

**UNFULFILLED PROMISES: MEXICAN BARRIERS TO
U.S. AGRICULTURAL EXPORTS**

HEARING
BEFORE THE
COMMITTEE ON FINANCE
UNITED STATES SENATE
ONE HUNDRED EIGHTH CONGRESS
FIRST SESSION

—————
SEPTEMBER 23, 2003
—————



Printed for the use of the Committee on Finance

—————
U.S. GOVERNMENT PRINTING OFFICE

92-535—PDF

WASHINGTON : 2004

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800
Fax: (202) 512-2250 Mail: Stop SSOP, Washington, DC 20402-0001

COMMITTEE ON FINANCE

CHARLES E. GRASSLEY, Iowa, *Chairman*

ORRIN G. HATCH, Utah	MAX BAUCUS, Montana
DON NICKLES, Oklahoma	JOHN D. ROCKEFELLER IV, West Virginia
TRENT LOTT, Mississippi	TOM DASCHLE, South Dakota
OLYMPIA J. SNOWE, Maine	JOHN BREAUX, Louisiana
JON KYL, Arizona	KENT CONRAD, North Dakota
CRAIG THOMAS, Wyoming	BOB GRAHAM, Florida
RICK SANTORUM, Pennsylvania	JAMES M. JEFFORDS (I), Vermont
BILL FRIST, Tennessee	JEFF BINGAMAN, New Mexico
GORDON SMITH, Oregon	JOHN F. KERRY, Massachusetts
JIM BUNNING, Kentucky	BLANCHE L. LINCOLN, Arkansas

KOLAN DAVIS, *Staff Director and Chief Counsel*
JEFF FORBES, *Democratic Staff Director*

CONTENTS

OPENING STATEMENTS

	Page
Grassley, Hon. Charles E., a U.S. Senator from Iowa, chairman, Committee on Finance	1
Lott, Hon. Trent, a U.S. Senator from Mississippi	3
Baucus, Hon. Max, a U.S. Senator from Montana	8

ADMINISTRATION WITNESSES

Johnson, Hon. Allen, Chief Agricultural Negotiator, Office of the U.S. Trade Representative, Washington, DC	5
---	---

WITNESSES

Sarmiento, Sergio, vice president of the board of directors, TV Azteca, Mexico City, Mexico, and adjunct fellow at the Center for Strategic and International Studies (CSIS), Washington, DC	19
Litterer, Ron, corn producer, Greene, Iowa, on behalf of the National Corn Growers Association	21
Jorgenson, Michael W., president and chief executive officer, Roquette America, Inc., Keokuk, Iowa, on behalf of the Corn Refiners Association	23
Satterfield, Travis, rice farmer, Benoit, Mississippi, and chairman, Rice Committee of Delta Council	25
Caspers, Jon, pork producer, Swaledale, Iowa, and president, National Pork Producers Council	27
Stokes, Terry, chief executive officer, National Cattlemen's Beef Association, Denver, Colorado	28
Rice, John, Rice Fruit Company, Gardners, Pennsylvania, on behalf of the U.S. Apple Association	30

ALPHABETICAL LISTING AND APPENDIX MATERIAL

Baucus, Hon. Max:	
Opening statement	8
Prepared statement	37
Breaux, Hon. John B.:	
Prepared statement	38
Bunning, Hon. Jim:	
Prepared statement	38
Caspers, Jon:	
Testimony	27
Prepared statement	39
Grassley, Hon. Charles E.:	
Opening statement	1
Prepared statement	43
The Economist, article dated July 26, 2003	46
Johnson, Hon. Allen:	
Testimony	5
Prepared statement	47
Responses to questions from Senator Bunning	50
Jorgenson, Michael W.:	
Testimony	23
Prepared statement w/attachment	52
Response to a question from Senator Baucus	60

IV

	Page
Lincoln, Hon. Blanche L.:	
Prepared statement	60
Litterer, Ron:	
Testimony	21
Prepared statement	61
Responses to questions from Senator Baucus	64
Lott, Hon. Trent:	
Opening statement	3
Rice, John:	
Testimony	30
Prepared statement	64
Response to a question from Senator Grassley	67
Santorum, Hon. Rick:	
Prepared statement	67
Sarmiento, Sergio:	
Testimony	19
Prepared statement w/attachment	68
Satterfield, Travis:	
Testimony	25
Prepared statement	76
Stokes, Terry:	
Testimony	28
Prepared statement w/attachment	77

UNFULFILLED PROMISES: MEXICAN BARRIERS TO U.S. AGRICULTURAL EXPORTS

TUESDAY, SEPTEMBER 23, 2003

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC.

The hearing was convened, pursuant to notice, at 10:05 a.m., in room 215, Dirksen Senate Office Building, Hon. Charles E. Grassley (chairman of the committee) presiding.

Also present: Senators Lott, Baucus, Breaux, and Lincoln.

OPENING STATEMENT OF HON. CHARLES E. GRASSLEY, A U.S. SENATOR FROM IOWA, CHAIRMAN, COMMITTEE ON FINANCE

The CHAIRMAN. Good morning.

First, I would like to welcome our witnesses. I want to take a moment also to thank the Mexican government and the citizens of Cancun for the exceptional manner in which they hosted the fifth WTO ministerial.

Hosting a ministerial of this magnitude is no easy task, but the citizens and government of Mexico rose to the occasion and it was a job exceptionally well done.

In regard to today's hearing, which may sound confrontational, I want everybody to know ahead of time that I consider myself a friend of Mexico. I was a very strong supporter of NAFTA when it was debated in Congress. I continue to believe that NAFTA is a good agreement.

I have consistently worked to see that the United States abides by our obligations to NAFTA. I do that, because in our part of the country a deal is a deal. Trade liberalization only works if all parties to an agreement fulfill their commitment to do it.

Unfortunately, Mexico has increasingly refused to abide by its international trade obligations, particularly on agricultural products. In so doing, it is violating both the North American Free Trade Agreement, as well as the World Trade Organization.

Mexico's actions, and threatened actions, are causing real harm for corn, hogs, and cattle producers, not only in my State, which is the lead producer of those, but wherever those crops are grown in America, but also to other crops that we do not grow in Iowa like rice, apples, dried beans, are suffering from these barriers to trade that Mexico is putting up.

That country is harming U.S. producers not only by impeding imports of bulk agricultural products, but also by taking action against processed agricultural products. Perhaps most notably,

Mexico has repeatedly taken steps in violation of its international trade obligations to restrict imports of high fructose corn syrup.

Following the implementation of the North American Free Trade Agreement, Mexico was the largest export market for U.S.-produced high fructose corn syrup. But U.S. sales were hit hard by a Mexican antidumping order imposed against this U.S. product way back in 1998.

The United States challenged that order then, and both the North American Free Trade Agreement and World Trade Organization rulings determined that Mexico's antidumping order violated Mexico's trade obligations.

Now, subsequent to that, Mexico revoked its antidumping order against corn syrup. Yet, Mexico seemed very determined one way or another to block access for U.S. high fructose corn syrup. Almost 2 years ago, in an effort to protect its sugar industry, Mexico imposed a tax of almost 20 percent on soft drinks containing high fructose corn syrup.

This discriminatory tax has, in effect, shut U.S. high fructose corn syrup out of Mexico, thus causing great harm for the U.S. industry. It is also hurting corn farmers across the United States, including Iowa.

Recognizing the threat being posed to the U.S. trade agenda, and recognizing lost sales being experienced by Iowa producers, I worked diligently to try to persuade Mexico to remove its barriers to import of U.S. agricultural products. That is one reason why I am holding this hearing.

Yesterday, I was pleased to learn that, after the announcement of this hearing, President Fox and his administration proposed legislation to repeal the illegal 20 percent tax on this corn syrup. Mexico has also terminated its antidumping order on live hogs. These are good developments. But, still, there are obstacles to trade in violation of these agreements.

Whenever possible, I will continue to try to persuade Mexico to remove its barriers to imports of U.S. agricultural products. I will do this, in part, by advancing my Special 301 legislation that is co-sponsored by the Ranking Democrat in this committee, Senator Baucus.

Specifically with regard to high fructose corn syrup, an Iowa product that is completely shut out of the Mexican market, in violation of Mexico's NAFTA and WTO commitments, I am contemplating taking a new course of action.

If the Mexican Congress refuses to repeal this blatantly illegal tax, I will be forced to consider introducing legislation that would authorize punitive retaliatory tariffs on special imports of Mexico's agricultural products. Mexico's compliance with its trade obligations is long overdue. At some point, compensation must be authorized.

So, in conclusion, I would like to note that Mexico's actions are harming not only U.S. producers, but also Mexico itself. Mexico has long prided itself on its following international law, and we ought to recognize that. But this is an exception uncharacteristic of Mexico. The actions I spoke about are tarnishing its reputation.

NAFTA has resulted in increased foreign investment in Mexico. But given Mexico's treatment of the high fructose corn syrup indus-

try, an industry that invested heavily in Mexico, I would now counsel U.S. companies to think twice before investing in Mexico.

As illustrated by this July 26 article that I have here from The Economist, Mexico can ill afford the economic damage which declining foreign investment can bring.

I ask that this article be placed in the record.

[The article appears in the appendix.]

The CHAIRMAN. Finally, by restricting imports of agricultural products, Mexico is driving up food prices and harming its consumers.

So, I would send a message. Mexico's pattern of imposing barriers on imports of our agricultural products is short-sighted, ill-advised, and reckless. I stand ready and willing to work with the government of Mexico to resolve these problems.

I am pleased to learn that there may be some movement on lifting the clearly illegal tax on high fructose corn syrup. We must begin to see good-faith movement within the Mexican Congress on this issue, and we need to see it soon.

I know that Senator Lott has an introduction that you want to make. Instead of my making it, I would be glad to do that.

Senator LOTT. If you would allow me to do that, Mr. Chairman.

The CHAIRMAN. Yes, please.

**OPENING STATEMENT OF HON. TRENT LOTT, A U.S. SENATOR
FROM MISSISSIPPI**

Senator LOTT. I want to thank you for having this hearing. I think this is a very important hearing. It is a critical part of the effort to make sure that we have an opportunity to export our products, particularly agricultural products, around the world, and that we can continue to have free, but fair, trade.

I must say that I have been arguing with Presidents of the United States and USTR representatives for 25 years, saying, in theory, free trade is good, but in practicality, the United States has been acting like Uncle Sop.

We have let a variety of countries, all the way from China, to Japan, to European countries, Mexico, Canada, and others take advantage of our largesse, perhaps under pressure from the State Department. I do not know. But it really offends me when we do not aggressively react when our trading partners do such things as what Mexico has been doing in this area.

I commend the USTR for its effort in the timber area involving Canada. Unlike some of my colleagues, I think the President made the right decision on steel. I think, while it may have had some adverse effects, I was convinced that steel was being dumped into this country at sub-par prices, and the intent was to destroy our industry and then dominate it. We have seen that happen over and over again.

For many years, I have been an advocate of free trade. It just like freedom; free enterprise and free trade is good. I believe America can compete when we have a fair opportunity. But when we are abused, like what is happening in Mexico, we have to work very aggressively.

So, when you are one that has voted for China PNTR, NAFTA, and GATT, then you turn around and see this kind of unfair thing

happen, it really agitates me. In my State, our people do not appreciate it at all.

So, I know that you talked about the Iowa products that have been affected, but you did not talk enough about rice. So, we need to get a little pitch in here. I know Senator Breaux will join in on this.

Mexico's rice industry is America's primary customer, as I understand it. Mexico has decided to impose a very punitive antidumping duty on certain imported milled rice products from the United States. That decision is having a terrible effect on U.S. rice exports. Now, this problem has got to be solved and it has got to be solved right away.

Now, Mr. Travis Satterfield is here. Travis, I would like for you to stand up. Is that an all-cotton outfit that you have on?

Mr. SATTERFIELD. Yes. [Laughter.]

Senator LOTT. All right. I just wanted to make sure that everybody understood that he is from the Mississippi Delta, and they do not let anything touch their body but cotton. [Laughter.] Thank you, Travis.

I just wanted to thank Travis for being here, Mr. Chairman. Thank you for letting me recognize him. He is from Benoit, Mississippi. He is a partner in a farming operation with his two sons and a nephew in Bolivar County in the heart of the Delta.

He served as president of the Bolivar County Farm Bureau, the Board of Directors of the Mississippi Farm Bureau, chairman of the Mississippi Farm Bureau Federation Rice Committee, and has served as a member of the American Farm Bureau Federation Rice Committee.

He currently serves as Chairman of the Delta Council Rice Committees, as well as the Mississippi Rice Promotion Board, the U.S. Rice Producers Group, and is on the Board of Directors of the Producers Rice Mill.

He is one of the most well-respected farmers in agricultural circles, and has been cited for excellence in rice and soybean production. And, by the way, with the growth of support for ethanol, we may be growing a lot more corn in Mississippi, too, Mr. Chairman. I wanted you to be aware of that.

But I want to thank Travis for being here to give his testimony as to how these actions by Mexico are having a direct effect in the real world of agriculture, and to make some suggestions of what we do about it. Thank you again for your continued leadership in this area.

The CHAIRMAN. I hate to tell you this, but you can make ethanol out of rice straw, too.

Senator LOTT. We are working on that, Mr. Chairman.

The CHAIRMAN. Senator Breaux, do you have an opening statement?

Senator BREAU. No, I do not at this time, Mr. Chairman.

The CHAIRMAN. All right.

Our first witness has been before this committee many times. He is a native Iowan. He is special agricultural representative for Bob Zoellick's shop. We welcome you back again.

Mr. Johnson, would you proceed?

STATEMENT OF HON. ALLEN JOHNSON, CHIEF AGRICULTURAL NEGOTIATOR, OFFICE OF THE U.S. TRADE REPRESENTATIVE, WASHINGTON, DC

Mr. JOHNSON. Well, thank you, Mr. Chairman. I appreciate the comments of the Senator, also. You will be pleased to know that, when it comes to cotton, I have spent a lot of time working on cotton these days, even though I am from Iowa.

I would also like to thank the Chairman for your ongoing efforts in trying to resolve many of the issues that we have with Mexico. Engagement has been very helpful on many occasions at the appropriate times to move things forward.

As I, Ambassador Zoellick, and others have testified before this committee before, we have been pursuing a trade agenda that moves the trade agenda forward globally in the WTO, regionally in the Free Trade Area of the Americas, and bilaterally in a whole number of trade agreements.

But one thing that I always add to that list, and needs to be emphasized in this case, is also in the implementation, monitoring, and enforcement of our current agreements in making sure that our farmers and industry are able to benefit from those agreements that have been negotiated a long time ago.

Mexico obviously falls into that last category, as a country that we need to keep working with to make sure that the full benefits of NAFTA are enjoyed by all. Mexico is a very important market for the United States' agricultural products. It has become our third-largest export market.

Our total agricultural exports are about \$7.3 billion, which is double what it was when NAFTA began. Such products as corn, since NAFTA began, is up 750 percent; beef, 430 percent; soybeans and rice have doubled; pork is up 188 percent; apples, as you have someone testifying later, is up about 50 percent. We have seen record values of exports to Mexico in 2002, including products such as wheat, rice, oil, meat, processed products, fruits and vegetables.

But we are also a very important market for Mexico, which we like to remind our Mexican friends about when they have a lot of domestic discussions. We have become the largest market for Mexico. About 83 percent of their products are sent here. That is double what it was in 1993, about \$5.5 billion.

They send fresh vegetables that account for about 30 percent of the value of total Mexican exports to the United States, but they also export things like coffee, live animals, beer, fresh and processed fruits and vegetables.

But we should not think of Mexico just in the context of our bilateral relationship. They are also participants in the Free Trade Area of the Americas. As you mentioned, they are very active in the WTO, including hosting, very well, the Cancun ministerial that we all just participated in.

So you might ask the question, if Mexico is so important to the United States in terms of trade, why are there so many complaints? Simply put—and this is not just true about Mexico, it is true about a lot of things—trade has become more and more important to U.S. agriculture.

When we see disruptions in the marketplace, particularly in important marketplaces for products, it is painful. Our efforts at

USTR and in the administration have been focused on avoiding problems, solving problems, and if the problems are not resolved, taking appropriate actions, whatever is necessary.

In terms of avoiding problems, that is always difficult because it requires some element of forecasting. But at least part of that is education. We have made some conscious efforts to dispel the myths about NAFTA and Mexico, as well as the Farm Bill, which creates a negative image in Mexico.

We created a Consultative Committee on Agriculture last year in 2002 in order to work through issues and trying to identify problems early and resolve them. Coming up on the tenth anniversary of NAFTA, we are going to continue to accent the positives about this relationship so that political environment in Mexico is such that good policy is allowed to come to the forefront.

In terms of resolving problems that we already know exist, back in April—well, we do this on an ongoing basis—Under Secretary Penn, Under Secretary Hawkes, and myself held a Consultative Committee on Agriculture meeting with Mexico and requested that it be done on an urgent basis, because we identified all these problems that you mentioned in your introduction.

At that meeting we made it very clear to Mexico that we were at a turning point: either things were going to get better or they were going to get a lot worse. Our hope was that, coming out of that meeting—and my sense was on their side their hope was—that things would get better.

We have some evidence of things getting better in terms of resolving problems are they related to dried beans. At that time when we had that meeting, there was a complete blockage of dried beans exports to Mexico. In May, after our meeting, it was reopened.

We have seen some progress in terms of working through an understanding as it relates to establishing a safeguard as it relates to poultry, that all of our industries are fully supportive of that creates a growth market for our industry, as well as an agreement not to impose or maintain other barriers to our poultry.

And as you mentioned earlier, we saw some progress as it relates to hogs shortly after that meeting, that they rescinded their dumping duty on small-sized live hogs from the United States.

However, some problems obviously continue. We have seen some discussion in Mexico about a possible antidumping investigation on pork. We do not think this is justified and should be terminated. Particularly, some of the Mexican producers are very competitive.

Our industry is working with their industry to try to help where we can in trying to avoid further stress in this relationship as it relates to pork, either in disease eradication, marketing, and other activities that we should be working together on to create the synergies of a competitive pork market. So, that falls in the category of, they have not done the dumping case or implemented any dumping duties, but the threat is still there.

Similarly, as it relates to apples, in 1998 there was an understanding between the United States and Mexico on a suspension agreement to avoid a very high, over 100 percent, dumping duty. Last year, that suspension agreement was revoked. Last August, about a year ago, they imposed a 49 percent duty.

Obviously, we are very concerned about that. We have been working with our industry in terms of trying to resolve this issue. We are cautiously optimistic that that is another one that we will be able to resolve in the near future.

But we have a number of issues that, frankly, we were not able to resolve and we had to move forward with the appropriate action. Rice was mentioned earlier by Senator Lott. We asked for a panel for consultations, in which we held consultations with Mexico in July and August.

While those consultations were useful, we did not see the problem resolved. Twenty percent of our long-grain milled and semi-milled white rice goes to Mexico, so we decided to request a panel in the WTO last Friday.

Similarly, there was a dumping duty imposed in 1999 on our beef industry. While beef industry exports have actually increased during this period, it is still considered to be unjustified and, just as we did with rice, we requested consultations with Mexico.

I should point out that, simultaneously, several companies had filed a Chapter 19 case against Mexico under NAFTA. We are expecting a ruling on that in October and we will see what happens there. But our plan would be to probably move forward with requesting a panel then in early November on beef.

We also continue to be concerned about some discussion as it relates to beef about a possible safeguard action, again, similar to what I just said about pork, because we made it very clear that we do not think that that is the way to go. Again, our beef industry has actually offered to be helpful with the beef industry in Mexico.

Finally, I would like to mention the subject that you mentioned, and I am seeing the chart up on the wall over there, which is the sweetener problems with Mexico. There has been no commodity more disrupted than the high fructose corn syrup industry in this relationship with Mexico.

As you pointed out, there is a long history of disruptions in this market, including dumping duties that were found to be illegal, and now we have this soft drink tax.

I can assure you that we have spent many long hours. There is no other issue that I have spent as much time on, and I have seen Ambassador Zoellick spend more time on in agriculture, than trying to find a way through this problem and working with our industry and working with Mexico.

Of course, the source of these problems go back to the origins of NAFTA, which is that there is a difference of opinion as to what the sweetener provisions are in NAFTA, which has created an environment where, to some extent, transition has never really begun.

The high fructose corn syrup industry, though, took a leadership role in investing in Mexico and has put a tremendous amount of effort in trying to see the relationship improve. So far, it unfortunately has just resulted in frustration and disappointment.

But in our industry, even given that, it has been more than patient, as we have, in trying to move this process forward and find a result. However, because we believe and they believe that the best outcome would be a negotiated solution to this problem, we will look to others to see if the negotiation can resolve this issue. If it cannot, then we will have to look at what our other options

are. You have already mentioned some of your thoughts on that subject.

So, just in closing, trade relationships are always difficult. One thing that I try to remind all my friends back home in Washington is, trade is a constant maintenance function. It is not as simple as, you sign a contract and the other side will just do the right thing all the time. It is something that we have to constantly work at.

It is no more true than it is in a market that is so integrated as the United States and Mexico is now. We have made some progress, as I just described, over the last several months, but we have much left to do. Managing this relationship is very, very important to U.S. agriculture and, therefore, very important to us.

We are committed to do what is necessary in order to make this work and to keep the markets open for U.S. agriculture, and look very much forward to continuing to work with members of this committee to see that happens.

So, thank you, Mr. Chairman.

[The prepared statement of Mr. Johnson appears in the appendix.]

The CHAIRMAN. I am going to call on Senator Baucus, first, for an opening statement. Then if you want to go right into your questions, that would be all right, too.

**OPENING STATEMENT OF HON. MAX BAUCUS, A U.S. SENATOR
FROM MONTANA**

Senator BAUCUS. Thank you, Mr. Chairman.

Thank you very much, Ambassador Johnson, for appearing today. I want to compliment you on your work. You have worked very hard in lots of capacities, particularly down in Cancun, and I commend you for your hard work.

Mr. JOHNSON. Thank you.

Senator BAUCUS. I might say, just having returned myself from the ministerial in Cancun and witnessed the collapse, I am deeply concerned about the direction of global trade in agriculture.

Many of our trading partners cynically and selfishly depict the current problems in global agriculture to be the result of nothing more than subsidies and unfair trading practices in the developed countries.

We all know that this depiction presents a grossly misleading and incomplete view. As a whole, the distortions in global agriculture are highly complex and exist in virtually every country. In fact, the vast bulk of market access barriers faced by farmers in developing countries are imposed by other developing countries.

We cannot reform the global market until every company accepts the joint responsibility of making a global agreement work. This is a tough responsibility to accept, but the sooner done, the better.

The problem at the heart of the recent proposal by developing countries, the so-called "G-22," is that it purports to solve a global problem with a non-global solution. And some of our partners, such as Brazil, seem unwilling to make even modest commitments.

