Testimony of Jon Caspers

President
of the
National Pork Producers Council

Before the
Senate Finance Committee

On

Unfulfilled Promises: Mexican Barriers to U.S. Agricultural Exports

September 23, 2003

Mr. Chairman and Members of the Committee:

I am Jon Caspers, President of the National Pork Producers Council (NPPC), and a pork producer from Swaledale, Iowa. I operate a nursery-to-finish operation, marketing 18,000 hogs per year.

Mr. Chairman, I greatly appreciate everything that you and other members of this Committee have done to advance U.S. agricultural exports. I strongly believe that the future of the U.S. pork industry, and the future livelihood of my family's operation, depend in large part on continued trade expansion and the faithful implementation by our trading partners of existing trade agreements.

The National Pork Producers Council is a national association representing pork producers in 44 affiliated states that annually generate approximately $11 billion in farm gate sales. The U.S. pork industry supports an estimated 600,000 domestic jobs and generates more than $64 billion annually in total economic activity. With 10,988,850 litters being fed out annually, U.S. pork producers consume 1.065 billion bushels of corn valued at $2.558 billion. Feed supplements and additives represent another $2.522 billion of purchased inputs from U.S. suppliers which help support U.S. soybean prices, the U.S. soybean processing industry, local elevators and transportation services based in rural areas.

Pork is the world's meat of choice. Pork represents 47 percent of daily meat protein intake in the world. (Beef and poultry each represent less than 30 percent of daily global meat protein intake.) As the world moves from grain based diets to meat based diets, U.S. exports of safe, high-quality and affordable pork will increase because economic and environmental factors dictate that pork be produced largely in grain surplus areas and, for the most part, imported in grain deficit areas. However, the extent of the increase in global pork trade – and the lower consumer prices in importing nations and the higher quality products associated with such trade - will depend substantially on continued agricultural trade liberalization.

Existing Trade Agreements Must Be Enforced

In 2002, U.S. pork exports set another export record totaling 726,484 metric tons (MT) valued at $1.504 billion. Exports to Japan, the largest market for U.S. pork exports, increased 5 percent to 271,129MT. Exports to Mexico, the second largest destination for U.S. pork, also continued to grow increasing by 7 percent from 2001 levels to 217,909MT.

While U.S. pork producers and others in U.S. agriculture have benefited significantly from past trade agreements, we must all remain vigilant in protecting these gains. This is particularly the case when important large markets are at stake, such as Mexico, where U.S. agriculture has invested huge amounts of time and money to succeed. Pork producers and our colleagues in American agriculture simply cannot stomach having these markets snatched away and still believe that trade agreements are of any value. It is that simple. It is imperative that the United States act decisively to protect the gains made in past trade agreements in order to retain and shore up support of U.S. agriculture for new trade agreement initiatives.

Mexico is Unilaterally Renegotiating the NAFTA

The Mexican government is unilaterally withdrawing concessions that it made to the United States in the NAFTA. Mexico is illegally using legislative and regulatory means, including the abuse of its antidumping laws and the abuse of its sanitary/inspection practices at the border, to restrict U.S. agriculture exports. While Mexico has utilized these illegal practices for a number of years, the illegal activities have reached a crescendo in 2003. Mexico's illegal tactics are impacting not only pork producers, but a broad swath of American agriculture that includes apple producers, beef producers, corn producers and refiners, dry bean producers, and rice producers.

The NAFTA envisioned that industries on both sides of the border would benefit from increased trade.

Mexican producers of electronic goods, textiles and wearing apparel, fruits and vegetables, and steel – to name just a few industries – have greatly increased sales to the U.S. market, and are dependent on continued unfettered access to our markets.

From the U.S. perspective, Mexico has become the number one or two export market, and a critical component of sales, for many sectors of U.S. agriculture. However, Mexico is now threatening action that would strip U.S. agriculture of this market. As a result, pork producers and many of our colleagues in U.S. agriculture believe the Mexico situation is the single most important trade and market access issue for the export-oriented agriculture community. Mexico's actions are hurting us more than any other trade problem.

Mexico's Illegal Use of Trade Laws Against U.S. Pork Jeopardize the Livelihoods of Thousands of U.S. Pork Producers

Effective May 26, 2003, Mexico terminated its antidumping duty order on U.S. live hogs. While this was a most welcome development, it is important to recall that Mexico illegally imposed the antidumping duties on U.S. hogs for more than four years, literally wiping out U.S. exports. These lost sales cannot be replaced.

Mexico's most recent actions with respect to U.S. pork imperil the livelihoods of thousands of U.S. pork producers. Mexico is principally using two illegal means to advance its protectionist agenda. First, Mexico has illegally initiated an antidumping investigation against U.S. pork exports. Second, Mexico is illegally stopping U.S. pork exports at the border.

