA. To view the most current alerts visit the FDA’s webpage at <http://www.fda.gov/opacom/7alerts.html>.

FDA has developed a comprehensive Food Protection Plan to protect the nation's food supply from both unintentional contamination and deliberate attack, focusing on prevention, intervention, and response. For more details, visit:

<http://www.fda.gov/food/guidanceregulation/foodprotectionplan2007/ucm2018344.htm>.

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 EU, 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. On January 4, 2011, President Obama signed the Food Safety and Modernization Act (FSMA), requiring companies to develop and implement written food safety plans in an effort to prevent food-borne illness. The provisions of the FSMA also provide FDA with the authority to better respond and require recalls when food safety problems occur, as well as ensure that imported foods are as safe for consumers as those produced in the United States. However, as of January 2016, only five of seven rules for implementation have been published. More information and updates to FSMA rules can be found here:

<http://www.fda.gov/Food/GuidanceRegulation/FSMA/default.htm>

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

### **Issue: Geographical Indicators**

Several countries, including the European Union and some of its allies, have been pursuing an aggressive bilateral strategy to restrict the use of common product names by producers outside of the specific country through FTA negotiations, bilateral Intellectual Property discussions, and other forums such as the Anti-Counterfeiting Trade Agreement (ACTA). The goal of these countries is to advance their own commercial interests for food products through advocating for wider use of Geographical Indicators (GI), beyond the realm of appropriate protection of product niches in order to try to appropriate for their sole usage. With this, many product names that are commonly used around the world, including in international trade are considered to be generic in the U.S. and many other countries. In the case of the EU for cheese, these names include generally used names such as Feta, Parmesan, Muenster, Provolone and Romano, along with many others. Feta isn't even a place and the EU didn't begin pushing for GIs until 1992, long after U.S. producers had well established cheese brands and such cheese names had become common and generic.

If successful, the efforts of these countries to limit the use of these common product names will significantly impair current U.S. exports that use those terms considered to be generic descriptions and will also greatly limit the future global potential for the U.S. industry. The affected U.S. industries, including dairy and beverages, stress how critically important it is for government and industry to work together in a very concerted manner to ensure that the customary use of common product names can continue in foreign markets.

### **Issue: Pesticide Harmonization**

Pesticide harmonization efforts have been ongoing in Australia, New Zealand, Canada, the EU, and Japan, the result of which has been the establishment of positive minimum residue levels (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.usda.gov/data/search](http://www.fas.usda.gov/data/search)

### **Issue: Tariffs**

One of the achievements of the Uruguay Round of multilateral trade talks was to increase the amount of trade under binding commitments (see table). In agriculture, 100% of products now have bound tariffs. The result is a substantially higher degree of market security for traders and investors. Idaho food and agriculture product exports are still significantly hindered by high tariffs. These are specifically noted in this document.

In addition, mega tariffs (100% or higher) play a major role in industry protection. Although the statistics have not been updated, when last calculated, the EU had 141 mega tariffs (specifically in meat and dairy products); while Japan had 142 mega tariffs (specifically in grains and dairy products). The U.S. had 24 mega tariffs, significantly fewer, mainly on tobacco, dairy, and sweeteners.

2015 Simple Average Tariffs		
Country	Bound	Most Favored Nation
Canada	16.8	15.9
Mexico	45.1	19.7
China	15.8	15.6
Korean Republic	56.0	52.7
Japan	19.0	19.0
Indonesia	47.0	7.5
Philippines	35.1	9.9
Malaysia	66.4	8.9
Thailand	38.9	29.9
Chile	26.1	6.0
<b>United States</b>	<b>4.9</b>	<b>5.3</b>

Source: [http://www.wto.org/english/res\\_e/booksp\\_e/tariff\\_profiles14\\_e.pdf](http://www.wto.org/english/res_e/booksp_e/tariff_profiles14_e.pdf)

### Issue: Value of U.S. Dollar

The U.S. dollar exchange rate plays an important role in U.S. agricultural trade. A comparatively weak dollar means U.S. products are relatively less expensive than the products from foreign countries. The value of the U.S. dollar has increased over the past year, making exports less competitive on the global market. Furthermore some countries intervene in the foreign exchange market, which ultimately stimulates exports and slows imports. Over the past few years this issue has primarily been associated with China. China has regularly intervened to prevent the RMB from appreciating relative to other currencies, resulting in a large global trade surplus. Such currency manipulation is harmful to U.S. trade.

### Issue: Visa Issuance

Idaho businesses often have difficulty in obtaining visas from the U.S. Department of State-Bureau of Consular Affairs 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.

On January 19, 2012, President Obama signed an executive order establishing the “Visa and Foreign Visitor Processing Goals and the Task Force on Travel and Competitiveness,” which aims to reduce processing time for all nonimmigrant visa applicants and increase processing capacity for China and Brazil. The goal of the order was to increase the number of foreign visitors to the United States, thus creating jobs and spurring economic growth in the U.S. economy.

## SUGAR

### Issue: Subsidies

Around 100 countries produce sugar and each one has some form of government intervention that affects the costs of production. The U.S. is one of the largest producers and consumers worldwide. The U.S. sugar industry is very efficient with production costs below the world average after adjustments made for government intervention.

The U.S. is a net importer of sugar, and imports have historically averaged around 15% of the total amount of sugar that the U.S. consumes. Sugar imports are subject to TRQs. For Fiscal Year 2015, the in-quota quantity for the tariff-rate quota on raw cane sugar is 1,117,195 MMT raw value, which is the minimum amount to which the U.S. is committed under the WTO. This is an unfair obligation because the U.S. can produce its own needs at a competitive price, but are subject to importing sugar from countries that heavily subsidize their domestic industry. The U.S. industry is supportive of open market access worldwide, but not until domestic subsidies are significantly reduced.

In March 2014, the U.S. sugar industry filed antidumping and countervailing duty petitions against the Mexican sugar industry with the U.S. International Trade Commission (ITC) and the U.S. Department of Commerce (USDOC). The ITC and USDOC found in favor of the United States and duties on Mexican sugar were imposed and countervailing anti-dumping enforcement was taken up by the Customs Department. However, The U.S. and Mexico negotiated a suspension agreement and duty-free trade resumed as of September 2014; however quotas were imposed on U.S. sugar imports from Mexico. In October of 2015 the ITC affirmed that Mexican subsidies had harmed the U.S. sugar industry and that the suspension agreement will remain in place for the time being.



## FRUIT

### Issue: Apples and Pears – Phytosanitary Ban

Since 2009, Argentina has no longer issued import permits for U.S. apples and pears. Suspension of imports occurred due to concerns about the transmission of the bacteria causing fire blight via apple and pear fruit. The USDA-APHIS has submitted technical information to the Argentine government documenting that the risk of transmitting the bacteria on mature symptomless apple and pear fruit is very low. As of January 2016 there has not been any response to this letter. Rather, the Argentine government has begun a new pest risk assessment on apples, to replace the one conducted in 2005, indicating that this assessment will be used to determine the Import Permit requirements for apples. The U.S. will continue to work with Argentine officials to address the issue and reinstate the issuance of permits for importation.

### Issue: Cherries - Phytosanitary Ban

Argentina prohibits the importation of Pacific Northwest (PNW) cherries into the country due to concerns over cherry fruit fly and other insect pests. This trade barrier has been in place since the mid-1990s. As of January 2016, the U.S. government and Argentinian government have yet to reach an agreement on an export protocol.

### 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. Trade pacts among different South American countries also leave U.S. fruit exporters at a competitive disadvantage. The table below lists the current import tariffs, statistical taxes, export taxes and rebates.

<b>2016 Argentina Tariffs, Taxes and Rebates for Apples and Pears</b>	
Countries outside of Mercosur	Countries within Mercosur (Argentina, Brazil, Paraguay, Uruguay)
Import tariff: 10%	Import tariff: 0%
Statistical tax: 0.5%	Statistical tax: 0%
Export tax: 5%	Export tax: 5%
Export rebate (apples, > 20Kg): 3.4%	Export rebate (apples, > 20Kg): 3.4%
Export rebate (pears, > 20Kg): 2.7%	Export rebate (pears, > 20Kg): 2.7%
Export rebate (2.5Kg-20Kg): 5%	Export rebate (2.5Kg-20Kg): 5%
Export rebate (< 2.5Kg): 6%	Export rebate (< 2.5Kg): 6%

# AUSTRALIA



## FRUIT

### **Issue: Apples, Pears and Stone Fruits- Phytosanitary Ban**

Australia prohibits the importation of U.S. apples and pears due to a number of expressed phytosanitary concerns. Chief among those concerns is fire blight. The USDA ARS has published research showing that there is no risk of the fire blight transmission if exports are restricted only to mature symptomless commercial apples.

In mid-2012 Australia officials inspected California facilities in preparation for allowing limited access under quarantine treatments with Methyl Bromide (producers in the PNW are interested in exporting stone fruit under a systems approach protocol). After much anticipation on September 12, 2013, officials announced that peaches and nectarines from California and the PNW would be allowed entry under a methyl bromide fumigation protocol. Industry representatives continue to develop research to evaluate host status and preference of stone fruits and spotted wing Drosophila (SWD) to remove restrictions associated with apples, pears, cherries, plums and apricots from the U.S. As of January 2016, the United States Department of Agriculture was still in negotiations with the Australian government to lift the ban on apples.

Talks are still on-going, but were interrupted for a short time after two post-harvest decay fungi relating to infected crabapple pollinators were discovered in the Pacific Northwest in December 2014. U.S. researchers have presented research on the matter to Australian officials and talks have resumed.

## 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 threefold: (1) area of freedom, (2) phytosanitary seed inspection program, and (3) Sheppard and Needham's wash test. Idaho cannot meet the area of freedom requirements.

### **Issue: Sweet Corn – Overly Stringent Requirements**

Idaho is the only U.S. state with an established protocol to ship sweet corn seed to Australia which was established in April of 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. The requirements, however, are far more stringent than other countries. Most exporters do not bother to register their fields because of the onerous requirements. Additionally, biotech seed is prohibited unless it has an import permit. Shipments of non-biotech seed have been delayed or even prohibited due to concerns by Biosecurity Australia.

# BRAZIL



## DAIRY PRODUCTS

### Issue: Tariffs and Non-Tariff Barriers

Plant registration and product label registration are required for export to Brazil. The U.S. dairy product exporter must have the plant included on the U.S. Department of Agriculture- Agricultural Marketing Service's (USDA-AMS) list of U.S. Dairy Plants Surveyed and Approved by the USDA Grading Service or in the list of plants approved by the FDA (state approval alone is not permitted). Product labeling for any shipped item must be registered with the Brazilian government. If identical products are shipped under different brand names (requiring different labels on the packaging), each label must be registered separately even though the actual products may be identical.

Brazil's tariffs on dairy products favor Mercosur members over the U.S.

2016 Tariffs on Dairy Products			
Tariff Number (HTS)	Product Description	Common External Rate (%)	Mercosur Rate (%)
0401.10.10	Milk and Cream, UHT	14	0
0401.10.90	Milk and Cream, UHT	12	0
0406.10.10	Cheese, Mozzarella (1)	28	27
0406.10.90	Cheese, Other	16	0
0406.20.00	Cheese: Grated or Powdered	16	0
0406.90.10	Cheese, with a fat content less than 36%, by weight (1)	28	27
0406.90.20	Cheese with a fat content superior or equal to 36% and less than 46%, by weight (1)	28	27
0405.10.00	Butter	16	0
0405.90.10	Butter Oil	16	0
0402.21.10	Whole Milk Powder (1)	28	27
0402.21.20	Nonfat Milk, Powder (1)	28	27
0404.10.00	Whey Powder (2)	28	27

## FRUIT

### Issue: Tariffs and Miscellaneous Charges

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

Apple and pear imports from countries other than Argentina, Paraguay and Uruguay are limited by a quota of 10,000 metric tons (MT) from August 1 through December 31. Nevertheless, import permits in excess of this quota are regularly issued by Brazilian officials.

## WHEAT

### Issue: Tariff and Tariff Rate Quota

Brazil is one of the largest importers of wheat in the. Brazil imports approximately 90% of its wheat from Mercosur countries at zero tariffs; however the majority of their imports come from neighboring Argentina. Non-Mercosur countries, including the U.S., are subject to a 10% common external tariff (CET) and a Merchant Marine Renewal Tax (MMRT) of 25% of the freight cost.

Despite record global production, Argentina, which traditionally supplies most of Brazil's wheat import demand, experienced the worst crop in a century. Argentina was forced to restrict exports by rising domestic wheat prices to satisfy its domestic demand. In 2012-2013 the Argentine exports totaled 4 MMT, with a forecast of 6 MMT for the 2013-2014 year. With Argentina out as a supplier, Brazil temporarily reduced its Common External Tariff (CET) for non-Mercosur countries from ten to zero% from April to December of 2013 to encourage imports. The Government of Brazil reinstated the zero percent CET for non-Mercosur countries on wheat imports for up to 1 MMT effective June 23 until August 15, 2014. As of January 2016, the CET is back at 10%. The tariff on non-Mercosur nations unfairly hurts the competitiveness of countries like the United States, especially since the Brazilian government can eliminate the CET when it is convenient for them.

Brazil agreed to a TRQ of 750,000 MT at zero duty for wheat under the Uruguay Round of the WTO, but, with the exception of 2013, they have not implemented that commitment. Enactment of this TRQ on a consistent basis would benefit U.S. wheat producers greatly.

## 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 MT. Some imports above that level can be made through the Import for Re-Export Program (IREP). Dairy products that are imported by Canadian processors for use in manufacturing goods, such as confectionary items, which are re-exported can be shipped to Canada under the IREP and avoid the over-access tariffs.

### 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.

2016 Customs Tariff Schedule for Cheese				
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%

2016 Customs Tariff Schedule for Processed Dairy Products			
H.S. Number	Description	Unit of Measure	MFN Tariff
2106.90.93	50% or more by weight of dairy content, within access commitment	KGM	7%
2106.90.94	Containing 50% or more by weight of dairy content, over access commitment	KGM	274.5% but not less than C\$2.88/kg

## POTATOES

### Issue: Fresh Imports - Anti-dumping Duties

Since 1984, Canada has imposed an anti-dumping duty on fresh potato imports from Washington, Oregon, California, and Idaho into British Columbia for allegedly selling potatoes below cost of production. Fresh potato floor price is determined by the Canadian government and varies by state of origin. Any imports below those prices are impacted with the importer paying the difference between the floor price and the actual sale price to Revenue Canada. The PNW potato industry contested the allegations of dumping and the methodology used by the Canada Border Services Agency (CBSA) in calculating the dumping margins during reviews of the dumping order held in 1984, 1986, 1990, 1995, 2000, 2005, and 2010. Each time, the Canadian authorities refused to revise the dumping order.

Dumping duties are not imposed on U.S. potatoes because they are unfairly traded. Rather, the dumping duties are maintained because the Canadian antidumping law sets floor prices at cost of production rather than at normal agriculture commodity prices in a free market.

The Canada Border Services Agency (CBSA) conducts a review every five years to determine whether U.S. potatoes exported to British Columbia should be subject to anti-dumping duties. In September 2010, the review stated that potato stocks in 2009-2010 were high and prices dropped significantly; however, CBSA did not rule to remove the anti-dumping duties and left them in place. North American potato industry publications report that current price levels are well below costs of production for U.S. potato growers.

On May 21, 2014, the CBSA initiated a re-investigation in accordance with the Special Import Measures Act (SIMA), of the normal values and export prices of certain whole potatoes originating in or exported from the United States of America for use or consumption in the province of British Columbia. A re-investigation concluded on September 18, 2014 upheld the Canadian claim that prices are reflective of the going market rate. Additional information is available at: [www.cbsa-asfc.gc.ca/sima-lmsi/ri-re/menu-eng.html](http://www.cbsa-asfc.gc.ca/sima-lmsi/ri-re/menu-eng.html).

### Issue: Restrictions on Bulk Shipments

Canada continues to maintain restrictions on the importation of potatoes shipped in bulk containers (i.e. containers larger than 50 kg or 100 lbs.). Potato processors in Canada source bulk raw potatoes to supply plants in Canada. In order to move bulk potatoes, Canada requires that a Ministerial Exemption (ME) be issued. An agreement was made between the U.S. and Canada in 2007 to streamline the process for shipments of bulk potatoes. However, in spite of these changes, the ME system represents a significant barrier to trade in potatoes and other U.S. agricultural products. For the trading relationship with Canada to continue to mature, Canada should completely eliminate the ME requirement and allow for willing buyers and seller to conduct trade.

### Issue: Self Certification

In April 2014, CFIA adopted the Seed Potato Tuber Quality Management Program (SPQMP) to modify the Canadian program for producing, handling, and inspecting seed potatoes for domestic markets. The new system eliminates CFIA's direct oversight of the activities of inspecting and certifying seed

potatoes for grade as well as for pest and disease. CIFA will audit growers to ensure compliance with the requirements of Seed Regulations. Growers will receive Seed Potato Certification Tags based on their own statements that they have complied with the appropriate requirements and regulations. Although this modification is for domestic sales only, there is discussion about expanding the change to exports to the U.S. as well. U.S. industry is concerned about the removal of direct government oversight and the reliance on self-certification.

## WHEAT

### Issue: Restrictions on U.S. Grain Exports

Canada has varietal registration requirements for wheat and barley. Canada eliminated a portion of the varietal controls in 2008 by no longer requiring that each registered variety of grain be visually distinguishable based on a system of Kernel Visual Distinguishability (KVD). This KVD requirement limited U.S. export access to Canada's grain market because U.S. varieties are not visually distinct and cannot be registered for use in Canada. While this policy change is an improvement, it will take years before U.S. wheat varieties are able to complete the necessary field trials to determine whether they will be registered for use in Canada. In the meantime, due to "grown in Canada" requirements, U.S. wheat, regardless of quality, will continue to be sold in Canada as "feed" wheat at sharp price discounts compared to Canadian varieties. In 2013 revision of the Canada Grains Act was under consideration in the Canadian Parliament. However, as of January 2016 the Canadian Grains Commission may establish grades and grade names for any kind of grain grown in the Western Region or Eastern Region and establish the specifications for those grades and set out a method visual or otherwise for determining the characteristics of the grain for the purposes of meeting the quality requirements of purchasers of grains. For more information on the Canadian Grains Act visit: <http://laws-lois.justice.gc.ca/eng/acts/G-10/>

Furthermore, non-Canadian grain is not allowed to receive an official grade beyond the lowest statutory level. This results in U.S. wheat having to be traded on a specification basis only or bear the lowest grade level in the Canadian system. Canada also requires foreign grain that is mixed with Canadian grain to be marketed as foreign or mixed grain.