So, even as we contemplate the future of the Doha Round, we must keep pushing forward to negotiate bilateral and regional FTAs that offer real economic opportunities.

Yet, when I talk to farmers and businessmen back home in my State of Montana, what I hear is that they are more concerned about our existing free trade agreements than they are about any future ones. They want us to make sure our current agreements are actually working. The message is simple: our trade agreements are worthless if the parties that sign them do not live up to them.

This brings us to the purpose of today's hearing. Ten years after the negotiation and approval of NAFTA, we have the unhappy task of trying to untangle trading knots with Mexico that involve nearly a dozen commodities and that impact farmers in every major producing area of this country.

In Montana alone, thousands of cattle ranchers and dry bean farmers are fighting against unfair barriers to a country that has become their most important export market.

Even in the disputes involving imports from Mexico such as sugar, which is not covered by today's hearing but is very much a part of our trade relationship, the disagreement has become terribly complicated.

With sugar, the problem is not a simple matter of more efficient farmers overcoming less efficient farmers. That would be a false characterization. Rather, the problem is about whether the Mexican sugar industry is going to modernize and rationalize, for example, through a complete and genuine privatization and consolidation of its many mills.

All of these examples point to a basic problem: Mexico's unwillingness to adjust to competition through the reforms that only it can undertake. If our partners in the developing world want to modernize and grow their economies, they have to recognize that this growth would require reform of their agriculture sectors. One cannot grow and develop, and yet remain frozen and unreformed at the same time.

Two weeks ago during the WTO talks in Cancun, I saw down with Fernando Canales, Mexico's Economic Minister. We talked about the agriculture disputes and about the need to resolve them so that NAFTA can benefit both countries.

We agreed that the U.S.-Mexico relationship is close and largely successful. Hopefully, as our common experience under NAFTA unfolds, our two countries will grow together.

Yet if Mexico is going to share in this growth, we must accept that structural changes to some economic sectors must necessarily occur. These changes need not be harmful. They can be good and they can be constructive. It all depends on them.

Thank you, Mr. Chairman.

[The prepared statement of Senator Baucus appears in the appendix.]

The CHAIRMAN. Did you want to ask some questions?

Senator BAUCUS. I will wait, thank you.

The CHAIRMAN. We will have a five-minute round of questions. Then I would ask my colleagues, if we do have our vote at 10:45, if we could rotate and keep the meeting going. If any of you could stay while we do that, I would like to do that.

Senator BREAUX. Can we take up any legislation during that time? [Laughter.]

The CHAIRMAN. Well, I would—no. [Laughter.]

First of all, it is my view that the sweetener issue is really irrelevant because the fact is, it is an industry that I represent, meaning the corn industry, corn growers. In fact, this industry is being held hostage. The illegal tax needs to be lifted. It really comes down to something that simple.

Mr. Johnson, could you put the development of whether or not the Fox administration, in their proposed legislation that I have already referred to, in the broader context, that is a reason for optimism?

And, also, you might want to comment on our own government's efforts, and whether or not that is still the high priority that I know it has been in the past, and whether there is any possibility of getting the problems solved through negotiations.

Mr. JOHNSON. All right. Well, first of all, I appreciate the efforts that you have made, and I will compliment Senator Baucus as well, in engaging with your Mexican counterparts, because I think that is helpful for them to hear a consistent message from all parts of the U.S. Government on the importance of seeing these issues resolved.

In terms of this specific proposal that the Fox administration is engaging in, I tend to be an eternal optimist anyway on any subject. I always say that, in order to be a trade negotiator, you have to have three traits. One, is you have to be an eternal optimist. The other one is, you have to be thick-skinned. The final one is, you cannot be risk-averse.

So, being consistent with that theme, I think it is a reason to hope that they can move forward with repealing a tax that, as we have both agreed, should not have been imposed in the first place. However, I would just point out, the Fox administration has actually been helpful in the past in trying to remove this tax.

You will recall a year ago, they actually had removed the tax themselves as the administration, were taken to court, and the court ruled that they had acted inappropriately, and therefore the tax was reimposed. So, we found that the Fox administration has been willing.

The chief test is going to be whether or not the legislation can get through their legislative process and whether or not the members can accept or can pass this legislation.

Obviously, we are going to continue to push it. There is some reason to believe that the policies that they have pursued up until now have actually led them to a situation where now they are actually a sugar deficit country.

In that sort of policy, hopefully, wiser heads would prevail, that here we have a product that, through our own agreement, should have access to their market and should allow to service their consumers, as was intended in NAFTA.

So I want to sort of give some cautious optimism, but also recognize that the Fox administration has not necessarily been the problem in the past, but that the Congress themselves has had some problems in repealing this legislation.

In terms of what the administration has been doing, we have been very involved over the last year in working with our industries. And by that I do not just mean the high fructose corn syrup industry, but our sugar industry, as well as with the Mexican gov-

ernment in trying to engage them in negotiation to solve this problem. Frankly, on several occasions we were hopeful that we would be able to get there.

I still believe that there is a window of opportunity here. Citing your example of what you just gave, what is happening in the marketplace, the fact that patience does run out on these issues, that we will be able to move forward with resolving this issue.

However, if we are not, then I think we need to prepare to take whatever action is necessary in order to get focused on this. We have been looking at those various options. Obviously, our patience is not infinite, and neither is our industry's.

So, we will just have to see how the next few weeks evolve and see if we can make some progress, and if this legislation can make some progress in resolving this issue.

The CHAIRMAN. I made the point in my opening remarks about, Mexico risks losing investment because of this corn syrup impasse. Is that a possibility?

Mr. JOHNSON. Well, I think in general, obviously any time that you are taking a look at investing in a marketplace, what you are interested in as an investor is your ability to get a return on that investment.

I think the high fructose corn syrup industry, who I know are testifying later, can testify to the fact that this investment has been problematic for them and has created some real pain.

So when others think about investing in Mexico and they see this sort of policy, it cannot help but give pause as to, is this a market you want to invest in versus some other market.

Again, my hope would be that Mexico would recognize the damage that they are doing to their own system in addition to the trade relationship, and provide the opportunity in the coming weeks to find a way forward to resolving this issue.

The CHAIRMAN. Thank you very much.

Senator Breaux?

Senator BREAUX. Thank you, Mr. Chairman.

Thank you, Mr. Johnson, for the work that you are doing, as well as the work that you are doing with Ambassador Zoellick. Give him our regards as well for the good work that is being done.

With regard to the Mexico antidumping decision, this is a strange duck. NAFTA took away the tariff on exports of rice to Mexico. It is our largest export market. Then right after that, Mexico initiated an antidumping case against U.S. exporters. But not all of them.

Apparently the ones that were not doing business, and therefore did not participate in the antidumping case in Mexico, were slapped with a little over a 10 percent tariff, while those who were participating with them in the investigation either got exempted or came up with a very small tariff.

I take it that we have had negotiations with your Mexican counterparts on this. I mean, it seems to me the issue is, when we get outside the legal petitions, they just do not want us to export milled rice to Mexico to protect their millers and their countrymen. That is how I see it.

They need the rice. They have been good customers. But they do not want it to be milled and then sent to Mexico. They want it be

rough rice so their own mills can mill it. Then everything else flows from that premise, I think. That is their decision. It is a political decision. I understand it.

But it is not legal. So the question then becomes, what do we do about it? You instituted or requested a WTO panel, which may or may not be instituted around December, I take it.

Can you bring me up to date on the prospects of all of this? I mean, clearly, it has got to be WTO inconsistent. You cannot have a tariff against some people and not others. Then I do not think the basis for the antidumping charge has been substantiated. So what can you tell me about it?

Mr. JOHNSON. Well, we would agree with your assessment in terms of, it is not a justified policy. As you said, it has become a very important market for rice producers and millers.

I think you had not come in yet when I mentioned this earlier, but we had requested consultations under the WTO with Mexico a couple of months ago.

Senator BREAUX. Yes, I was here. I heard you.

Mr. JOHNSON. All right. We have held those consultations in July and August. While they were useful, they did not, obviously, solve the problem. So, last Friday, we requested a panel. We are expecting that the panel will move forward expeditiously, which, in WTO terms, could probably be around November or so. We expect that we have a very strong case on this issue and that we will be able to prevail.

Senator BREAUX. Who is the burden of proof on? Is it on us to prove that what they did is not an antidumping case, or is it their burden to prove that it is?

Mr. JOHNSON. Well, I am not sure that it is a clear burden of proof as much as it is that we will present to the panel our basis for believing that their actions were inappropriate, so that there is not dumping taking place. They will provide to the panel their belief that it is.

The panel will make a decision based on those inputs as to whether or not it was justified. We are very confident in this case in believing that we will prevail, and we have made that clear to the Mexicans throughout the process when we have tried to engage with them, that this is one where we think we are on very solid ground and they are not, and therefore they would be better off if we were able to resolve it through some sort of a consultative process.

Senator BREAUX. What is their best shot? Do they present information on pricing that indicates that we are selling at below prices?

Mr. JOHNSON. Well, the details, I am not completely familiar with. But it is not unusual in these dumping cases, and we have one with beef right now, where they treat different companies differently based on what their price and experience has been with that company in the marketplace.

So, as you just pointed out, some of the companies have been affected, some of the ones have not. We do not believe that it has been justified based on the information that we have seen in our consultations, which is why our consultations did not resolve the

issue, because we did not accept that what their description was justified.

Senator BREAUX. Well, I would just urge you to be as aggressive as we possibly can. It is an important market. We do not want to lose it. But we also want to be treated fairly in that market. Obviously, antidumping tariffs that cannot be justified cannot be continued. I would hope that we would move that as quickly as we can.

I think, on the high fructose corn syrup issue, and sugar in general in Mexico, that we cannot look at all these issues in isolation.

I think what I am saying is, the issues that are important to Senator Grassley and myself, while different commodities are affected, that any kind of a large-scale agreement has to involve them all in order to make sure that we do not harm any industry and we help both of ours. I think there is that potential out there.

You did not say anything about a side letter on sugar, did you? Did you say something about that?

Mr. JOHNSON. No. No, I did not.

Senator BREAUX. All right. We will not go into that.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Lincoln, the vote is just starting now, so I am going to go over and vote and then I will be back.

Senator LINCOLN. I can take as much time as I need until you get back.

The CHAIRMAN. All right. And if she has to go vote and there is nobody else here, we will just have a temporary lull. But I should be back before she is done. If I am not, you can go.

Senator LINCOLN. Thank you, Mr. Chairman. Thank you for holding this important hearing today to address some very specific concerns with one of our largest agricultural trading partners, Mexico.

Mr. Johnson, thank you for your hard work, and Ambassador Zoellick. I hope you will extend to him our appreciation for the hard work that you all have put into many of these issues.

Like Louisiana, it is the same in my State of Arkansas. Mexico has presented enormous export opportunities to our State. This has certainly been especially true in our rice industry.

We have seen our exports in rice increase from 146,000 metric tons to 700,000 metric tons after the implementation of NAFTA, or the signing of NAFTA.

But, unfortunately, as Senator Breaux has just discussed, as we were beginning to experience the benefits of that agreement, the government has now taken these unsubstantiated actions by imposing duties in excess of 10 percent.

We have companies in Arkansas, some of which have fought the initiative or the imposition of these duties, and others that were not capable of it. We realize that the rice industry spent well over \$500,000 to defend itself against the Mexican government in their antidumping investigation. We realize that there is some that we were not even capable of being able to participate in in such a cost-prohibitive exercise.

I think that the kind of punitive action requires really a swift resolution. I am certainly pleased again to see what you and Ambassador Zoellick have already taken in terms of necessary actions to address the situation. I do not think we can be satisfied until

we actually completely resolve the issue, and I hope that we will all work towards that end.

I do believe that the fate of future agreements rests on our country's ability to resolve those disputes within the existing ones, and I think it sets a really important precedent.

I guess, first of all, I would like to ask, in conjunction with that question on rice, do you think that the fact that those companies that did fight the imposition of those duties and came out with somewhat of a more positive response or outcome, does that not lend itself to what we need in terms of facts, having fought it and won, to some degree—I guess their duty is being lowered to somewhere around 2 percent, in some instances—that there really was no dumping? I mean, the point, in fact, that they fought it and they won, to some degree, indicates that there was no dumping.

Mr. JOHNSON. Well, it is like a lot of things. The determination of the rate is affected by those who do not submit company-specific defense of whether or not they were dumping. So, needless to say, those that did not submit the information were in a more vulnerable position than those that, as you just pointed out, had the resources and the time.

Our concern is that they basically put in an “all other” category a dumping rate that was unjustified, which affects a whole lot of these folks who were not able to submit it. So just because that is applied to them, it does not imply that they are necessarily dumping.

In other words, a case of dumping has not been proved against them, but they are thrown in this “all other” category and they are subjected then to the higher dumping duty. That is part of what we are going to be challenging in this process as we move forward.

Senator LINCOLN. Yes. But my point is, can you not use what happened there, that almost the fact that they were lowered substantially, as an admission that there really was no dumping?

Mr. JOHNSON. Well, I think you could use that as part of your case. Again, one of the liabilities, if you want to call it that, with the system, is that it is determined on a company-by-company basis in terms of whether or not dumping has occurred.

This is one of the problems that we have, even in the beef case, on dumping, is that we have literally four companies that are challenging it that felt like they were mistreated, and other companies that were not that are not challenging it because they did not receive the same sort of duties.

Senator LINCOLN. Well, I would certainly like to encourage USTR and those of you all involved that I think it is so important that our government use the resources at our disposal to resolve these kinds of disputes in a timely manner.

Because I think for us, in States where our economies are based on agriculture and we are dealing with generations of farmers, that we have got to ensure through our producers that there is faith in these rules and a rules-based system that our free trade agreements create, that there is something to fall back on, and that we not only have those rules and that rules-based system, but that we are willing to use it in a timely way, because as the global economy grows, we are going to have to be more and more competitive. We need to act quickly and in a timely way and use that rules-based

system that, unfortunately, our producers have already lost faith in.

So, I would just encourage you all. You have done a great job and I would encourage you to continue to do so. Hopefully, we can work through it. After, unfortunately, the unsuccessful WTO ministerial meeting a few weeks ago, that sense of uncertainty among producers exists, and we want to certainly do something about that.

The other question I had was, the last remaining issue in regard to the poultry exports to Mexico. There were some that you all worked through, and we were very appreciative of the work that you did in moving forward on that.

But the issues of the two poultry diseases, the Avian Influenza and the Exotic New Castle. I know that USDA is somewhat more involved, perhaps, in that than the USTR. But, nevertheless, I want to raise that issue because I do believe that it is something that you all have a hand in.

I guess if you could just advise me, to the best of your knowledge, when we think Mexico will be removing the remaining restrictions on the States that are affected. We have provided all the scientific information, I know, from USDA and the Animal and Plant Health Inspection Services, and others.

Mr. JOHNSON. All right. I actually want to go back to your last point, then I will get to this one, which is, on the rice issue, you should just be aware that we have not slowed down in moving on that. We actually announced our WTO consultative request with beef and rice at the same time.

Senator LINCOLN. Right.

Mr. JOHNSON. We have decided, on beef, that we were going to wait a little while longer just because we wanted to see also what happened with this Chapter 19 case in NAFTA. But we were not going to hold off on rice, so we went straight ahead with that. So, it is actually on as fast a track as we can put it on.

Senator LINCOLN. And I am appreciative. I just want to reiterate and weigh in heavily.

Mr. JOHNSON. No, I understand. We feel strongly about this, as we do about a number of these. Senator Breaux actually said it very well. There is an interrelationship, to some extent. If these types of actions are not challenged when we consider them to be unjustified, it sends a bad message for how they may act with other products and commodities.

Senator LINCOLN. Absolutely.

Mr. JOHNSON. So, that is why we are not slowing down on this one. We think it will help send a broader message in addition to the message to our rice producers.

Related to the poultry issue, the poultry issue, we think, was very constructive, for a couple of reasons. One, is it showed an environment where, one, Mexico recognized that they had not really done—which, again, Senator Baucus had talked about—what they needed to do in terms of adjusting to the marketplace.

But our industry, along with their industry, decided that the best way to approach this was through consulting with each other and consulting with their governments in trying to move this forward.

So we were able to come to a safeguard agreement that not just dealt with the current market environment, but provided some

growth and dealt with these issues that you just mentioned, which is somewhat novel in terms of trying to make sure that these other trade restrictions that we believed were not justified based on the science were also addressed, because that was a major hassle to our export industry, even with the current market access.

So, what the status is, and what we included in the agreement or the understanding, was that Mexico would eliminate the so-called HI testing, the low-path Avian Influenza. The test was duplicative of other testing requirements that were already being done. That, I believe, has been done away with.

As it relates to removing low-path AI sanitary prohibitions on poultry exports that currently exists from Maine, North Carolina, Pennsylvania, Texas, Virginia, and West Virginia, basically, the understanding is that once the data supporting their disease-free status is submitted, then it will be reviewed and confirmed and then that will be lifted.

The other two States, which is California and Connecticut, as I understand it, have not submitted the data yet for reviewing.

Then when you get to the issues of New Castle disease, Mexico eliminated the testing requirements and a ban on Exotic New Castle disease on U.S. poultry existing from five States that buffer California, Arizona, Texas, and Nevada. I believe that Arkansas would be part of that. So, most of the concerned I think you have raised are part of this safeguard agreement in trying to move those issues forward.

Senator LINCOLN. Well, my understanding was that USDA had provided Mexico with all of the requested information, but yet the restrictions on several of those States still existed. Have I gotten bad information?

Mr. JOHNSON. Is that for the low-path AI?

Senator LINCOLN. Yes.

Mr. JOHNSON. It is not for the New Castles, it is for the low-path AI. I guess that is under review.

Senator LINCOLN. All right.

Mr. JOHNSON. But we will follow up on that to make sure that it moves expeditiously. Our understanding was, and I can tell you that we raised this as recently as a week ago, making sure that these things move forward quickly, frankly because it was an instrumental part of the overall agreement.

Senator LINCOLN. Right. Well, I very much appreciate it. I know that the negotiations you all did on the leg quarters and all of that went very quickly, and you made substantial headway on that very quickly and worked that out.

I would just encourage us, when we are talking about, particularly these regulations and restrictions, when we provide the recommended or requested data, that we have lived through that with Russia in the last couple of years on our poultry industry.

I would just hate to see us going down that same pathway with Mexico being such a close neighbor and a trading partner whom we have dealt with in a much more free and open way.

I guess one of the other things I wanted to check with you about, was in Ambassador Zoellick's remarks following the collapse of the Cancun WTO ministerial, he appeared to signal a shift in focus to some of the bilateral and regional free trade agreements and he

talked about working with the “can-do countries,” to use his words, to improve the foreign market access, those countries that we feel like we could make headway with.

Negotiating a free trade agreement obviously does not guarantee free trade. We know that. I understand that the U.S. and Central American negotiators just completed another round of the CAFTA negotiations.

I guess my question is, given the results of those negotiations, what are the steps that the administration is taking to guard against some of the Mexico-style actions by our future CAFTA trading partners?

Are we looking at what we have learned and some of the circumstances we found ourselves in with NAFTA and with Mexico, and what has happened? Are we taking any precautionary or preventive measures in dealing with CAFTA so we do not have to go back there?

Mr. JOHNSON. Yes. You are right, we just had a team that was down there. Actually, one of the interesting things is, like anything, there is a learning curve. I think some of the things that we learned from the current free trade agreements that we have and the disruptions that we are experiencing, is that the disruptions take place, really, in a number of different ways. And the causes are different.

The cause of some of these disruptions that we are having with Mexico is, frankly, their industries have not adjusted as they should have over the time that they had available to them to adjust.

So, hopefully, one of the things that we will obviously be emphasizing with the Central Americans, as well as will be reflective in the schedules for phasing things out, is that that is not the way that they should approach this.

The current discussion is that, in the last, most sensitive products, that it be a 15-year phase-in. Well, in that 15 years, really, steps need to be taken during that time for industries to adjust, whether it is ours or theirs. If you talk to some of the Mexicans, they would agree that that took place. I think that is a learning curve issue.

Another place where it takes place, and we were just talking about it, is sanitary and phytosanitary issues. So, we have made a very conscious effort with Central America, and we did this also with Chile, in going through in excruciating detail what the current SPS problems are, and trying to work through and resolve them.

Again, they are all based on science. That is what our regulators believe in, their regulators believe in, but by giving emphasis towards resolving issues rather than just sort of ignoring them in the current status.

But then in addition to that, as new issues come up, you address them as they come up. One thing that we just established in Mexico a year ago, was a Consultative Committee on Agriculture, which we, I think, used fairly effectively in April when we called for a meeting of that and went through literally every single issue and trying to either resolve it, or if we saw a problem on the hori-

zon, avoid it. We are doing that from the beginning when it relates to Central America and our other FTAS.

So, as you look at those issues, I think we are taking steps to get ahead of the curve and understand where the problems came from and how we might resolve them.

Now, on issues like dumping, which is the rice issue, really, probably the best thing we can do is, first of all, just have more of an effort for countries to understand what the marketplace is.

One of the big problems with poultry, as you know, is the dark meat is popular in some areas and the light meat is popular in other areas, and having people understand the marketplace, understand how these tools should be used or not used, and when they are not used appropriately, challenge them.

That is what we are doing in this case. So, again, there are broader implications that we will go after these issues, and therefore, hopefully, that serves as deterrents to ever use them.

Senator LINCOLN. Well, thank you very much. Thank you, Mr. Chairman. I think this is an important issue.

The CHAIRMAN. Thank you. You probably found out faster than I did the 10:45 vote is really an 11:20 vote now.

Senator LINCOLN. Oh, is that why it keeps going off?

The CHAIRMAN. Well, you did not miss a vote yet.

Senator LINCOLN. All right. So they have a vote at 11:20. All right.

The CHAIRMAN. I have one last question.

Senator LINCOLN. Mr. Chairman? May I just say, briefly, can I submit some questions for the record as well?

The CHAIRMAN. Oh, absolutely. Yes. In fact, all of the witnesses, particularly the next set of witnesses that might not be used to answering questions in writing, since we have this interference with our committee hearing from other things going on, you might expect questions to be submitted in writing. I would appreciate it if you could get them responded to in 2 weeks.

Senator LINCOLN. Thank you.

The CHAIRMAN. I would want to take this time to bring up one last thing and to bring up the issue of Mexico's attempt to stop alleged alteration of tequila by imposing an export ban on all bulk tequila exports.

I know this is not your area of expertise, Mr. Johnson. But could you touch on what steps the U.S. Government is taking to resolve this problem? I would like to have the Mexican government know that we are concerned about this as well.

Mr. JOHNSON. Certainly, Mr. Chairman. When we became aware of this issue just last month or so, we immediately contacted our colleagues in Mexico and expressed concern. Frankly, we needed to become more aware of what it was, since we had not seen the documents that this action was based on.