Mexico has been phasing-in its market access commitments on pork since the inception of the NAFTA. The commitments were to be completely implemented by January 2003. However, Mexican pork industry representatives have successfully lobbied the Mexican government for protection from U.S. exports. This is somewhat surprising given that commercial pork producers in Mexico are unable to meet demand for pork.

As is widely known, beginning in the latter part of 2002, many of Mexico's agricultural organizations started to demand renegotiation of the agricultural aspects of the NAFTA. At first, the Mexican government staunchly defended the NAFTA. However, farm organizations threatened to hold massive demonstrations; to close numerous border crossings; and otherwise disrupt Mexican commerce. With the pressure mounting, a top Mexican trade official announced at a January 5th conference organized by Mexico's National Farm Workers Federation **that aspects of the NAFTA that "need to be corrected, will be corrected." On January 7th Mexico initiated the antidumping case against U.S. pork.**

While Mexico has resisted a comprehensive renegotiation of the agriculture chapter of the NAFTA, Mexican officials have made it clear that they will "armor-plate" Mexican agriculture by pro-actively using trade laws and border practices to restrict pork and other U.S. agriculture exports.

Like the U.S. and other countries, Mexico has a right to use its trade laws. However, Mexico does not have license to flaunt WTO rules and use its trade laws as a tool of protectionism. As underscored by the USTR in its discussions with Mexico, **the case was illegally initiated and must be terminated.**

First, the Mexican association that requested the investigation, the CMP, does not represent the Mexican pork industry, and therefore, did not have a legal right to make the request. The producers of pork in Mexico, the slaughterhouses and the packers, have stated that they do not want the investigation to proceed and have asked that it be terminated. We understand that the U.S. government has refused to begin antidumping investigations of Mexican products under similar circumstances, and we do not understand why the U.S. pork industry is not being given reciprocal treatment here.

Second, the CMP created the appearance that U.S. exporters are dumping pork in Mexico by comparing apples and oranges. The CMP compared prices for our sales to Mexico of fresh hams to prices for our sales to Japan of pork loins. Any consumer knows that fresh hams have a lower price than tenderloins. Nevertheless, the CMP concluded, and the Mexican government accepted, this comparison as proof that U.S. producers were dumping pork.

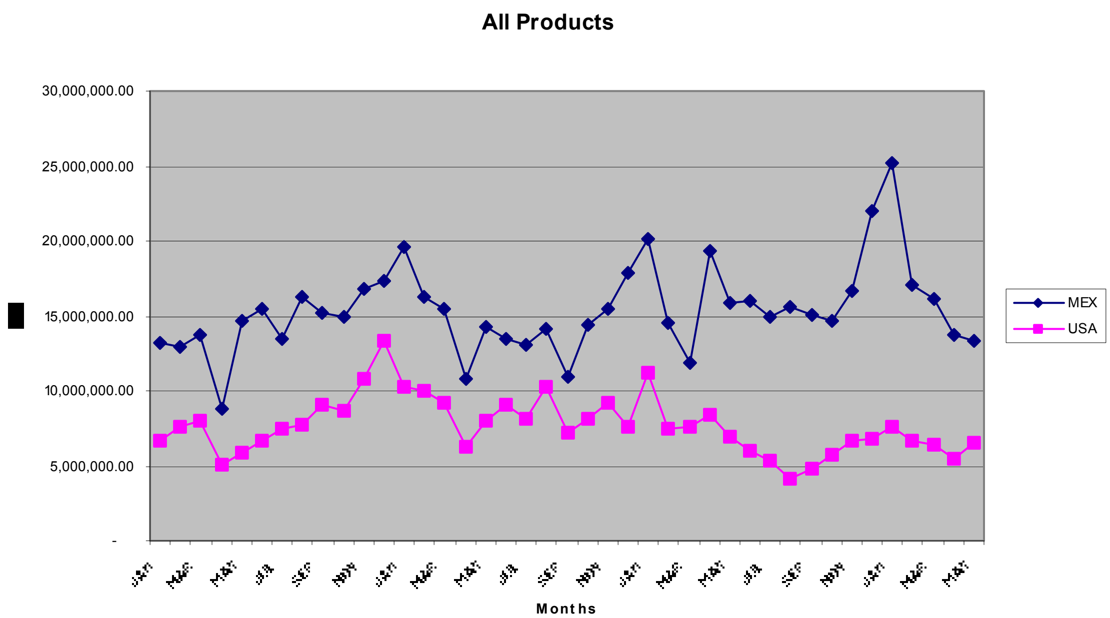
Third, the CMP claimed that it was threatened with harm by imports of pork from the United States, but did not provide any proof about the financial condition of Mexican producers.

The WTO has already found that each of these errors, taken alone, is sufficient to negate the entire case.