## CHILE



## FRUIT

### Issue: Cherries - Phytosanitary Restriction

Chile prohibits northwest cherry imports due to alleged phytosanitary issues. Chile requires that cherries come from an area that is free of *Rhagoletis indifferens* and *R. fausta*. In 2002, an inspection team visited Idaho, Oregon, and Washington to view production and testing facilities. Chilean phytosanitary officials proposed a protocol for qualifying shipments, which was rejected by the northwest industry. The proposed mitigation measures through expanded inspections would have proved overly restrictive and costly, and result in little if any commercial trade.

# ***CHINA (PRC)***



## ***BEEF***

### **Issue: Prohibition**

In December 2003, China imposed a ban 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 also low-risk bovine products (i.e. bovine semen and embryos, protein-free tallow and non-ruminant origin feeds and fats), which pose no risk of BSE and should not be banned under existing international standards.

In 2004, after numerous meetings, technical discussions, and a visit to U.S. bovine facilities by Chinese food safety officials, China announced a lifting of its BSE ban for some low-risk bovine products like bovine semen and embryos subject to facility certification. Additionally, China signed a bilateral protocol for non-ruminant origin feeds and fats contingent on facility certification by Chinese regulatory authorities. In 2006, China declared its border open to U.S. beef under 30 months of age. However, U.S. and Chinese officials have been unable to reach an agreement on trade resumption conditions.

On September 7, 2010, a technical delegation from the USDA and the U.S. FDA resumed discussions with Chinese experts from the General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ) and the Ministry of Agriculture (MOA) toward a market reopening for U.S. beef. This represented the first bilateral dialogue on beef market access since 2007. In December 2010, Agriculture Secretary Tom Vilsack announced that the Chinese had agreed to allow American beef exports from animals under 30 months old back into China. A delegation from China's food safety agency visited the U.S. in June 2014. However, U.S. and Chinese officials at the 24<sup>th</sup> session of the U.S.-China JCCT (December 19-20, 2013) agreed to work toward U.S. beef access to China originally targeted by July 2014. Negotiations continue, but the July date was not met.

## ***DAIRY***

### **Issue: Whey - Ban on Benzoyl Peroxide and Benzoic Acid**

On June 1, 2009, with the enforcement of China's new Food Safety Law, the Chinese government implemented more stringent testing of imported foods for compliance with Chinese standards. As a consequence, China started testing whey products for the presence of benzoic acid, a byproduct of bleaching with benzoyl peroxide.

Benzoic acid can be used in many food products in China, but not whey. The AQSIQ may choose to request an affidavit stating that a product was not manufactured with the usage of benzoyl peroxide as a bleaching agent. Although U.S. products bleached with this substance have been shipped to China for many years, the Chinese government did not routinely test for the presence of benzoic acid in whey products. Now that products are routinely tested, those products that fail to pass the test may be rejected or destroyed.

In 2006, Codex adopted the usage of benzoyl peroxide at a rate of 100 mg/kg as a bleaching agent in dry whey products and subsequently in 2007 for liquid whey products. Therefore, China's standards for whey products are not based on sound scientific principles. In addition, the Chinese Ministry of Health issued a notice on December 15, 2010, banning benzoyl peroxide and calcium peroxide in the production of wheat flour and its products as of December 1, 2011. In 2010, China proposed to add hydrogen peroxide to the list of banned bleaching aid products, but it has not been added as of January 2016.

## *HAY & HAY PRODUCTS*

### **Issue: Alfalfa cubes and pellets, and Timothy Hay – Phytosanitary Restrictions**

Alfalfa cubes, alfalfa pellets and timothy hay are prohibited entry into China due to a lack of an established import protocol. APHIS has initiated a market access request with the Chinese government for Timothy hay and the issue was discussed at the 2015 U.S.-China bilateral meetings. APHIS has asked for information from U.S. cube and pellet processors in order to request AQSIQ to conduct a PRA for cubes and pellets, the first step in developing an import protocol.

### **Issue: GMO testing of Alfalfa Hay**

China does not have any GMO alfalfa varieties approved so all alfalfa hay must be non-GMO. China issued a directive in July, 2014 that increased the testing of non-GMO alfalfa. The concern is that any alfalfa hay that exceeds the lowest detection limit of 0.01% will be rejected. The “zero” standard is overly restrictive. Minute levels of cross contamination from equipment or dust can cause a shipment of non-GMO alfalfa to be rejected. In comparison, Japan sets food products as non-GMO to have no more than 5.0% GMO ingredients, far greater than 0.01%. Japan does not have a standard for animal feed so industry defaults to the food standard. Recognizing the unintentional or technically unavoidable traces of GM material, many countries including those in the EU only require GM labeling of foods with a threshold of .9%-1.0%.

## *HORSES*

### **Issue: Import Ban**

Live horse imports have been suspended until import protocols are revised. Sources inside China believe that progress is being made on reestablishing an import protocol but as of January 2016 none has been made.

## *POTATOES*

### **Issue: Fresh - Phytosanitary Ban**

Idaho fresh potatoes are prohibited entry into China because of reported phytosanitary concerns. In 2000, AQSIQ conducted a PRA to develop protocols for imports of U.S. potatoes from 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.

For the last decade, the issue has been raised at every U.S.-China plant health bilateral. In a violation of international trade practices, China's AQSIQ has overtly linked progress on the U.S. potato request to Chinese apple access to the U.S. During the September 2012 bilateral talks, Beijing again did not provide a final PRA. Finally on October 25, 2013, AQSIQ provided USDA with a PRA draft. The 153-page pest risk assessment of the PNW potatoes identified 32 pests of concern. APHIS provided a preliminary response to the PRA during the U.S.-China plant health bilateral in November 2013. In June 2014, AQSIQ responded to APHIS by providing a revised PRA that included a shortened list identifying 26 pests of concern. AQSIQ also provided a draft market access protocol for PNW potatoes. There are some objections to the pests of concern as well as the draft protocol and no agreement has yet been reached.

## *PROCESSED FRUITS & VEGETABLES*

### **Issue: Certificate Requirement**

China required phytosanitary certificates for processed potato products including frozen and dehydrated

potatoes until 1998 when Chinese officials met with USDA-APHIS officials and agreed to lift this requirement. Instead, a Certificate of Quality and Condition issued by the USDA-AMS is required. International Standards for Phytosanitary Measures under the International Plant Protection Convention (IPPC) provides that importing countries should not require phytos for processed plant products because they have no potential to introduce regulated pests. The manufacturing process of heat treatment and/or cold temperatures eliminates the likelihood of processed products harboring pests. USDA authorizes the issuance of federal phytosanitary certificates that certify plant products free of pests and diseases, but prohibits federal phytosanitary certificates from being issued on processed products.

In 2001, it was suggested that the Certificate of Quality and Condition (CQC), USDA-AMS Form FV – 146CS, be accepted in place of a phytosanitary certificate for potato products. The CQC is appropriate for processed products and certifies that the “product is in good condition and appears fit for human consumption.” In 2002, the Chinese government accepted and implemented the USDA-AMS document with regard to the importation of potato products.

While this is an improvement, the process is expensive, time-consuming, and unnecessary. USDA-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).

## **SEED**

### **Issue: Corn Seed – Phytosanitary Ban**

Corn seed to China is prohibited because of *Erwinia stewartii* or Stewarts Wilt. A Pest Risk Assessment (PRA) has been requested but never completed.

### **Issue: Protection of Proprietary Varieties**

China is one of the world’s largest producers and users of seeds, and although China has implemented laws and regulations, intellectual property right (IPR) violations and counterfeit cases occur frequently. In April 1999, China joined the International Union for the Protection of New Varieties of Plants (UPOV) adopting the first two acts (China has not yet adopted the Act of 1991 that requires new members to grant protection for all new plant genera and species within a decade). UPOV is an international organization whose mission is to promote and protect new varieties of plants. It sets guidelines and uniform principles for protecting plant material. Without plant breeders’ rights, there is nothing to prevent others from propagating and selling proprietary plant material. Companies are strongly advised to register their trademarks and copyrights in China. Although registration does not guarantee complete immunity to IPR violations, without it companies have little legal recourse.

Seed sold in counterfeit packages identical to legitimate brand name packages is the most frequent problem for seed companies. Other crimes include theft of seed/germplasm from production fields or facilities which is then bred and marketed by other companies. Seed companies also report demands for restitution for “inferior quality” seed sold by counterfeiters. Local courts also can award damages to growers even when poor crop management or weather borne problems, not seed quality, reduce yield. However, the country has yet to improve testing technology to support its examination of applicants' compliance with the conditions for new plant varieties. A list of the protected plant varieties in China can be found at <http://www.cnpvp.com/english/National%20List%20of%20Protected%20Plants.htm>.

## **WHEAT**

### **Issue: Phytosanitary Restrictions and High Tariffs**

Despite a 1999 bilateral agricultural cooperation agreement between China and the U.S. regarding *Tilletia controversa* Kuhn (TCK) and Karnal bunt (KB), China maintains restrictive quarantine requirements on U.S. winter wheat. The agreement specifically allows discharge of vessels with

U.S. wheat at any port in China with expeditious delivery to buyers and processors without additional treatment.

In southern Chinese ports, U.S. winter wheat must discharge at one designated port and a cleaning fee is assessed. Although market values for U.S. winter wheat classes often are competitive with other origins, including Chinese domestic wheat, importers have limited purchases because of potential discharge issues and the additional costs and burden to re-ship wheat from the cleaning facility. China's wheat import TRQ system set a quota of 9,636,000 MT with an over-quota tariff of 65% and an in-quota tariff of 1%.

## **COLOMBIA**



### *ALL PRODUCTS*

#### **Issue: U.S. – Colombia Trade Promotion Agreement**

On November 22, 2006, the U.S. and Colombia signed the U.S.-Colombia Trade Promotion Agreement. The Colombian Congress ratified the legislation in 2007. The agreement was approved by the U.S. Congress on October 12, 2011 and was implemented on May 15, 2012.

Many sectors have gained duty-free access to Colombia which includes agricultural products. In these sectors, over 80% of U.S. exports have become duty-free. The remaining tariffs will be phased out over 10 years. Out of all the agricultural commodities, more than half of current U.S. farm exports to Colombia have gained duty-free access. Of these agricultural products, all remaining tariffs will be eliminated within 15 years. Products that do not have remaining duties include wheat, barley, soybeans, soybean meal and flour, high-quality beef, bacon, almost all fruit and vegetable products, wheat, peanuts, whey, cotton, and the vast majority of processed products.

Even though some TRQs remain, this agreement has provided duty-free TRQs on many products. These include standard beef, dairy products, corn, animal feeds, rice, and soybean oil.

## **COSTA RICA**



### *POTATOES*

#### **Issue: Fresh -Tariffs and Quota Allocation**

With the implementation of CAFTA-DR in Costa Rica in 2009, most tariffs on U.S. agricultural exports were immediately eliminated. Remaining tariffs on most other U.S. agricultural products are set to be eliminated by 2020. However, under CAFTA-DR, a TRQ has been applied to fresh potatoes. Fresh potato shipments within the TRQ enter Costa Rica duty-free; once the TRQ is exceeded, Costa Rica's current MFN tariff of 45% is applied. In 2016, the TRQ is set at 360 MT. Costa Rica will liberalize trade in fresh potatoes through continual expansion of the TRQ (by adding 6 MT per year).

## Issue: Fresh – Market Suspension

In August 2013, Costa Rica's Servicio Fitosanitario del Estado (SFE) closed its market to U.S. fresh potatoes due to the alleged detection of zebra chip in a shipment. Subsequent testing in a US lab had determined that zebra chip was not present in the shipment sample. In November 2015, a Costa Rican official from SFE visited Washington, Oregon, and California to review industry handling practices.

Following that visit, Costa Rica released a protocol for additional measures for US chipping potatoes due to zebra chip. SFE will begin issuing import permits for US chipping potatoes beginning February 1, 2016. The market for fresh table stock potatoes remains closed.

# **CUBA**



## *FRUIT*

### Issue: Apples and Pears - Phytosanitary Requirements

The Northwest Horticultural Council (NHC) has asked USDA-APHIS to obtain access to Cuba for Idaho and Oregon fruit, but due to political realities the request has not been actively pursued. In 2002, at the request of Cuban officials, the NHC hosted a site visit for Cuban officials in Washington State. U.S. and Cuban officials have subsequently signed an agreement allowing for the export of Washington apples and pears, but not for Idaho and Oregon.

## *POTATOES*

### Issue: Lack of Shipping Protocol

Presently there is no protocol in place for shipping table stock and seed potatoes from the U.S. However, Cuba currently imports large quantities of seed potatoes from Canada. In June 2008 a delegation from Cuba visited three seed potato producing states to learn about seed potato production and the certified seed program. The purpose of this trip was to develop a shipping protocol. Cuban officials subsequently visited the Midwest and Northeast of the U.S.

A protocol was drafted and sent to both governments for review in September 2008. This protocol has not been ratified because: (1) it mentioned viruses, pests, and diseases that do not occur in the U.S. and (2) it contained wording for state-by-state exclusions. USDA-APHIS, NPC, and various state potato commissions objected to the draft. The draft was revised alleviating U.S. concerns and resubmitted to the Cuban government for signature on August 19, 2009. As of January 2016, the protocol has yet to be ratified.

# **DOMINICAN REPUBLIC**



## *POTATO SEED*

### Issue: Quotas

The CAFTA-DR eliminated the Dominican tariffs applied on U.S. potatoes. However, a problem has emerged with U.S. seed potato exports to the Dominican Republic. Dominican importers of U.S. seed

potatoes are not having their full request granted when seeking import permits. Instead, they are told there is a quota on seed potato imports, and only certain amounts can be imported from the U.S. Under CAFTA-DR, there is no quota on U.S. seed or fresh potatoes, and there should be no quantitative limitation on imports of either product.

### **Issue: Phytosanitary Import Requirements**

The U.S. currently exports seed potatoes to the Dominican Republic under an import permit system. This system is problematic as the phytosanitary requirements frequently change from permit to permit. The U.S. potato industry seeks a signed seed potato market access agreement for all U.S. seed-producing states to ensure that Dominican Republic's quarantine regulations are standardized. In June 2010, following several years of negotiations, Dominican Republic quarantine officials traveled to the United States to review the U.S. seed and chipping potato industries. The pre-condition for this trip was that the officials would use a regional approach. This meant a visit to an individual state would result in an entire region being approved for export. In the past, the Dominican Republic sought to only approve the states visited. After multiple exchanges since the visit, the U.S. potato industry is still waiting for final approval of market access for all seed-producing states under this regional approach.

In April 2013, the USDA-APHIS announced the launch of the State National Harmonization Program for U.S. seed potatoes. This program is a collaborative effort between APHIS, NPC, USPB, NPB, and state seed certification agencies. The program provides a format for agencies to voluntarily adopt standards and management procedures for non-quarantine pests of concern, which would be applied universally to seed potatoes. Nearly all of U.S. seed potato production falls under the newly launched program's guidelines. Currently 12 states participate in the program, covering 98.5% of all U.S. seed potato acreage (Colorado, Idaho, Maine, Michigan, Minnesota, Montana, Nebraska, North Dakota, Oregon, Washington, Wisconsin, and Wyoming). New York, California, and Alaska are in the process of completing the requirements for entry into the program.

The process of establishing a SNHP has been instrumental in gaining access for U.S. seed potatoes to a number of markets, and should be able to finalize market access to the Dominican Republic and other potential export markets.

## ***EGYPT***



### **GENERAL**

#### **Issue: Foreign Product Registration**

In January of 2016 the Government of Egypt issued a decree requiring foreign manufacturers of specific retail products to register for export with the Egyptian General Organization for Export and Import Control effective February 29, 2016. Of the 23 products requiring registration, eight are retail food products. These products include: dairy and dairy products for retail, dried and preserved fruit for retail, oils and fats for retail, chocolate and food preparations containing cacao for retail, sugar confectionaries Pastries and foods prepared from cereals and bakery products, fruit juices for retail, and natural and sparkling water.

FAS and USDA have stated that "While the US has trade in all of these categories, many of these products are imported as ingredients and not for the retail market. Exports of dried fruit, chocolate products and dairy, which sell to both retail and non-retail sectors, will likely be most impacted by the measure."

## POTATOES

### Issue: Seed Potatoes - Phytosanitary Import Ban

Egypt is one of the largest importers of seed potatoes in the world. In 2009, the Egyptian government and Egyptian growers expressed an interest in importing U.S. seed potatoes. As a result, APHIS, working with the U.S. potato industry, forwarded a draft market access protocol for consideration by Egyptian authorities. Egypt sought additional information regarding the industry and pests faced by U.S. seed potatoes. This information was provided in January 2010. Several bilateral meetings were subsequently held.

In 2012, Egypt completed its PRA of U.S. seed potatoes, which cleared the way for a market access agreement to be finally signed. There have been numerous exchanges between APHIS and CAPQ on this agreement. With the launch of the SNHP industry representatives and leaders are hopeful that they will be able to finalize market access for U.S. seed potatoes to Egypt and other potential export countries.

Contrary to expectations of the U.S. industry, a market access agreement was not signed after hosting a delegation of Egyptian officials in June 2013. Progress has been made, but a final import protocol for U.S. seed potatoes to enter Egypt is still not in place.

## **EUROPEAN UNION**



## **BEEF**

### Issue: Ban

The EU bans all U.S. beef that is produced with growth hormones (imposed in 1989) maintaining hormones pose a risk to human health. Numerous medical studies, including several European-based studies, have shown that there is no health risk. In 1998, and again in 2008, the WTO ruled in favor of the U.S. and Canada by stating that the EU had not provided enough scientific evidence to justify the ban. The EU chose not to conform to the WTO ruling and in 1999 the U.S. imposed ad valorem duties on a list of EU products. In May 2009, following a series of negotiations, the United States and the EU agreed to a partial settlement that could resolve this longstanding trade dispute. This agreement is done in three phases. Phase 1, which lasted until August 2012, expanded market access for U.S. beef to the EU under an annual TRQ of 20,000 MT at duty-free for beef produced without growth-promoting hormones. The United States removed all of the retaliatory duties that it was applying to a list of EU products. August 1, 2012, the agreement moved into Phase 2, during which the duty-free quota was expanded to 45,975 MT. EU quota years run from July 1- June 30. Phase 3 effective July 1, 2013, set the TRQ for U.S. high-quality beef at 45,000 MT (plus the 3,200 MT for Canada) and the United States renounced its claim at the WTO to have the EU accept beef produced using growth promoters. The TRQ remains only open for hormone free beef.