We have been working with their industry and with our embassy in Mexico in transmitting our strong concerns to the Mexican government. We are particularly concerned that this action could disrupt tequila trade in North America, which frankly is in Mexico's interest that it not be disrupted either.

We are going to be looking at these documents which we have just recently gotten in evaluating what the implications are, as well as what their implications are to their NAFTA obligations.

Through our interventions with Mexico, they now have a 60-day comment period and we will be submitting comments during that time to make sure that our concerns are heard, and then following up to make sure they are addressed.

The CHAIRMAN. Before you go, I just want to thank you for your work, as all my colleagues have done. Hopefully, we will see some results from the Mexican government from the hard work you have had interacting with them, because I would rather have you solve these problems at the negotiating level than we would have to solve them here in Congress. Thank you very much.

Mr. JOHNSON. Thank you.

The CHAIRMAN. I am going to call Mr. Sarmiento, vice president of the Board of Directors, TV Azteca, Mexico City. He is also an adjunct fellow at the Center for Strategic and International Studies.

Ron Litterer, a corn producer from Greene, Iowa, on behalf of the National Corn Growers Association; and Michael W. Jorgenson, president and chief executive officer, Roquette America, Inc., Keokuk, Iowa. That is on behalf of the Corn Refiners Association.

Also, Travis Satterfield, a rice farmer from Benoit, Mississippi, chairman of the Rice Committee of Delta Council; Jon Caspers, a pork producer from Swaledale, Iowa, and president of the National Pork Producers Council; Terry Stokes, chief executive officer of the National Cattlemen's Beef Association from Denver, Colorado; and John Rice, Rice Fruit Company, Gardners, Pennsylvania. Mr. Rice would speak on behalf of the U.S. Apple Association.

I think you folks have lined up in the way I have introduced you, so we will just go from my left to my right. So, we will start with you, Mr. Sarmiento.

Mr. SARMIENTO. Thank you, Senator Grassley.

The CHAIRMAN. And let me explain to all of you, if you have a statement longer than 5 minutes, your entire statement would be put in the record, so you will not have to ask permission to do that in each instance.

Proceed.

STATEMENT OF SERGIO SARMIENTO, VICE PRESIDENT OF THE BOARD OF DIRECTORS, TV AZTECA, MEXICO CITY, AND ADJUNCT FELLOW AT THE CENTER FOR STRATEGIC AND INTERNATIONAL STUDIES (CSIS), WASHINGTON, DC

Mr. SARMIENTO. Thank you. First of all, let me say that I am a Mexican citizen, but I do not represent the views of the Mexico government, the Mexican Congress, or anyone else.

I have been known in Mexico as a proponent of free trade. I was a proponent of free trade before NAFTA and continue to be so, and I have been a very strong critic of protectionism, both in Mexico and in the United States.

We all know that for years trade has generated fears and political demagoguery on both sides of the U.S.-Mexican border. Ross Perot was not the only politician who warned of the giant sucking sound of jobs. These warnings were also quite common in Mexico

when the North American Free Trade Agreement was being negotiated in the early 1990's.

In fact, our former Foreign Secretary, Jorge Casteneda, who worked at the beginning of the Fox administration, was a strong opponent to NAFTA when NAFTA was being negotiated.

Now, the demagoguery and the fears have not disappeared. In Mexico, a number of special interest groups and political parties have organized a movement that is putting pressure on the government to renegotiate NAFTA because they claim free trade is responsible for the troubles affecting Mexico's agriculture.

The constant bombardment of information by these groups has led 32 percent of Mexico's population to the belief that Mexican agricultural troubles are a consequence of NAFTA.

The hard information available, however, actually shows that NAFTA has been good for all signatory countries, the U.S., Mexico, and Canada. Overall trade among these three countries rose 85 percent between 1993 and 2001, at a time when world trade expanded by 66 percent.

Mexico's foreign trade rose at an even faster pace during this period, 179 percent, which is logical given the fact that Mexico is the least developed of the three countries. Between 1993 and 2002, Mexico's exports to the world expanded from \$52 billion to \$166 billion.

But in spite of the expansion of Mexico's exports, there was no giant sucking sound of U.S. jobs heading south of the border. In fact, the first years of NAFTA coincided with an unprecedented period of growth and job gains in the U.S.

From the start, Mexico's agriculture was the most protected sector within NAFTA. The U.S. opened its doors to agricultural products at a significantly faster pace than Mexico. Tariffs and barriers on 42 percent of Mexico's agricultural products were fully eliminated only in 2003, 9 years after the beginning of NAFTA. Mexico, moreover, will continue to get protection on 18 percent of its agricultural imports until 2008. In contrast, 95 percent of all U.S. agricultural imports from Mexico are already free of tariffs and barriers as of 2003.

In spite of this, U.S. and Canadian farmers have benefitted greatly from the opening of the Mexican market. Mexico's imports of farm products from its NAFTA partners rose from \$3.5 billion in 1994 to \$5.9 billion in 2001. By the way, the differences with the figures quoted by Mr. Johnson are whether you include or not industrialized, processed products.

Agriculture is one of the few areas of the economy where Mexico has a trade deficit within NAFTA. In 2001, this deficit amounted to \$1.9 billion. But Mexican exports of agricultural products have also expanded within NAFTA, from \$2.6 billion in 1994 to \$4 billion in 2001. That is why I say that all three countries have benefitted from NAFTA.

Of course, differences do remain. Some are the result of legal lacunae left over from the agreement, which is the case, for example in the dispute over sugar and high fructose. The high level of government subsidies paid to farmers in the U.S. remains an irritating issue for Mexican farmers.

Due to protectionist pressures from domestic interest groups, moreover, the Mexican government is resorting to unfair antidumping measures that are often thinly disguised efforts to erect protectionist barriers to U.S. products. We have talked about some of those protectionist measures here in this hearing.

Every product has a history of its own. In the case of sugar, for example, both Mexico and the U.S. have taken questionable protectionist measures and have passed the cost on to consumers. NAFTA, in fact, implied a closing, rather than an opening, of the Mexican sugar market because of the existing elaborate protection of U.S. sugar companies.

Mexico, however, has an extremely inefficient sugar industry, subjected to government price controls and to an outdated labor contract that makes innovation and improvements in productivity almost impossible.

All of this explains why sugar prices in our two countries are among the highest in the world. We all pay for the price of protectionism.

Pork producers in Mexico have forced the Mexican government to start an antidumping suit against the U.S. My impression is that Mexico does not stand on solid ground in this legal action—I agree with Mr. Johnson’s assessment—but the government seems to be buying time for Mexican pork producers.

Paradoxically, the same Mexican hog farmers who want special protection are demanding that the Mexican government open up trading corn so as to assure them of cheap fodder for their animals.

Corn is one of the main reasons for complaint by Mexican farmers. Although this market is not yet fully open, Mexico is supposed to have a tariff-free import quota of 3 million tons a year. But the country is, in fact, importing some 6 million.

My full testimony is in there in writing. But we will see that, in spite of this surge of protectionism on both sides of the border, the three countries have benefitted from NAFTA and we should be very, very careful not to disrupt NAFTA, because we would, in fact, be disrupting a trade agreement that has been good for all three countries.

The CHAIRMAN. Thank you very much.

[The prepared statement of Mr. Sarmiento appears in the appendix.]

The CHAIRMAN. Mr. Litterer?

STATEMENT OF RON LITTERER, CORN PRODUCER, GREENE, IOWA, ON BEHALF OF THE NATIONAL CORN GROWERS ASSOCIATION

Mr. LITTERER. Chairman Grassley, before I begin, there are a couple of corrections in our written testimony we would like to make relevant. On page one, the “57 percent” should be changed to “nearly doubled,” and on page 2, the “133,000 bushels” should actually be “133 million bushels,” if I could make those corrections.

The CHAIRMAN. We will correct.

Mr. LITTERER. All right.

Chairman Grassley, thank you for giving me the opportunity to testify today. It is unfortunate that I must testify today. Mexico is

our second-largest trading partner. In 1994, the year NAFTA was enacted, corn exports to Mexico totaled 3 million metric tons.

But last year, Mexico imported 5.3 million metric tons in bulk corn. In less than 10 years, Mexico has increased its imports of bulk corn from the United States by nearly double.

Ordinarily, we consider this a profound success. However, recent events give us some pause and make us question the long-term stability of the Mexican market.

For the past 7 years, corn growers have been part of an ongoing dispute between the United States and Mexico regarding sugar and high fructose corn syrup.

For nearly 2 years, exports of high fructose corn syrup to Mexico have been virtually eliminated due to an illegal soda tax passed by the Mexican Congress late in 2001.

Much like bulk corn, upon implementation of NAFTA, corn refiners started to experience successful market access to Mexico. The subsequent controversy surrounding the sugar provisions of NAFTA and the side letter embroiled the corn industry in a series of events, resulting in no access to the Mexican market.

In the past several weeks, leadership from NCGA, the corn refiners, and the sugar industry have been meeting to develop new ideas on how to help the U.S. Government resolve the ongoing sweetener dispute. We hope this alliance will allow all three parties to realize the benefits of NAFTA.

Under NAFTA, corn is one of the last commodities to experience tariff elimination, and as a result, did not experience the same threats of antidumping cases or disruptions at the border until very recently.

Last spring, the government of Mexico and the Mexican producer groups signed the National Agreement on Agriculture, NAA. Among its many provisions, the agreement calls for immediate consultations to establish a permanent import control mechanism for white corn, and encourages the establishment of domestic production contracts to reduce dependence on U.S. yellow corn imports.

While taking these developments seriously, we also perceive the NAA as a political response to increasing domestic pressures leading up to their Congressional elections in July. Since the election, we have heard of no additional action regarding white corn exports from the United States.

The lack of action to date may be good news, or it may be the calm before the storm. Either way, if the underlying cause of farmer discontent in Mexico is left unresolved we will have more significant trade disruptions in the future.

I believe rural development and the ability of farmers to remain profitable is at the very core of the agricultural problems we are discussing today. It would be in our best interests to work cooperatively with Mexican producer groups in the ultimate pursuit of maintaining profitable and vibrant agricultural sectors.

While free and fair trade promotes positive economic development, this premise is by no means universally accepted. Groups such as OXFAM International and Green Peace are waging a campaign against free trade agreements between developed and developing countries.

NAFTA is one of the targets. These groups are in many ways directly responsible for the recent collapse of negotiations at the WTO ministerial conference in Cancun.

Last month, OXFAM International released a report entitled "Dumping Without Borders: How the U.S. Ag Policies are Destroying the Livelihoods of Mexican Corn Farmers."

Amid many false claims, the report lacks a fundamental understanding of the U.S.-Mexico coarse grain trade. It uses inaccurate data on current domestic supports and uses sloppy methodologies for analysis. First, trade rules are not slanted in our favor.

Since the beginning of the Fox administration, Mexico has had a specific tariff line for white corn for human consumption and it retains the authority to limit yellow corn imports through tariff rate quotas as well.

Furthermore, Mexico is unable to be self-sufficient in yellow corn production. Mexican corn production has flattened, at about 19 million metric tons for the past decade, with yields averaging only 40 bushels per acre compared to 140 bushels per acre in the United States.

The report also relies on data from non-official sources and uses subjective analyses masked as an objective study. Finally, the use of anecdotal evidence is meant to elicit an emotional response rather than discover the real cause of rural poverty in Mexico.

In the end, the political agenda of groups like OXFAM will only hurt Mexican farmers and those in other developing countries. It is impossible to deny the positive benefits of NAFTA and the more than \$110 billion in foreign direct investment generated in Mexico.

Trade with Mexico is important and every effort should be made on both sides of the border to ensure disruptions are minimal. Corn growers have been party to some of the greatest success stories of NAFTA, and also its worst failure. Our strong belief in trade compels us to resolve these issues.

Mr. Chairman, you have our thanks for your strong support and continued vigilance on this issue. In order for us to move forward, we need to show producers throughout the midwest and across the country that trade has real benefits.

Mexico is vitally important in this regard and we pledge ourselves to work with Congress, the administration, and other agricultural organizations to fulfill the promise of NAFTA on both sides of the border.

I thank you again for the opportunity to address the committee.

The CHAIRMAN. Thank you very much, Ron.

[The prepared statement of Mr. Litterer appears in the appendix.]

The CHAIRMAN. Now, Mr. Jorgenson?

STATEMENT OF MICHAEL W. JORGENSEN, PRESIDENT AND CHIEF EXECUTIVE OFFICER, ROQUETTE AMERICA, INC., KEOKUK, IOWA, ON BEHALF OF THE CORN REFINERS ASSOCIATION

Mr. JORGENSEN. Mr. Chairman and members of the committee, I am Mike Jorgenson, president and CEO of Roquette America, and the immediate past chairman of the Corn Refiners Association.

The Corn Refiners Association represents the corn wet milling industry, which processes corn into a number of products for use in food and industrial applications.

We are the makers of the high fructose corn syrup, or HFCS, a sweetener that is found in many processed foods and beverages. Half of the sweeteners used in the United States are derived from corn, and 226,000 jobs are generated by our corn sweeteners alone.

Our industry has been embroiled in a trade dispute with Mexico for more than 7 years on high fructose corn syrup. This sweetener dispute has exacted a heavy toll on this industry. Jobs have been lost, plant capacity has been idle, and significant losses in investments have occurred.

Most damaging, we have been completely denied access to our top export market in Mexico for 21 months now. This is an untenable situation and cannot be allowed to continue.

Mexico is a market with an estimated long-term potential of 2 million metric tons of high fructose. This equates to more than 133 million bushels of corn growth on over 945,000 acres annually. That production opportunity has been lost for America's corn farmers and our refiners.

We invested heavily to meet the new demands of the Mexican market, only to see that market unfairly and illegally denied to us. Our industry should be well on its way to reaching the 2 million metric ton potential in Mexico. Shortly after NAFTA was implemented we did experience increased market access to Mexico, and then our troubles began and have only intensified since then.

In 1997, Mexico took the U.S. corn refining industry hostage. It was at that moment in time that the origins of this dispute became very clear to us all, and that is there is no bilateral agreement that governs the Mexican sugar access to the United States, because the Mexican government never signed, nor ratified, the NAFTA side letter on sugar.

So, just as the high fructose exports were increasing into Mexico, a perfect storm slammed the U.S. corn refining industry. The first-line assault on our exports began with an illegal antidumping investigation in 1997.

We played by the rules and won five separate WTO and NAFTA panel rulings against Mexico over the course of four long and grueling years. Despite these illegal dumping duties, our product was still competitive in Mexico.

The Mexican government then entered into a collusive agreement with the Mexican soft drink bottlers to cap the high fructose market. We filed a 301 petition with the U.S. Government to challenge Mexico's actions. Again, our industry played by the rules.

When Mexico finally lifted the dumping duties on our high fructose exports, it just simply substituted on illegal action for another. In the middle of the night, January 1, 2002, Mexico implemented a 20 percent tax on all beverages sold in Mexico that are not sweetened with its own cane sugar.

This highly discriminatory tax was aimed squarely at our high fructose corn exports and the production of high fructose by U.S.-owned plants in Mexico. The so-called soda tax shut down our top export market overnight, and that was nearly 2 years ago.

Never in recent U.S. history has an industry been shut out of its top export market for this extensive period of time. It is a dangerous situation to let fester and one that severely harms our industry.

To add insult to injury, Mexico is now importing in excess of 120,000 metric tons of sugar into its market. Investors interested in the Mexican market should think twice.

What can be done to resolve this terrible sweetener dispute with Mexico? There are two paths to resolution. One, is a pro-trade solution that involves a negotiated settlement with Mexico on sweeteners. This approach is a win-win for all parties and we fully support it.

The other path involves retaliation for Mexico's discriminatory and abusive actions, in essence, a trade war. We believe that path will become necessary if Mexico does not return to the negotiating table in the very near term and work in earnest to find a solution.

We applaud the leadership efforts of Chairman Grassley in calling this hearing and working diligently to resolve the sweetener dispute with Mexico. Resolution of this very devastating situation with our most important trade partner is our industry's top trade priority.

We look forward to working with you, Mr. Chairman, and your colleagues in both the Senate and House to resolve this dispute once and for all. Every effort must be taken.

If necessary, the gloves must be taken off to bring an end to one of the longest and most complex problems in our agricultural trade relationship with Mexico. I thank you very much for this opportunity to testify.

The CHAIRMAN. Thank you, Mr. Jorgenson.

[The prepared statement of Mr. Jorgenson appears in the appendix.]

The CHAIRMAN. Now, Mr. Satterfield?

STATEMENT OF TRAVIS SATTERFIELD, RICE FARMER, BENOIT, MISSISSIPPI, AND CHAIRMAN, RICE COMMITTEE OF DELTA COUNCIL

Mr. SATTERFIELD. Mr. Chairman, I would like to point out, this is the first time I have ever testified before a Congressional committee. I was scheduled to testify in 1993 or 1994 and we had a snowstorm. With the recent hurricane, I thought that may be some kind of a warning we were having. So, I would to point that out.

Mr. Chairman and members of the committee, my name is Travis Satterfield and I am a rice producer from Benoit, Mississippi. I appear before you today representing Delta Council, which is the principal voice representing the interests of cotton, rice, catfish, grains, and oilseed in the Mississippi Delta.

We are also pleased to advise the committee that both the USA Rice Federation and the U.S. Rice Producers Association have requested that their organizations be associated and considered in support of our statement before you today.

First, we would like to express our appreciation to the committee for placing emphasis on the importance of trade relations between U.S. agriculture and Mexico.

Mexico is a major importer of U.S. agricultural commodities. With specific reference to U.S. rice, Mexico is our largest export market.

In 2002, U.S. rice farmers exported 730,000 metric tons of rice to Mexico. This reflects a substantial improvement from the period of the early 1990's, when we only exported 146,000 metric tons.

U.S. rice accounts for 92 percent of all of Mexico's rice imports, and almost one-half of all the rice consumed by their population is purchased from the United States.

Since the per capita rice consumption in Mexico was extremely low, the U.S. rice industry had anticipated that consumption will grow in Mexico as import duties on rice from the United States ended January 1, 2003.

It is important for us to point out that Mexico's decision to impose punitive antidumping duties on certain imports of milled rice from the United States is a serious blow which threatens to erode the full benefits of NAFTA to U.S. rice producers, millers, and exporters.

These antidumping penalties against the U.S. rice industry came at a conspicuous time, since import tariffs on milled rice were lifted January 1, 2003, in concert with the terms of NAFTA.

The consequence of this antidumping penalty against U.S. milled rice is already registering problems, as we look at a 34 percent decline in exports of U.S. milled rice during the first 3 months of 2003 as compared to 2002.

As farmers and as a rice industry, we enjoy trade relations with Mexico which have resulted in Mexico becoming our primary rice customer. However, in response to the antidumping duty which has been imposed on U.S. milled rice, our industry will continue legal action in the form of an appeal within Mexico, and we support a filing by the U.S. Government for a dispute settlement case in the WTO.

The U.S. rice industry is heavily dependent upon rice exports and it is essential to us as rice producers that we maintain a continued growth of the export market to Mexico.

We value Mexico as a primary market for rice. But in the spirit of enforcing existing agreements and obligations which are critical to maintain open markets, we hope that the U.S. Government will consider the recent imposition of antidumping duties on milled rice and other U.S. rice commodities by the Ministry of the Economy for Mexico as a very serious matter.

On behalf of Delta Council, the U.S. Rice Federation, and the U.S. Rice Producers Association, we want to thank the committee, Mr. Chairman, for affording us the opportunity to appear before you today and to make these comments. Thank you very much.

The CHAIRMAN. Thank you.

[The prepared statement of Mr. Satterfield appears in the appendix.]

The CHAIRMAN. Now, Mr. Caspers?

**STATEMENT OF JON CASPERS, PORK PRODUCER,
SWALEDALE, IOWA, AND PRESIDENT, NATIONAL PORK PRO-
DUCERS COUNCIL**

Mr. CASPERS. Thank you, Mr. Chairman and members of the committee. I am Jon Caspers, a pork producer from Swaledale, Iowa and president of the National Pork Producers Council.

In 2002, U.S. pork exports set another export record. Much of the growth in U.S. pork exports is directly attributable to new and expanded market access through recent trade agreements.

While U.S. pork producers and others in agriculture have benefited significantly from past trade agreements, we must all remain vigilant in protecting the gains made in past trade agreements.

It is imperative that the U.S. act decisively to protect the gains made in these agreements in order to retain and shore up in U.S. agriculture U.S. agriculture's support for new trade initiatives.

Effective May 26 of this year, Mexico terminated its antidumping duty order on U.S. live hogs. While this is a most welcome development, Mexico's most recent actions with respect to U.S. pork imperiled the livelihoods of thousands of U.S. pork producers.

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.

The antidumping investigation that Mexico initiated against the U.S. pork exports on January 7 is probably the greatest abuse ever of WTO antidumping rules.

As underscored by USTR in its discussions with Mexico, the case was illegally initiated and must be terminated. In addition to the illegal initiation of an antidumping case against U.S. pork, Mexico continues to illegally stop U.S. pork at the border for alleged sanitary concerns.

In December of 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.

Just earlier this year, Mexico slowed U.S. pork exports by testing for copper and other heavy metals. Most recently, Mexico has promulgated new regulations which are clearly intended to restrict pork, beef, and poultry exports to Mexico.

To make matters even worse, Mexican producers and members of the Mexican Congress are claiming, based on dubious data, that U.S. pork exports to Mexico have increased in 2003.

As detailed in the table in my written statement, the preliminary Mexican statistics overstate U.S. exports by approximately 17 million kilos, or 234 percent, in the month of January of this year alone, and by approximately 53 million kilos, or 162 percent, during the period from January through May of this year.

This gap between U.S. and Mexican data is far outside the historical variance and can only have been caused by incorrect data. In fact, as demonstrated by the official U.S. export statistics, U.S. exports of pork are decreasing in 2003.

It is imperative that the U.S. Government convince the Mexican government to base its decisions in the pork antidumping case on accurate import data. The preliminary determination in the antidumping investigation could be issued imminently.

The possibility of an affirmative finding of injury by Mexico, with the imposition of trade-restricting antidumping duties, is exacerbated by these data.

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 our industry.

Mexico is the second-largest export market for the U.S. pork industry. In 2002, the U.S. exported to Mexico over 217,000 metric tons of pork, valued at approximately \$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. U.S. producers have 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.

Mr. Chairman, thank you for the opportunity to present this testimony.

[The prepared statement of Mr. Caspers appears in the appendix.]

The CHAIRMAN. Mr. Stokes and Mr. Rice, I am going to have to go vote and there are no members here to hear you. So, you will just have to be in recess until I get back.

[Whereupon, at 11:31 a.m., the meeting was recessed.]

The CHAIRMAN. Mr. Stokes, would you proceed, please?