To make matters worse, Mexican producers are citing **erroneous import statistics issued by Bancomext,** the entity responsible for Mexican government statistics. These inaccurate statistics lend credibility to claims made by Mexican hog producers that U.S. pork exports to Mexico are increasing rapidly. For example, on May 12th a representative of the Mexican producers asserted in *El Norte* that imports from the United States in the first quarter of 2003 represented 50% of total imports in 2002, and requested that immediate action be taken in the antidumping investigation. In addition, many of the Mexican Senators raised this issue when they were in Washington in May.

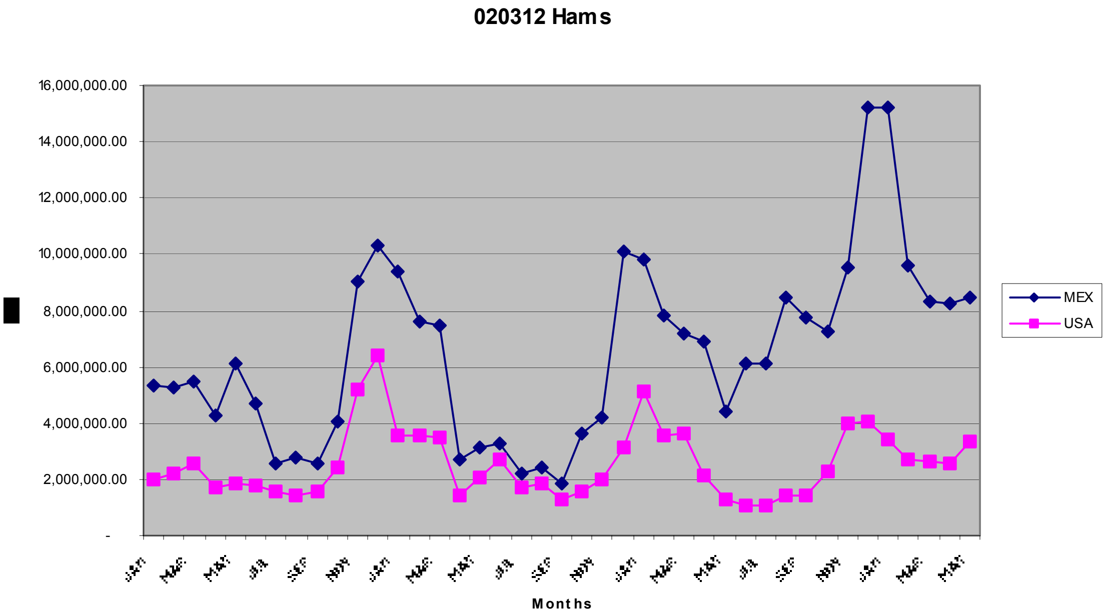
The following table compares Bancomext import statistics – for all of the pork products that re subject to the antidumping investigation – with export statistics prepared by the U.S. Department of Commerce. The table illustrates that the Bancomext numbers grossly exaggerate the volume of U.S. pork shipments in the first quarter of 2003. **The Bancomext statistics overstate U.S. exports by approximately 17 million kilos or 234% in the month of January 2003; and by approximately 53 million kilos or 162% during the period January-May 2003.** The gap between U.S. and Mexican data is outside the historical variance, and can only have been caused by incorrect data. **In**

fact, U.S. exports of pork are decreasing. For example, U.S. pork exports fell by 8.9 million kilos or 22% in the period January-May 2003 compared with the same period in 2002.



As the second chart demonstrates, the problems in the Bancomext import statistics is being caused by the import data for fresh hams, which is the most important product under investigation in terms of the value and volume of exports.[1] Bancomext statistics overstate U.S. exports of fresh hams by approximately 12 million kilos or 344% in January 2003, and by approximately 35 million kilos or 239% during the period January-May 2003. In fact, U.S. exports to Mexico of hams fell by approximately 1.1 million kilos or 7% during the period January-May 2003 compared with the same period in 2002.

[1] Other products under investigation include fresh and frozen carcasses, frozen hams, and diverse fresh and frozen cuts of pork.



These discrepancies may have been caused by data entry errors. Alternatively, we understand that the statistics suffer from at least two systemic problems that cause imports to be exaggerated. First, the Bancomext statistics include all *pedimentos de importación* (import requests) presented to the Mexican customs authorities, regardless of whether the importation was ever made and regardless of whether the *pedimento* was canceled. Second, the statistics may contain double-counting errors. For example, we understand that there may be temporary imports of pork registered once and definitive imports of the same pork registered a second time.

It is imperative that the U.S. government convince the Mexican government to base its decision in the pork case on accurate import data. The preliminary determination in the antidumping investigation could be issued before the end of this month. The possibility of an affirmative finding of injury by Mexico with the imposition of trade restricting antidumping duties is exacerbated by these suspect data.