While this agreement is a bilateral agreement signed between the U.S. and the EU, it was deemed that for the new quota to be in compliance with WTO rules it would have to be open to any supplying country. The definition of "high quality" beef written into the agreement calls for the qualifying beef to come from animals that have been finished on a high energy diet for at least 100 days before harvesting and for a carcass grading system to be in operation directly under governmental control. Despite these stringent and restrictive requirements the EU Commission has now recognized four other supplying countries as being able to comply with these conditions and has given access to this quota to the U.S., Canada, Australia, New Zealand and Uruguay.

## *DAIRY*

### **Issue: Somatic Cell Count Standard & Import Requirements**

As the FDA has stressed to the European Union for more than a decade, somatic cell count (SCC) levels for raw milk are quality criteria and not food safety criteria and as such should not be required as part of public health attestations. The EU's mandatory compliance with its SCC levels illustrates the member states' efforts to enforce their own quality standards regardless of the available scientific evidence in support of a public health justification.

With the announcement of the Transatlantic Trade Investment Partnership (TTIP) in 2013, both the U.S. and the EU have entered trade negotiations aimed at removing trade barriers in a wide range of economic sectors to make it easier to buy and sell goods and services between the two nations. On top of cutting tariffs across all sectors, the EU and the U.S. want to tackle barriers behind the customs border (i.e. differences in technical regulations, standards and approval procedures).

## *FRUIT*

### **Issue: Tariffs and Entry Pricing System**

The European Union imposes an excessively complicated tariff and quota system used to protect domestic production at different times of the year. The entry pricing system (EPS) negatively impacts U.S. exports as it exposes importers to financial uncertainty and creates major disincentives to import U.S. fresh fruit. Fruits and vegetables imported at or over an established entry price are charged an ad valorem duty only. Produce valued below the entry price are charged a tariff equivalent in addition to the ad valorem duty.

The European Commission sponsored a study on the effectiveness of the current EPS system from 2004 to 2006 and the results were published in 2008. The study showed that the EPS has a negligible effect on stabilizing prices in the EU. The report concludes that a flexible EPS system should be maintained, but focused on specific products during specific periods of time.

## *GENETICALLY MODIFIED FOODS AND ORGANISMS*

### **Issue: Excessive Regulation of GMOs**

The EU has barriers on Genetically Modified Foods and Organisms (GMOs). Since 2004, the ban on marketing GMO products was lifted. However, the EU maintains significant regulatory barriers on the importation of GMOs. The criteria for the approval of all GM crops states that GMs must not be dangerous to human health or the environment, misleading to consumers, or nutritionally disadvantageous in comparison to non-GM options. Since 2004, few genetically-modified food and feed products have been approved to market in the European Union. Those that are approved include varieties of cotton, corn, oilseed, potatoes, soybeans, and sugar beets. The full list of approved food and feed varieties can be found at [http://ec.europa.eu/food/dyna/gm\\_register/index\\_en.cfm](http://ec.europa.eu/food/dyna/gm_register/index_en.cfm).

According to an international agreement called the Cartagena Protocol on Biosafety (established in September 2003) a nation can reject the GMO imports without scientific proof if they think that the product will cause harm to domestic crops or human health. The members of the Cartagena Protocol designed protocols to have transparency and control over the GMO world trade. The U.S. has not signed the Cartagena Protocol because of concerns with the language within the protocol allowing for a nation to reject a product without scientific evidence.

On September 29, 2006, the WTO found that the EU measures under the Cartagena Protocol were in breach of the EU's obligations under the WTO Agreement on the Application of Sanitary and Phytosanitary Measures. On November 21, 2006, the WTO Dispute Settlement Body (DSB) adopted recommendations and rulings calling for the EU to bring its measures into compliance with WTO

obligations. The U.S. and the EU initially agreed to a one-year reasonable period of time (RPT) for EU compliance, which ended on November 21, 2006. The parties subsequently agreed to extend the RPT until January 11, 2008, which subsequently expired without resolution.

Currently the EU has a set of rules for the importation of GM food stating that imported GM food has to be labeled and separated along the supply chain to safeguard against "contamination" of organic farms. Any product containing more than 0.9% GM content must be labeled as such, a policy that can lead to shipments being sent back to the U.S. The U.S. and the EU continue technical discussions on market access issues for biotech products; however Canada and Argentina have settled their disputes with the EU. On July 15, 2009, Canada and the EU signed a final settlement of the WTO dispute that Canada had brought against the EU. Similarly, Argentina and the EU announced their final settlement of the biotech dispute on March 18, 2010. There has been development with respect to market access to GM corn products. On February 11, 2014, DuPont Pioneer was granted access to the EU market with their product called TC1507.

## **GRAINS**

### **Issue: Duties**

The EU has a very strict policy for setting duties on grains. Import duties are based on a maximum duty-paid import price that is based on a representative CIF price and derived duty that is set every two weeks for each category of grain. The European Commission monitors grain prices daily, and changes the duty when the average import duty calculated differs by at least 5 Euros/MT; however, changes in duties are made at most two times per month.

In response to the large quantity of cheap wheat that was imported between 1999 and 2002, the EU put medium and low quality soft wheat and feed barley imports under a TRQ system. More specifically, for medium and low quality wheat a maximum annual TRQ of 3,112,030 MT was opened in 2003. A country specific quota of 572,000 MT was allocated for imports originating in the U.S. and 38,853 MT for those originating in Canada. The remaining 2.378 MMT was split into four equal amounts of 594,000 MT each on a quarterly basis and is open to other non-EU countries on a first come first served basis. As of January 2016 all of these TRQs remain operational.

In addition to these TRQs, since January of 2012 there has been an ergo omnes (open to all) quota consisting of 122,790 MT for low and medium quality wheat. The duty for imports under the quota is set at 12 Euro/MT, while imports outside the quota are subject to a duty of 95 Euro/MT. For barley, the quota of 50,890 MT applies to malting barley at a duty of 8 Euro/MT and a separate quota of 307,105 MT applies for other types of barley at 16 Euro/MT. Out-of-quota barley faces duties of 93 Euro/MT.

In November 2012 the European Commission's Cereal Management Committee voted to suspend import duties on low and medium quality soft wheat and feed barley imported into the EU from January 2013 until the end of June 2013. The suspension of import duties was not renewed as of January 2016, the import duties on low and medium quality soft wheat are 12 Euro/t and 16 Euro/t for feed barley.

# INDIA



## DAIRY

### Issue: Requirement for U.S. Dairy Certificate

The vast majority of U.S. dairy exports are blocked from the Indian market. This is due to barriers India has maintained on U.S. dairy exports since late 2003, when their sanitary certificate requirements were revised to require arbitrary and unfeasible new government attestation statements. Since 2004, USDEC and NMPF have worked closely with the U.S. and Indian government to try to reach an agreement on an export certificate that would demonstrate compliance with India's import requirements. The U.S. government has raised these concerns in bilateral and multilateral meetings over the past eight years with historically very little response and no genuine engagement in pursuit of a good-faith resolution from the Indian side.

Over the past several years, India has shown a repeated unwillingness to constructively work to resolve this issue and to ensure that all of its restrictions are based on sound science. The U.S. has provided considerable scientific data in support of its position, compromise solutions to address India's concerns, as well as information demonstrating that the vast majority of countries around the world accept U.S. dairy products and recognize them as safe.

## FRUIT

### Issue: Apples, Pears and Cherries - Tariffs

India imposes a 50% duty on apples, and a 30% duty on pears and cherries. In addition, the government of India charges a 0.9% Educational Tax on all direct and indirect taxes, excluding the CIF value. Apples are exempt from the Educational Tax because the duty charged is equal to the WTO bound rate.

## PEAS, LENTILS, & CHICKPEAS

### Issue: Phytosanitary Restriction

In 2004, India imposed a non-tariff barrier requiring all imported pulses to be fumigated with methyl bromide and certified free of stem and bulb nematodes, pea cyst nematodes, and bruchids. The U.S. and Canada have been granted a series of waivers allowing pulse shipments to be fumigated in India, rather than in the exporting country. The fumigation waiver was requested because methyl bromide must be applied at or above the ambient temperatures required on the label (5°C or 42°F). Processing plants and warehouses across the northern tier of the U.S.A. are below 42°F for 6 months of the year or longer. The fumigation waiver remains in place, with extensions being granted in six-month increments, but the U.S.A. Dry Pea & Lentil Council (USADPLC) continues to work closely with USDA-APHIS on a long-term solution to this issue. The specified pests are insignificant in the processed pulses being exported to India. Fumigation is not warranted. The USDA-APHIS phytosanitary certificate provides the Indian government with adequate assurances that the shipments are free of the specified pests.

In 2010, India announced that it would require Additional Declarations to be added to phytosanitary certificates for all imported pulses. The Additional Declarations as required by India would require USDA-APHIS to declare the shipment to be 100% free of quarantine weed seeds and soil contamination. USDA-APHIS takes the position that even with rigorous testing, it is impossible to provide a 100% guarantee that a shipment contains no weed seeds or soil. India planned on instituting these Additional Declaration requirements March 31, 2011. At that time, they granted a series of postponements to allow more time for discussions with trading partners. However, in January 2013 the Additional Declaration requirements were instituted at Indian ports, with significant penalty fees being

imposed on pulses imported from the U.S. In the fourth quarter of 2013, USDA-APHIS was able to find common ground with the Indian authorities and began to issue Additional Declarations that India would deem to be satisfactory, without including blanket guarantees.

## POTATOES

### Issue: Processed - Tariffs

U.S. potato growers and processors have identified India as an important growth market for U.S. frozen fry exports based primarily on the expansion of U.S. Quick Service Restaurant chains in the country. India currently applies a 30% duty on imported potato products. This applied rate is lower than India's bound rate, but the reduction has been nullified to some extent by the addition and occasional repeal of a variety of "taxes" in addition to the ad valorem tariff.

The current effective duty paid is approximately 50% on frozen fries (30% tariff, 6-10% countervailing duty, 3% educational taxes, and 4% and 1% additional customs duties). These taxes change annually, so the specific taxes currently applied may be different, but the issue is unchanged. It is unclear whether these additional duties are also applied domestically and therefore WTO-compliant.

In recent years, the U.S. potato industry, in coordination with the U.S. Embassy in New Delhi, have requested that India significantly lower its 30% duty on frozen potatoes and 30% duty on dehydrated potatoes in annual Indian budget cycles when tariffs are set. Although several commodities had their tariffs reduced in March 2011 through this process, the Indian fry tariffs have remained unchanged to date.

In addition to the unilateral tariff reduction, the U.S. potato industry requests that only the tariff (and not the additional duties) be applied on potato imports, unless those taxes are applied domestically as well. To date, no progress has been made on any of these requests. For more information please visit: <http://www.ustr.gov/sites/default/files/2014%20NTE%20Report%20on%20FTB%20India.pdf>

## INDONESIA



### ALL PRODUCTS

#### Issue: Onerous Documentation Process and Transparency Issues

In the past few years, Indonesia has enacted numerous regulations on imports that have increased the burden for U.S. exporters. Besides tariffs, import licensing procedures, and permit requirements, exporters may also be subject to pre-shipment inspection requirements, local content and domestic manufacturing requirements, and quantitative import restrictions.

According to exporters, one of the most difficult issues they face is the requirements that all imported packaged food products for retail must be registered through the BPOM (National Agency of Drug and Food Control). Additionally, some products require additional approvals from other Indonesian regulatory agencies such as the Ministry of Trade (MOT) and the Ministry of Agriculture (MOA). Importers must obtain an import approval letter from BPOM before they can apply for an import recommendation to the MOA. One import recommendation is valid for one HS code, one country of origin, one port of loading, and one port of destination. Imports of horticulture products can only be conducted by registered importers of horticulture products.

In November 2012, the Indonesian House of Representatives passed Law 18/2012, known colloquially as the new Food Law. Law 18/2012 replaced former overarching food laws but further maintained unjustified and trade-restrictive licensing regimes for the importation of horticultural products, animals and animal products. Indonesia has amended its regime several times, adding additional trade-restrictive requirements. In 2013, the U.S. took the issue to the WTO and requested consultations with Indonesia which resulted in Indonesia replacing and amending some import licensing measures. These changes however did not remove the apparent WTO inconsistencies and introduced new restrictions. In May 2014, New Zealand and the U.S. filed a joint-dispute against Indonesia on imports of horticulture, animal and animal products into the country on account of prohibitions or restrictions, unreasonable import requirements, and failure to notify and publish sufficient information concerning its import licensing measures. In March 2015, the United States filed a case against Indonesia with the WTO, claiming that Indonesia's strict licensing requirements limit U.S. farm exports. Although Indonesia has recognized some of these issues, efforts to repeal these regulations have not gone far enough to eliminate the trade barrier.

In addition to agency approvals and issues, BPOM regulation states that all imported food material/ingredients, including processed foods, must obtain an entry permit (SKI) from the head of BPOM for every shipment. The SKI is needed to release the products from customs. To obtain the permit an importer must provide supporting data and documents.

In Indonesia, product registration numbers (ML) are required for all packaged foods imported for retail purposes. Importers report that obtaining the number is time consuming and requirements can be confusing and excessive. However, the ML registration process has improved slightly by the implementation of the E-registration for low risk processed food products (707 kinds of food products) since early 2013. The regulatory distinction between food retail packaging and foodservice packaging continues to be unclear, resulting in complications for HRI imports with BPOM.

In conjunction with its import registration and licensing regimes, Indonesia prohibits the importation of certain products at certain times and restricts the sale of imported products within Indonesia. Approvals are only issued at the beginning of 6 month intervals, in which all sales, transport, and customs clearance must occur within that limited window. Those approval documents are also extremely limited in scope and scale, specifying the type, quantity, country of origin, port of entry, and use of the products that each importer may import during the relevant six-month period. Any products of a different type, in a greater quantity, from another country, through a different port, or for a different use than those specified in their approval are prohibited. Additionally, import approval will not be issued for any horticultural products harvested more than 6 months before hand or if the domestic market price falls below a level determined by a ministerial body in Indonesia.

Although documentation requirements for import permit applications have declined, the process also formalizes import limitations based on cold storage capacity. Regulations do not specify how the evaluation of cold storage is relevant, or how the exact volume per importer is evaluated. However, current practice within MOT is to limit the volume of import permits to the absolute capacity of an importer's cold storage, with no consideration for turnover during the course of the import period. Overall, the lack of infrastructure, including, but not limited to poor port facilities, supply chain management, and cold chain facilities creates a drag on the wider distribution of food products throughout Indonesia.

For more detailed information visit

[http://gain.fas.usda.gov/Recent%20GAIN%20Publications/Food%20and%20Agricultural%20Import%20Regulations%20and%20Standards%20-%20Certification Jakarta Indonesia 12-30-2014.pdf](http://gain.fas.usda.gov/Recent%20GAIN%20Publications/Food%20and%20Agricultural%20Import%20Regulations%20and%20Standards%20-%20Certification%20Jakarta%20Indonesia%2012-30-2014.pdf)

## FRUIT

### Issue: Apples, Pears and Cherries – Unreasonable Import Restrictions

In 2012 and 2013 Indonesia implemented a number of regulations governing the importation of horticulture products. Ministry of Agriculture Regulations 86 and Ministry of Trade Regulations 16 and 47 remain of significant concern. These regulations continue to threaten exports of apples, a trade that has been underway for decades.

On June 19, 2012, the Indonesian Agriculture Ministry granted horticulture products from the U.S., Canada and Australia access to Indonesia through the port of Tanjung Priok in Jakarta. Such access is an exception to Decree 89 that restricts entry of horticulture products into Indonesia through the following ports: (1) Port of Tanjung Perak, Surabaya; (2) Port of Belawan, Medan; (3) Soekarno-Hatta Airport, Jakarta; and (4) Port of Makassar. This exception was granted as a result of Indonesia's recognition of the foods safety system in the U.S. For detailed information visit:

<http://www.nwhort.org/indonesia.html>

On February 13, 2013, the Indonesian Ministry of Agriculture issued a temporary ban from January until June 2013 on 15 horticulture products and also restricted imports for 11 horticultural products by means of quotas (For a complete list of products affected by the temporary ban visit:

<http://www.daff.gov.au/biosecurity/export/plants-plant-products/ian/2013/2013-02>).

## POTATOES

### Issue: Fresh Table Stock Potatoes - Prohibited

The market for U.S. fresh potatoes is closed with the exception of a small amount of chipping potatoes occurring under an import permit system. A Pest Risk Assessment (PRA) must be completed by Indonesia before fresh table stock potatoes will gain market access. However, this step has not yet been conducted even though APHIS initiated a request for market access in 2011.

### Issue: Processed Potatoes - Import Permits and Quotas

Since late 2011, Indonesia has issued a number of new food import regulations which require import permits for many products, including processed potatoes. Although earlier versions of the regulations had included provisions limiting the import volume of certain products, Indonesia has since revised the regulations to remove such quantitative restrictions. However, there remain a number of provisions of concern among commodity groups. The current regulations, as well as a new Indonesian Trade Law published in February 2014, includes provisions which may allow the Indonesian government to restrict certain imports, such as to control prices domestically or when domestic products are available in the market. The U.S. has requested WTO consultations with Indonesia on these policies.

## ISRAEL



## FRUIT

### Issue: Apples, Pears and Cherries - Phytosanitary Trade Barrier

Israel prohibits the imports of U.S. sweet cherries to enter the country. Concerns regarding plant pests and diseases are said to be the reason. Since June of 2002, APHIS has been working with Israel to complete the risk analysis on cherries to resolve this issue. In February 2012, due to lack of progress on the issue, the USTR raised the issue as part of the U.S.-Israel Free Trade Agreement Joint

Commission discussions emphasizing the importance of completing the PRA for cherries and resolving market access disputes. To date, Israel has yet to issue a PRA.

U.S. apple and pear exporters have a long history of shipping to Israel with no report of any detection of live apple maggot or plum curculio, the two primary pests of concern targeted by Israel with the proposed new cold treatment requirements. In March 2009, Israel's Plant Protection and Inspection Service informed the USDA-APHIS that apples and pears would have to meet new cold treatment requirements to mitigate the risks of apple maggot and plum curculio. Although Israel has not conducted a PRA, Israel granted the U.S. an exemption from this requirement until September 1, 2012. USDA officials worked with industry and state officials on a proposed cold treatment. APHIS is currently conducting research to address the concerns and ensure the market remains open to the U.S. In December 2012 bilateral meetings authorized the use of provisional cold treatment schedules until July 15, 2013, while APHIS completed its research. There has not been an extension for 2015 as of January 2016. That temporary cold treatment protocol is based on the treatment schedules that the U.S. industry is attempting to make permanent. This continuing uncertainty undermines the market and limits the abilities of importers and exporters to develop long-term or permanent market plans.