**STATEMENT OF TERRY STOKES, CHIEF EXECUTIVE OFFICER,
NATIONAL CATTLEMEN'S BEEF ASSOCIATION, DENVER, COLORADO**

Mr. STOKES. Thank you, Mr. Chairman.

I am Terry Stokes, chief executive officer of the National Cattlemen's Beef Association. I want to thank you for this opportunity to present our views on the long-time trading relationships between the U.S. and Mexico on the live cattle and beef trade.

We have traded with Mexico in cattle for over a century. On a personal note, I have close friends in South Texas like Jim Peters, whose entire livelihood depends upon this relationship.

Because of this relationship between the two countries, we have been able to successfully address such animal health issues at foot and mouth disease, screw worm eradication, tuberculosis, and brucellosis. Because of the implementation of NAFTA, this relationship has continued and we have seen trade between the two countries grow stronger.

Since the beginning of NAFTA, we have seen beef exports, in tonnage and value, increase three- and four-fold, respectively. This is mutually beneficial to the Mexican cattle industry, as the U.S. imports of live cattle from Mexico is approximately one million head of feeder cattle annually, at a value of over \$300 million.

In light of this positive result, there are still some key issues that need to be addressed between the U.S. and Mexico as it relates to the beef industry. I would like to highlight two of these.

NCBA received news earlier this year that the Mexican cattle industry had filed a petition with its government asking for a safe-

guard due to a surge in beef imports. Although the details are still not clear regarding exactly which Mexican entity is behind this effort, it is believed that the Mexican livestock producer group, CNG, and the Mexican Cattle Feeders Association both strongly support this initiative.

Such a case, if accepted by the Mexican government, would have to meet the surge in injury criteria of a WTO safeguard. We see no evidence that these criteria ever existed, since this year's level of exports to Mexico are at the same level of last year, and we have seen an increase of imported live cattle from Mexico of 180,000 head year-to-date.

Initially, this posturing was thought to be politically motivated prior to Mexico's election. However, we continue to believe that the Mexican government may yet bring this safeguard forward.

We do not mean to suggest that the Mexican cattle industry has not suffered significant turmoil in recent years. This is no different than what we have seen in the cattle industry in the U.S.

However, these problems stem from a persistent draught and the Mexican cattle ranchers' inability to borrow money due to the absence of banking infrastructures in rural Mexico.

These are not issues that have anything to do with the U.S. beef industry or NAFTA. Yet, NCBA has repeatedly heard from the CNG leadership, our counterpart in Mexico, that they want a deal like was done with poultry.

These officials make no apologies for their desire to renegotiate NAFTA in favor of some form of managed trade due to their misguided belief that U.S. beef is somehow being sold to Mexico for less than its cost of production. This has been the argument for the last decade.

We have engaged in repeated efforts, along with USDA and USTR to help the Mexican government better understand the U.S.-Mexican beef trading relationship. This has included trips to Mexico City in April and several discussions between NCBA, CNG officials, and the SAGARPA Secretary Usabiaga to resolve these tensions.

We still believe that Mexico is considering bringing this safeguard case against the U.S. beef industry. The technical details of this case are outlined in our written testimony. I might add that this safeguard case is not the first to be brought to the U.S. or U.S. industry.

The second issue that I would like to highlight is an antidumping suit that was brought against the industry nearly 3 years ago. This has been mentioned several times previously in testimonies, including that of Mr. Johnson.

On that date, Mexico's Secretary of Commerce and Industrial Development issued its final decision on an antidumping case against exporters of U.S. beef and beef variety meats by imposing a complex set of specific duties on most beef carcasses and cuts.

Typically, an antidumping preliminary measure cannot last for more than 4 months. What we have seen, is that this has been continually delayed. We asked for a NAFTA panel to address this issue and their actions have not only been delayed once, twice, but have been delayed repeatedly.

We see that this issue must be resolved if we are to continue healthy relationships with Mexico. Resolution of these two key trade issues are imperative to a healthy trade relationship between the U.S. and Mexico, and continued growth of our industries. We are supportive of both free trade opportunities, but not without fair trade provisions.

We thank you for this opportunity to present this information to you today, and we will be glad to take any questions.

The CHAIRMAN. Thank you very much.

[The prepared statement of Mr. Stokes appears in the appendix.]

The CHAIRMAN. Mr. Rice?

STATEMENT OF JOHN RICE, RICE FRUIT COMPANY, GARDNERS, PENNSYLVANIA, ON BEHALF OF THE U.S. APPLE ASSOCIATION

Mr. RICE. Thank you, Mr. Chairman.

My name is John Rice. I am a seventh generation apple grower from Gettysburg, Pennsylvania. My three brothers and I own and operate 900 acres of orchards in Adams County, Pennsylvania.

Together, we manage a packing company which markets fresh apples from more than 60 family farms in South Central Pennsylvania, Maryland, Virginia, West Virginia, and New York.

I have been assisted in my testimony today by the U.S. Apple Association, of which I am the immediate past chairman. USApple is the national trade association which represents all segments of the U.S. apple industry.

My statement also includes input from the Northwest Fruit Exporters, an organization which represents the international trade interests of apple marketers and exporters in Washington, Oregon, and Idaho.

NFE has been in the forefront of opening the Mexican market, since their members have shipped the vast majority of U.S. apples to Mexico under Mexico's restrictive phytosanitary import protocol.

Just last year, Michigan and Virginia finally received certification compliance with Mexico's protocol after years of effort. Unfortunately, neither State has been able to export apples to Mexico in a significant volume due to recently imposed trade restrictions.

Some apple producing States have been effectively shut out of the Mexican apple market because Mexico does not recognize the validity of phytosanitary inspections by USDA APHIS inspectors, but requires the on-site approval of Mexican inspectors at U.S. industry expense.

States like Pennsylvania, the fourth-largest apple producing State in the country, cannot recoup the hundreds of thousands of dollars required to hire, transport, and house the Mexican inspectors.

An open Mexican market without restrictive trade barriers is important to all apple producing States in the entire U.S. apple industry. Apples that would have gone to Mexico in a free trade environment are now staying in this country, causing market surpluses and low prices for all U.S. apple growers.

The Mexican market, which was opened to U.S. apples just before adoption of the North American Free Trade Agreement, quick-

ly became the U.S. apple industry's largest export market for fresh apples.

Prior to Mexico's arbitrary imposition of a 46.5 percent import tariff on Red and Golden Delicious apples in August of 2002, Mexico accounted for 27 percent of all U.S. apple exports, some 8 million boxes worth more than \$100 million annually.

U.S. apples have represented 80 to 85 percent of total Mexican apple imports, with Red and Golden Delicious apples accounting for approximately 90 percent of all apples imported from this country.

Mexico's treatment of U.S. apple imports is part of an unfortunate trend in Mexican agricultural trade policy towards erecting new protectionist trade barriers. I come before you today to ask for aggressive support and collaboration between Congress and the administration on a concerted strategy to reduce Mexico's import barriers to U.S. apple exports.

Your active engagement with the government of Mexico can help create an environment to bring this vital trading partner back to the negotiating table to address Mexico's trade-distorting import duty and reach a settlement agreement.

Mexico primarily utilizes two forms of trade barriers against U.S. apple exports: import duties and quarantine restrictions. Mexico's import duty of 46.5 percent on Red and Golden Delicious apples was imposed last year as a result of an antidumping case brought by Mexico against the U.S. industry in 1997.

In September of that year, Mexico announced that it was beginning an antidumping investigation into the importation of U.S. apples and began levying a preliminary duty of 101 percent.

Immediately prior to a final dumping determination in March of 1998, the U.S. apple industry and the Mexican government entered into a suspension agreement that replaced the preliminary antidumping duty with an annually adjusted reference price, or minimum sales price.

Mexico conducted annual audits to ensure compliance with this pricing agreement. In November of 2000, the Mexican apple industry appealed the reference price system in Mexican court.

NFE addressed Mexico's concerns and offered to negotiate new terms to the suspension agreement. In July of 2002, the Mexican government announced it had investigated the reference price system and decided to continue it.

The next month, in August, 2002, Mexico revoked the suspension agreement and imposed an antidumping duty of 46.5 percent on Red and Golden Delicious varieties. No provision was made to exempt shippers from States such as Michigan or Virginia, which had no previous access to the Mexican market and therefore no export history upon which to base an antidumping duty. Instead, all U.S. Red and Golden Delicious apples face a prohibitive 66.5 percent import duty due to the additional 20 percent NAFTA duty in place at that time.

When Mexico opened its market to apples in 1991, it imposed extremely detailed quarantine regulations that drove up costs and discouraged imports. At the time, and subsequently, USDA and the U.S. apple industry argued that those restrictions were without scientific merit and should be removed.

Since 1991, Washington, Oregon, and Idaho have exported over 50 million boxes of apples to Mexico, and not a single live quarantine pest has ever been detected in all those years and in all those shipments.

This fact alone should bolster the argument that Mexico's restrictions are inconsistent with the quarantine threat. Nonetheless, last month Mexico submitted numerous changes it wants made to the regulations. These changes would make existing regulations even stricter and add to the cost of exporting U.S. apples, an unfortunate and unnecessary step backward.

In conclusion, the U.S. apple industry is eager to export its apples to our customers in Mexico. We are proud of our ability to produce excellent apples and seek an opportunity to sell them fairly and openly in the Mexican market.

The U.S. apple industry supported passage of NAFTA, and NAFTA helped to make Mexico a major U.S. apple export market. Certainly, there has been benefit to both economies. However, in order for the U.S. and Mexico to be good trading partners, we must have confidence that trade regulations are consistent with the spirit and intent of NAFTA and based on sound scientific assessment of actual risk.

Thank you for this opportunity to explain these important issues facing the U.S. apple growers. I would be glad to answer questions.

[The prepared statement of Mr. Rice appears in the appendix.]

The CHAIRMAN. Well, thank you very much.

First of all, I need to thank all of you for your testimony. I hope I can get my questions answered before a second roll call vote. The first one has not even ended yet so I am still all right, but I will have to watch the clock.

Mr. Sarmiento, I have here a report that you have written called "NAFTA and Mexico's Agriculture." I am going to have that included in this committee record.

[The report appears in the appendix.]

The CHAIRMAN. But I do have a question about it.

Mr. SARMIENTO. Sure.

The CHAIRMAN. You stated that some Mexican government officials are calling for the re-negotiation of NAFTA. Do you think that that is a justified position or do you think that that is politically motivated?

Mr. SARMIENTO. It is politically motivated. It is not really Mexican political officials, but Mexican politicians, which is different. It is mostly Congressmen and it is mostly people belonging to the former ruling party, the PRI, Institutional Revolutionary Party.

They believe they can make their opposition to NAFTA a good banner to get more votes in elections. It is basically a demagoguery position. But it is clear that the Mexican government is opposed to that. That is the position of the Mexican government.

The CHAIRMAN. Mr. Litterer, you note that Mexico is unable to produce enough corn to meet its domestic consumption needs. What would be the effects on Mexican consumers and the Mexican livestock industry if imports from the U.S. were restricted?

Mr. LITTERER. Well, quite obviously, if corn was not allowed to be exported into Mexico, it would immediately raise their cost of production and have an immediate impact on food costs to the con-

sumers. It would be counterproductive to raising the standard of living for their people.

The CHAIRMAN. Mr. Jorgenson, what has the loss of the Mexican high fructose corn syrup market meant specifically for your business, the one you are CEO of?

Mr. JORGENSEN. The situation with the high fructose corn syrup exports has caused us to go into a very serious down sizing and almost a loss of the commodities business in Keokuk, Iowa, which already has the highest unemployment rate. So, we went through very, very severe, tough times.

Other industries, other competitors have actually disappeared. Some of the co-ops, et cetera, that were designed to serve this market have now disappeared as a result of these actions in Mexico.

The CHAIRMAN. Also to you, Mr. Jorgenson. And I have already spoken about my view on this 20 percent tax that was imposed by the Mexican Congress. I think it is a blatant disregard for Mexico's trade obligations under treaty.

What steps, not only for your plant but as an industry representative, would you see the Mexican government taking in the short term that would demonstrate good will to resolve the problem? In other words, if we were looking for some indication that things are changing in Mexico, at a minimum, what would you like to see that be?

Mr. JORGENSEN. An immediate repeal of the tax would be an indication that Mexico really was going to abide by the agreements set forth in NAFTA.

The CHAIRMAN. This is not directed to a specific person on the panel. But could I comment about OXFAM's report, that I found it to be incomplete? That was highly publicized at the Cancun ministerial. Because this report only tells part of the story.

The report says that "U.S. corn subsidies are the cause of Mexico's agricultural problem." Unfortunately, we saw the same mentality dominate the thinking of the developing nations during this Cancun conference, particularly those 21 countries led by Brazil. Yet, developing nations are ignoring their own internal problems, subsidies and trade barriers.

I would say, for example, one of the biggest problems in Mexican agriculture is the fragmentation of land and the lack of full property rights. In Brazil, bound tariffs average 37 percent. Egypt's bound tariffs average 62 percent. In India, it is 112 percent.

Many of these tariffs are imposed on goods from developing nations. The fact is, with the failure to move forward on the WTO negotiations, we lost a great opportunity to reduce subsidies and other distorting factors.

So, in my view, the failure of many developing nations to acknowledge the need to reform their own economies is, in large part, why negotiations in Cancun failed.

So, here is what I would like your response on. Now that the World Trade Organization talks are on hold, where do you see the greatest international market opportunities for U.S. corn producers, and U.S. agriculture generally? I presume that that would be Mr. Jorgenson or Mr. Litterer.

Mr. LITTERER. Well, maybe I could start, Chairman Grassley.

The CHAIRMAN. All right.

Mr. LITTERER. We were disappointed. The National Corn Growers Association was very disappointed that the talks broke down in Cancun. We were very pleased, though, that many of our Congressmen were there representing and supporting American agriculture.

From our perspective, the ministerial was very important in developing further markets for corn in the international marketplace. But we do see developing countries as the greatest potential for the corn market.

Simply put, as the standard of living rises in developing countries, the need for improved diets and protein for their diets means that livestock will become a greater part of their food system. So, developing countries, in our minds, are the best alternative for expanding trade for corn producers.

The CHAIRMAN. Do you have something to add, Mr. Jorgenson?

Mr. JORGENSEN. Yes. I would like to also support that and probably add on that it is a win-win situation for both our trading partners, as well as the United States, to take the technology that is derived for converting corn into various products which would raise the standard of living for developing countries.

These types of actions that inhibit that kind of free trade only serve to hurt both parties in the end. So, I think that is the part that we have to move forward on in these kinds of negotiations.

The CHAIRMAN. Mr. Caspers, in regard to the trade remedy investigations and NAFTA, do you believe that these Mexican dumping and safeguard investigations are being used to force a sector-by-sector re-negotiation of the agricultural provisions of NAFTA, essentially cutting off U.S. agricultural exports until our producers have to negotiate for continued access to the Mexican market?

Mr. CASPERS. Well, it certainly appears that way to us. In fact, we meet periodically, twice a year, and we have for a number of years, with the Mexican pork producers. They seem very intent on trying to work out some kind of a managed trade deal. They want to do that. Of course, we tell them we cannot negotiate that.

We always ask them, if they have any proposals, to submit them to their government, and they can give them to our government and we would certainly be willing to take a look.

But it just appears that, sector by sector, commodity by commodity, they are looking for any way they can to impede trade. It is not right. I think we need to stick by the NAFTA agreement. We have an agreement. I think it is good. It has been beneficial for both countries. Certainly Mexican agriculture has benefitted.

I think we heard some statistics about that today. In fact, I think it is even possible that Mexican agriculture can even run a surplus this year. So, they have benefitted. I think we need to have a clear message from all segments of our government that there will be consequences, that they cannot keep doing these things. The U.S. has just got to respond.

The CHAIRMAN. Here is something that is going to tickle you, but it is a sad commentary on this whole issue of dealing with trade issues with Mexico.

Before I read here, the purpose of this is to point out that not only would our global safeguards not resolve the underlying structural problems of the Mexican beef industry, but it would also hurt Mexico's consumers.

It appears that Mexico's antidumping order on U.S. beef, which you described as arbitrary and capricious, Mr. Stokes, is already hurting the economy. So, this is what I am reading from a menu from the restaurant in Cancun, Mexico.

It says, "Due to the U.S. meat shortage, our costs have increased and we are forced to raise prices of these dishes in order to continue serving you the quality we are known for."

So, what steps can we take to help get this message across to the Mexican government that, in fact, we are prepared to supply Mexican consumers their products so that they do not have to use this intellectually dishonest disclaimer down here?

Mr. STOKES. I think the message that we have to communicate to the Mexican government is two-fold. One, is the strong demand that the Mexican consumers do have for our product, and that it provides them a choice as we have seen that growth in demand.

Also, second, we have to address and take a hard line on these things like antidumping suits, which we have seen to be a central theme today of how they want to address trade, as well a safeguard provisions, so that their consumers can have that right of choice and be able to make those selections when they go to the restaurants or to the grocery store.

The CHAIRMAN. I am going to continue to ask questions, but my staff just advised me that there are only 12 minutes left on the second vote. I am going to ask my staff to tell me when there are four minutes left, which means that I will probably get up in the middle of one of your answers.

Then when you finish your answer, whoever is answering at that point, you will just be dismissed. I will not be able to come back to complete the hearing because we have our policy meeting right after this vote.

I think you have answered the question very clearly. I hope that Mexico understands that we understand these games that are being played.

Mr. Satterfield, can you discuss some of the details regarding Mexico's antidumping investigation into the rice imports? Did the investigation comply with applicable WTO and NAFTA rules?

Mr. SATTERFIELD. I am not really that I can really answer the technical aspects of that. From the standpoint of a producer, we feel like their imposition was unfounded.

In our concern in rice, it was against a certain segment of the rice industry, or against processed rice, and not against the milled rice. So, we feel that there was really a pick-and-choose type of situation that we felt was unfounded.

The CHAIRMAN. What about from the standpoint of knowing what is going on as far as Mexico's conducting the investigation? Did you feel it was open and transparent?

Mr. SATTERFIELD. No, sir, we do not.

The CHAIRMAN. All right.

Then Mr. Rice, I have a question for you. You stated, if I heard you right, that in July of 2002, the Mexican government announced that it had investigated the reference price system agreed to in the suspension agreement, and that it had decided to continue the system.

Then 1 month later or less, the Mexican government revoked that agreement and imposed antidumping duties. Could you describe the intervening process that led to the revocation of the suspension agreement, and was the process transparent, along the lines that I asked Mr. Satterfield, about that investigation for rice?

Mr. RICE. Mr. Chairman, I will probably have to defer the answer of that to a written answer. The NFE was primarily involved in those negotiations.

I can answer as an apple grower and as a member of the U.S. Apple Association that it certainly was a surprise to us. We had no indication that Mexico was about to reverse its position. It came at a very bad time, as the industry was about to harvest its 2002 crop.

The CHAIRMAN. If your organization would submit a written answer to the part that you could not answer, I would appreciate it.

[The information appears in the appendix.]

The CHAIRMAN. Well, I have gotten through my questions. I did not think I would be able to do that.

Once again, the purpose of this hearing is not only to give you and our own executive branch of government an opportunity to see how, respectively, you see it at the grassroots, or our own people see it at the executive branch.

But, also, to send a clear signal to Mexico that this is a very important issue with us. In some areas, we have been working with them for a long, long time to get these issues settled.

There is no reason, when we have things laid out with the rule of law in international trade as we have, and things that are even less subjective than law, sanitary and phytosanitary rules or science rules, that it is really almost impossible, if you are going to be in the world community of nations, to play games like we are seeing played. So, we hope that those games will end very soon.

So, I thank you very much. I want to say for my staff, we are going to keep the record open for 2 days. But that is not for you folks. That will be two day for people to submit questions. Then after you get those questions, if you could return them in 2 weeks, we would appreciate it. Thank you very much.

The hearing is adjourned.

[The questions from Senator Bunning along with his prepared statement appear in the appendix.]

[Whereupon, at 12:12 p.m., the hearing was concluded.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

PREPARED STATEMENT OF HON. MAX BAUCUS

Mr. Chairman, thank you for holding this important and timely hearing. Having just returned from the recent World Trade Organization (WTO) Ministerial talks in Cancun, and having witnessed their collapse, I am deeply concerned about the direction of global trade in agriculture. Many of our trading partners cynically and selfishly depict the current problems in global agriculture as the result of nothing more than subsidies and unfair trading practices in the developed countries. But we know that this depiction presents a grossly misleading and incomplete view.

As a whole, the distortions in global agriculture markets are highly complex and exist in virtually every country. In fact, the vast bulk of market access barriers faced by farmers in developing countries are imposed by other developing countries. We cannot reform the global market until every country accepts the joint responsibility of making a global agreement work. This is a tough responsibility to accept, but the sooner done, the better.

The main problem of the recent proposal put forward by a group of developing countries—the so-called “G-22”—is that it purports to solve a global problem with a non-global solution. And some of our partners, such as Brazil, seem unwilling to make even modest commitments. So, even as we contemplate the future of the Doha Round, we must keep pushing forward to negotiate bilateral and regional Free Trade Agreements (FTAs) that offer real economic opportunities.

Yet, when I talk to farmers and business people back home in Montana, they tell me they are more concerned about our existing free trade agreements than they are about any future agreements. They want us to make sure our current agreements are actually working. Their message is simple: Our trade agreements are worthless if the parties that sign them don't live up to them.

And this brings us to the purpose of today's hearing. Ten years after the negotiation and approval of North American Free Trade Agreement (NAFTA), we have the unhappy task of trying to untangle trading knots with Mexico that involve nearly a dozen commodities and impact farmers in every major producing area of the country. In Montana alone, thousands of cattle ranchers and dry bean farmers are fighting against unfair barriers to a country that has become their most important export market.

Even in the disputes involving imports from Mexico, such as sugar, the disagreement has become terribly complicated. With sugar, which is not covered by today's hearing, but very much a part of our trading relationship, the problem is not a simple matter of more efficient farmers overcoming less efficient farmers. That would be a false characterization. Rather, the problem is about whether the Mexican sugar industry is going to modernize and rationalize, by, for example, a complete and genuine privatization and consolidation of its many mills.

All of these examples point to a basic problem: Mexico's unwillingness to adjust to competition through the reforms that only that country can undertake. If our partners in the developing world want to modernize and grow their economies, they have to recognize that this growth will require reform of their agriculture sectors. One cannot grow and develop, and remain frozen and unreformed at the same time.

Two weeks ago, during the WTO talks in Cancun, I sat down with Fernando Canales, Mexico's Economic Minister. We talked about the agriculture disputes and about the need to resolve them, so NAFTA can benefit both countries. We agreed that the U.S.-Mexico relationship is close and largely successful. Hopefully, as our common experience under NAFTA unfolds, our two countries will grow together.