Finally, it is important to note that the dumping case does not include Canada and Chile. In recent years these countries have increased their share of the Mexican pork market faster than the United States. Therefore, any restriction on U.S. pork exports will simply be offset by increased exports from Canada and Chile at the expense of Mexican producers.

Illegal Action at the Border Also Is Hampering Trade

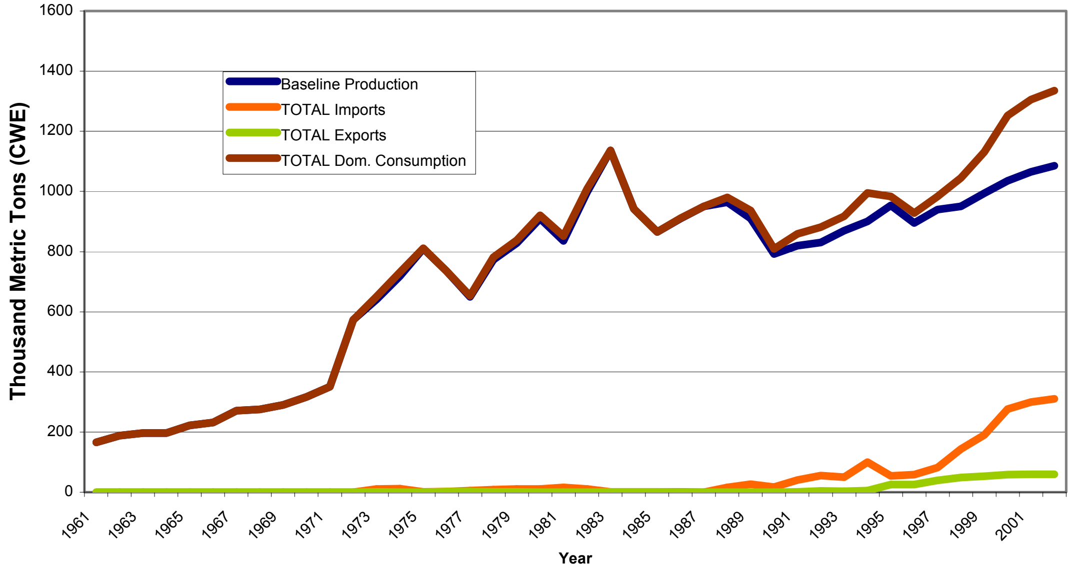
In addition to the illegal initiation of the antidumping case against U.S. pork, Mexico continues to illegally stop U.S. pork at the border based on alleged sanitary concerns. In December 2002, large quantities of U.S. pork were rejected at the border for unjustifiable sulfamethazine concerns, costing the U.S. pork industry millions of dollars in losses. Earlier this year, Mexico slowed U.S. pork exports by testing for copper and other metals. Most recently, Mexico promulgated new regulations which are clearly intended to restrict U.S. pork, beef, and poultry exports to Mexico.

U.S. Producers Face Difficult Economic Conditions

The stakes in Mexico are very high for U.S. pork producers. Any interruption of our pork exports to Mexico, whether through a trade case or through legislative or regulatory means, would be catastrophic for the industry. Mexico is the second largest export market for the U.S. pork industry – in 2002 the U.S. exported to Mexico 217,909 metric tons of pork valued at $252 million. There is no good time to lose a major export market, but U.S. pork producers are particularly vulnerable at the present time. **The average U.S. pork producer has endured almost two years of difficult financial conditions. If Mexico places dumping duties on U.S. pork or takes other action to restrict U.S. pork exports, U.S. hog prices will remain low and thousands of producers will be forced out of business.**

Mexican Producers Do Not Need Protection

The great irony here is that while the average U.S. pork producers are under severe economic pressure, Mexican pork producers have been very profitable. Furthermore, while pork production in the U.S. has been flat, pork production in Mexico has increased. As detailed in the following chart, Mexican pork producers have captured about half of the increase in pork consumption in that country.



Source: USDA

A large portion of the increase in Mexican production has been exported. As shown in the preceding chart, exports from Mexico of pork products have grown 1,100% since 1994. Thus, at the same time that Mexican pork producers are demanding protection from free and open trade with the United States, they benefiting from such trade with other countries. Indeed, in response to pressure by the Mexican pork industry, the Fox Administration has made pork exports a centerpiece in the negotiation of a free trade agreement with Japan.

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In conclusion, U.S. pork producers urge the U.S. Government to use all available means to convince Mexico to refrain from taking further illegal action against U.S. pork, and to keep the Mexican market open to U.S. pork exports. We have obtained our access to the Mexican market fairly through the NAFTA negotiations and our marketing efforts.

Mr. Chairman, thank you for the opportunity to appear here today.