### **Issue: Apples and Pears - Tariff Rate Quotas**

In 1985, the U.S. and Israel signed a FTA, providing phytosanitary safeguards against import restrictions for agriculture products. In 1996, the U.S. and Israel signed an Agreement on Trade in Agricultural Products (ATAP) which established a program of gradual and steady market access liberalization for food and agriculture products. The ATAP provides a schedule of tariff rates, quotas, and reference prices. The ATAP has been extended six times, most recently through December 31, 2014, to allow time for the negotiation of a successor agreement.

Imports of U.S. apples and pears may enter duty-free under a TRQ. The TRQ is measured in MT and may be filled throughout the year. The 2014 TRQ for apples and pears is 4000 MT and 1364 MT respectively.

## **POTATOES**

### **Issue: Seed potato – Prohibited**

Imports of seed potatoes from the U.S. are strictly prohibited.

## **JAPAN**



## **BEEF**

### **Issue: Processed Beef, Ground Beef, and Veal – Import Restrictions**

In December 2003, Japan banned most products derived from cattle, sheep, and goats following the discovery of a cow with BSE in Washington State that was imported from Canada. Eventually, the two countries agreed to resume two-way trade of beef and beef products, subject to their respective domestic approval processes based on science. In December 2005 Japan officially opened its market to U.S. beef from cattle 20 months and younger with all specified risk materials (brain, spinal cord tissues, and bone marrow) removed.

However, on January 20, 2006, just a few weeks later, Japan once again halted beef imports from the U.S. after an inspection revealed that a shipment of beef from New York contained vertebral columns

which were in violation of the agreement between the U.S. and Japan. In June 2007 trade resumed for U.S. beef from animals that were 20 months or younger upon the implementation of stricter regulations and requirements by the USDA.

In 2010, negotiations intensified seeking the age be changed from 20 months to 30 months. After a lengthy review, Japan changed the policy effective February 1, 2013. For under-30-month cattle slaughtered on or after this date, all beef and veal muscle cuts and offals are eligible for export to Japan. Beef from cattle imported from Canada and Mexico are also eligible. This change is an extremely positive development for the U.S. beef industry, making nearly all of its fed slaughter cattle eligible for export to Japan.

Some U.S. products remain ineligible, even from cattle meeting the age eligibility standard. These include processed beef and veal, ground beef, veal, and advanced meat recovery products containing beef and veal. These products will be considered for inclusion at a later time. Specified risk materials are now defined as tonsils, and the distal ileum of the small intestine. However, since April 1, 2014, scalded small intestines, stomachs, and blood vessels (including aortas) are eligible for export to Japan.

### 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. The 394,000 MT quota in fiscal 1990 became a 70% import tariff in 1991. Under the agreement, this rate was lowered to 60% and then to a bound rate of 50%. The agreement also removed restrictions on the purchasing and distribution of beef. The Uruguay Round on Agriculture further lowered the tariffs from 50% to 38.5% in 2001.

Japan continues to have tariff rate safeguards in place for beef. If cumulative beef imports on a quarterly basis exceed the imports of the quarter of the previous year by 17% then the beef tariff increases from 38.5% to 50%. Japan uses 2002-2003 data as the baseline for chilled beef, so the tariff rate on chilled beef is unlikely to be affected. If the TPP agreement is ratified, however, Japan will reduce beef tariffs from 38.5% to 9% over a 16 year phase-in period.

## 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%, with the 35% rates applicable to products containing added sugar as well as high-fat products.

H.S. Code	Product description	Quota	Tariff
0404.10.1110	Whey with added sugar (6.48)	137,202 MT	35%
0404.10.1191	Whey without added sugar (6.48)		25%
0404.10.121	Whey, mineral concentrated with added sugar	14,000 MT	35%
0404.10.122	Whey, mineral concentrated without added sugar	14,000 MT	25%
0404.10.129	Mineral concentrated whey outside quota		29.8% + 425 ¥ /kg
0404.10.131 0404.10.141	Whey for animal feed	45,000 MT	0
0406.20.200	Grated or powdered cheese (not processed)	0	26.3%

As part of the TPP agreement, Japan agreed to eliminate tariffs on most cheeses over a 16 year period. Tariffs on most whey products will be eliminated in 6 to 21 years depending on the type of whey. Tariffs on lactose will be eliminated in the first year. A TRQ will be established for skim milk powder and butter. Both will increase to 3,719 MT after year five with no additional increases after that.

## *FRUIT*

### **Issue: Apples – Phytosanitary Ban**

Japan prohibits imports of apples from all states except Oregon, Washington, and California.

### **Issue: Pears – Phytosanitary Ban**

Imports of U.S. pears into Japan are prohibited for plant quarantine reasons such as fire blight.

### **Issue: Apples, Cherries, Nectarines and Pears - Tariffs**

Japan imposes import duties of 9% ad valorem on cherries, 17% ad valorem on apples, 6% ad valorem on nectarines, and 5% ad valorem on pears (assuming market access for pears was to open up).

## *POTATOES*

### **Issue: Fresh Table Stock - Phytosanitary Ban**

Japan prohibits imports of U.S. fresh table stock potatoes. Potatoes have been included during bilateral plant health negotiations, but no official changes have been made.

### **Issue: Fresh Chipping - Phytosanitary Ban**

In April 2006, PCN was found in a soil sample collected from a potato processing facility in Idaho. This was the first time the PCN 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. The market was reopened in February 2007 for all original shipping states except Idaho.

Idaho remains banned due to the PCN find. APHIS, the U.S. potato industry, and ISDA have all worked to reopen the Japanese market for counties beyond the PCN control area. Several questionnaires regarding the PCN program in Idaho have been returned to Japan. The issue has been discussed at several bilateral technical meetings but no significant progress has been made.

### **Issue: Processed - Tariffs**

Japan's tariff on frozen French fries is 8.5%. Japan's tariff on dehydrated potato flakes, granules, and pellets (HS 1105.2) is 20%. And Japan's tariff on mashed potato and potato flakes (HS 2005.2) is 13.6%. All have scheduled reductions and elimination after 5 years under TTP.

## *SEED*

### **Issue: Phytosanitary Restrictions**

Japan has zero tolerance for any isolated soil in seed shipments. The MAFF feels that the difficulty in removing all soil from seed has been addressed through improvements in machine technology to the degree that they are now fully enforcing the zero-tolerance standard. Also, Japan will refuse to issue a phytosanitary certificate if seeds are contaminated with more than 0.05% (weight ratio) of *Claviceps (ergot) sclerotia* and if contaminated with more than 0.01% (weight ratio) of *Sclerotinia sclerotia*.

# **MEXICO**



## **FRUIT**

### **Issue: Anti-Dumping Duties for Apples**

In August 2014 a Mexico industry group from the state of Chihuahua, UNIFRUT, petitioned an investigation against U.S. apple producers for allegedly selling U.S. apples to Mexico at less than their fair value during the 2013-2014 season. In December 2014 the Mexican government announced they would pursue an anti-dumping investigation against the U.S. As part of the investigation, the Mexican Ministry of Economia asked around 40 U.S. shippers to respond to a questionnaire on production costs and sales prices.

The Mexican government reached a preliminary determination on the case and on January 6, 2016 published the preliminary duties. Duties will be collected beginning January 7, 2016 on U.S. apples as high as 20% for some companies and averaging 7.55%.

### **Issue: Stone Fruit (Peaches, Nectarines) 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.

Peach and nectarine growers in Idaho, Oregon and Washington are seeking access to the Mexican market under a systems approach. These same growers currently ship apricots to Mexico under a systems approach for OFM and also have been successful in exporting peaches and nectarines to British Columbia, Canada, under the this OFM system approach protocol proposed to Mexico. OFM has never been discovered in stone fruit shipments to British Columbia, Canada, or in apricots to Mexico. Mexico requires the presence of on-site inspectors to monitor the program. This is not required for the apricot systems approach and is not needed for the peach and nectarine program. Mexico has explained that in order for the on-site verification requirement to be dropped, it must first change its federal regulation making this a requirement. The NHC requests that USTR and USDA FAS work with the Mexican government to make this regulatory change.

## **POTATOES – FRESH**

### **Issue: Fresh -Border Zone Limitations**

Expanding fresh potato market access into Mexico is the U.S. potato industry's highest international market access priority. In March 2003, through a bilateral agreement, U.S. fresh potato market access was granted to the border region of Mexico, but limited to an area within 26 KM of the U.S.-Mexico border. The fresh-border zone limitation was lifted on May 19, 2014, allowing shipments of fresh potatoes to cities with populations greater than 100,000 provided that certain shipping and labeling requirements established by the Mexican government were met. Mexican potato growers filed a lawsuit (Amparo) on May 20. The entire Mexican market closed to U.S. potatoes on June 9, 2014, after a court injunction from the Seventh District Court in the State of Sinaloa to provisionally suspend fresh potato imports from the U.S. into interior Mexico.

Beginning July 7, 2014, APHIS resumed exports of potatoes into the 26 KM border area. This is an interim measure that will be in place until all legal challenges in Mexico are addressed for the

expansion. There are several lawsuits pending in Mexico and The U.S. Potato Board, the National Potato Council, the Office of the U.S. Trade Representative, and other stakeholders are working to expedite the process. In July 2015, an appellate court overturned a temporary injunction granted by a lower court. This step is only temporary, but allows U.S. potatoes back in to the border zone. The litigation process is expected to take a few years.

## **VEGETABLE SEED**

### **Seed Testing**

For the past several years Idaho companies have had difficulty re-exporting China-origin pepper seed to Mexico due to pepper mild mottle virus (PMMoV) infections in China. Typically, Idaho companies grow pepper seed in China and test it for PMMoV using a PCR. If the seed tests positive, the seed is treated and re-tested with bioassay method to determine if the virus was killed/inactivated by the treatment. Some Idaho companies treat without testing.

Mexico re-tests all seed. When this China-origin seed is re-tested the Secretariat of Agriculture, Livestock, Rural Development, Fisheries and Food of Mexico (SAGARPA) tests for the presence of viral protein, DNA, or RNA whether or not the virus has been killed/inactivated, resulting in false positives and therefore shipment rejections. The larger companies are able to get some seed into Mexico by testing their own seed and will not send test positive seed to Mexico and then may ship test-positive seed to other countries. However, smaller companies that import their seed often don't have that luxury of rerouting test-positive seed to other markets. Instead, these companies have their seed routinely tested by an APHIS accredited lab, and if the virus has been killed/inactivated, APHIS issues the phytosanitary certificate.

SAGARPA has been attempting to build capacity in a couple of their labs to be able to retest this seed in Mexico. Unfortunately, this method takes at least 6 weeks to perform. In addition, SAGARPA would need to have sufficient capacity to run multiple test trials at once to cover all incoming seed shipments, which currently does not appear to be feasible. The timeframes involved for SAGARPA has resulted in U.S. companies losing market share because the planting windows are not able to be met with such delays. In addition, there are reports indicating that PMMoV is already established in Mexico, suggesting that it could/should be deregulated by Mexico and SAGARPA concerns about US companies in this regard are unnecessary.

The State of Idaho and APHIS are currently working with SAGARPA to accept APHIS issued phytocertificates or re-export certificates with the appropriate Additional Declaration on these products without the need for re-testing.

## **SUGAR**

### **Issue: Excessive Imports of Mexican sugar**

In January 2008, with the full implementation of NAFTA, all sugar tariffs between the U.S. and Mexico were eliminated. Sugar trade will continue to be impacted by the various sugar policies implemented in both countries.

Previously there was a WTO case against Mexico regarding high fructose corn syrup. Mexico imposed a 20% sales tax on soft drinks and other beverages that use any sweetener other than cane sugar. The beverage taxes sharply curtailed U.S. high fructose corn syrup (HFCS) producers' access to Mexico's market for soft drinks and other beverages. This affected sugar use and sugar production in the U.S. In 2004, the U.S. filed a WTO case against Mexico over these taxes. On October 7, 2005, the WTO ruled in favor of the United States in its challenge of Mexico's discriminatory beverage tax. The Mexican tax remained in place, but many bottlers were able to use HFCS without being subject to additional taxes due to court injunctions allowing HFCS use in soft drinks without paying the tax. The U.S. was allowed

to export 250,000 MT of HFCS to Mexico. Mexico was allowed to ship 250,000 MT of cane sugar annually to the U.S. up until January 1, 2008, when the quota was eliminated.

However, in March of 2014 the U.S. sugar industry filed antidumping and countervailing duty petitions against the Mexican sugar industry with the U.S. International Trade Commission (ITC) and the U.S. Department of Commerce (USDOC). The ITC made a preliminary finding on May 9, 2014, stating that U.S.-domestic sugar producers are materially threatened by low cost imports of subsidized Mexican sugar into U.S. Markets. The commission's vote was 5-0, meaning that "there is reasonable indication that the U.S. industry is materially injured by reason of imports of sugar from Mexico that are allegedly subsidized and sold in the U.S. at less than fair value." The preliminary finding frees the USDOC to continue its investigation into alleged sugar dumping by Mexico, and determine possible duties on the sugar and possible anti-dumping enforcement by the Customs Department. In October 2014, the United States and Mexico came to an agreement to avoid antidumping (AD) and countervailing duties (CVD) on U.S. sugar imports from Mexico. On December 19, 2014, both sides signed these two suspension agreement, but two U.S. sugar companies petitioned the suspension. In a final ruling in September 2015, the U.S. Department of Commerce upheld its earlier finding that sugar from Mexico has been subsidized and dumped into the U.S. market, making some adjustments to the suspended AD and CVD rates.

## ***PERU***



### ***FLAX***

#### **Issue: Lack of import Protocol**

U.S. flax is currently prohibited in Peru because of a lack of import protocol. The National Agricultural Sanitation Service of Peru (SENASA) has not established a protocol that would allow flax to be imported into Peru despite a high demand within the country. In January 2016, ISDA Director Celia Gould sent a letter to USDA APHIS requesting that a protocol be established. Currently industry is working with APHIS on providing information necessary for SENASA to conduct a PRA and establish the necessary protocol.

### ***ONIONS***

#### **Issue: Import Permits**

U.S. onions are prohibited unless Peru issues an import permit. The import permit will specify the phytosanitary requirements. Peru issues import permits on an inconsistent basis. U.S. onions were allowed export to Peru in 2003, 2005, 2009 and 2011.

# **RUSSIA**



## *ALL PRODUCTS*

### **Issue: Sanctions and Export License Suspensions**

The U.S., the EU and some U.S. allies (i.e. Canada and Australia) have imposed sanctions against a handful of Russian oligarchs and their privately held companies, as well as a few politicians that are believed to be providing logistic or financial support to Russian separatists inside Ukraine, which led to Russia's annexation of Crimea in March 2014. In April 2014, the U.S. Treasury stated that harsher sanctions targeting specific sectors of the economy including finance and energy were on the table if Russia continued to back the separatists in Ukraine.

In addition to sanctions, the U.S. Department of Commerce's Bureau of Industry and Security and the State Department's Directorate of Defense Trade Controls (DDTC) announced that they have placed a hold on issuing licenses for exports and re-exports of controlled items, defense articles, and defense services to Russia until further notice.

As a result of the implementation of economic sanctions against Russia, Russia issued counter sanctions on some agricultural products from the U.S., Canada, the EU, Australia, and Norway. On August 6, 2014 Russia banned beef, pork, poultry, fruits, vegetables, fish, seafood, cheese, milk and a variety of other products. The sanctions automatically expire in one year unless extended. In August 2015, Russia extended the sanctions for another term.

# **SOUTH AFRICA**



## *FRUIT*

### **Issue: Apples, Cherries and Pears – Phytosanitary Barriers**

PNW apples first gained market access to South Africa in 2009, but only for apple fruit originating from orchards that are declared pest free for *Rhagoletis pomonella* (apple maggot). During the 2010-2011 season, numerous containers of apples exported to South Africa were detained for reported quarantine pest finds. Notifications from South Africa of alleged interceptions are generally lacking in sufficient detail and are often issued many weeks after the interception. This severely limits the U.S. industry in any efforts to research the issue and to correct a problem, should one exist. Additionally, South Africa has failed to respond to a USDA request to amend the market access agreement now in place for PNW apples with a cold treatment protocol. Such a protocol would permit the export of apples originating from areas regulated for apple maggot. That request was first issued in June 2010.

South Africa currently prohibits the importation of cherries and pears from the United States due to a number of phytosanitary issues.

# ***SOUTH KOREA***



## ***BARLEY-MALTING***

### **Issue: KORUS – Tariff Rate Quota Dissolving**

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. Korea has an autonomous TRQ of 21,000 MT and applied tariffs of 20% in-quota. Korea's out-of-quota tariff and WTO bound duty is 513%.

The Korea-U.S. Free Trade Agreement (implemented March 15, 2012) increases access for all U.S. barley substantially. The duty-free quota baseline was established at 9,000 MT, growing 2% each year through year 15 at which time all U.S. shipments of malt and malting barley will enter duty-free. A safeguard duty was also set and will be gradually reduced to 174% by year 2026 with tariffs being completely eliminated in 2027. For 2016, 9,742MT of U.S. malt and malting barley may enter the Korean market duty free.

The agreement also created a 2,500 MT duty-free quota for U.S. unhulled and naked barley which will increase 2% per year while the out-of-quota tariff is phased out over 15 years (2027). That quota is 2,706 MT for 2016

## ***BEEF***

### **Issue: KORUS - Tariffs Dissolving**

The KORUS significantly cuts the high tariffs on U.S. beef imports. Tariffs on imports of beef muscle cuts will decline from the initial tariff rate of 40% to zero in 15 equal annual reductions. The agreement includes a quantity safeguard of 270,000 MT for beef muscle cuts, growing at a compound 2% annual rate to a final safeguard level of 354,000 tons in year 2026. In 2027 and beyond, tariffs will be zero and the safeguard will no longer apply. Korean tariffs on beef offal also decline from their current levels of 18 and 27% in 15 equal annual reductions. Offal trade faces no safeguards.