Yet, if Mexico is going to share in this growth, it must accept that structural changes to some economic sectors must necessarily occur. These changes need not be harmful. They can be good and constructive. It all depends on them.

PREPARED STATEMENT OF HON. JOHN B. BREAUX

Mr. Chairman, I am concerned by the Mexican government's recent announcement that it intends, effective January 2004, to ban shipments of bulk tequila to the United States and elsewhere. I am troubled by this announcement since this action will unquestionably hurt Mexico's exports to its largest tequila market—the United States. Last year, we imported \$214 million dollars in bulk tequila from Mexico. In volume terms, 83% of the total volume of tequila imported into this country from Mexico is shipped in bulk. It is an understatement that this action will seriously disrupt trade and force the closure of certain bottling facilities. In my view, this would also be a clear-cut violation of a number of Mexico's NAFTA and WTO obligations.

I commend the Administration for securing a 60-day postponement from the Mexican government. I understand that despite our efforts to engage with the Mexican government during this period, no progress has been made.

Apart from raising serious NAFTA and WTO concerns, I think that this issue actually has ramifications that extend far beyond tequila. The Mexican government is essentially forcing the cancellation of a number of existing contracts between Mexican and American companies. There are also serious questions about what all this means for existing trademarks—who will own the trademark rights and what will this mean for brands that have been bottled and marketed in the United States for years? These are issues that should concern all companies doing business in Mexico.

I urge the Administration to raise this issue at the NAFTA Ministerial meeting next month.

PREPARED STATEMENT OF HON. JIM BUNNING

Thank you, Mr. Chairman.

I would like to welcome our guests to the committee today. We appreciate your willingness to share your observations and expertise with us. I welcome this opportunity to visit the impact of NAFTA on our agriculture markets.

I opposed NAFTA when it came before Congress in 1993, in part because I was concerned that the agreement forced the U.S. to lower its tariffs at a faster rate than our trading partners were being asked to do. My fears have been at least partially realized since the enactment of NAFTA as the U.S. trade balance with Mexico has shifted from a surplus of \$1.3 billion in 1994 to a generally growing deficit of \$37.2 billion in 2002.

While not directly on point with the agriculture focus of this hearing, I would like to take this opportunity today to raise an issue which is of great importance to many of my constituents. I was perplexed—and also alarmed—to hear of the recent announcement by the Mexican government stating that it intends, effective January 2004, to ban shipments of bulk tequila to the United States and elsewhere. I am puzzled by this announcement because this action will unquestionably jeopardize what is by far Mexico's biggest tequila market—the United States.

Last year, we imported \$214 million dollars in bulk tequila from Mexico. In volume terms, 83% of the total volume of tequila imported into this country from Mexico is shipped in bulk. It is an understatement that this action will seriously disrupt trade and force the closure of certain bottling facilities, possibly including a new bottling plant in Kentucky. In my view, this would also be a clear-cut violation of a number of Mexico's NAFTA and W.T.O. obligations.

I commend the administration for working so quickly when this issue first came up in early August to secure a 60-day postponement of the official announcement—until October 18. This gave the affected U.S. industry some welcome breathing room. But I understand that certain companies in Mexico are lobbying hard to ensure that this new ban will go into effect, and our domestic industry tells me that, despite their efforts to engage with the Mexican government during this period, there have been no discussions.

I urge you to raise this issue at the highest levels at the time of the NAFTA ministerial next month. This may be the last chance before the 60-day period runs out. Apart from raising serious NAFTA and WTO concerns, I think that this issue actually has ramifications that extend far beyond tequila. The Mexican government is

essentially forcing the cancellation of a number of existing contracts between Mexican and American companies.

There are also serious questions about what all this means for existing trademarks—who will own the trademark rights and what will this mean for brands that have been bottled and marketed in the United States for years? These are issues that should concern all companies doing business in Mexico.

I look forward to our discussion today and I again thank our witnesses for their time in appearing before the committee today.

PREPARED STATEMENT OF JON CASPERS

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.

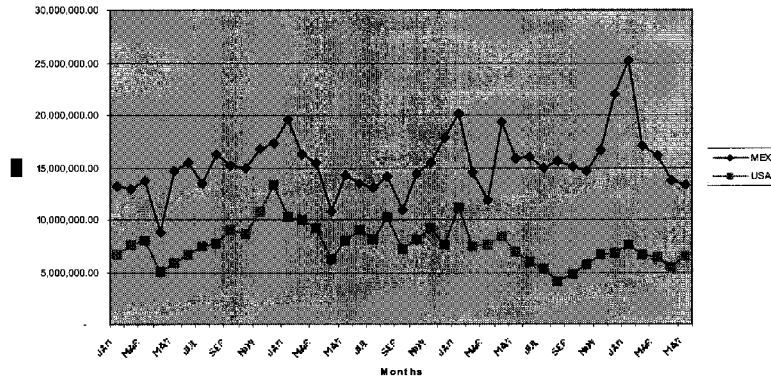
The WTO has already found that each of these errors, taken alone, is sufficient to negate the entire case.

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 pro-

ducers 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.

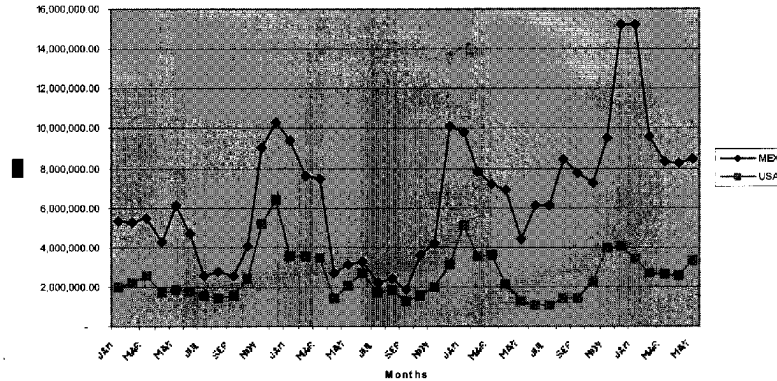
All Products



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.

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

020312 Hams



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 importacion* (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 anti-dumping 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.

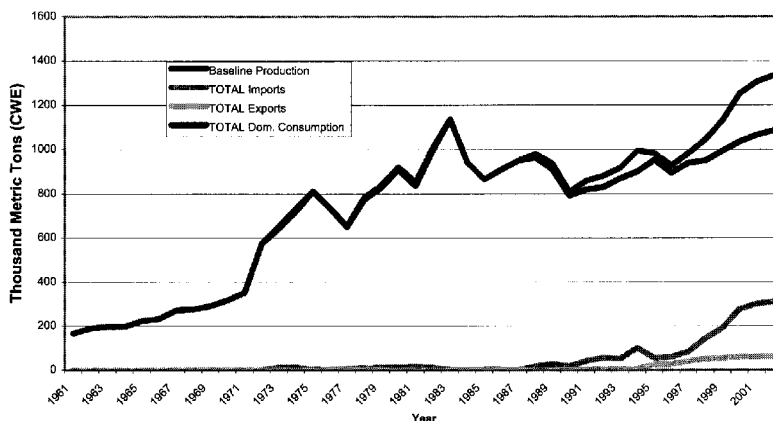
U.S. Producers Face Difficult Economic Conditions

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.

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.

PREPARED STATEMENT OF HON. CHARLES E. GRASSLEY

Good morning. Before we begin, I would like to take a moment to comment on the WTO ministerial which was held recently in Cancun, Mexico. First, I want to thank the Mexican government and the citizens of Cancun for the exceptional manner in which the ministerial was conducted. Hosting a ministerial of this magnitude is no easy task, but the citizens and government of Mexico rose to the occasion. It was a job exceptionally well-done.

I want to make it clear that I consider myself a friend of Mexico and the NAFTA. I think good relations between our nations benefit people on both sides of the border. This is certainly true for U.S. agriculture. Between 1994 and 2002, exports of U.S. agricultural products to Mexico increased by over 90 percent. Mexican agriculture has also experienced significant export gains into the United States in recent years. U.S. imports of Mexican agricultural products grew by almost 97 percent between 1993 and 2001. The United States is by far the largest destination for exports of Mexican farm products, currently taking some 78 percent of all of Mexico's agricultural exports.

Precisely because of the benefits it would bring to both the United States and Mexico, I was a strong supporter of the NAFTA when it was debated in Congress. I continue to believe that NAFTA is a good agreement, and I've consistently worked to see that the United States abides by its NAFTA obligations. After all, a deal's a deal. Trade liberalization only works if all parties to an agreement fulfill their commitments to it. Unfortunately, Mexico has increasingly refused to abide by its international trade obligations for agricultural products under both the NAFTA and the WTO. Mexico's actions, and threatened actions, are causing real harm for corn, hog, and cattle producers in my state of Iowa. U.S. producers of rice, apples, and

dry beans are also suffering from Mexico's barriers. Mexico's actions are hurting a remarkably broad swath of America's agricultural sector.

Mexico is harming U.S. producers not only by impeding imports of bulk agricultural products, but also by taking actions against processed agricultural products. Perhaps most notably, Mexico has repeatedly taken steps—in violation of its international trade obligations—to restrict imports of U.S. high fructose corn syrup. Following the implementation of the NAFTA, Mexico was the largest export market for U.S.-produced high fructose corn syrup. But U.S. sales were hit hard by a Mexican antidumping order imposed against this U.S. product in 1998. The United States challenged this order, and both NAFTA and WTO rulings determined that Mexico's antidumping order violated Mexico's trade obligations. Subsequently, Mexico revoked its antidumping order on U.S. high fructose corn syrup.

Yet Mexico was determined, one way or another, to block access for U.S. high fructose corn syrup. Almost two years ago, in an effort to protect its sugar industry, Mexico imposed a tax of almost 20 percent on soft drinks containing high fructose corn syrup. This discriminatory tax has in effect shut U.S. high fructose corn syrup out of Mexico, thus causing great harm for the U.S. industry. It's also hurting corn farmers across the United States, including Iowa farmers.

Mexico's barriers against U.S. agricultural products threaten to have profound, and distressing, effects on U.S. trade policy. Most of U.S. agriculture was solidly behind the passage of the NAFTA. But with Mexico failing to abide by many of its NAFTA commitments, some in U.S. agriculture are beginning to question the merit not only of the NAFTA, but also of entering into new trade agreements. If U.S. agriculture ceases to support trade liberalization, the entire U.S. trade agenda will be at risk.

Recognizing the threat being posed to the U.S. trade agenda, and recognizing lost sales being experienced by Iowa producers, I've worked diligently to try to persuade Mexico to remove its barriers to imports of U.S. agricultural products. In the past few months alone, I've written to Mexican officials, I've met with Mexican legislators, and I've given speeches on the floor of the U.S. Senate expressing my concerns. In addition, with Mexico specifically in mind, this summer I introduced a special 301 for agriculture bill. I know that Administration officials have also worked hard to see that Mexico's trade barriers are removed, and I commend them for their work.

Yesterday, I was pleased to learn that, after the announcement of this hearing, the Fox Administration proposed legislation to repeal the illegal 20 percent tax on high fructose corn syrup, and I hope that the Mexican Congress will soon pass such legislation into law. Mexico has also terminated its antidumping order on live hogs. These are good developments. Unfortunately, however, the high fructose corn syrup tax remains in place, and other barriers still restrict imports of other U.S. agricultural products, so there is much more to be done. Whenever possible, I will continue to try to persuade Mexico to remove its barriers to imports of U.S. agricultural products. I'll do this, in part, by advancing my special 301 for agriculture legislation, which is cosponsored by Senator Baucus.

Specifically with regard to high fructose corn syrup, an Iowa product that is completely shut out of the Mexican market in violation of Mexico's NAFTA and WTO commitments, I'm contemplating taking a new course of action. If this blatantly illegal tax is not lifted soon, I will be forced to consider introducing legislation which would authorize punitive retaliatory tariffs on specific imports of Mexican agriculture products.

I do not make this announcement lightly. Throughout my tenure in Congress, I've worked actively to reduce tariffs imposed by the United States as well as those imposed by other countries. But the United States has already won NAFTA and WTO cases involving high fructose corn syrup, and Mexico continues to block imports of this product, currently through the use of a discriminatory tax. To be blunt, Mexico's compliance with these rulings is long overdue. At some point, compensation must be authorized.

In conclusion, I'd like to note that Mexico's actions are harming not only U.S. producers, but also Mexico itself. Mexico has long prided itself on following international law. Mexico's failure to abide by its NAFTA and WTO commitments is tarnishing its reputation in this area. The NAFTA has resulted in increased foreign investment in Mexico. But given Mexico's treatment of the U.S. high fructose corn syrup industry, an industry that invested heavily in Mexico, I'd now counsel U.S. companies to think twice before investing in Mexico. As illustrated by this July 26th article in *The Economist*, Mexico can ill-afford the economic damage which declining foreign investment can bring. I ask that this article be placed into the record. Finally, by restricting imports of U.S. agricultural products, Mexico is driving up food prices and thus harming its consumers.

Of course, not every government official in Mexico is advocating such reckless economic policies, and I commend those who are working constructively to try to resolve these trade issues. But, unfortunately, many others in Mexico are calling for trade restrictions and other barriers on U.S. agriculture products purely for domestic political reasons.

I want to send a message today. Mexico's pattern of imposing barriers on imports of U.S. agricultural products is short-sighted, ill-advised, and reckless. It jeopardizes the strong economic relations between our two nations, undermines confidence in the Mexican economy, harms Mexican consumers, and can lead to retaliatory measures. I hope government officials in Mexico are listening.

I stand ready and willing to work with the government of Mexico to resolve these problems. While I am pleased to learn that there may be some movement on lifting the clearly illegal tax on high fructose corn syrup, we need to see good faith movement within the Mexican Congress on this issue, and we need to see it soon.

The Americas

The Economist July 26th 2003



Also in this section

- 36 Celia Cruz: a Latin icon
- 36 Peace with Colombia's paramilitaries?
- 37 Canada's succession walkover
- 37 Canada battles a beef ban

Mexico's economy

The sucking sound from the East

CIUDAD JUÁREZ

Does Mexico really want to move up the development ladder?

DELPHI, a maker of car-parts which was once part of General Motors, is the largest foreign-owned manufacturer in Mexico, with 35 factories. It is especially proud of its research and development unit at Ciudad Juárez, on the northern border. Not only is this the largest of 31 such centres around the world, but it has developed 50 American patents, with others pending. The mainly Mexican workforce is proof, it is said, that the country can compete in high value, high-tech businesses. No wonder that everyone from President Vicente Fox down has posed for photos with Delphi, eager to show that Mexico is at the cutting-edge of the world economy.

But there is now another side to the Mexican economy, one of quiet desperation at the continuing haemorrhage of jobs and factories. In Chihuahua state, where Juárez is, 7% of manufacturing jobs went between January and April 2003. Since the mid-1990s, the manufacturing plants of the northern states have been an engine of Mexico's rapid economic growth. Their stagnation is felt in the poorer south. According to official figures, the national unemployment rate rose to 3.2% in June, up from 2.4% a year ago. Even Volkswagen, seen as a bellwether for Mexico's economy, recently said that it would cut output at its giant plant at Puebla. Some 2,000 jobs may go there.

Optimists, who include government spokesmen, argue that these problems are

largely cyclical. Mexico's close links to the United States' economy through the North American Free-Trade Agreement (NAFTA) mean that just as it benefited from the previous boom, it is now suffering from the slowdown across the border. Take Delphi, whose Mexican plants sell almost exclusively to North America: having peaked at 81,000 in July 2000, its Mexican workforce fell to 68,000. With demand picking up, the number now stands at 70,000. So all Mexico has to do is wait until the behemoth to the north is back in rude health?

No, say the structural pessimists who are now as numerous as the cyclical optimists. Their view can be summed up in one word: China. In the past two years, it has become painfully clear that China is the favourite destination for the labour-intensive manufacturing that Mexico specialised in for the past three decades. The "sucking sound" of jobs going south that Ross Perot, an American presidential candidate, feared would be the consequence of NAFTA is now being heard from the east by Mexicans. With foreboding, they note that China is poised to overtake their country as the United States' second-largest trading partner after Canada.

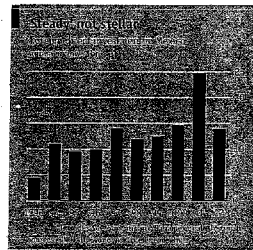
The problem is simple. Labour costs in China, converted at the country's artificially low exchange rate, are about a quarter of their level in Mexico. The result: about 300 manufacturing plants have moved from Mexico to China in the past

two years, reckons the Labour Ministry. Especially affected is electrical assembly. Those plants that stay have cut wages.

Optimists counter that foreign direct investment in Mexico has nevertheless held up well. Mexico still ranks second (after India) in its attractiveness as a location for back-office paperwork, according to an index compiled by A.T. Kearney, a firm of management consultants. Its location, right next-door to the world's biggest market, is still important for firms such as Delphi. And American businessmen say that Mexico's English-speaking, American-educated managers are easier to deal with than the Chinese. Scientific Atlanta, a maker of broadband cable equipment, has moved some operations back to Mexico after unhappy experiences in China.

But the structural pessimists note that Mexico's traditional advantages are rapidly being cancelled out. Not only is Mexican labour being undercut, but so is its privileged access to the American market. China has joined the WTO, and the United States is negotiating a free-trade agreement with five Central American countries.

The real problem is that Mexico has ▶▶



of economic growth in U.S. history came in the aftermath of the NAFTA and the WTO Agreements. NAFTA has delivered on opening markets, expanding trade, stimulating economic growth and investment, and boosting overall strength and competitiveness of North America's economies and producers.

U.S. farmers and ranchers have been beneficiaries of NAFTA's success. U.S. corn exports to Mexico rocketed 750% in the ten year period from 1993, the year prior to NAFTA's implementation in 1994. U.S. beef exports climbed 430 percent in that same period, with soy bean and rice exports nearly doubling, pork exports climbing 188 percent, and apple exports up 50 percent. U.S. agricultural exports to Mexico in 2002 reached a record high of \$7.3 billion double our export value to Mexico the year before NAFTA's implementation. Record values of U.S. exports to Mexico in 2002 included bulk agricultural goods such as wheat and rice; intermediate agricultural goods such as soybean oil and planting seeds; and consumer-oriented agricultural products such as meat and processed fruits and vegetables. U.S. investment in Mexico's food industry rose to \$5.7 billion in 2000 (latest data available) with Mexico now the second largest destination for U.S. companies investing in this sector.

Mexico has also benefited greatly from the NAFTA. Our imports of agricultural goods from Mexico also doubled since 1993, totaling a record \$5.5 billion in 2002. Total Mexican agricultural production increased by 50 percent from 1993 to 2001, in large part due to the U.S. appetite for its products. Fresh vegetables account for approximately 30 percent of the value of total Mexican exports to the United States. Other significant Mexican exports to the United States include coffee, live animals, beer, and fresh and processed fruits and vegetables.

NAFTA reached an important milestone on January 1, 2003. In accordance with NAFTA, the United States and Mexico eliminated most remaining duties on agricultural imports. Mexican tariffs remain on dry beans, corn, sugar and orange juice. The United States maintains tariffs on frozen concentrate orange juice, peanuts, sugar, and some horticultural products. These tariffs are scheduled to be phased out by January 1, 2008.

In Mexico, the elimination of duties coupled with the negative perception of U.S. farm subsidies created significant pressure in 2002 on the Mexican government to take action to support and protect Mexican farmers against agricultural imports from the United States. To help offset this pressure, the United States government was proactive in a coordinated approach to dispel the negative myths of NAFTA and the Farm Bill and support the Fox Administration in its rejection of demands to renegotiate the NAFTA. In addition, U.S. Trade Representative Robert Zoellick and Secretary Ann Veneman created a Consultative Committee on Agriculture in 2002 with their Mexican counterparts to establish a mechanism to address and resolve trade irritants, especially during Mexico's transition to duty-free trade. We continue our active engagement to resolve problems and highlight the benefits of NAFTA with the Mexican government, the Mexican Congress, and the Mexican public, particularly as we approach the tenth anniversary of NAFTA.

In any large and growing trade relationship there will be challenges. Our trade with Mexico is no exception. In fact, the trade problems we have had in agriculture, particularly over the last two years, have been significant. This Administration has tackled these problems aggressively and is actively working to resolve them. In April 2003, as we continued to experience increasing blockages to U.S. agricultural exports, USDA officials and I went to Mexico to lay down a marker. Either the United States and Mexico started resolving our trade problems, or our trade relationship would quickly deteriorate. We have started seeing some improvements. I would like to take the opportunity to highlight our work done in close cooperation with U.S. industry in a number of key areas.

Dry Beans

Under NAFTA, Mexico maintains a tariff rate quota, administered through an auctioned permit system, on U.S. and Canadian dry beans. Upon entering office, this Administration was quick to engage the Mexican government to resolve a long-standing problem with Mexico's import permit system. We now have a predictable and transparent system for awarding the permits. However, last year Mexico completely closed the border to all imported dry beans, blatantly protecting its producers. We were quick to challenge the Mexican government, raising the problem bilaterally at all levels of government as well as in international organizations. We achieved a break-through in April when USDA officials and I went to Mexico resulting in a reopening of the market in May.

Poultry

One reason for the spate of recent problems in U.S./Mexico agricultural trade relations is that the structure of Mexico's agriculture system has not adequately transitioned to dutyfree trade. In the case of poultry, for example, our imports to Mexico faced prohibitive duties until 2002, so little adjustment in Mexico took place for the first 8 years the agreement was in place. Mexican poultry producers were late in preparing for free trade in 2003 and sought trade remedy action against U.S. exports of one product, chicken leg quarters. The Mexican poultry industry sought relief from the Mexican government and we agreed to negotiate a safeguard only for chicken leg quarters. U.S. industry fully supported this decision. In July, the U.S. and Mexican governments concluded negotiations establishing such a safeguard, one which allows for significant market access for U.S. poultry and export growth to Mexico's market. The agreement expires on December 31, 2007, and includes Mexican guarantees not to impose or maintain certain other barriers to U.S. poultry.

Rice

Mexico is the largest export market for U.S. rice. In 2002, Mexico imposed antidumping duties on U.S. long-grain milled and semi-milled white rice, which comprise approximately 20 percent of U.S. rice exports to Mexico. Because we believe that Mexico's antidumping order on U.S. rice is inconsistent with WTO rules, we requested consultations under the WTO. We held the consultations on July 31 and August 1. Although the consultations were informative, they did not resolve our concerns. Therefore, we have decided to request the formation of a WTO dispute settlement panel to review the Mexican antidumping order, as well as certain provisions of Mexico's antidumping law. We expect that the panel will be formed in November.

Beef

U.S. and Mexican beef and cattle industries are increasingly integrated, with benefits to producers, processors and consumers in both countries. Despite these mutual benefits, the Mexican beef industry requested the imposition of an antidumping order on U.S. beef, and the Mexican authorities imposed such an order in 1999. (Unlike with rice, however, U.S. beef exports have continued to increase.)