## ***DAIRY***

### **Issue: KORUS - Tariff Rate Quotas Dissolving**

The KORUS agreement created TRQs that doubled the amount of dairy accessible to Korea. The TRQ established for cheese, with an initial duty-free quantity of 7,000 tons, grows 3% annually. Out-of-quota tariffs on cheddar cheese are eliminated over 10 years, and out-of-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 total, growing 3% annually in perpetuity. The over-quota tariffs on these milk products remain unchanged at the MFN rates, ranging from 89 to 176%. The TRQ for food-grade whey has an initial duty-free quantity of 3,000 tons, growing 3% annually. The over-quota tariff for food-grade whey was reduced from 49.5% to 20% 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%, and becoming duty-free in 10 years. The 36% tariff on whey blends is phased out through 10 annual reductions. Feed-grade whey became duty-free immediately.

## *FRUIT*

### **Issue: Apples -Phyosanitary Ban**

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

### **Issue: Cherries – Fumigation Requirement**

Only Idaho cherries from Ada, Canyon, Gem, Owyhee, Payette, Twin Falls, and Washington counties can be exported to Korea with methyl bromide fumigation to control pests of quarantine concern. In June 2008, the industry proposed and submitted a systems approach for the Northwest (Washington, Oregon and Idaho) which provides quarantine security that is equivalent to that provided by methyl bromide fumigation. Korea sent inspectors to California, Washington, Oregon and Idaho in 2008 to evaluate the step-by-step process used by U.S. producers. Research demonstrates that cherries are not a suitable host for codling moth, Korea has refused to accept the systems approach proposal.

### **Issue: Pears – Phytosanitary Ban**

Korea prohibits imports of U.S. pears due to five quarantine pests identified in a PRA.

### **Issue: Apples, Pears and Cherries - Tariffs Dissolving**

KORUS eliminated the tariff on U.S. cherries and decreases over time the tariff on apples and pears. Tariffs on U.S. fresh cherries were eliminated immediately. Under KORUS import tariffs on U.S. apples, excluding the Fuji variety, have a 10-year phase-out and the tariff on Fuji apples has 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% 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: KORUS- Safeguards**

Korea restricts onion imports through high tariffs and limiting quotas. The WTO in-quota tariff rate is 50% until the quota of 20,645 MT for world markets is met. At that time, the tariff jumps to 135%.

When the KORUS FTA was implemented, a 2,904 MT safeguard for U.S. onions was established in the first year ending December 31, 2012. Onions that entered under the safeguard amount were assessed a 126% tariff the first year with a 135% tariff over the safeguard amount.

Each year, the safeguard amount increases and the duty applied to quantities that enter within the safeguard amount decreases. By the tenth year (2021), the duty for U.S. onions (45%) within the safeguard amount will be less than the WTO in-quota rate of 50%. The safeguard will increase to 5,808 MT in the fifteenth year. After the nineteenth year of the agreement, the safeguard is removed and all quantities enter duty-free.

## *POTATOES*

### **Issue: KORUS - Tariffs and Quotas Dissolving**

The KORUS resulted in duty-free immediately for frozen potatoes (French fries), eliminating the 18% tariff. Dehydrated potatoes (flakes and powder) entered the market under a 10 year safeguard

with an initial duty-free quantity of 5,000 tons that grows 3% compounded annually. Potatoes for chipping will receive seasonal treatment that will be phased out over 15 years (2027). All quantities will enter duty-free during the out-of-season period (December 1-April 30), eliminating the 30% applied tariff. During the in-season period (May 1-November 30), the tariff will be phased out over 15 years. Fresh table stock potatoes will enter under a new TRQ, starting with a duty-free quantity of 3,000 tons that will grow 3% compounded annually in perpetuity. The over-quota tariff will remain at the current MFN rate of 304%.

### **Issue: Fresh Table Stock and Chipping - Phytosanitary Restrictions**

In August 2012, Korea closed its market for PNW table stock and chipping potatoes due to the presence of zebra chip in the region. In October 2012, after intensive negotiations, Korea reopened the market for PNW chipping potatoes including Idaho. The market for fresh table stock potatoes remains closed. From June 3-5, 2014, a technical delegation from Korea met with industry officials in Idaho. The purpose of their visit was to conduct onsite visits to learn about the pest management practices in Idaho. No additional progress has been and the market remains closed to fresh table stock potatoes.

## ***TAIWAN (ROC)***



### ***FRUIT***

#### **Issue: Apples – Codling Moth Detection Procedures**

Under the previous export policy for the shipment of U.S. apples to Taiwan, the Bureau of Animal and Plant Health Inspection and Quarantine (BAPHIQ) imposed a strict “three strikes” penalty structure for codling moth (CM) detections, which ultimately led to complete market closure for U.S. apples for the remainder of a shipping season if there were three confirmed detections of live CMs.

During a technical bilateral held in January 2011, Taiwan agreed to evaluate an alternative penalty structure proposal. The United States submitted a new proposal to Taiwan in February 2011; however, industry had some concerns with the proposal, modified the contents, and submitted a suggested work plan at a December 2011 bilateral. Taiwan rejected the proposed work plan and provided technical comments to USDA-APHIS at the beginning of 2012. Negotiations and revisions to the work plan continued until October 4, 2013, when BAPHIQ released its systems approach work plan for U.S. apples to Taiwan.

Unlike the “three strikes” penalty system, which closed the Taiwan market to U.S. apples if there were three confirmed detections of live CMs, the new system states: “If three packing houses are suspended within one shipping season, the export program will be suspended for the remainder of the shipping season.” As stated, the work plan implements a new penalty system that reduces the risk of market closure due to CM detections by allowing a greater number of detections before closing market access to U.S. apples. The work plan still includes the 2-week grace period following each CM detection. This means that any CM detections that occur within the 2-week grace period do not count as an additional “strike.”

However, continual scientific research demonstrates and increasingly supports industry’s claim that Taiwan’s requirements for CM remain overly restrictive.

#### **Issue: Apples, Pears and Cherries - Tariffs**

Tariffs are 20% for apples, 10% for pears, and 7.5% for cherries.

## **FRUITS AND VEGETABLES**

### **Issue: Fresh - Pesticide Tolerances**

In 1999, Taiwan proposed significant changes in the allowable pesticide tolerance levels and testing requirements for fresh produce. As a result, many pesticides used in the U.S. have not been assigned Taiwan MRLs. The U.S. has over 10,000 MRLs, while Taiwan only has 1,000-2,000. The Taiwanese authorities have detained shipments of U.S. products (fruits and grains) for residue violations, even though the pesticide was legally applied according to U.S. regulations. In some cases press conferences were held regarding the violation undermining the reputation of such products to the Taiwanese consumer.

Additionally imports of fresh fruit and vegetables, including apples, are subject to random inspection for chemical residues at the port of entry by TFDA/Department of Health. For example, a Taiwan importer of highly perishable produce (i.e. apples) may submit an affidavit to the TFDA to move the consignment to its own warehouse before the testing is complete. However, the shipment cannot be released into commercial channels until/unless the test results are negative. Shipments are tested at the normal sampling rate of 2.5%. If the sample tests positive for any prohibited chemical or at a level that exceeds Taiwan's established MRL for approved chemicals, the shipment will be rejected and future shipments will also be subject to enhanced inspection. If there is an initial noncompliance finding on record, future shipments of the same product (e.g. apples) imported by the same Taiwan importer from the same origin (e.g. the United States) the random inspection rate will increase to 20%. A second non-compliance finding for the same combination of Taiwan importer, product and origin will result in batch-by-batch inspection for all future shipments under that same three-way combination.

USDA and EPA are working cooperatively with Taiwan on this issue and are seeking a solution that would be acceptable to both parties. Some progress was finally made in 2015. Taiwan added or modified more than 250 MRLs in June 2015, with another 26 added in September 2015. While significant progress has been made in 2015 made with Taiwan in establishing a more standard MRL protocol, but there are still a large number of MRLs to be revised or added.

## **LAMB**

### **Issue: Scrapie**

The market for U.S. lamb is closed. The issue has been raised off and on for the past several years. The U.S. sent an official letter in August 2011 requesting that Taiwan reopen the market to lamb, but discussions were tabled as higher priority issues, such as ractopamine in beef, took the stage in September of 2012. USDA-APHIS along with meat industry representatives are working on the lamb issue again now that the beef issue is resolved.

Initially banned in conjunction with beef over the finding of BSE in a dairy cow in December 2003, the market remains closed due to requirements that the sheep originate from farms that have been scrapie-free for at least seven years under Taiwan's "Quarantine Requirements for the Importations of Animals or Animal Products". Taiwan's "scrapie free" definition follows the OIE standard (World Animal Health Organization - Office of International Epizootics). Transmissible spongiform encephalopathy (TSE), or scrapie, affects the nervous system of sheep and goats, but is not transmissible to humans. Scrapie is not considered a zoonotic disease; therefore, edible products exported from scrapie-infected countries, regions or zones should not be restricted.

In early 2013, the Government of Taiwan developed a questionnaire as part of the market access review for U.S. lamb and sent it to USDA for their completion. USDA responded and submitted the questionnaire to Taiwan officials in July 2013. The issue was again discussed during the December 2013 Sanitary and Phytosanitary meetings and again in April 2014 during the Trade Investment Framework Agreement bilateral meeting. The American Institute of Taiwan and USDA facilitated a site

visit by Taiwan authorities to the U.S. to review lamb processing methods and are now waiting for the evaluation process to conclude and to receive official notice of the market re-opening.

## **PORK**

### **Issue: Ractopamine**

In early 2007 Taiwan banned U.S. pork exports containing the leanness-enhancing drug ractopamine despite the eased restrictions on U.S. beef. Since 2007, U.S. officials have raised this issue repeatedly at meetings of the WTO SPS Committee as well as in bilateral meetings with Taiwan, including meetings at the most senior levels. Taiwan authorities appear to have acknowledged in a number of public statements that trace amounts of ractopamine do not present a health risk. The United States continues to encourage Taiwan to implement the remaining proposed MRL for ractopamine without further delay. President Tsai has called for relaxing the rules on open the market for U.S. pork.

## **POTATOES**

### **Issue: Fresh -Tariffs**

Taiwan assesses a 15% tariff on U.S. fresh potatoes.

# **THAILAND**



## **FRUIT**

### **Issue: Apples, Pears and Cherries - Tariffs**

Tariffs are 10% for apples, 30% for pears and 40% 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. Under the FTA between Thailand and New Zealand, New Zealand apples and pears also have duty-free access. Both FTAs leave U.S. suppliers/exporters at a competitive disadvantage.

### **Issue: Plant Quarantine Regulations**

On August 28, 2008 Thailand's Plant Quarantine Act (No. 3) B.E. 2551 went into effect, strengthening the quarantine practices for imported fresh fruits and vegetables from all exporting countries. Imports are classified as being restricted, prohibited, or permitted. The regulations could potentially prohibit the import of a broad array of plant products based on their potential to act as a host to a quarantine pest.

One of the major concerns is that in the prohibition lists deciduous tree fruit grown in parts of the U.S. as a host of tropical fruit flies; however, the tropical fruit fly does not exist in the growing areas listed. Prohibited articles that have previously been imported are exempt until the completion of a Pest Risk Analysis (PRA).

The Thai Department of Agriculture (DOA) granted a request by the USDA to waive the PRA requirements for 19 products dependent on DOA review of industry PRAs. As a result of the PRA waiver, some U.S. products were subject to previous import requirements. These products included apples, apricots, cherries, currants, figs, grapes, nectarines, peaches, pears, plums, prunes, strawberries, sorghum grain, sorghum seed, sweet peppers, and eggplant.

The DOA completed a PRA for U.S. potatoes, including seed potatoes, potatoes for processing, potatoes, and also fruit for consumption in 2009. This has been the only progress made. As of January 2016, import requirements remain unchanged.

## **LAMB**

### **Issue: BSE**

The Department of Livestock Development (DLD) of Thailand prohibits the entry of any U.S. sheep or goat meat. In December 2003, after finding the first BSE case the DLD placed a ban on all kinds of carcasses from ruminant animals (including goat and sheep). In early 2006, the DLD lifted the ban on boneless beef and beef products, but the ban remains in place for goat and sheep. However, Thailand does allow cooked lamb products to be imported as long as the country of origin/birth is approved by the Government of Thailand (GOT) and the product is cooked in a USDA facility. As of January 2016, Thailand is still working with FAS/BKK on making U.S. lamb eligible for import.

## **POTATOES**

### **Issue: Processed -Tariffs**

Thailand's bound duty is 30% on most processed potatoes including frozen French fries and potato flakes. The tariff is one of the highest in the region (China: duty-free; New Zealand: 3%). The American Potato Trade Alliance (APTA) has requested that Thailand reduce its ad valorem tariff on HS 2004.1 to 10% or less. The U.S. and Thailand began FTA negotiations in 2004 but suspended them in 2006. Thailand expressed interest in joining the TPP negotiations; however, on May 15, 2013, at the 17<sup>th</sup> round of TPP negotiations Thailand officially stated that they would not participate.

## **VENEZUELA**



## **ALL PRODUCTS**

### **Issue: Import Permits**

An import permit is required for all agricultural products. Venezuela also requires Sanitary and Phytosanitary certificates for most agricultural imports. These import permits are not assigned equally to all exporters and result in unfair or restricted trade. These import restrictions are not based on scientific evidence, which raises concerns about the consistency of these practices with WTO requirements.

Import licensing practices prevent entry of U.S. agriculture products for goods including dairy products, fruits, and beef. Venezuela has failed to establish an open and predictable system for issuing import licenses which has led to application processing delays.

Import licenses are valid for four, six or twelve month periods, and are renewable. When applying for a license, local importers are required to submit a monthly list of imports received, indicating volume and value, along with the balance of the allocated quota along with the invoice of the most recent import. Local importers are required to obtain the "certificate of non-domestically produced food product" and the "certificate of insufficient domestically produced food product" from the Ministry of Light Industry and Trade (MILCO), in order to obtain import licenses.

## *FRUIT*

### **Issue: Apples, Pears and Cherries -Tariffs**

Tariffs for apples, pears, and sweet cherries are 14.8%. 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), Mercosur (Argentina, Brazil, Paraguay, and Uruguay) and Chile.

## **VIETNAM**



## *GENERAL*

### **Phytosanitary certificates for Processed Products**

New Vietnamese regulations went into effect January 1, 2015. The new laws increased the power of Vietnamese customs authorities. After that, importers have been asking US suppliers to provide phytosanitary certificates for processed products in disagreement with international norms. Processed products are not eligible for certification with a phytosanitary certificate because plant products processed or manufactured are unlikely to harbor injurious pests.

Vietnam, however, has been asking for phytosanitary certificates, particularly on processed potatoes. The issue has been raised by the U.S. and the Vietnamese government has informed Customs officials not to require phytosanitary certificates on processed products. The issue appears to be resolved. However, there is concern that the resolution is temporary and that future customs officials may again require the document. A permanent change to the Vietnamese regulations would a better long-term solution.

## *FRUIT*

### **Issue: Apples, Pears and Cherries - Tariffs**

Under the terms of its WTO accession agreement reached May 2006, Vietnam agreed to gradually reduce its tariffs between January 1, 2010, and January 1, 2012. The final reduction left tariffs for apples, pears, and cherries at 10%. Industry is pressing to reduce the tariffs to zero in order to be able to better compete with Australia and New Zealand who have duty-free access under the ASEAN Free Trade Agreement. Additional tariff reductions were agreed upon during the TPP negotiations. If TPP is ratified, the tariffs will be eliminated completely on these three fruits.

### **Issue: Peaches, Plums, Nectarines – No Market Access**

Currently, there are only four types of fresh fruit from the U.S. for which Vietnam has conducted PRAs, and are officially allowed access into Vietnam. These are apples, pears, grapes and cherries. Peaches, plums, nectarines, and other fresh fruit do not have official market access. APHIS has requested market access for citrus; however Vietnam has yet to issue a PRA for U.S. citrus or any other fresh fruit.

## *PEAS*

### **Issue: Dry peas, Lentils, and Chickpeas -Tariffs**

Opportunities for sales of whole green peas into the Vietnamese market for use in making fried and extruded snacks would exist if the tariffs were eliminated or significantly reduced. On January 11, 2007, Vietnam became the 150<sup>th</sup> member of the WTO. Vietnam's bound duty on peas (H.S. 07081000), beans

(H.S. 07082000), and other leguminous vegetables (H.S. 07089000) in the negotiated WTO accession agreement fell in equal annual increments from the pre-accession level of 30% to 20% in 2010. However, the duty on dry peas and other pulses was further reduced to 10% through the efforts of U.S. Government and other pulse suppliers. Additional tariff reductions were agreed upon during the TPP negotiations. If TPP is ratified, the tariffs on pulses will be eventually eliminated completely.

## *POTATOES*

### **Issue: Tariffs**

In 2006, the U.S. and Vietnam reached an agreement on Vietnam's accession to the WTO. In that agreement, Vietnam agreed to reduce its 40% tariff on frozen French fries to 13% over six years and its 40% tariff on potato chips to 18% over five years. Since 2013, the lower tariff levels are in effect. The tariff on fresh potatoes is 24%. Additional tariff reductions were agreed upon, however, during the TPP negotiations. If TPP is ratified, the tariffs will be eliminated on potatoes and potato products in three phases with duty-free access effective in 2019.

# IMPORT ISSUES

## WORLDWIDE



### *COUNTRY OF ORIGIN LABELING (COOL)*

#### **Issue: U.S. Country of Origin Labeling (COOL)**

On January 15, 2009, the USDA published the final rule for Country of Origin Labeling (COOL). Effective March 16, 2009, COOL regulations require country of origin labeling at retail for muscle cut and ground beef, veal, pork, lamb, goat, and chicken; wild and farm-raised fish and shellfish; fresh and frozen fruits and vegetables; peanuts, pecans, macadamia nuts, and ginseng sold by designated retailers.

Processed food items and food sold in restaurants and food chains are excluded. State and regional designations may be used for designation in certain circumstances. The law provides for penalties of up to \$1,000 per violation for both retailers and suppliers not complying with the law. For specific details on COOL visit <http://www.ams.usda.gov/rules-regulations/cool>

Mexico and Canada brought a WTO case against the United States for enacting COOL regulations, and in November 2011 a WTO panel ruled that the COOL regulations violated WTO rules on technical barriers to trade. The United States had until May 23, 2013, to come into compliance with the WTO ruling in COOL. In response, USDA issued a final rule to amend the COOL regulations to change the labeling provisions for muscle cut covered commodities to provide consumers with more specific information. The proposed rule was published in the March 11, 2013, Federal Register and can be viewed at <http://www.federalregister.gov/public-inspection>.