We requested and held WTO consultations on the beef order in conjunction with those on the rice order. We are evaluating the results of those consultations, and we will be deciding shortly whether to proceed to request a panel. Somewhat related to the U.S. government's case, several U.S. beef exporters challenged the beef antidumping order under Chapter 19 of the NAFTA. The Chapter 19 panel, however, has continued to delay a decision, which is now not expected until October 29.

We also understand that the Mexican beef industry has requested a global safeguard against all imports of beef. We have warned the Mexican government not to take such an action. We do not believe that Mexico could justify the imposition of such a measure under WTO rules. Further, under NAFTA, Mexico would be obliged to provide acceptable trade compensation to the United States. If trade compensation cannot be agreed upon, the United States would have the right to retaliate and suspend concessions. We will challenge Mexico if we do not believe they are acting consistent with WTO or NAFTA obligations.

Pork

We are also actively working to prevent potential actions that Mexico may take on exports of U.S. pork. In May, we finally succeeded in getting Mexico to rescind a dumping duty on smaller sized live swine. However, a bigger issue is the threat of antidumping duties on U.S. pork, specifically hams. We believe that Mexico's January 2003 initiation of a pork dumping investigation violated WTO rules, and we question the statistics being used by the Mexican government to determine the level of imports. We have engaged the Mexican government to obtain an extension on making a decision on the petition, to resolve differences on trade statistics and to seek alternatives to trade restrictive measures. Mexico's pork industry has very competitive players, but also a large number of small producers who may not be competitive. To enhance the competitiveness of Mexico's pork industry, however, is a long term solution, in which the U.S. government and U.S. pork industry are willing to cooperate. We are now trying to find ways to bridge the short and long term gap to ensure trade continues to flow.

Sweeteners

No commodity has been as unjustly treated by Mexico as our high fructose corn syrup (HFCS) producers. First subject to a dumping order later ruled illegal by the WTO, then subject to an arbitrary quota and now effectively banned by a discriminatory tax on its biggest end use, soft drinks, HFCS is not realizing the benefits

of the NAFTA. It has long been my top priority with Mexico to end this very unfortunate state of affairs.

As I noted was the case with poultry, the root cause of this situation is the fact that the transition provided by the NAFTA for sweetener trade has never properly begun. Today, it is less important to apportion blame for that fact than to try to find a way forward. Our corn growers and corn refiners, along with U.S. cane and beet sugar producers and refiners, U.S. sugar users, and the governments of Mexico and the United States recognize that our shared interests are best served by reaching agreement to permit integration of the markets to begin, and to do so in a way that is sensitive to affected industries.

The incredible patience and flexibility shown by our HFCS producers does have its limits, as, frankly, does this Administration's. I believe we have an opportunity in the coming weeks to resolve this dispute and see HFCS exports to Mexico resume. However, Mexican sugar producers and the Mexican Congress, which must rescind the beverage tax, must understand their own interests are best served through negotiations as well. We seek a fair, balanced and sustainable realization of the NAFTA's comprehensive and ambitious goal for agricultural trade, and will work hard and in good faith to reach agreement this fall.

However, our HFCS industry has been denied its rights too long. We hope the Mexican agricultural sector realizes the risks it faces if we cannot resolve the matter through negotiations.

Apples

USTR is also working to regain our export market in Mexico for U.S. apples. In 1998, U.S. apple shippers entered into a suspension agreement avoiding the potential imposition of a 101 percent dumping duty. Despite our efforts, Mexican apple growers persuaded its government to revoke the suspension agreement in 2002, and impose dumping duties of up to 49% on U.S. apples in August 2002. Our industry has been fully engaged, with our help and support, to negotiate a new suspension agreement. I am cautiously optimistic that we will succeed, and we are working vigorously to be able to increase U.S. apple exports to levels experienced prior to the antidumping order.

Conclusion

We are making progress to resolve a number of our bilateral trade problems with Mexico, but we obviously have more to do. We will continue working to ensure that the Mexican market remains open despite political pressures from Mexican farmers, and we will defend U.S. interests if Mexico violates its international trade obligations. Mexico is a valuable trading and hemispheric partner, and U.S. farmers have benefited from that partnership. Our goal is to strengthen that partnership as we move closer to tariff free trade as promised by NAFTA.

RESPONSES TO QUESTIONS FROM SENATOR BUNNING

Question 1. Mr. Johnson, this issue is slightly off the direct topic of agriculture trade, but it is of utmost importance to many of my constituents so I would appreciate any insight that you might be in a position to share.

I was extremely alarmed by the Mexican government's recent announcement that it intends, effective January 2004, to ban shipments of bulk tequila to the United States and elsewhere. It is an understatement that this action will seriously disrupt trade and force the closure of certain bottling facilities, possibly including a new bottling plant in Kentucky. In my view, this would also be a clear-cut violation of a number of Mexico's NAFTA and WTO obligations.

I commend the administration for working so quickly when this issue first came up in early August to secure a 60-day postponement of the official announcement—until October 18. This gave our industry some welcome breathing room. But I understand that certain companies in Mexico are lobbying hard to ensure that this new ban will go into effect, and our industry tells me that, despite their efforts to engage with the Mexican government during this period, there have been no discussions.

Could you please share the game plan of the Administration for ensuring that this 60-day informal consultation period will actually result in consultations with the industry and the U.S. government? In addition, what should we be doing to help ensure that this proposed ban on bulk shipments of tequila never goes into force? Could you also address what the U.S. government can do to put this issue, which keeps popping up every three years or so, to rest?

Answer. We share your concern that the proposed standard would disrupt tequila trade in North America, and would do so unnecessarily in light of the extensive measures already in place to ensure the quality of tequila. As soon as we heard

about the proposed measure, we took action. USTR convened a meeting with industry and, working with our embassy in Mexico City, transmitted our strong concern about the draft standard. That action resulted in the postponement of the planned signing ceremony and the creation of the 60-day consultation period.

We have been urging Mexico to hold a meeting where all interested U.S. stakeholders would be permitted to express their views. We have also been working closely with Canada, which also has companies that import bulk tequila. At the recent meeting of the NAFTA Free Trade Commission (the ministers for trade from each of the three NAFTA countries) in Montreal on October 7, the United States and Canada again pressed the Mexicans to commit to a meeting for industry representatives and government officials. Mexican Secretary Canales agreed to such a meeting, scheduled for October 27, in Guadalajara. USTR will continue to work to see that the proposed measure does not enter into force in its current form.

The NAFTA (Annex 313) recognizes tequila as a distinctive product of Mexico, obligating the United States and Canada not to permit the sale of any product as tequila unless it has been manufactured in Mexico in accordance with the laws and regulations of Mexico governing the manufacture of tequila. The Government of Mexico is fiercely protective of tequila and, in the past, has not hesitated to act to protect tequila from perceived threats to its reputation. The U.S. government will work to ensure that any actions taken by Mexico are consistent with its international obligations.

Question 2. Mr. Johnson, I assume that your office is familiar with the Mexican antidumping case against U.S. beef exports. In that case, it is my understanding that Mexico took action contrary to the WTO Antidumping Agreement against our beef exporters that severely limited their access to the Mexican market. Specifically, Mexico imposed the highest available all others duty rate against exporters who did not participate in the investigation, limited U.S. exports of no-roll beef to that which could only be exported within 30 days of slaughter, and imposed antidumping duties against a single exporter that proved beyond a doubt, and as recognized by the Secretary of the Economy in Mexico, that it was not dumping. I also understand that prior to beginning WTO consultations with Mexico this year, we attempted to resolve the matter through informal negotiations for over a year.

In the ongoing WTO consultations between the U.S. and Mexico on these issues, what has been Mexico's response to our negotiators in seeking resolution of these matters, in particular the use of phytosanitary measures in a dumping action to limit U.S. exports and the imposition of a duty against an exporter who even the Mexican Government declared not to be dumping?

Answer. Although the consultations helped answer some questions raised by the United States, not all concerns were resolved. To clarify, however, Mexico's antidumping duties are unrelated to any phytosanitary measure. We are concerned about Mexico's antidumping order on three primary issues:

1. First, for all U.S. packers exporting to Mexico, product that is more than 30 days old and/or not graded as USDA Select or Choice is subject to the higher, all others duty rates (\$.80/kg for bone-in beef and \$.63/kg for boneless beef). Product that is graded USDA Prime or certified by USDA as Angus Beef is subject to the individual rates calculated for some U.S. packers. It became evident during our WTO consultations that there is no legitimate basis for these limitations and that the limitations are WTO-inconsistent.

2. Second, large U.S. packers who submitted data to Economia during the investigation received individual rates that were relatively low, with several companies receiving zero rates. Smaller U.S. packers who did NOT originally submit data, as well as new entrants to the market, are subject to the all others rate. Mexico's methodology for calculating the all other's rate appears to be WTO-inconsistent.

3. Third, one company, an exporter, has complained that it received an individual rate of zero, but that was limited to certain product types (i.e., not more than 30 days old and grade USDA Select or Choice) and to certain producer sources included in the calculation of the zero rate. Later, a circumvention order limited its producer sources further, even though it was found to be not guilty of circumvention. Judging from the information we gathered during our consultations, at least some of the limitations that Mexico is applying to this company are WTO-inconsistent.

Question 3. Has Mexico given any reason for these actions taken against our beef exporters? If so, what are those reasons and the basis under the WTO for taking such actions?

Answer. WTO members have the right to impose antidumping duties when products are dumped into the importing members markets and where importing members' domestic industry is injured. The WTO rules describing WTO members rights and obligations are in the WTO Antidumping Agreement. Mexico conducted an investigation as to whether U.S. beef was dumped in Mexico and whether injury to

the Mexican industry occurred. In 2000, the Government of Mexico issued a positive determination that dumping and injury did occur, which was published in the *Diario Oficial*, Mexico's official government publication.

Question 4. Have our negotiators advised Mexico that if consultations do not result in resolution that we will indeed request a panel? And, when do we expect to request a panel to resolve these issues?

Answer. Yes, we have informed the Mexican government that if consultations do not resolve our concerns, that the U.S. government will request a WTO dispute settlement panel. Consultations were held July 31 and August 1. We are currently consulting with the U.S. industry on next steps.

Somewhat related to the U.S. government's case, several U.S. beef exporters challenged the beef antidumping order under Chapter 19 of the NAFTA. The Chapter 19 panel, however, has continued to delay a decision, which is now not expected until October 29.

PREPARED STATEMENT OF MICHAEL W. JORGENSEN

Mr. Chairman, members of the Committee, I am Mike Jorgenson, President and Chief Executive Officer of Roquette America, Inc. and the Immediate Past Chairman of the Corn Refiners Association.

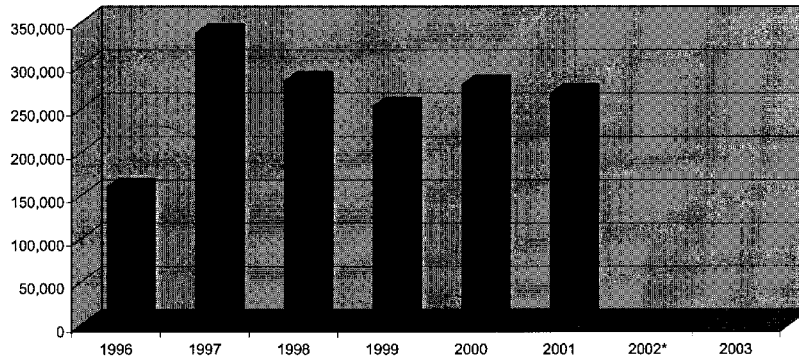
The Corn Refiners Association represents the corn wet milling industry and its member companies, which process corn into a number of products for use in food and industrial applications, including starches, corn oil, feed ingredients, food additives and ethanol. We are the makers of high fructose corn syrup—a nutritive sweetener that is found in many processed foods and beverages. In fact, half of the sweeteners used in the United States are derived from corn. The sweetener industry, which is comprised of HFCS and cane and beet sugar, provides 370,000 jobs for the American economy. **The majority of these jobs, 226,000, are generated from the corn sweetener industry.**

Our industry has been embroiled in a trade dispute with Mexico for more than seven years on high fructose corn syrup. This sweetener dispute and the resulting actions taken against our industry by Mexico has exacted a heavy toll on the corn refiners—jobs have been lost, plant capacity has been idled, and significant losses in investment have occurred. Most recently and most damaging, we have been completely denied access to our top export Mexico for more than 21 months now. This is an untenable situation that cannot be allowed to continue. Every effort must be made to bring an end to this industry crippling dispute.

Our industry strongly supports trade liberalization and fought hard to secure Trade Promotion Authority for the president. We support the North American Free Trade Agreement (NAFTA) and truly believed in the promise that it held for our industry. In fact, we put "our money where our mouth is" with respect to the NAFTA. Our industry invested in the U.S. and in Mexico to meet the "new demands" of the Mexican market—the highest per-capita consumer of soft drinks in the world and a large and growing market for sweeteners—only to see that market unfairly and illegally denied to us.

Mexico is a natural market for our corn sweetener HFCS. In fact, **Mexico is a market with an estimated long-term potential of two million metric tons of HFCS. Two million metric tons of HFCS equates to more than 133 million bushels of corn grown on over 945 thousand acres annually. And that production opportunity has been lost for America's corn farmers and our refiners.**

Mexican Imports of HFCS



Our industry should be well on its way to reaching that two million metric ton potential in Mexico. Shortly after the NAFTA was implemented, we witnessed the beginnings of successful market access to Mexico when we shipped 150,000 metric tons in 1996 and 337,000 metric tons of HFCS in 1997. The process of market driven North American sweetener market integration—as the NAFTA had envisioned—had begun. And then our troubles began and have only intensified since.

In 1997, Mexico, unable to ship its cane sugar that was being displaced by competitive HFCS in the Mexican soft drink industry, took the U.S. corn refining industry “hostage.” It was at that moment in time that the origins of this dispute became very clear to us all. As you know, the United States signed the so-called NAFTA side letter on sugar and incorporated its elements within the overall implementing package for the NAFTA. The Mexican government, however, never formally signed nor did the Mexican Senate ratify the side letter. Consequently, Mexico continues to assert that the original NAFTA governs trade in sweeteners between our two countries. Mexico even started a NAFTA dispute settlement case on this matter. Therefore, there is no bilateral agreement that governs Mexican sugar access into the United States, which has ricocheted onto our exports of HFCS flowing south.

The original NAFTA and the side letter differ in several ways. Most importantly, the original NAFTA allows Mexico to ship all of its surplus sugar to the United States once Mexico has been deemed to be a net surplus producer of sugar for two years. That condition was met in 1997, by the way, the year that our dispute with Mexico began. The side letter, conversely, capped Mexico’s access into the United States at 250,000 metric tons and stipulated that Mexico could only ship the equivalent of its net surplus sugar production up to the maximum 250,000 metric tons. The concept of unfettered access for all of Mexico’s surplus production was not incorporated in the side letter.

Just as our HFCS exports were on an upward trajectory into Mexico, the net surplus producer condition was triggered by Mexico and the “perfect storm” slammed the U.S. corn refining industry.

The first line of assault on our HFCS exports began with an illegal antidumping investigation launched by the Mexican government in 1997. Within a matter of months, Mexico imposed preliminary and ultimately final antidumping duties that significantly curtailed our industry’s HFCS exports to Mexico and shut out entirely some of our member companies. We “played by the rules” and challenged Mexico’s antidumping investigation in both the World Trade Organization and the NAFTA dispute settlement mechanisms. Our industry made history by employing these two dispute settlement systems concurrently—and winning our case against Mexico in both trade forums. In fact, we won five separate WTO and NAFTA panel rulings against Mexico over the course of four long and arduous years.

Mexico, unfortunately, has become a frequent user of antidumping investigations to thwart politically sensitive imports, and often without regard for its international obligations. Our industry was an initial “victim” and now—sad to say—ours is a common story as some of my fellow panelists will note today. The strongest NAFTA and trade agreement supporters in U.S. agriculture that became the “export engines” for our sector by shipping increasing quantities to Mexico have seen their trade with that country severely threatened or cut off altogether as in our case.

This has been acutely damaging for our industry and others precisely because the NAFTA helped create large markets. Mexico is now the second largest U.S. agricultural market overall, but it is certain to diminish in importance with the plethora of trade problems now underway. Increasingly larger portions of net farm income and agribusiness revenues have become dependent on foreign markets. So, when the rules are broken or ignored, the damage is that much more severe and the political backlash against new trade agreements mounts.

But, despite Mexico's illegal antidumping duties on our HFCS exports, our product was still competitive in the Mexican marketplace and strongly demanded by the Mexican soft drink bottlers. The dumping duties on our HFCS shipments caused our exports to plummet to a plateau of 250,000 metric tons from 1998 onward. In an attempt to further thwart the already diminished trade that we garnered during that period, the Mexican government in 1998 entered into a collusive agreement with the Mexican soft drink bottlers designed to cap the HFCS market. Subsequently, the Corn Refiners Association filed a 301 petition with the U.S. government to challenge the illegal actions of the

Mexican government and encourage the U.S. government to try to resolve the problem. That petition was accepted by the U.S. Trade Representative and discussions with Mexico were pursued in an effort to root out these discriminatory and unfair actions. Again, our industry utilized the trade laws to pursue its interests.

By the end of 2001 and four years after our efforts began, it became apparent that Mexico had reached the end of the rope on its illegal anti-dumping measures. As a result of our WTO and NAFTA challenges, Mexico had no choice but to lift its antidumping duties on our HFCS exports. That fact did not stop Mexico, however. And what happened next may be the start of a troubling pattern that does not bode well for industries that are under the gun of Mexican antidumping investigations that are not in compliance with international trade obligations.

Mexico has demonstrated an uncanny ability to substitute one illegal measure for another. In our case, just as the antidumping duties were to come off, the Mexican congress passed a law in the middle of the night on January 1, 2002 that instituted a 20 percent tax on all beverages sold in Mexico that are not sweetened with its own cane sugar. This highly discriminatory tax was aimed squarely at our HFCS exports and the production of HFCS by U.S. owned plants in Mexico.

The so-called soda tax shut down our top export market overnight. And that was nearly two years ago. **Never before in recent U.S. history has an industry been shut out of its top export market for this extensive period of time. It is a dangerous situation to let fester—and one that severely harms our industry. If left to stand, it invites similar activities against other competitive U.S. industries.**

The results of the soda tax are not all positive for Mexico either. Mexico is experiencing record high sugar prices and its sweetener consuming industries are paying dearly, with some threatening to leave Mexico to avoid the price squeeze. These industries are demanding access to more sweetener, which our industry is perfectly positioned to supply. But, to add additional insult to injury, Mexico is now importing in excess of 120,000 metric tons of sugar to make up for the sugar shortage in its domestic market. In addition, the entire investment climate in Mexico has now been called into question.

What can be done to resolve this interminable sweetener dispute with Mexico? There are two paths to a resolution, one is a pro-trade solution that involves a negotiated settlement with Mexico on sweeteners. This approach is a win-win for all parties and one that we wholeheartedly support. In that regard, we are working with the U.S. government and other segments of the U.S. sweetener industry to explore options for a proposed negotiated settlement.

The other path involves retaliation for Mexico's discriminatory and abusive actions that fly in the face of its international obligations—in essence a trade war. We believe that path will become necessary if Mexico does not return to the negotiating table in the very near term and work in earnest to find a quick and meaningful solution to this impasse.

We applaud the leadership efforts of Chairman Grassley in calling this hearing and . working diligently to resolve the sweetener dispute with Mexico. Resolution of this interminable, and very devastating situation with our most important trade partner is our industry's top trade priority.

We look forward to working with you Mr. Chairman, and your colleagues in both the Senate and the House to resolve this dispute once and for all. Every effort must be taken—if necessary, the “gloves must come off”—to bring an end to one of the longest and most complex problems in our agricultural trade relationship with Mexico.

HFCS Case Chronology of Events

1997

1. Jan. 14, 1997: Mexican Sugar Chamber appears before SECOFI to request an antidumping investigation of high fructose corn syrup (HFCS) imports from the U.S.
2. Feb. 27, 1997: SECOFI agrees to accept Mexican Sugar Chamber request for an investigation and it appears in the Diario Oficial.
3. April 22, 1997: CRA files testimony for investigation
4. June 6, 1997: CRA Meeting with SECOFI
5. June 25, 1997: Interim dumping duties imposed on U.S. HFCS industry
6. July 4, 1997: CRA participates in disclosure conference in Mexico City
7. July 25, 1997: Senate approves resolution condemning Mexican HFCS duties
8. July 31, 1997: House approves resolution condemning Mexican HFCS duties
9. August 25, 1997: CRA testifies at public hearing in Mexico
10. September 4, 1997: USTR requests formal WTO consultations with Mexico
11. September 5, 1997: Congressional letter sent to SECOFI
12. September 8, 1997: Bill Barrett sends letter to Mexican ambassador in U.S.
13. September 11, 1997: Agreement made between Mexican sugar industry and soft drink bottlers to limit HFCS use to 350,000 tons/year for three years
14. October 9, 1997: USTR representative meets with Mexican representative for WTO consultations in Geneva, Switzerland
15. December 3, 1997: CRA testifies at public hearing in Mexico
16. (week of) December 8, 1997: CRA files final brief on antidumping investigation

HFCS Case Chronology of Events

1998

1. January 23, 1998: Mexican government imposes final antidumping duties on HFCS-42 \$63.75 to 100.60/ton & HFCS-55 \$55.37 to \$175.50/ton
2. February 1998: Government of Mexico threatens adverse labeling on HFCS and limiting import licenses for plants in Mexico using U.S. corn
3. February 20, 1998: CRA requests NAFTA panel
4. March 12, 1998: USTR announces sugar quota allocations
5. March 13, 1998: Mexican government requests NAFTA Chapter 20 consultations
6. March 20, 1998: CRA files legal brief on final resolution of antidumping investigation
7. April 2, 1998: CRA files Section 301 petition with USTR
8. May 8, 1998: USTR announces it will invoke WTO dispute settlement process
9. May 14, 1998: USTR announces sugar quota allocations
10. May 18, 1998: USTR announces acceptance of Section 301 case
11. June 12, 1998: USTR representative meets with Mexican representative for WTO consultations in Geneva, Switzerland
12. June 22, 1998: CRA files legal brief supporting NAFTA panel request
13. August 1998: Luis de la Calle, Minister of SECOFI-NAFTA at the Embassy of Mexico in Washington, D.C. promoted to position in Mexico City.
14. September 7, 1998 (week of): Duties ranging from \$55.37 to \$90.26 per ton were imposed on HFCS-90.
15. September 17, 1998: USTR announces FY 1999 sugar import quota, Mexico allocated 25,000 metric tons.
16. October 12, 1998 (week of): Mexico appoints NAFTA panelists and wins coin flip to choose fifth panelist.
17. October 22, 1998: USTR formally requests WTO panel, Mexico blocks
18. November 13, 1998: USTR makes second request for WTO panel.
19. November 25, 1998: WTO settlement body approves panel.
20. November 27, 1998: Mexico appoints Carbo Hall as 5th NAFTA panelist and chair.
21. December 3, 1998: President Clinton terminates duties on broom-corn brooms.
22. December 18, 1998: Mexico is expected to lift broom-corn broom retaliation duties.