The new federal labeling rules went into effect May 23, 2013. The regulation requires meat products sold in the U.S. to be sorted, packaged and labeled separately depending on where the animal was born, raised and slaughtered. The new labels are required for steaks, ribs and other cuts of meat; ground meat and imported muscle cut meat labeling regulations were not affected by this change. Earlier USDA rules only required that countries of origin be noted (i.e. "Produce of U.S. and Canada"). Now, the label specifies "Born in Canada, raised and slaughtered in the United States." Both Canada and Mexico are strongly opposed to the new regulations.

In August 2013, Canada and Mexico requested a compliance panel be formed to ensure the U.S. was compliant. On January 15, 2014, the U.S. submitted its second written defense to the WTO dispute panel that was established to rule on Mexico's and Canada's claims that amendments to the COOL rules failed to correct the faults outlined by the original panel. The Panel met with Canada, Mexico, the U.S., and third parties in Geneva on February 18-19, 2014. The Panel issued confidential interim reports to the parties on June 27, 2014. The U.S. appealed a 2014 ruling in favor of Canada but lost the appeal. The final report found the U.S. in violation of WTO rules regarding technical regulations allowed under the WTO agreement. In order to avoid more than \$1 billion in retaliatory import tariffs congress repealed the labeling requirement in December 2015. While beef and pork will no longer require COOL labeling, chicken and lamb must still be labeled with their country of origin.

### *HONEY*

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

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

industry was being injured by LTFV imports of honey from Argentina and China and that Argentina subsidized their industry's honey products. In November 2001, the ITC determined the industry had been injured and the U.S. Department of Commerce (USDOC) issued antidumping and countervailing duty orders on imports of honey from Argentina and an antidumping duty order on imports of honey from China. Some of the duty orders have since been rescinded. On December 15, 2003, the USDOC International Trade Administration concluded that dumping had occurred and reparations were negotiated. The ITC determined in June 2007 that revoking the existing countervailing duty order on honey from Argentina and the existing antidumping duty orders on honey from Argentina and China would likely lead to continuation or recurrence of material injury within a reasonably foreseeable time. Therefore, the existing orders remain in place. The order was reviewed again after 5 years.

On January 31, 2012, the ITC published the results of a preliminary review of honey sales made from nine Argentine companies from December 1, 2009, to November 30, 2010. The preliminary results indicated that the honey was not being sold at less than normal value. During the preliminary results, it was requested that companies provide information regarding sales of honey made to the U.S. during the period of review to determine the appropriateness of preliminary margin assignments. The final assessment results and instructions were submitted to U.S. Customs and Border Protection (CBP) upon completion of the review, which was 180 days from the publication of the preliminary results. The CBP shall assess antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. The final results were that companies who provided valuable information were provided with a rate of zero and those that did not give information have a rate of 0.77.

In January 2015 the Department of Commerce ("Department") published the preliminary results of the twelfth administrative review, covering the period December 1, 2012, through November 30, 2013, of the antidumping duty order on honey from the People's Republic of China ("PRC") finding that Customs and Border Protection of the U.S. will assess anti-dumping duties of \$2.63 per kilogram on all appropriate entities.

## **CHINA (PRC)**



### **FRUIT**

#### **Issue: Dumping of Concentrated Apple Juice**

In 2000, the USDOC imposed antidumping duties ranging from 9 - 52% on 11 Chinese apple juice exporting firms. U.S. apple growers sought this trade remedy after apple juice concentrate imports from China increased by more than 1,200% between 1995 and 1998 jumping from 1 to 18% 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, USDOC announced that it would apply antidumping duties of up to 52% 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 USDOC. The USDOC said on September 19, 2005, "the ITC determined that revoking the existing antidumping duty order on certain non-frozen concentrated apple juice from China would likely lead to continuation or recurrence of material injury within a reasonably foreseeable time." As a result of the Commission's affirmative determination and the Department of

Commerce's 2005 affirmative finding, the order on imports of certain non-frozen concentrated apple juice from China remained in place. A five-year sunset review began in October 2010 but was terminated in November 2010 due to lack of participation by the domestic interested parties in the review process. Therefore, the antidumping order expired and no duties were applied.

## RESOLVED ISSUES

### WORLDWIDE



#### CATTLE

##### Issue: Transshipment of Cattle into the U.S.

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

#### MEAT

##### Issue: Pork Bans due to H1N1 Virus (Swine Flu)

The first two confirmed cases of the H1N1 virus (also referred to as the swine flu) in the U.S. were in children in southern California in April 2009, but officials first detected an outbreak of influenza in Mexico City in March 2009. Since the initial detection of the H1N1 virus, the WHO labeled the outbreak a pandemic.

In response, many countries banned pork products from the United States, although the WHO, the OIE, the WTO and other international health organizations stated that the virus cannot be spread through properly cooked food products.

In July 2009, Armenia, Azerbaijan, Bahrain, China, Indonesia, Jordan, Kazakhstan, Kyrgyzstan, Macedonia, Malaysia, Russia, South Korea, St. Lucia, Thailand, Ukraine, and Uzbekistan implemented bans on pork from the United States, which were subsequently lifted. China was the last country to lift the ban on U.S. pork in 2009.

### ARGENTINA



#### DAIRY

##### Issue: Export Certificates

In 2002, Argentina's Department of Agriculture (SENASA) began requiring a new sanitary certificate. The U.S. dairy industry asked USDA to assist in drafting text agreeable to all parties. USDA-AMS and USDA-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 USDA-AMS Dairy Grading Branch provides the certificate for exporters shipping product from USDA or Interstate Milk Shippers-approved production facilities.

# AUSTRALIA



## FRUIT

### Issue: Cherries – Phytosanitary concerns

U.S. cherries were not allowed into Western Australia due to phytosanitary concerns including the possibility of introducing brown rot. After ten years of negotiations, the market for cherries into Western Australia was opened in July 2011.

## SEED

### Issue: Sweet Corn - Various diseases

Prior to April 2002, all sweet corn seed from the U.S. was prohibited. In April 2002, a work plan was established that allowed Idaho sweet corn market access.

## WHEAT

### Issue: State Trading Enterprise - Australian Wheat Board (AWB) Limited

After years of dispute, AWB Limited, formerly known as the Australian Wheat Board, lost its monopoly control as the exclusive manager and marketer of all Australian bulk wheat exports through what was known as the Single Desk system on July 1, 2008. As a result, wheat farmers began selling in an open market for the first time since 1939. AWB also marketed and traded a range of other grains including barley, sorghum, and oilseeds. Although AWB was a publicly traded organization, it was a sole marketer which restricted the right of other entities to export. Now, container-shipped wheat is open to export competition.

# BRAZIL



## DAIRY

### Issue: Ingredient Restrictions

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

### Issue: Individual Plant Inspection and Approval

Since 1999, suppliers wanting to ship to Brazil had to have their plants individually inspected and pre-approved by Brazilian authorities. USDA, FDA, and the 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 USDA-AMS publication "Dairy Plants Surveyed and Approved for USDA Grading Service" or the U.S. FDA'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.

## *FRUIT*

### **Issue: Pears - Phytosanitary Requirements**

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

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

## *PEAS, LENTILS, & CHICKPEAS*

### **Issue: Pest and Disease Inspections**

Brazil required fumigation for any peas, lentils, and chickpeas imported from the United States. 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.

## *POTATOES*

### **Issue: Seed Potato 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.

## *SEED*

### **Issue: Seed Certifications Protocols**

Although Brazil has prohibited all seed imports until a PRA can be done, numerous products have already been through the PRA process and are approved for export when accompanied by a phytosanitary certificate. A list of seeds produced in the U.S. that are allowed entry into Brazil is present in Annex XIV of the Normative Instruction 36 published in 2010. Those seeds that do not appear on the list must complete a PRA. PRAs must also be completed for third-country origin seeds that are re-exported from the U.S. to Brazil.

# CANADA



## ALFALFA HAY

### Issue: Cereal Leaf Beetle (CLB)

Alfalfa hay shipped to British Columbia is regulated for Cereal Leaf Beetle (CLB). Prior to 2001, alfalfa hay from Idaho, the Northwest, and infected areas in California were required to be fumigated. Cereal Leaf Beetle is already present in Southeastern British Columbia in the Creston Valley. Cereal crops including wheat and barley are hosts for CLB. Cereal grains can be found as weeds in alfalfa hay. Since British Columbia already has the pest and does not regulate the movement of hay within the province, it is unreasonable to require fumigation of alfalfa hay from Idaho.

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

## CATTLE

### Issue: Exchange of Production Information

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

### Issue: Bluetongue and Anaplasmosis

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

Previous to March 2007, there had been long-term barriers to the movement of U.S. feeder cattle to Canada. In April 2004, Canada increased access for U.S. feeder cattle from 39 states considered to have low or medium incidences of Anaplasmosis (AN) and Bluetongue (BT). Testing and treatment requirements were removed from U.S. feeder cattle imports, enabling year-round access to Canadian feedlots. As an additional risk mitigation measure, Canadian feedlots were required to segregate the imported U.S. feeder cattle from breeding stock and to identify, track, and restrict movement of the animals. Prior to this change, exports to Canada were restricted to limited states and only allowed from April 1–September 30.

### Issue: Bovine spongiform encephalopathy (BSE)

On September 18, 2007, the USDA published a final rule amending the regulations for the importation of live bovine animals, bovine products, and byproducts from regions that pose a minimal risk of introducing BSE into the United States. The final rule establishes science-based provisions for safe trade with countries designated as minimal-risk countries for BSE while continuing to protect American agriculture. Canada is currently the only country designated by USDA as a minimal-risk country. Under the final rule, live cattle and other bovines (including bison and pregnant bovines) for any use (including breeding) born on or after March 1, 1999, are allowed for import from Canada. Also allowed for import

are blood derived from bovines (collected under certain conditions), castings, and part of the small intestine derived from bovines. This rule became effective November 19, 2007.

Under Canada's enhanced feed ban, which came into effect on July 12, 2007, BSE should be eliminated from the national cattle herd within approximately 10 years. The CFIA expects the periodic detection of a limited number of cases to continue as the level of BSE continues to decline.

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

## *DAIRY PRODUCTS*

### **Issue: Export Subsidies on Milk Products and Quotas on Fluid Milk**

Canada's protectionist policies have historically undercut U.S. dairy exports. The U.S. filed WTO cases against Canada for its dairy export subsidy programs, and in 2002 the WTO found that Canada's commercial export milk scheme provided an export subsidy in the form of discounted milk to Canadian manufacturers of processed cheese and other dairy products. Canada lost all appeals. In May 2003, Canada agreed to comply with the WTO ruling ending special export permits exceeding Canada's Uruguay Round WTO level commitments and all other exceptions 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.

## *FRUIT*

### **Issue: Apples - Alleged Dumping of Red Delicious Variety**

The Canadian International Trade Tribunal (CITT) ruled in 1995 that Red Delicious apples were being sold in Canada at less than the cost of production. A floor price was established at \$12.99 per carton. If the FOB price fell below this floor price between October 1 and June 30, an antidumping duty was collected on the difference. The CITT rescinded the antidumping ruling on February 8, 2000.

### **Issue: Apple Maggot**

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

## *POTATOES – FRESH*

### **Issue: Phytosanitary Restrictions & Double Lab Testing**

In 2002, Canada notified the U.S. that Potato Mop Top Virus (PMTV) had been found in U.S. potato shipments over the previous 18 months. A resulting joint U.S.-Canadian PMTV survey showed that the virus is present in both countries. In 2002-2003, USDA-APHIS and the CFIA implemented the joint

potato virus management plan to maintain high quality seed potato production through seed certification measures. The Wisconsin lab is now approved to certify potato seed and the Idaho Crop Improvement Association lab was approved by USDA to test for PMTV and certify seed as free of the disease. Previously Canada's seed law provided that only Canadian lab results were acceptable.

### **Issue: Potato Cyst Nematode**

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

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

Canada initially closed the border to Idaho nursery stock as well as potatoes. On October 11, 2006, Canada removed its prohibition against nursery stock which 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.

On June 4, 2009, the CFIA and the USDA announced modified guidelines for PCN that allows for the continued trade of seed potatoes. The guidelines include increased soil sampling and testing from all fields where seed potatoes are produced for trade between the two countries. They also outline the measures that should be taken to manage PCN detection and contain procedures for the subsequent removal of restrictions on land.

### **Issue: Seed Potatoes - 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 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 allow persons within the U.S. to grade and label certified seed for shipment into Canada.

## **SUGAR**

### **Issue: Imports of Sugar Syrups**

Sugar syrup imports (H.S. 1702.90.40) from Canada are duty-free. Refined and raw sugar (H.S. 1701),

on the other hand, face a heavy duty. The U.S. was importing significant quantities of sugar syrup from Canada. Although it was blended in Canada, the raw sugar was often imported from Brazil or Australia which uses the 1702 duty. This product was sold to the U.S. and the sugar was extracted.

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

## *WHEAT AND BARLEY*

### **Issue: Karnal Bunt-free State**

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, which led to a Karnal bunt quarantine. 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.

### **Issue: State Trading Enterprise Monopoly**

The Canadian Wheat Board (CWB) received financial backing from the federal government including low interest rates and backing of guaranteed payments. Over the years, there were numerous disputes by the U.S. regarding CWB's unfair trading practices.

In March 2003, the WTO agreed to a U.S. request to convene a panel to hear a dispute about monopolistic wheat trading practices of CWB. 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 violated national treatment principles.
- Canada's "rail revenue cap," which may have resulted in lower rail transportation rates for the CWB than for imported grain, also violated national treatment principles.
- Canada's prohibition on mixing foreign grain with Eastern Canadian grain also violated national treatment principles.

The panel ruled against the U.S. in that it did not find that the 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 CWB was 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 written does not provide an adequate remedy. USTR sought relief for farmers by filing a WTO challenge. As a result, Canada passed legislation in May 2005 that rectified its grain import and marketing system practices to bring them into compliance with the WTO panel's recommendations.

In 2007, following release of results from a survey conducted by the federal government showing more than 60% of Canadian barley growers favored eliminating single desk control of barley marketing in western Canada—results that CWB disputed—the Harper government announced it would unilaterally

end CWB's barley monopoly. CWB challenged that effort in federal court and won the right to have Parliament ultimately decide whether or not barley farmers would be able to sell their crop outside the wheat board system. The government lost a subsequent appeal. In June 2008, CWB won another legal victory when a federal court ruled that Canada's agriculture minister violated the Charter of Rights and Freedoms when he issued a gag order in 2006 preventing the CWB from spending money to advocate the single-desk grain marketing system.

The Marketing Freedom for Grain Farmers Act, passed in December 2011, established a free market system for barley and wheat farmers in which the farmers are able to choose how to sell their crops and to which buyers they would sell. A voluntary CWB with government backing will remain in place until 2017 as the farmers make the transition from the monopoly. This is a positive development for U.S. and Canadian wheat farmers as well as global customers. The change, effective August 2012, has created new opportunities to move U.S. wheat across the border as zero tariffs exist.

## **CHILE**



### **FRUIT**

#### **Issue: Apple Maggot Protocols**

Before 2001, Idaho apples were prohibited in Chile. In 2000, an import protocol was established for Washington, resulting in apple exports to Chile. ISDA worked with USDA-APHIS and the Northwest Horticulture Council to negotiate similar protocols for Idaho. ISDA sent apple maggot information to APHIS, and in August 2001, Idaho and Oregon producers were allowed to ship apples to Chile.

#### **Issue: High Tariffs**

Chile assessed a tariff of 6% ad valorem on the CIF value with an additional 18% value-added tax. The 2003 passage of the U.S.-Chile FTA provided U.S. horticulture better access to Chile's market. The tariff on apples and pears was immediately eliminated January 1, 2004, and three-quarters of all U.S. farm goods began entering Chile duty-free January 1, 2008. All duties are to be phased out over 12 years.

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

#### **Issue: Fumigation Protocol**

Chile used to require fumigation for pea, lentil, and chickpea imports from the U.S. Domestic researchers have found that the U.S. does not have significant insect numbers to prompt the fumigation requirement. The *Bruchidae* family, commonly called storage seed weevils, is the prominent group of pests that are of concern in Chile.

Chile does not require fumigation from the U.S.'s largest competitor, Canada. The Canadian-Chile FTA strengthened Canada's competitive advantage in the Chilean market for special crops. Canada currently supplies almost all of Chile's lentil imports and most of its dried pea imports. The U.S. though USDA-APHIS had continued to press Chile to implement and enforce WTO-consistent sanitary and phytosanitary requirements. After years of effort by USDA-APHIS, the Chilean requirement of fumigation of U.S. peas and lentils was finally removed.

# CHINA (PRC)



## U.S. – CHINA AGREEMENT ON AGRICULTURE

In 1999, the U.S. and China signed a bilateral agreement as part of China's WTO accession package that contained China's commitments to provide greater market access for U.S. goods and services, including lowering tariffs. As part of the agreement, China committed to gradually reduce tariffs on agricultural products. The tariff reductions were completed in 2008. As of January 2016, all tariff reductions and other criterion of the agreement were fully implemented. The following table shows the lowered tariffs on select products:

Product	Original duty	Duties 2014
Apples, Peaches, Cherries & Pears	30%	10%
Beef	45%	12%
Milk product: Cheese	50%	12%
Milk product: Ice cream	45%	19%
Milk product: Lactose	35%	10%
Milk product: Skim milk powder (SMP)	25%	10%
Potatoes: Dehydrated flakes and granules	30%	15%
Potatoes: Flour, meal and powder	27%	15%
Potatoes: Fresh or chilled & Potatoes: Frozen	13%	13%
Potatoes: Prepared/preserved, frozen	25%	13%
Potatoes: Prepared/preserved, not frozen	25%	15%
Wheat: The TRQ is divided among State Trading Enterprises and the private sector	Quota: 7.3 mil MT Duty: within quota: 1%, over quota:80%	Quota: 9.6 mil MT Duty: within quota: 1%, over quota: 65%

## ALL PRODUCTS

### Issue: Currency Manipulation

A substantial increase in the value of the Chinese currency is essential to reduce trade imbalances, but China has intervened massively in the foreign exchange markets, buying \$15-20 billion per month for several years to keep market pressures from pushing up the currency. Furthermore, by keeping its own currency undervalued, China has also deterred many other Asian countries from letting their currencies rise against the dollar for fear of losing competitive position against China. The overvalue currency makes Chinese exports cheaper in overseas markets and U.S. imports more expensive to Chinese buyers.

The China currency Manipulation Act of 2008 was presented in congress to stop currency manipulation by China. It proposed that Congress work with the International Monetary Fund (IMF) to take steps to ensure that China promptly takes steps to correct their exchange rate. In June 2010, the Chinese government pledged that it would allow for greater exchange rate flexibility, allowing its currency to float gradually upward. By December 2011, the yuan increased 18% compared to the U.S. Dollar. At the 2013 U.S.-China Strategic and Economic Dialogue, China adopted a flexible exchange rate.

In an April 2015 report, the United States Department of the Treasury stated that “no major trading partner of the United States (including China) met the standard of manipulating the rate of exchange between their currency and the United States dollar for purposes of preventing effective balance of payments adjustments or gaining unfair competitive advantage in international trade...”

## **FRUIT**

### **Issue: Apples – Phytosanitary Restriction**

China had long prohibited imports of U.S. apples other than Red and Golden Delicious varieties due to quarantine concerns over the bacterial disease fire blight. Furthermore, only three states were approved to export these two varieties: Idaho, Washington, and Oregon. Despite requests from APHIS for China to authorize the importation of six additional apple varieties (Fuji, Gala, Granny Smith, Rome, Jonagold, and Braeburn), the AQSIQ had maintained import restrictions on U.S. apples.

AQSIQ contended that fire blight may be transmitted to China’s domestic crops if import restrictions were eased for U.S. apples. However, AQSIQ did not provide 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 maintained that mature, symptomless apples produced under commercial conditions have not been shown to transmit fire blight.

In a related matter, in 2004 the WTO ruled in favor of the U.S. that Japan’s quarantine measures for fire blight imposed on U.S. apples were maintained without scientific justification, providing additional support against China’s position.

On August 9, 2012, China suspended imports of U.S. apples which were mainly from Washington citing postharvest disease concerns. On January 15, 2013, China made a proposal to reopen the market if the U.S. agreed to store apples for 20 days in packing sheds before shipping them to China. The U.S. disagreed and submitted a counterproposal in March 2013. Developments of this issue continued to be complex. Both markets remained closed to apples from either country until January 2015 when USDA and the Chinese government approved fresh apple imports for both countries effective in May 2015.

### **Issue: Cherries – Phytosanitary Protocols**

In 2003, China approved a work plan for cherry exports from Idaho, Oregon and Washington, opening the market for the first time.

### **Issue: Pears - Phytosanitary Ban**

As of January 2013 China has opened market access to pear imports from the U.S. Previously Chinese government prohibited the import of U.S. pears due to quarantine concern for the bacterial disease fire blight. Research has shown that commercially produced and packaged fruit is extremely unlikely to transmit fire blight. China was concerned that this bacterial plant disease might be transmitted to the country’s domestic crops. Mature symptomless pears do not transmit the disease.

The U.S. industry and government sought access for pears to the PRC since 1991. Twice APHIS submitted to China’s AQSIQ a pest list and requested a PRA for U.S. pears. In 2003, the Northwest Horticultural Council (NHC) and Oregon State University began evaluation of the potential association of fire blight bacteria with mature pear fruit. Published in 2007, the study concluded that survival of the *Erwinia amylovora* (the pathogen that causes fire blight) on mature symptomless pears is unlikely after the postharvest chilling period. China finally provided APHIS with a PRA in July 2009 that went under review by APHIS and U.S. industry representatives. Soon afterwards a Chinese pear delegation visited California, Oregon, and Washington in September 2009. Finally after forty years, pears from the PNW and California have been granted market access to China.

## PEAS

### Issue: Food Safety Restriction

China was enforcing a limit on the selenium content of imported peas. Under Chinese regulations, the selenium content was limited to 3 parts per million (PPM) which is not in line with any health dangers related to selenium intake. In fact, this limit may have discouraged the intake of selenium at the minimum levels required for good health. USDA worked with the Chinese government on this issue, and the Chinese authorities agreed to review their selenium standard in coordination with USDA. Chinese authorities were allowing the importation of peas for noodle-making without reference to selenium content, because only the pea starch is used in the noodle-making process, and any selenium present is removed in the by-product that enters the animal feed chain. This exception allowed the U.S. to continue to export yellow peas to China while the selenium issue was under review. In March 2011, through the efforts of USDA and FAS, China's selenium restriction on imported peas was lifted.

## POTATOES

### Issue: Dehydrated- Sulfite Tolerance

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

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

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

In July 2001, the USPB submitted an application to the Commission of Food Additive Standardization to increase the China National Standard for SO<sub>2</sub> level in dehydrated potato products to 600 PPM. After supplying additional information, the final report was submitted to the Ministry of Health. Both the Ministry of Public Health and the Plant Quarantine Division (CIQ) accepted the report, and in March 2002, the Chinese Ministry of Public Health issued an announcement to change the tolerance to 400 PPM, which is 200 PPM below the application amount. However, this is within international standards and is the same standard used by the U.K.

## WHEAT AND BARLEY

### Issue: TCK Smut

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

# ***COSTA RICA***



## ***BEEF***

### **Issue: Ban**

Costa Rica lifted the ban on U.S. beef on February 13, 2006. Costa Rica allows trade on boneless beef, tongues, kidneys, livers, and hearts.

## ***POTATOES***

### **Issue: Chipping Potatoes - Zebra chip**

In April 2012, U.S. fresh potato exports were halted temporarily because of the pest zebra chip. The USDA and Ministry of Agriculture (MOA) had numerous meetings to try and reach an agreement so potato shipments could resume. In mid-June APHIS signed a bilateral agreement with MOA, effectively re-opening the market for chipping potatoes only.

Unexpectedly, Costa Rican authorities decided that the protocol had to be notified to the WTO to allow other members to provide comments. The U.S. objected to this procedure because the WTO does not require the notification of bilateral agreements such as the protocol in question. Nevertheless, Costa Rica provided the two month comment period and received comments from domestic producers, which further extended the time that U.S. potatoes could not enter Costa Rica. After reviewing the comments, the MOA reopened the market to U.S. potatoes on October 26, 2012.

In August 2013, Costa Rica again closed its market to U.S. fresh potatoes due to the alleged detection of zebra chip in a shipment. Subsequent testing in a US lab had determined that zebra chip was not present in the shipment sample. In February 2014, USDA-APHIS sent a letter proposing a market access agreement to reopen the Costa Rican market to U.S. fresh potatoes. Unfortunately, the Costa Rican response issued in early May 2014 rejected this proposal, and instead proposed requirements that are not commercially feasible for U.S. potato exporters.

In November 2015, an official from Costa Rica's SFE visited the states of Washington, Oregon, and California to review industry growing and handling practices. In January, 2016 Costa Rica's Servicio Fitosanitario del Estado (SFE) informed APHIS that it would begin issuing import permits for U.S. chipping potatoes effective February 1. A protocol for additional measures for the importation of chipping potatoes due to zebra chip was also released. The market for fresh table stock potatoes remains closed.

# **EUROPEAN UNION**



## ***FRUIT***

### **Issue: Cherries – Phytosanitary Trade Barriers**

The European Union required cherries to be free of *Monilinia fructicola* (brown rot) and required documentation that controls had been applied in the field. This restriction limited the supply of cherries that qualify for export to the EU. *M. fructicola* reportedly occurs in Europe, yet there were no known official controls on the disease or on movement of fruit within the EU from those countries where

positive detections had been made. In addition, there were no supporting technical documentation justifying its quarantine requirements.

In the Spring of 2015, an import protocol was established and the market was re-opened to U.S. cherries.

## **HONG KONG**



### **BEEF**

#### **Issue: Prohibition of Beef Products**

Effective June 17, 2014, all boneless and bone-in beef products, tongue (no tonsils), ox tail and offal are allowed to be exported from the U.S. to Hong Kong. This change was in response to the OIE granting the U.S. negligible risk status for BSE in 2013, further affirming the safety of U.S. beef and beef products. Prior to June 2014 imports were limited to U.S. bone-in beef from cattle 30 months of age and younger.

The Special Administrative Region of Macau announced in November, 2015, that it would resume imports of American bone-in beef products derived from cattle over 30 months of age as well as ground beef and offal, regardless of age effectively granting full market access for U.S. beef products. Prior to November 2015, only bone-in U.S. beef products originating from animals under 30 months of age and boneless beef from animals regardless of age were permitted. For a list of eligible products visit:

<http://www.fsis.usda.gov/wps/portal/fsis/topics/international-affairs/exporting-products/export-library-requirements-by-country/Hong-Kong>

## **INDIA**



### **FRUIT**

#### **Issue: Fresh – Coated waxes, Mineral oils and Colors**

On August 13, 2003, the Indian Ministry of Health & Family Welfare (MOHFW) issued a Gazette Notification G.S.R. 656(E) amending food regulations prohibiting the sale of fresh fruits and vegetables coated with waxes, mineral oils, and colors. Although this amendment was not enforced, it threatened U.S. apple, pear, and other horticultural exports to India as the U.S. industry uses coatings of carnauba wax and shellac to maintain the quality and shelf life of fresh horticultural products.

A regulation, effective February 28, 2008, permitted the use of beeswax (white and yellow), carnauba wax and shellac, not to exceed Good Manufacturing Practices. Shellac wax is now approved for use on fruit.

# ISRAEL

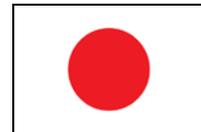


## FRUIT

### Issue: Cherries – Import permit and Phytosanitary certificate

Israel prohibited imports of U.S. cherries for phytosanitary concerns. APHIS submitted a list of pests associated with PNW and California production in 2005. This allowed Israel to complete a PRA. Israel now allows imports of U.S. cherries.

# JAPAN



## DAIRY

### Issue: Anti-caking Agent

In 2002, the USDEC announced that Japan had finally changed their additive requirements to allow for the use of Sodium Ferrocyanide, an anti-caking agent used in salt. This allowance is beneficial to many industries, not just dairy.

### Issue: Labeling Restrictions on Whey Protein Content

Before April 1998, whey proteins with a protein level over 65% were not classified as a dairy ingredient. After negotiations, the protein level was changed to 80%. Skim milk powder and other dairy ingredients are labeled simply as “dairy ingredient” on retail products. Many Japanese manufacturers did not use whey proteins of 80% and higher because they did not want to list whey proteins separately on the label. According to FAS, WPC 80% application has been successfully promoted to Japanese end users and this is no longer an issue.

### Issue: Cherries – Phytosanitary Restrictions

U.S. cherry exports to Japan have required fumigation with methyl bromide to control codling moth since the export program began in 1978. In the past, Japan has been unwilling to eliminate this costly fumigation requirement and inspection program despite evidence demonstrating minimal risk of transmitting codling moth.

Based on USDA research that demonstrated that cherries are not a suitable host for codling moth, the U.S. requested that Japan remove the specific treatment requirement for sweet cherries. In its place, the U.S. government submitted a systems approach to the Japanese government for consideration, which combines post-harvest commodity inspection with good orchard pest management practices. The industry supplied documentation that the proposed systems approach provides quarantine security, which is equivalent or better than that provided by methyl bromide fumigation.

In July of 2009, Japan agreed to allow cherries from orchards in Washington, Oregon, and California that use traps to monitor pest levels, rather than fumigate for them. Due to issues resulting from the tsunami in 2010, the rule making process to allow cherries from Idaho was not able to move forward as quickly as anticipated. On May 31, 2013, however, Idaho was added to the list of states allowed to export without fumigation.

# KOREA



## *BEEF*

### **Issue: Import Quotas, Restrictions on Marketing, Distribution and Labeling**

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

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

Korea announced on December 10, 2007, that the number of beef cut names allowed on retail packaging will be increased from 29 to 39 cuts and the number of pork cut names will be increased from 17 to 22 cuts. Prior to this announcement, although there was an established regulation limiting the allowable cut names, it was not enforced and often common for historical names that consumers easily understood were used. Regulating the method of classification by cut resulted in discrimination against imported U.S. beef. This proposal had nothing to do with food safety and only served to limit imports.

On March 5, 2009, the MAFF announced a revision for the Method for the Classification of Meat by Cut, Grade and Kind. The revision ensures that matters related with classification of domestic and imported meat will be stipulated in the country of origin. It also added a provision for marking in situations where multiple primal cut names exist making it possible to conduct such sales.

### **Issue: BSE Ban**

In December 2003, Korea imposed a ban on most products derived from cattle, sheep and goats, following the discovery of a cow with BSE in Washington State that was imported from Canada. On January 13, 2006, Korea and the United States agreed on an initial import protocol allowing the U.S. to export boneless beef from cattle less than 30 months of age under a Beef Export Verification Program. But in early June 2007, Korea temporarily suspended the issuance of import certificates after two shipments of U.S. beef were found to contain beef ribs. U.S. industry continued to work with Korea for the opening of the market to bone-in beef, variety meats and offal which historically accounted for approximately 50% of U.S. beef exports to Korea. In May 2007, the World Organization for Animal Health (OIE) concluded that American beef poses a "controlled risk." The OIE says deboned beef from cattle under 30 months of age is safe, and with appropriate precautions, beef from older animals and bone-in meat is safe as well.

In April 2008 the U.S. and Korea came up with an agreement that reflected the OIE ruling. However, due to strong protests by Korean consumers, both governments held additional negotiations to address the main concerns of Korean consumers. Based on these negotiations, Korea published the final import health requirement in its government gazette on June 26, 2008, allowing for U.S. beef imports to resume on the publication date. The final health requirement allows for Korea to import beef from cattle under 30 months, utilizing the Quality System Assessment Program.

## *DAIRY*

### **Issue: pH Declaration**

In February 2002, the USDEC 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 were required to include a health certificate stating they were made from raw milk with a pH less than 7 and pasteurized at 72°C (161.6°F) for 15 seconds. All properly handled raw milk in the U.S. has a pH below 7. Without this information, shipments are forced to undergo inspection at the Korean port, a process that can take up to 18 days. With the health certificate, shipments now proceed without delay.

### **Issue: Food Standards**

Korean food manufacturers use whey and modified whey products to lower production costs. WPC was not allowed as an ingredient in yogurt or in frozen desserts, but this code was revised in 2001.

In 1998, the USDEC submitted a petition to the Korean MOA requesting Korean officials to expand the definition of non-fat milk solids to include whey products, fermented milks, and ice cream. 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% milk solids) as a replacement for skim milk powder).

## *ORGANIC PRODUCTS*

### **Issue: Organic Trade Agreement on Processed Products**

Since 2009 negotiations between the U.S. and Korea have been ongoing due to the Korean Ministry of Food, Agriculture, Forestry and Foods' (MIFAFF) implementation of a complex series of regulations governing organic products, labeling, and enforcement in Korea. In May 2012, the Korean legislation passed a new Organic Act which included processed products that would also be shut out of Korea unless they were certified to the Korean standard by January 1, 2014.

However, in December 2013 thirteen U.S. Senators sent a letter to the Korean ambassador, Ahn Ho-young, to express concerns about the Organic Act stating that certification would not be possible by December 31, 2013, thus effectively cutting U.S. organic products out of Korea's market. The Senators requested an extension on the current grace period until an organic equivalency agreement between the two countries is enacted (suggesting an agreement that both nations would recognize each other's organic certification standards). The result has been a six-month educational period to allow businesses to adapt to the new regulations, meaning the new law was not fully implemented until July 1, 2014.

As of July 1, 2014, the U.S. and Korea have reached an organic trade agreement allowing for organic processed products certified in either country to be labeled as organic in either country. The arrangement covers organic condiments, cereal, baby food, frozen meals, milk, and other processed products.

## POTATOES

### Issue: Tariffs and Quotas

Since its establishment, KORUS has eliminated duties on U.S. French fries exported to Korea, created a new annual reduced quota for dehy flakes, reduced dehy blended product tariffs, and established a U.S. only quota for fresh potatoes. As the KORUS is implemented in the years ahead, additional tariff reductions will occur.

## **MEXICO**



### ALL PRODUCTS

#### Issue: Retaliation Import Tariffs due to Trucking Dispute

On October 21, 2011, all tariffs related to the trucking dispute were reduced to zero effective immediately. On this date, the first Mexican trailer crossed freely into the U.S. with authorization from the National Highway Traffic Safety Administration. The trucking company was Transportes Olympix, which had applied to the cross-border transport program and received its certification in October 2010.

The trucking dispute began in March of 2009 after the announcement that the U.S.-Mexico Cross Border Trucking Demonstration Project was no longer in effect. The U.S. Congress had banned funds to the Department of Transportation (DOT) which had previously been used to maintain this program and as a result, the DOT ceased to operate the program. Mexico created additional import tariffs on 34 U.S. agricultural products in retaliation. In August of 2010, a revised set of tariffs was published which included tariffs for 20 additional agricultural products, as well as increased tariffs for many of the original 24 products. This increase in tariffs had a considerable impact on Idaho's economy and agricultural products. For example, processed potatoes from the U.S. had a 5% tariff (reduced from an initial 20%) whereas Canada, the major competitor in the market, had zero NAFTA tariff. Other affected Idaho products included onions with a 10% tariff, wine at 20%, dry peas at 20%, and fresh table grapes at 20%.

### BARLEY, POTATOES-FRESH & PROCESSED

#### Issue: Tariff Rate Quotas

Mexico had a TRQ limiting market access for Idaho malting barley, fresh potatoes, and processed potatoes. The TRQ ended in January 2003.

## BEANS

#### Issue: Phytosanitary Restrictions

In January 2003, Mexico effectively closed its border to dry edible bean imports when SAGARPA imposed a temporary inspection suspension for U.S. and Canadian dry edible beans. The suspension was rescinded in April 2003, but SAGARPA put regulations in place, NOM-041, which imposed onerous phytosanitary requirements on imported dry edible beans from the U.S., Canada, Argentina, Nicaragua, and Chile. In May 2003, SAGARPA cancelled NOM-041 and established new phytosanitary requirements (NOM-006) for the U.S., Canada, Chile, and Nicaragua.

#### Issue: Import Permit Auctions

Mexico converted its import-licensing regime for dry beans to a transitional TRQ under NAFTA. However, during the transition period, they also required importers to purchase import permits at

auction. The auction sold the right to import beans within the quota, which effectively created an import tax, thereby increasing bean prices to discourage imports.

During the phase out period, there were multiple disputes over the administration of the auctions from timing to eligibility that were finally resolved in 2001. With the implementation of NAFTA, the tariffs, quotas, and auction system were all eliminated January 1, 2008.

## **BEEF**

### **Issue: Anti-Dumping Duties**

Beef had been subject to antidumping duties by Mexico since 1999, even though a 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 varied by product and ranged between zero and \$0.80/Kg. Product graded USDA Prime or certified by USDA as “Angus Beef” was 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.