HFCS Case Chronology of Events

1999

1. January 1, 1999: Mexico lifts broom-corn broom retaliation duties.
2. January 8, 1999: U.S. rejects fifth panelist in NAFTA case.
3. February 12, 1999: U.S. files legal brief to support WTO panel request.
4. March 19, 1999: Mexico files legal brief to support antidumping duties in WTO case.
5. April 22, 1999: Mexican fifth panelist for NAFTA panel selected and approved.
6. May 7, 1999: Deadline for U.S. and Mexico responses to questions in WTO case.
7. May 18, 1999: USTR announces it will further investigate Mexican actions to limit HFCS consumption.
8. June 28, 1999: NAFTA panelist, Bill Alford, submits resignation due to schedule conflicts.
9. September 24, 1999: WTO Secretariat to release preliminary decision. (delayed to week of October 4 to allow time for translation)
10. October 6, 1999: WTO Secretariat releases preliminary decision.
11. December 9, 1999: WTO panel final hearing
12. December: NAFTA panel finalized

2000

1. January 14, 2000: WTO panel report complete
2. January 21, 2000: WTO panel report released
3. February 9, 2000: Consorcio Azucarero Escorpion (CAZE) announces sale of sugar mills
4. February 24, 2000: WTO Dispute Settlement Body adopts report
5. March 20, 2000: At DSB meeting Mexico agrees to come into compliance with WTO AD agreement
6. May 15, 2000: Mexico publishes resolution to remand based on WTO ruling in the *Diario Oficial*
7. August 17, 2000: Mexico decides to request panel in NAFTA Chapter 20 case
8. August 22-23, 2000: CRA participates in NAFTA public hearing on Chapter 19 case
9. September 20, 2000: Mexico publishes revised final resolution to come into compliance with WTO ruling
10. October 11, 2000: U.S. petitions WTO to reconvene original panel to determine if Mexico's revised final resolution brings them into compliance.

HFCS Case Chronology of Events

2001

1. February 6, 2001: NAFTA panel rejects Mexico's motion to terminate the case
2. February 12, 2001: Mexico refuses to submit administrative record to NAFTA panel
3. April 17, 2001: Mexico submits administrative record to NAFTA panel
4. May 11, 2001: WTO interim report on Mexico's redetermination of threat of injury
5. June 22, 2001: WTO final report on Mexico's redetermination of threat of injury issued
6. June 19-20, 2001 : NAFTA Chapter 19 panel hearing
7. August 3, 2001: NAFTA panel final decision issued favoring U.S.
8. September 3, 2001: Mexican government expropriates 27 sugar mills
9. September 18, 2001: Mexico allocated 137,788 metric tons for FY2002 sugar TRQ
10. October 22, 2001: WTO Appellate Body affirms panel ruling on Mexico's redetermination of threat of injury
11. November 3, 2001: Original deadline for Mexico to comply with NAFTA panel ruling—extended 3 weeks to November 23, 2001.
12. November 21, 2001: WTO Dispute Settlement Body adopts Appellate Body ruling on Mexico's redetermination.
13. November 23, 2001: Mexico submits a new argument to justify HFCS antidumping duties to the NAFTA Secretariat.
14. December 11, 2001: U.S. and Mexico agree to settle sweetener dispute via bilateral negotiations. USTR agrees not to ask the DSB to consider a request for retaliation. Mexico agrees not to raise procedural objections if USTR decides to request authorization for retaliation in the future.

HFCS Case Chronology of Events

2002

1. January 1, 2002: President Fox signs budget legislation that includes a tax of up to 20 percent on soft drinks made with HFCS.
2. March 1, 2002: Mexico establishes import permit requirement for HFCS.
3. March 5, 2002: Presidential Decree suspending the soft drink tax until September 2002 published in the *Diario Oficial*.
4. April 2, 2002: Mexican Chamber of Deputies votes to legally challenge Presidential Decree suspending the soft drink tax.
5. April 15, 2002: NAFTA panel rules in favor of U.S. on Mexico's new argument. Final ruling: Mexico to lift antidumping duties and repay duties collected.
6. April 22, 2002: Mexico imposes 148,000 metric ton import quota for U.S. HFCS.
7. May 2, 2002: 43 House of Representatives send a letter to President Bush expressing outrage by the imposition of the Mexican soda tax and the complete disruption on U.S. exports of HFCS to Mexico.
8. May 20, 2002: Antidumping duties lifted. Published in *Diario Oficial*.
9. May 28, 2002: Mexican Economy Minister Derbez and USTR Zoellick publicly announce efforts to negotiate sweetener dispute.
10. July 12, 2002: Mexican Supreme Court rules soft drink tax suspension illegal.
11. July 16, 2002: Soft drink tax officially reinstated.
12. July 17, 2002: Supreme Court decision published in *Diario Oficial*.
13. August 12, 2002: 22 Senators send a letter to USTR Zoellick urging quick resolution to the sweetener dispute.
14. December 2002: Several Senators including Chairman Grassley, and separately, members of House including Speaker Hastert, send letters to President Bush and Ambassador Zoellick urging a quick resolution to the dispute.
15. December 16, 2002: Mexican Congress passes 2003 budget that includes language to extend the 20 percent tax on soft drinks sweetened with HFCS.
16. December 30, 2002: Departments of Commerce and Justice approve CRA petition to form an Export Trade Certificate of Review (ETCR) for allocating future HFCS exports to Mexico.

2003

1. January 10, 2003: Luis Derbez takes Mexican Foreign Relations Secretary position, Fernando Canales Clariond appointed Economy Secretary.
2. January 28, 2003: CEO letter urging quick resolution to sweetener dispute sent to USTR Zoellick, Agriculture Secretary Veneman and Secretary of State Powell.
3. January 28, 2003: Corn Products International files NAFTA Chapter 11 claim seeking compensation for \$250 million in investment losses due to the imposition of the soda tax.
4. February 21, 2003: CRA Chairman addresses sweetener dispute at USDA Ag Outlook Forum.
5. March 14, 2003: 31 House of Representatives send a letter to Mexican Ambassador Jose Bremer urging a quick and meaningful resolution to the sweetener dispute.
6. April 9, 2003: CEOs of the Corn Refining Industry meet with Ambassador Zoellick and separately Secretary Veneman to press for a timely conclusion of the sweetener negotiations with Mexico.

HFCS Case Chronology of Events

7. June 2, 2003: Mexican Supreme Court declares 20% tax on soft drinks that contain HFCS to be constitutional.
8. June 2003: Senator Grassley and Lugar send a letter to Secretary Evans and Undersecretary Larson urging the Administration to utilize the June "Partnership for Progress" conference to send a clear message of concern about Mexico's treatment of U.S. HFCS producers in Mexico and the negative effect of the sweetener dispute on the investment climate in Mexico.
9. Summer 2003: Mexico imports sugar (no official data on precise amounts) according to traders owing to domestic sweetener shortages driving Mexican sugar prices very high.
10. July 2003: Iowa Governor Tom Vilsack sends a letter to President Bush urging a meaningful resolution to the sweetener dispute.
11. July 2003: Mexican congressional elections result in a loss of congressional seats by the PAN (President Fox's party) and a gain in seats by the PRI and PRD. President Fox's ability to negotiate a solution on the sweetener dispute is perceived to be further weakened by this development.

RESPONSE TO A QUESTION FROM SENATOR BAUCUS

Question. Are the U.S. corn and sugar industries prepared to seek a solution that provides for a balanced North American sweetener market while maintaining the integrity of the respective commodity programs?

Answer. The corn refining industry has long sought, and continues to seek, an integrated North American sweetener market solution that balances the interests of the stakeholder industries and is consistent with U.S. law and policy.

The corn refining industry's paramount interest is in re-opening the Mexican marketplace—our top export market—which has been now completely closed for nearly two years. This is an unprecedented situation that cannot be allowed to continue without an appropriate response. As was noted in my testimony, we believe every effort should be made—including retaliation, if necessary—by every branch of the U.S. government to encourage Mexico to immediately lift the discriminatory tax on beverages not sweetened with cane sugar.

At the same time, we urge a negotiated solution that also precludes Mexico from undertaking any additional steps that would unfairly circumscribe access to its sweetener market for our high fructose corn syrup exports. We seek your support, and that of other Senators, to achieve this important objective. Our industry has borne the brunt of this terrible impasse with Mexico for seven years, at great cost to our industry.

PREPARED STATEMENT OF HON. BLANCHE L. LINCOLN

Thank you, Mr. Chairman for holding this important hearing to address specific concerns with one of our largest agriculture trading partners, Mexico.

For Arkansas, Mexico has presented enormous export opportunities for our commodities.

This has especially been true for the rice industry who has seen exports increase from 146,000 metric tons, before the signing of NAFTA, to over 700,000 metric tons today.

Unfortunately, just as we are beginning to experience the full benefits of this agreement the Mexican government has now taken unsubstantiated action by imposing a duty in excess of 10% on long grain milled rice.

This punitive action requires a swift resolution and while I am pleased to see that Amb. Zoellick has already taken the necessary action to address this situation I will not be satisfied until it is completely resolved.

It is my belief that the fate of future agreements rest on our countries ability to resolve disputes within existing ones.

It is imperative that our government use the resources at our disposal to resolve disputes in a timely manner to ensure our producers faith in the rules based systems that our free trade agreements create.

This is particularly true in the aftermath of the failed WTO ministerial meeting just a few weeks ago.

With the focus now shifted to our ongoing bilateral negotiations, we must show success in our existing agreements.

We must show that while disputes are sometimes unavoidable they do not have to be insurmountable.

In the last year, we can point to instances within the poultry industry where barriers to poultry exports into Mexico have largely been overcome.

While a few issues in this dispute still persist, which I will address specifically with Mr. Johnson shortly or in writing, this is an example where swift action on behalf of our domestic industries can have desired results.

As a supporter of free but fair trade, I again thank the chairman for this opportunity and look forward to working with him to ensure that our trading partners live up to their end of these agreements.

PREPARED STATEMENT OF RON LITTERER

Good morning. Chairman Grassley, Ranking Member Baucus and members of the Committee. My name is Ron Litterer and I am a corn farmer from Greene, Iowa. I am a board member of the Iowa Corn Growers Association and Chairman of the Public Policy Action Team for the National Corn Growers Association. I would like to thank the Committee for giving me the opportunity to testify today regarding agricultural trade barriers in Mexico. Today's hearing is very timely, and I commend the Chairman and the Committee for convening it.

The National Corn Growers Association (NCGA) was founded in 1957 and represents more than 32,600 dues-paying corn growers from 48 states. The Association also represents the interests of more than 350,000 farmers who contribute to corn checkoff programs in 19 states.

NCGA's mission is to create opportunities for corn growers in a changing world, and to enhance corn's profitability and use. Trade is vital to the future of corn growers as we search for new markets, providing grain that is more abundant and of better quality.

One out of every five rows of U.S. corn is exported, and our producers also export value-added corn and co-products. In 2002, the United States exported 47 million metric tons of corn, with a value of \$4.8 billion. This corn represents about 20 percent of total U.S. production, and the U.S. accounted for nearly 57 percent of world-wide production last year. Our two closest competitors in the international marketplace are Argentina and China, with 14 and 17 percent of world production respectively.

More than any other time in the past, corn producers operate in a competitive international marketplace. Free trade agreements have never been more essential to the continued success of our industry. NCGA supports trade agreements that will open markets for U.S. farmers and improve market development throughout the world. Our organization has supported every trade agreement presented to Congress and lobbied vigorously for passage of the North American Free Trade Agreement (NAFTA) and Trade Promotion Authority.

It is unfortunate that I must testify regarding Mexican barriers to U.S. agricultural exports. Mexico is our second largest trading partner. In 1994, the year NAFTA was enacted, corn exports to Mexico totaled 3 million metric tons, but last year, Mexico imported 5.3 million metric tons of bulk corn. In less than ten years, Mexico has increased its imports of bulk corn from the United States by 57 percent. Mexico needs to import increasingly higher amounts of grain to meet its growing demand for livestock production, which is brought about by rising income levels and the demand for more protein to improve diets. Ordinarily we would consider this a profound success in terms of bilateral trade relations. However, recent events give us some pause and make us question the long-term stability of the Mexican market.

High Fructose Corn Syrup

For the past seven years, corn growers have been part of an ongoing dispute between the United States and Mexico regarding sugar and high fructose corn syrup (HFCS). For nearly two years, exports of HFCS to Mexico have been virtually eliminated due to an illegal soda tax passed by the Mexican Congress late in 2001.

Much like bulk corn, upon implementation of NAFTA, corn refiners started to experience successful market access to Mexico, shipping 150,000 metric tons of HFCS in 1996 and 337,000 metric tons of HFCS in 1997. The subsequent controversy surrounding the sugar provisions of NAFTA and the "side letter" embroiled the corn industry in a series of events resulting in no access to the Mexican market. Due to this predicament, producers lose the demand for 133,200 bushels of corn each

year, the equivalent of 945,700 acres of production and over \$300,000 in annual corn sales.

The National Corn Growers Association has been working closely with the Corn Refiners Association (CRA), the United States Trade Representative (USTR), the Department of Agriculture (USDA) and Congress to find a resolution to this problem. Mr. Chairman, your involvement and interest in this matter has been invaluable in moving all sides towards a common position and hopefully an eventual resolution.

In the past several weeks, leadership from NCGA, CRA and the sugar industry have been meeting to develop new ideas on how to help the U.S. Government resolve the on-going sweetener dispute with Mexico. We hope this alliance will allow all three parties realize the benefits of NAFTA. We are hopeful our dialogue can resolve this ongoing and very complicated issue. However, it is undeniable that this problem has had a corrosive effect on the mindset of corn producers regarding the benefits of trade agreements. It is important we resolve the sweetener issue as soon as possible. In order to promote new trade accords in the countryside, we must show our constituents and grassroots membership that our trading partners are adhering to existing agreements.

White Corn

While the benefits of NAFTA are clear on both sides of the border, free trade does not come about without some adjustment. Reducing tariffs and opening borders provide companies certain incentives to relocate in order to achieve lower input costs and maximize returns. Mr. Chairman, you know this situation first hand as factories in Iowa have closed and moved to Mexico. However, NAFTA provides both our countries the opportunity to maximize on our comparative advantages and grow economically at a faster rate than we would have without the agreement.

As a corn grower and an agricultural producer, I know that our domestic industry can produce food and fiber of higher quality and at a lower cost than any where else in the world. For this reason, NAFTA and agreements like it are enthusiastically endorsed by farmers. However, in recent years, as the United States lowers tariffs and opens our borders to industrial goods once produced here at home, our trading partners are finding it difficult to follow suit and fulfill their commitments in various agricultural commodities.

Under NAFTA, corn is one of the last commodities to experience tariff elimination, and as a result, corn did not experience the same threats of anti-dumping cases or disruptions at the border until very recently.

Last spring, after months of demonstrations, debates, and meetings, the Government of Mexico and Mexican producer groups signed the National Agreement on Agriculture (NAA). The Agreement provides for an emergency fund of \$260 million to address a wide range of structural issues in Mexico's rural areas. In addition, the Agreement calls for an analysis of the affects of NAFTA and the United States Farm Bill on Mexican agriculture, suspends the issuance of import permits for white corn except in times of short supply, and calls for immediate consultations with the United States and Canada to establish a permanent import control mechanism for white corn and dry beans. The agreement also encourages the establishment of domestic production contracts to reduce dependence on U.S. yellow corn imports.

While taking these developments seriously, we also perceived the NAA as a political response by the Fox Administration to increasing domestic pressures leading up to their congressional elections in July. Since the election we have heard of no additional action regarding white corn exports from the United States.

The National Corn Growers Association urged the Bush Administration and Congress not to renegotiate NAFTA and to work towards its full implementation. Like many of the other commodities at this table, we believe renegotiation of NAFTA in this context would be unwise and unproductive for both countries.

It is important to point out that the United States is a residual supplier of white corn to Mexico and only does so when Mexican stocks are in short supply. For the past seven years, however, Mexico has been the largest buyer of U.S. white corn. Depending on market conditions, white corn represents 10 to 20 percent of U.S. corn exports to Mexico. Although white corn is a small segment of overall corn production, it provides U.S. growers with a valuable way to diversify farm production. Furthermore, we fear that disruptions of white corn shipments to Mexico could be a precursor to disruptions of yellow corn shipments, which are already being discussed. The lack of action to date may be good news or may be the calm before the storm. Either way, if the underlying cause of farmer discontent in Mexico is left unresolved, we will have more significant trade disruptions in the future.

Mexico is experiencing many of the same challenges we face here in the United States in farm country. I believe rural development and the ability of farmers to

remain profitable is at the very core of the agricultural problems we are discussing today. It would be in our best interests to work cooperatively with Mexican producer groups to find ways to maximize our comparative advantages on both sides of the border in the ultimate pursuit of maintaining profitable and vibrant agricultural sectors. Likewise, I would encourage Congress and the Administration to continue facilitating discussions with the Mexican Government to find additional ways to utilize governmental institutions to alleviate poverty and promote economic development in Mexico.

OXFAM

While free and fair trade promotes positive economic development, this premise is by no means universally accepted. Groups such as OXFAM International and Greenpeace are waging a campaign against free trade agreements between developed and developing countries. NAFTA is one of the targets. These groups are in many ways directly responsible for the recent collapse of negotiations at the 5th Ministerial Conference of the World Trade Organization (WTO) in Cancun, Mexico. The poisonous rhetoric spread by these groups encouraged developing countries to walk away from the negotiations.

Last month, OXFAM International released a report entitled "Dumping without Borders: How U.S. Agricultural Policies Are Destroying the Livelihoods of Mexican Corn Farmers." Amid other false claims, the authors claim Mexico's 10,000-year heritage of corn production is being destroyed because free trade rules with the United States have been rigged for the past 10 years. The report, however, lacks a fundamental understanding of the U.S.-Mexico coarse grains trade, uses inaccurate data for current domestic support, and uses sloppy methodologies for analysis.

First, trade rules are not slanted in our favor. Since the beginning of the Fox Administration, Mexico has had a specific tariff line for white corn for human consumption, and it retains the authority to limit yellow corn imports through tariff rate quotas (TRQ) as well. In addition, Mexico can charge a prohibitive duty of 90.8 percent on corn above the TRQ but has chosen not to do so.

Furthermore, Mexico is unable to be self sufficient in yellow corn production. For example, Mexican corn production has flattened at about 19 million metric tones for the past decade, with yields averaging only 40 bushels per acre compared to 140 bushels per acre in the United States. At the same time, however, a growing livestock industry in Mexico has helped more than double the demand for yellow corn for feed use to over 10 million metric tones annually. Pork production in Mexico has increased from 870,000 metric tones in 1993 to over 1 million metric tones in 2002, with poultry production increasing even more substantially from 1.37 million metric tones in 1993 to 2.2 million metric tones in 2002. Under NAFTA, U.S. corn exports provided inputs to Mexico's livestock sector at competitive prices. OXFAM barely acknowledges this point through a foot note at the end of the report.

The report also relies on data from non-official sources and uses subjective analysis masked as an objective study. The report confuses measurement units (comparing tons to kilograms) while selecting a single year for its entire set of data rather a more comprehensive look at the statistics. In addition, the use of anecdotal evidence is meant to elicit an emotional response rather than discover the real cause of rural poverty in Mexico.

Finally, OXFAM ignores issues such as weak property rights, land fragmentation, and the lack of rural development in Mexico, but blames U.S. domestic supports as the chief culprit of poverty in rural Mexico.

In the end, the political agenda of groups like OXFAM will only hurt Mexican farmers and those in other developing countries. It is impossible to deny the positive benefits of NAFTA and the more than \$110 billion in foreign direct investment generated in Mexico. The longer the Doha Development Agenda is delayed; the worse off developing countries will be for lack of action.

Conclusion

Trade with Mexico is important and every effort should be made on both sides of the border to ensure disruptions are minimal. Corn growers have been party to some of the greatest success stories of NAFTA and also to its worst failure. Like many other economic sectors, we are experiencing increased competition in the international marketplace. Despite these challenges, we know we are competitive and can provide a high quality product for a low price. Our strong belief in trade compels us to resolve these issues.

Mr. Chairman, you have our thanks for your strong support and continued vigilance on this issue. In order for us to move forward, we need to show producers throughout the Midwest and across the country that trade has real benefits. Mexico is vitally important in this regard and we pledge ourselves to work with Congress,

the Administration and other agricultural organizations to fulfill the promise of NAFTA on both sides of the border.

I thank you again for the opportunity to address the Committee. I welcome your questions.

RESPONSE TO A QUESTION FROM SENATOR BAUCUS

Question. Are the U.S. corn and sugar industries prepared to seek a solution that provides for a balanced North American Sweetener market while maintaining the integrity of the respective commodity programs.

Answer. The National Corn Growers Association has been working with the Corn Refiners Association and representatives from the American Sweetener Alliance to find a resolution to the ongoing dispute regarding High Fructose Corn Syrup (HFCS). Last week (October 1–3, 2003), representatives from NCGA traveled to Mexico as part of a joint sweetener industry task force and met with representatives of the Mexican Sugar Chamber and government officials. The ultimate goal is to work out an agreement that would permit a gradual resumption of Mexican exports of sugar to the U.S. in exchange for allowing reciprocal amounts of HFCS imports from the U.S. into Mexico. We believe a final agreement must provide access for HFCS and balance to the sugar trade. Corn growers remain firmly committed to find a mutually agreeable solution. We believe we can find a settlement that is consistent with our international obligations and will not require any changes to the respective commodity programs at this time. However, future free trade agreements and a comprehensive agreement in the World Trade Organization may necessitate changes to farm programs in the future. Regarding bilateral free trade agreements, it is important to note, we do not favor negotiating reductions in domestic support programs and particular commodities should not be excluded from negotiations at the expense of others.

PREPARED STATEMENT OF JOHN RICE

Good morning, Mr. Chairman and distinguished members of the Committee. My name is John Rice. I am a seventh generation apple grower from Gettysburg, Pennsylvania. My three brothers and I own and operate about 900 acres of orchards in beautiful Adams County, Pennsylvania. Together we manage a packing company which markets fresh apples for more than fifty family farms in south central Pennsylvania, and more than twenty family farms in Maryland, Virginia, West Virginia, and New York. I appreciate this opportunity to testify before the Committee concerning the trade barriers for U.S. apple exports to Mexico.