In April 2006, Secretary of Economy (SECON) decided to continue antidumping duties on imports of U.S. beef and beef by-products from certain U.S. exporters and producers for another five years, after completing a sunset review investigation. In addition, Mexico’s modification of the beef dumping duties in 2004 in response to the findings of a NAFTA Chapter 19 panel, which determined that SECON did not sufficiently demonstrate that U.S. beef imports had damaged Mexico’s beef industry. Mexican policies in this area reduced the number of U.S. suppliers and altered product trading patterns.

The issue was finally resolved on August 10, 2010. The Mexican Government published a notice to eliminate the imported duties imposed on beef exports after the only Mexican producer association withdrew its support for continuing the duties.

### **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. As of May 2014 Mexico lifted the 30 month cattle age limit on beef imports as well as removed the last of the BSE related restrictions.

## **CANOLA**

### **Issue: Phytosanitary Restrictions Lifted**

Previously Mexico accepted U.S. rapeseed seed, canola oil and canola meal, but not U.S. canola. However, Mexico 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%), used for human consumption

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

## *CATTLE*

### **Issue: BSE and Live Cattle Restrictions**

Mexico lifted the ban on U.S. beef breeding cattle in May 2008. However a protocol for slaughter cattle of any age was not established until March 2010. The U.S. has a breeding cattle protocol in place with Mexico and can export any type of breeding cattle, dairy or beef, of any age. A summary of the breeding cattle protocol can be found at [http://www.aphis.usda.gov/regulations/vs/iregs/animals/animal\\_mexico.shtml](http://www.aphis.usda.gov/regulations/vs/iregs/animals/animal_mexico.shtml)

## *DAIRY*

### **Issue: Milk Powder - Tariff Rate Quotas Dissolved**

Most U.S. dairy products shipped to Mexico duty-free as a result of NAFTA tariff phase-outs, the lone exception being skim milk powder. NAFTA established a tariff rate quota for milk powder that increased 3% per year through January 1, 2008. The quota system was fully phased out January 1, 2008.

## *FRUIT*

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

Although no listed quarantine pest had been detected at the border, the protocol required apple exports to be supervised by an official of the Mexico Export Inspection Office (MEIO). After many years, the Yakima, Washington MEIO was closed, with oversight functions turned over to the USDA-APHIS.

### **Issue: Border Clearance**

Fruit shipments had frequently experienced delays and customs refused clearance for minor clerical errors. In 2002, bilateral meetings resulted in a tolerance of 2% for boxes not stamped with the TF number (a federal identification number assigned by the Tax Department) and a list of acceptable documentation "substitutes."

### **Issue: Apples, Pears and Stone Fruits - Tariff Rates Eliminated**

The apple tariff rate under NAFTA dropped to 0% in 2003. Peaches and nectarines were assessed a 6% tariff. Mexico had a 15% value added tax (VAT) which is assessed on the FOB (Free on Board) invoice value plus the ad valorem duty. These tariffs were all eliminated with the full implementation of NAFTA.

### **Issue: Apples - Safeguard Duty/Minimum Reference Price**

Apple trade between the U.S. and Mexico has had numerous issues. In 1997, Mexico initiated an antidumping case against Northwest apples. In 1998, Northwest Fruit Exporters (NFE) entered into an agreement with the Mexican Department of Commerce (SECOFI/SE) that suspended the investigation into the alleged dumping of U.S. fresh Red and Golden Delicious apples. Mexico removed the 101% 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 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% was placed on U.S. apple imports at the same time that the NAFTA agreement reduced tariffs to zero. The 46.58% duty was due to expire on February 25, 2005, but on Feb. 17, 2005, UNIFRUT filed an Amparo 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 issued a provisional suspension to UNIFRUIT. Some NFE Apple shippers petitioned the Ministry of Economia to prove that they were not part of the apple dumping in Mexico. Not all that petitioned received zero or reduced tariff rates. There were only eight shippers in the PNW that received the reduction (the tariff rate varied from zero to 47.05%). On September 23, 2005, the Ministry of Economia established a new "all others rate" at 44.67%.

The high tariffs reduced U.S. exports by 25%, providing other international competitors who are not subject to the tariff an accessible market. The U.S. could ship varieties other than U.S. Red and Golden Delicious, but the Mexico market was dominated by these two varieties. On March 2, 2010, Mexico's Secretariat of Economy (SECON) published a notice in the Mexican Diario Oficial lifting the compensatory duties imposed on U.S. Red and Golden Delicious apples effective March 3, 2010.

## **MEAT**

### **Issue: Inspection Points**

In 2000, Mexico's Agriculture, Livestock, Rural Development, Fisheries and Food Ministry (SAGARPA) implemented laws changing all "verification points" for inspection of meat products to be "in Mexican territory." The most important provision was the moving of import verification points from the U.S. side of the border to the Mexican side of the border. In 2012, multiple seminars were held which gave additional training to those who inspect U.S. meat in Mexico.

## **POTATOES**

### **Issue: Potato Cyst Nematode**

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

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

- The potatoes must be shipped from production fields outside the PCN-regulated area;
- 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.

## WHEAT

### Issue: TCK Smut

In November 1998 the Mexican government issued a new rule specifying zero tolerance for TCK in wheat. The rule briefly disrupted the flow of Idaho wheat into Mexico, although even with the rule in place, the government did not enforce the ban. Thus Idaho wheat moved into Mexico uninhibited, and Mexico later adopted a NOM regulation change that repealed the zero tolerance.

## WINE

### Issue: Import Tax

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

## PANAMA



## POTATOES

### Issue: Fresh – Phytosanitary Ban

In July 2015, Panama re-opened the market for U.S. potatoes from Idaho and California. The market was originally closed over concerns of potato purple top virus.

## PERU



## DAIRY

### Issue: Export Certificates

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

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

## POTATOES

### Issue: Tariffs

On April 12, 2006, the U.S. and Peru signed the U.S.-Peru FTA, which was implemented on February 1, 2009. The U.S.-Peru FTA eliminated the 20% tariff on fresh potatoes, 20% tariff on French fries and 12% tariff on flakes and granules.

# PHILIPPINES



## POTATOES

### Issues: Table Stock Potatoes – Phytosanitary Restrictions

Although some U.S. chipping potatoes are allowed, table stock potatoes were prohibited. For over two years, the U.S. potato industry sought market access for U.S. table stock. The Philippines has conducted a PRA on U.S. table stock potatoes and visited the U.S. potato industry in July 2012. Market access negotiations occurred in March 2013 on this issue. On July 12, 2013, the government revised its import requirements to allow for the entry of U.S. fresh table stock potatoes.

# TAIWAN (ROC)



## BEEF

### Issue: Ban on Beef with Traces of Ractopamine

Taiwan's Council of Agriculture put a ban on beta-agonists including salbutamol, terbutaline, clenbuterol, and ractopamine in October 2011. Taiwan did not have a MRL standard for ractopamine; therefore they adopted a zero tolerance policy for the beta-agonist. These measures created significant barriers to U.S. exports of meat and meat products. The ractopamine issue did not affect Idaho's pork exports to Taiwan because exporting companies have ractopamine-free pork.

Ractopamine, a veterinary drug that is used to boost growth and promote leanness in pigs, cattle, and (to a limited extent) turkeys, was approved for use by the FDA for pork in 1999 and beef in 2003. The MRLs allowed by the FDA for beef and pork are 30 parts per billion (ppb) and 50 ppb respectively. Despite the allowance of the use of ractopamine in multiple countries (i.e. U.S., Brazil, and Canada), the beta-agonist was banned by many countries (including the EU, China, and Taiwan) for human and animal health reasons.

At its 26<sup>th</sup> session in 2003, the Codex was asked to adopt MRLs for ractopamine. The proposal to adopt a standard for ractopamine was based upon scientific advice from the Joint FAO/WHO Expert Committee on Food Additives (JECFA) and the recommendation of the Codex on Residues of Veterinary Drugs in Foods (CCRVDF). In 2004, JECFA concluded that ractopamine was safe and established an Acceptable Daily Intake (ADI) and acceptable MRLs for cattle and pig tissues (muscle, liver, kidney and fat). The MRLs determined safe by JECFA are 10 ppb in beef and pork cuts. After years of scientific and political stalemate, Codex voted 69-67 in favor for the adoption of MRLs for ractopamine on July 5, 2012.

On July 25, 2012, Taiwan's Legislative Yuan (LY) voted 63-46 in favor of creating three separate amendments that cleared the way for Taiwan to establish MRLs for ractopamine in beef. Since September 11, 2012, regulations set a MRL for ractopamine at 10ppb in beef.

## DAIRY

### Issue: Whey - Bleaching Agents

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

## POTATOES – DEHYDRATED

### Issue: Sulfite Tolerance

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

### Issue: Fresh - Phytosanitary Restrictions

Exports of U.S. fresh potatoes are limited to Idaho, Oregon, Washington, Alaska, Montana, California, and Colorado. For seed potatoes, only potatoes from California can be exported.

Taiwan requires that fresh potatoes be field inspected for late blight. This is unique among international potato trade protocols and increases the cost of doing business with Taiwan. Late blight (*Phytophthora infestans*) is a serious potato pathogen. This pathogen exists in the U.S. When market access was first granted for U.S. fresh potatoes to Taiwan in the late 1990s, Taiwan expressed concern over this pest and required that U.S. potato fields with product destined for Taiwan be pre-inspected during the growing season to ensure late blight did not exist. This pre-inspection costs time and money and requires that product be segregated for Taiwan. Often growers have all of their fields inspected to avoid the segregation issue. At times, due to increased demand in Taiwan, pre-inspected product has run out, thus limiting U.S. exports to Taiwan. There is no storage or on-site shipment inspection allowed.

In July 2015, Taiwan published a list of minimum residue levels (MRL) which has helped to create an import protocol for U.S. potatoes.

### Issue: 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% to 20%. This went into effect in 2002 when Taiwan entered the WTO.

### Issue: Sprout Inhibitor Documentation/Shipper Affidavit

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

## *POULTRY/ANIMAL FEED*

### **Issue: Avian Influenza Restrictions**

A routine bacterial respiratory disease testing in an Idaho game bird flock in August 2008 revealed concurrent infection with Low Pathogenic Avian Influenza (H5N8, LPNAI) virus. A farm was put under quarantine with a 3 km surveillance zone where all poultry and game birds were tested. Results were all negative for AI. The quarantined flock was totally depopulated and the premises was cleaned and disinfected.

Taiwan restricts poultry products from areas where High Path Avian Influenza (HPNAI) have been detected. Regulations clearly specify restrictions for HPNAI, but does not mention LPNAI, the disease found in Idaho. In spite of the distinction, certain Idaho animal feeds were restricted effective September 8, 2008. The issue was brought to the attention of APHIS, which responded that it doesn't matter if the detection is HPNAI or LPNAI, all manufacturers where animal feeds are produced must comply with Taiwan's quarantine requirements. During the Governor's trade mission to Asia in October 2008, Governor Otter discussed this issue with officials in Taiwan.

Effective June 11, 2009, the Bureau of Animal and Plant Health Inspection and Quarantine (BAPHIQ) lifted restrictions on poultry and poultry products except poultry meat for human consumption originating from countries (zones) where HPAI is not known to exist but LPAI may be. That means animal feed containing poultry ingredients manufactured in the states where LPAI is detected are allowed to ship to Taiwan without any additional heat treatment conditions. Poultry meat for human consumption including carcasses, meat, internal organs, and products manufactured by using aforementioned materials was still suspended from LPAI positive areas until May 16, 2011.

## ***THAILAND***



### *PEAS, LENTILS, & CHICKPEAS*

#### **Issue: Tariff Reductions**

Thailand placed 30% tariffs on pulses, specifically dry peas, chickpeas, and lentils. Thailand lowered tariffs for peas to 5% on an experimental basis in 2006 and extended through August 2007. On September 12, 2007, applied tariff rates for peas, chickpeas, certain beans and lentils were reduced from 30% to 5% on an ongoing basis.

## ***VIETNAM***



### *POTATOES*

#### **Issue: Fresh – Market Access**

In June 2010, the Vietnam market was opened to U.S. fresh potatoes, including chip and table-stock. This access is based on an agreement reached between the USDA-APHIS and Vietnam's Ministry of Agriculture and Rural Development (MARD).

# ***CALIFORNIA, U.S.A***



## ***ALFALFA HAY***

### **Issue: Cereal Leaf Beetle (CLB)**

Alfalfa is not a host to Cereal Leaf Beetle although grasses found in hay are hosts. California required 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 needed to accompany the shipment and it would be inspected at the California border, but any shipment with live beetles or larvae would be rejected. Alfalfa has always been exempted from the quarantine unless it is contaminated with grass (it is difficult to not have some grass). Alfalfa could then have grass so long as it was compressed (fumigation is not required). In August 2013 CCB was detected in fields in California for the first time. Effective April 1, 2014, California repealed the quarantine restrictions on cereal leaf beetle all together.

# 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.

**AQSIQ (General Administration of Quality Supervision, Inspection and Quarantine):** ministerial administrative organ directly under the State Council of the People's Republic of China in charge of national quality, metrology, entry-exit commodity inspection, entry-exit health quarantine, entry-exit animal and plant quarantine, import-export food safety, certification and accreditation, standardization, as well as administrative law-enforcement.

**ASTA (American Seed Trade Association):** one of the oldest trade organizations in the United States. Its membership consists of over 700 companies involved in seed production and distribution, plant breeding, and related industries in North America. As an authority on plant germplasm, ASTA advocates science and policy issues of industry-wide importance.

**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 (Cost, Insurance and Freight):** a trade term requiring the seller to arrange for the carriage of goods by sea to a port of destination, and provide the buyer with the documents necessary to obtain the goods from the carrier.

**CFIA (Canadian Food Inspection Agency):** regulatory administration that inspects the health of exported-imported foods going/coming from Canada

**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 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.

**FAO (Food and Agriculture Organization of the United Nations):** an intergovernmental organization with 194 Member Nations, two associate members and one member organization, the EU. Their three main goals are: the eradication of hunger, food insecurity and malnutrition; the elimination of poverty and the driving forward of economic and social progress for all; and the sustainable management and

utilization of natural resources, including land, water, air, climate and genetic resources for the benefit of present and future generations.

**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 and recognized by over 170 countries. The system classifies goods into general categories using 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.

**IMF (International Monetary Fund):** the International Monetary Fund is an organization of 188 countries, working to foster global monetary cooperation, secure financial stability, facilitate international trade, promote high employment and sustainable economic growth, and reduce poverty around the world.

**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 EU 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% 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. The terms are revised every 5-10 years. The most recent version of the terms went into effect in 2015.

**ISO (International Organization for Standards):** the ISO is a worldwide federation of national standards bodies from over 160 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.

**Joint FAO/WHO Expert Committee on Food Additives (JECFA):** a body of experts that provides scientific advice to Codex on food additives, contaminants, and residues of veterinary drugs.

**MAFF (Ministry of Agriculture, Forestry and Fisheries):** a cabinet ministry in the government of Japan responsible for setting quality standards for food products, supervising commodity markets and food sales, and undertaking land reclamation and land improvement projects.

**MIFAFF (Ministry for Food, Agriculture, Forestry and Fisheries):** Korean ministry that aims to upgrade agriculture from primary production-based industry into advanced industry which encompasses processing and marketing in order to compete in the global arena.

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

**MRL (Maximum Residue Level):** a maximum residue level is the maximum amount of residue legally permitted on food. Once residues are demonstrated to be safe for consumers, MRLs are set by independent scientists, based on rigorous evaluation of each pesticide legally authorized. They act as an indicator of the correct use of pesticides, and ensure compliance with legal requirements for low residues on unprocessed food. MRLs are trading standards used to ensure that imported and exported food is safe to eat. In practice, they allow the free movement of goods within the EU and from the rest of the world.

**NMPF (National Milk Producers Federation):** the NMPF develops and carries out policies that advance the well-being of dairy producers and the cooperatives they own. NMPF provides a forum through which dairy farmers and their cooperatives formulate policy on national issues that affect milk production and marketing.

**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):** the term applied to Most Favored Nation (MFN) status for trading partners of the U.S. The U.S. extends NTR/MFN treatment to all of its trading partners. Some countries, such as Cuba and North Korea, are denied NTR treatment.

**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):** an international organization made up of European countries, Japan, Korea, Israel, Australia, New Zealand, Canada, Mexico, 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.

**PNW (Pacific Northwest):** region of the United States that encompasses six states (Oregon, Washington, Idaho, Montana, Wyoming and Alaska).

**PRA (Pest Risk Assessment):** is a process of investigation, evaluation of information and decision making with respect to a certain pest that starts once it is known or determined that this pest is a quarantine pest. Subsequently an evaluation of the potential of introduction of the pest into the country is done. With identification, determination and evaluation done, the process culminates with decision making to avoid or reduce the probability of entrance or establishment of the pest into the country.

**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.

**Risk Management Document (RMD):** it includes a summary of the findings of a pest risk assessment and records the pest risk management process for the identified issue.

**Sanitary and Phytosanitary Measures (SPS):** sanitary and phytosanitary 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 National Harmonization Program for Seed Potatoes (SNHP):** harmonization program that is a collaborative effort between the USDA-APHIS, the National Potato Council, the USPB, the National Plant Board and state seed certification agencies. Each participating state agrees to follow baseline standards regarding both quarantine and non-quarantine potato pests, creating a framework in which interstate and international commerce can be facilitated.

**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 (e.g. low-interest export credits guaranteed by a government agency).

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

**Transatlantic Trade Investment Partnership (TTIP):** a trade agreement that is presently being negotiated between the European Union and the United States. Beginning in 2013, the agreement aims to remove trade barriers in a wide range of economic sectors to make it easier to buy and sell goods and services between the EU and the U.S. On top of cutting tariffs across all sectors, the EU and the US want to tackle barriers behind the customs border – such as differences in technical regulations, standards and approval procedures.

**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. As of July 2014 there are 72 member countries.

**USDA-AMS (United States Department of Agriculture's Agricultural Marketing Service):** the USDA-AMS administers programs that facilitate the efficient, fair marketing of U.S. agricultural products, including food, fiber, and specialty crops.

**USDEC (United States Dairy Export Council):** is a non-profit, independent membership organization that represents the global trade interests of U.S. dairy producers, proprietary processors and cooperatives, ingredient suppliers and export traders.

**USDOC (United States Department of Commerce):** the U.S. Department of Commerce is a federal government agency that has a wide range of responsibilities in the areas of trade, economic development, technology, entrepreneurship and business development, environmental stewardship, and statistical research and analysis.

**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.