I have been assisted in my testimony by the U.S. Apple Association (USApple) of which I am the immediate past chairman. USApple is the national trade association which represents all segments of the U.S. apple industry. Our members include 40 state and regional apple associations representing growers from around the country, as well as more than 400 individual companies such as ours. USApple's mission is to provide the means for our industry to join in appropriate collective efforts to profitably produce and market American apples and apple products. Total U.S. apple farmgate revenue, according to the U.S. Department of Agriculture (USDA), was more than \$1.6 billion in 2002.

My statement today also includes input from the Northwest Fruit Exporters (NFE), an organization which represents the international trade interests of apple marketers and exporters in Washington, Oregon and Idaho. NFE has been in the forefront of opening the Mexican market from an early stage, since their members have shipped the vast majority of U.S. apples to Mexico under Mexico's restrictive phytosanitary import protocol.

Just last year, Michigan and Virginia finally received certification compliance with Mexico's protocol, after years of effort. Unfortunately, neither state has been able to export apples to Mexico in any significant volume due to the recently-imposed trade restrictions. With financial support from their state departments of agriculture and USDA, Michigan and Virginia growers and exporters worked hard to comply with Mexico's rigid requirements, only to see their market opportunities blocked by new duties.

Some apple-producing states have been effectively shut out of the Mexican apple market because Mexico does not recognize the validity of phytosanitary inspections by USDA-APHIS inspectors, but requires the on-site approval of Mexican inspectors at U.S. industry expense. Producing states like Pennsylvania, the fourth largest apple-producing state in the country, cannot recoup the hundreds of thousands of dollars required to hire, transport, and house the Mexican inspectors. Michigan and

Virginia have been able to access funds from their own state departments of agriculture to try to break into this market, but to date it has been to no avail.

An open Mexican market without restrictive trade barriers is important to all apple-producing states and the entire U.S. apple industry. Apples that would have gone to Mexico in a free-trade environment are now staying in this country, causing market surpluses and low prices for all U.S. apple growers. For this reason, all of my growers in Pennsylvania and growers in all other apple-producing states that do not currently ship to Mexico support removal of the trade barriers erected by Mexico against U.S. apple exports.

The Mexican market, which was opened to U.S. apples just before adoption of the North American Free Trade Agreement (NAFTA), quickly became the U.S. apple industry's largest export market for fresh apples. Prior to Mexico's arbitrary imposition of 46.5 percent import tariffs on Red and Golden Delicious apples in August 2002, Mexico accounted for 27 percent of all U.S. apple exports, some 8 million boxes, worth almost \$100 million annually. U.S. apples have represented 80 to 85 percent of total Mexican apple imports, with Red and Golden Delicious accounting for approximately 90 percent of all apples imported from the U.S.

Mexico's treatment of U.S. apple imports is part of an unfortunate trend in Mexican agricultural trade policy towards erecting new protectionist trade barriers. A variety of trade restrictions on a number of important U.S. agricultural products, including U.S. apples, is threatening the U.S.-Mexican bilateral relationship. This is highly unfortunate, especially since Mexico's own exports of fresh fruits and vegetables to the U.S. have increased from \$1.2 billion to \$2.3 billion annually, since NAFTA was implemented.

I come before you today to ask for aggressive support and collaboration between Congress and the Administration on a concerted strategy to reduce Mexico's import barriers to U.S. apple exports. Your active, direct engagement with the government of Mexico can help create an environment to bring this vital trading partner to the negotiating table to address Mexico's trade-distorting import duty and reach a settlement agreement. This engagement should take into account the broad context of issues important to our overall bilateral relationship. The U.S. government and U.S. apple industry are willing to negotiate, and have indicated this to Mexican government officials on numerous occasions. However, good faith negotiations require a willingness for honest engagement from both sides.

U.S. apple growers and exporters know Mexican consumers like and want to purchase our apples. They have proved it whenever they have had the opportunity. They especially prefer the Red and Golden Delicious apples. The U.S. apple industry has invested millions of dollars in consumer outreach efforts to successfully build a growing market for U.S. apples in Mexico. Some of this money was provided on a matching basis by USDA's successful Market Access Program (MAP). But even though U.S. apples and U.S. investment have helped to build this demand, we now see that foreign competitors, notably Canada, Chile and New Zealand, are currently realizing market opportunities at our expense. Mexican consumers are still eating apples, but an increasing number are coming from countries which do not have discriminatory duties placed on their exports.

Mexico primarily utilizes two forms of trade barriers against U.S. apple exports: import duties and quarantine restrictions.

Import Duties

Mexico's import duty of 46.58 percent on Red and Golden Delicious apples was imposed last year as a result of an anti-dumping case brought by the Mexico against the U.S. industry in 1997. In September of that year, Mexico announced that it was beginning an anti-dumping investigation into the importation of US apples, and began levying a preliminary duty of 101.1 percent. Immediately prior to a final dumping determination, in March 1998, the U.S. apple industry and the Mexican government entered into a suspension agreement that "suspended" the preliminary anti-dumping duty with an annually adjusted reference price, or minimum sales price. Mexico conducted annual audits to ensure compliance with this pricing agreement.

In November 2000, the Mexican apple industry appealed the reference price system in Mexican court. In February 2002, the Mexican government, even though it had conducted an audit only months before and had not detected any problems, summoned the NFE's representatives to Mexico City to discuss alleged violations. NFE addressed Mexico's concerns and offered to return to Mexico City to negotiate new terms to the suspension agreement. In July 2002, the Mexican government announced it had investigated the reference price system, and decided to continue it. The next month, in August 2002, Mexico revoked the suspension agreement and imposed an antidumping duty of 46.58 percent on Red and Golden Delicious varieties.

No provision was made to exempt shippers from states, such as Michigan or Virginia, which had no previous access to the Mexican market and therefore no export history upon which to base an antidumping duty. Instead, all U.S. Red and Golden Delicious apples faced a prohibitive 66.58 percent import duty, due to the additional 20 percent NAFTA duty in place at that time.

The timing of the Mexican imposition of the 46.58 percent import duty was notable, since it was widely known that NAFTA's tariff rate quota and duty were to be lifted on January 1, 2003. Also interesting to note is that in Mexico's main apple-producing state, Chihuahua, almost 70 percent of all orchards are planted with Golden Delicious apples and 30 percent with Red Delicious, according to the USDA.

Since August 2002, the U.S. apple industry, in particular NFE, has attempted to convince the Mexican government to find a mutually-acceptable solution. Several letters from Congress and governors of a number of apple-producing states were sent to Mexico's U.S. Ambassador. Meetings were held with staff for USTR Ambassador Zoellick and USDA Secretary Veneman, and a series of discussions occurred with representatives of the Mexican government.

The U.S. apple industry's goal is to suspend the onerous and unfair import duty, and negotiate a settlement agreement that allows reasonable market access and ensures compliance with the terms of the agreement for the 2003 crop season. This means a mutually-acceptable agreement must be reached within the next few weeks for Mexican consumers to have access to this year's U.S. apple crop.

There are a number of important, technical issues that the U.S. apple industry is concerned about regarding the manner in which Mexico implemented its antidumping determination. These may be important to review if an acceptable settlement cannot be reached in the near future. The period of investigation, the relationship between the injury determination and the evidence presented, and the manner in which the price undertaking was suspended are just three of the issues that merit scrutiny.

Quarantine Restrictions

When Mexico opened its market to apples from the U.S., it imposed extremely detailed quarantine regulations that drove up costs and discouraged imports. At the time in 1991, and subsequently, USDA and the U.S. apple industry argued the restrictions were without scientific merit and should be removed. Since 1991, Washington, Oregon and Idaho have exported over 50 million boxes of apples to Mexico, and not a single, live quarantine pest has ever been detected in all those years and in all those shipments. This fact alone should bolster the argument that Mexico's restrictions are inconsistent with the quarantine threat. Nonetheless, last month Mexico submitted numerous changes it wants made to the regulations. These changes, which have no scientific merit, would make existing regulations even stricter and add to the cost of exporting U.S. apples. It is an unfortunate and unnecessary step backward.

Rather than negotiating new regulations, the U.S. and Mexico should be negotiating the elimination of the existing regulations. At a minimum, Mexico should be asked to justify why additional regulatory changes are now necessary.

In conclusion, the U.S. apple industry is eager to export its apples to our customers in Mexico. We are proud of our ability to produce excellent apples, and seek an opportunity to sell them fairly and openly in the Mexican market. The entire U.S. apple industry wants to be a constructive trading partner with Mexico. The U.S. apple industry wants to regain market access for our Red and Golden Delicious apples. Virginia, Michigan, New York, Pennsylvania, and the other apple-producing states want a meaningful opportunity to export some of their production as well. Without the Mexican export market, even a small U.S. crop can become a very difficult crop to sell.

The U.S. apple industry supported passage of the North American Free Trade Agreement. NAFTA helped to make Mexico a major apple export market. It increased economic growth in Mexico and helped to expand a growing Mexican middle class with purchasing power to buy our products. Certainly there has been benefit to both of our economies. However, in order for the U.S. and Mexico to be good trading partners, we need to be able to resolve differences through frank and constructive discussions. We must have confidence that any trade regulations imposed are consistent with the spirit and intent of NAFTA, and based on sound, scientific assessments of actual risk.

Thank you for the opportunity to explain these important issues facing U.S. apple growers with regard to trade barriers with Mexico. I would be glad to answer any questions you may have.

RESPONSE TO A QUESTION FROM SENATOR GRASSLEY

Question. You stated, if I heard you right, that in July of 2002, the Mexican government announced that it had investigated the reference price system agreed to in the suspension agreement, and that it had decided to continue the system.

Then one month later or less, the Mexican government revoked that agreement and imposed antidumping duties. Could you describe the intervening process that led to the revocation of the suspension agreement, and was the process transparent, along the lines that I asked Mr. Satterfield, about that investigation for rice?

Answer. According to the Northwest Fruit Exporters (NFE), who were closely involved in negotiating the terms of the suspension agreement in Mexico, the process followed by the Mexican government to revoke the agreement and impose antidumping duties in August 2002 was not transparent and occurred precipitously shortly before the U.S. apple harvest. While no official notice was received by the U.S. apple industry, it did appear unusual that the Mexican government did not initiate plans in the summer of 2002 to conduct its customary annual audit of U.S. exporting facilities in late summer and early fall of that year. However, NFE did not receive notice that there would be no audit.

The facts about whether the Mexicans used a transparent process speak for themselves. On July 10, 2002, the Mexican government published in Mexico's *Diario Oficial (Federal Register)* a final resolution reconfirming the 2000/2001 reference price established for U.S. Red and Golden Delicious imported apples under the suspension agreement, after a lengthy investigation. The effective date of this resolution was July 11, 2002, the following day.

Less than one month later, on Friday, August 9, 2002, the Mexican government unexpectedly announced in the *Diario Oficial* termination of the suspension agreement and its associated reference price system negotiated between the Mexican government and the U.S. apple industry. Also announced in the same *Diario Oficial* notice was resumption of the antidumping investigation which had been suspended in 1998 when both sides agreed to establish a reference price. The effective date of this announcement was August 10, 2002, the next day.

The next business day, Monday, August 12, 2002, the Mexican government unexpectedly published a notice in the *Diario Oficial* announcing final conclusion of the official antidumping investigation against U.S. Red and Gold Delicious apples, thus ending the investigation that had been reopened the previous business day. In the same August 12, 2002 *Diario Oficial* notice, the Mexican government announced imposition of final 46.58 percent duties imports of Red and Golden Delicious apples from the U.S., effective August 13, 2002, the next day. This duty remains in still in effect.

In the August 9, 2002 *Diario Oficial* publication regarding termination of the suspension agreement, there is reference to numerous violations. We believe the alleged violations were without merit. NFE was required to appear before Mexico's Secretariat of Economy in February, 2002. NFE worked hard to respond to all of the alleged violations and made official filings through legal counsel. Copies of these documents and briefings by NFE were provided to the Office of the U.S. Trade Representative and other appropriate U.S. government agencies.

This non-transparent, inconsistent process denied NFE and U.S. apple exporters the opportunity to provide relevant, essential input and respond with data and information to the Mexican government. This quick, cascading sequence of abrupt trade events suggests that the Mexican government planned this process in advance with a deliberate intent to impose a significant trade barrier on U.S. exports of Red and Golden Delicious apples to Mexico.

 PREPARED STATEMENT OF HON. RICK SANTORUM

Chairman Grassley and Ranking Member Baucus, thank you for convening today's hearing and for focusing the Committee's attention on a matter of great concern to America's farmers. As you know, our agricultural community is one of the strongest supporters of free and open trade. American agricultural products, because of their quality and variety, are sought by consumers all over the world. Impediments to free trade in agricultural products are of great concern to me.

I also want to thank you both for honoring my suggestion of including Mr. John Rice, a seventh-generation apple grower from Adams County, Pennsylvania, to share his observations on Mexican trade barriers to the export of American apples. Additionally, you have assembled a wide and diverse group of witnesses who each have insight on particular sectoral impediments. I am concerned that the Mexican government has taken action—inconsistent with the principles of NAFTA and the

WTO—to limit American exports of apples, rice, beef, pork and high fructose corn syrup.

Mexico's decision to impose a 46.6% duty on U.S. shipments of Red and Delicious apples unfairly penalizes apple producers in states such as Pennsylvania, Washington, New York, and Michigan. Furthermore, apples that used to be exported to Mexico are now staying in this country, causing market surpluses and low prices for all U.S. apple producers.

In many cases, the rationale for Mexico's discriminatory actions seems to be a manifestation of domestic political pressures and reluctance of the Mexican government to live up to the terms of NAFTA. From afar, it would seem that these pressures are in response to Mexican farmers and agricultural producers' failure to maximize the 10-year transition period accorded by NAFTA.

Again, thank you both for calling this hearing and for raising attention to these troubling trade developments. I look forward to the testimony of Ambassador Johnson and the other witnesses on ways to address these trade disputes.

PREPARED STATEMENT OF SERGIO SARMIENTO

For years free trade has generated fears and political demagoguery on both sides of the U.S.-Mexican border. Ross Perot was not the only politician who warned of a giant sucking sound of jobs. These warnings were also quite common in Mexico when the North American Free Trade Agreement (NAFTA) was being negotiated in the early 1990s.

The demagoguery and the fears have not disappeared. In Mexico, a number of special interest groups and political parties have organized a movement that is putting pressure on the government to renegotiate NAFTA because, they claim, free trade is responsible for the troubles affecting Mexico's agriculture. The constant bombardment of information by these groups has led 32 percent of Mexicans to believe that Mexico's agricultural is in trouble because of NAFTA.¹

The hard information available, however, actually shows that NAFTA has been good for all signatory countries—the U.S. Mexico and Canada. Overall trade among them rose 85 percent between 1993 and 2001, at a time when world trade expanded by 66 percent.² Mexico's foreign trade rose at an even faster pace during this period: 179 percent, which is logical given the fact that Mexico is the least developed of the three countries. Between 1993 and 2002 Mexico's exports to the world expanded from \$52 billion to \$166 billion.³

But in spite of the expansion of Mexico's exports, there was no giant sucking sound of U.S. jobs heading south of the border. In fact, the first years of NAFTA coincided with an unprecedented period of growth and job gains in the U.S. Unemployment not only did not rise but fell to record levels. NAFTA is not solely responsible for this, but the overall increase in trade promoted by it was a factor in the rise in competitiveness of the U.S. economy in the 1990s.

From the start Mexico's agriculture was the most protected sector within NAFTA. The U.S. and Canada opened its doors to agricultural products at a significantly faster pace than Mexico. Tariffs and barriers on 42 percent of Mexico's agricultural products were fully eliminated only in 2003, nine years after the beginning of NAFTA. Mexico, moreover, will continue to get protection on 18 percent of its agricultural imports until 2008. In contrast, 95 percent of all U.S. agricultural imports from Mexico are already free of tariffs and barriers as of 2003.

In spite of this, U.S. and Canadian farmers have benefited from the opening of the Mexican market. Mexico's imports of farm products from its NAFTA partners rose from \$3.5 billion in 1994 to \$5.9 billion in 2001. Indeed, agriculture is one of the few areas of the economy where Mexico has a trade deficit within NAFTA. In 2001 this deficit amounted to \$1.9 billion. But Mexican exports of agricultural products have also expanded within NAFTA—from \$2.6 billion in 1994 to \$4 billion in 2001.⁴

Differences remain. Some are the result of legal lacunae left over from the original agreement—which is the case, for example, in the dispute about sugar and high fructose. The high level of government subsidies paid to farmers in the U.S. remains an irritating issue for Mexican farmers. Due to protectionist pressures from domes-

¹ *Reforma*, February 1, 2003.

² "A diez años del Tratado de Libre Comercio de America del Norte" (Secretaria de Economia; Mexico, 2002).

³ "Informacion oportuna sobre la balanza comercial de Mexico a diciembre de 2002" (Secretaria de Hacienda y Credito Publico; Mexico, January 23, 2003).

⁴ Secretaria de Agricultura y Recursos Hidraulicos, Mexico, 2002.

tic interest groups, moreover, the Mexican government is resorting to anti-dumping measures that are often thinly disguised efforts to erect protectionist barriers to U.S. products.

Every product has a history of its own. In the case of sugar, for example, both Mexico and the U.S. have taken questionable protectionist measures and have passed the cost on to consumers. NAFTA, in fact, implied a closing rather than an opening of the Mexican sugar market because of the existing elaborate protection of U.S. sugar companies. Mexico, however, has an extremely inefficient sugar industry subjected to government price controls and to an outdated labor contract that makes innovation and improvements in productivity almost impossible. All of this explains why sugar prices in our two countries are among the highest in the world. We all pay for the price of protectionism.

Pork producers in Mexico have forced the Mexican government to start an anti-dumping suit against U.S. porks. My impression is that Mexico does not stand on solid grounds in this legal action, but the government seems to be buying time for Mexican pork producers. Paradoxically, the same Mexican pork farmers who want special protection are demanding that the Mexican government opens up trade in corn so as to assure them of cheap fodder for their animals.

Corn is one of the main reasons of complaint of Mexican farmers. Although this market is not yet fully open, Mexico is supposed to have a tariff-free import quota of 3 million tons a year. But the country is in fact importing some 6 million tons a year—to the benefit of U.S. and Canadian farmers. Mexican corn producers rightly claim that massive subsidies are at least partially responsible for a lower price of corn in the U.S. Yet they neglect to say that corn subsidies are also very high in Mexico, especially in the northeastern state of Sinaloa where commercial farmers are strongest. Mexican farmers and politicians also choose to forget that the main reason why most Mexican corn is outrageously expensive to produce is because Mexico has fragmented its land in a myriad of minuscule farms with shaky property rights.

The market for beef was opened in Mexico before NAFTA. Now some local producers are pressuring the Mexican government to close the border again. But Mexico continues to import some 25 to 30% of its beef from the U.S. If Mexico were to close the border, there would be a severe scarcity in the country and prices would go through the roof.

Mexican apple producers from Chihuahua have also sought protection from U.S. Washington apples. The Chihuahua producers demanded and got a minimum price for apples such as it already existed in winter tomatoes. But the minimum price was so high that it allowed Chilean apples to enter the country. Regardless of these maneuvers, Mexico continues to be a major importer of Washington apples—and it is likely to remain so because there is little land in Mexico adequate for apple production.

Clearly we are seeing an upsurge of protectionism in Mexico. It is not that Mexican farmers have been wiped out by free trade, as the anti-free trade movement claims. But some politicians and social leaders are trying to take advantage of a misguided popular perception that free trade has been detrimental to Mexican farmers.

The negative consequences of free trade are easy to portray in the media. A factory or a farm that closes provides vivid human stories for reporters. The benefits of free trade are much wider, but also far more difficult to portray. Falling food prices, which benefit poorer consumers the most, make for unconvincing journalistic stories.

Still, there is little doubt that Mexican farmers have managed to do quite well under NAFTA, especially in some products such as tomatoes and vegetables. NAFTA has opened new markets and it has increased Mexico's agricultural and processed food exports. In some other products, for example corn, Mexico's producers have no chance of being competitive. But the problem lies not in free trade, but in present Mexican legislation that limits rural property rights and does not allow the existence of large, competitive farms. U.S. subsidies, on the other hand, are indeed a problem and generate unfair competition for Mexican farmers.

U.S. farmers have also benefited from NAFTA. Mexican imports have represented one of the fastest growing markets for U.S. agricultural products over the past decade.

The solution to the problems of farmers on both sides of the border is not to engage again in a protectionist war in which everyone would lose, but to eliminate the significant obstacles to free trade that still remain in place. If we truly want to give people a better standard of living, we must continue to dismantle agricultural protectionism in Mexico and the U.S.



MEXICO ALERT NAFTA AND MEXICO'S AGRICULTURE

Sergio Sarmiento

OVERVIEW

- On January 1, 2003, tariffs on a host of agricultural goods under NAFTA were eliminated. While tariff levels on most of these goods were at 2%, some subsectors were more drastically affected.
- Capitalizing on the tariff phase-out as a political wedge issue, PRI and PRD-affiliated anti-NAFTA groups have organized demonstrations (some peaceful, some violent), roadblocks, and political lobbying to pressure the Fox Administration to renegotiate NAFTA's agricultural chapter.
- In contrast to the rhetoric, Mexico's agricultural sector grew significantly during the first eight years of NAFTA.
- The Fox Administration is now facing mounting political pressure to address the agricultural sector's chronic structural problems as well as the poverty in Mexico's countryside.

"A poor, aged, conservative countryside, which repeats itself in a vain attempt to be what it was, is not the promised land."

-Arturo Warman

For a long time, it seemed impossible for any issue to forge an alliance between the Institutional Revolutionary Party (PRI)—the party that ruled Mexico from 1929 to 2000—and the leftist Party of the Democratic Revolution (PRD). This issue, however, has clearly emerged now with the attempt to force President Vicente Fox, a member of the conservative National Action Party (PAN), to renegotiate the North American Free Trade Agreement (NAFTA) in order to offer special protection to Mexico's agriculture.

In late 2002 and early 2003, this alliance has flexed its muscles. The PRI-affiliated National Peasant Confederation (Confederación Nacional Campesina, CNC)—led by the former Oaxaca governor Icladio Ramírez, El Barzón — of former PRD legislator Alfonso Ramírez Cuéllar — and the Permanent Agrarian Council (Consejo Agrario Permanente, CAP) have organized demonstrations (some peaceful, some violent), road blockades, and political lobbying to pressure

the government to renegotiate NAFTA's agricultural chapters.

This effort, however, is based on two false premises: (1) that Mexican agriculture has been seriously damaged by U.S. and Canadian imports, and (2) that the damage will become even greater in 2003 with the elimination of most tariffs for agricultural products.

The image of a NAFTA-provoked crisis in the countryside, where one quarter of Mexico's population lives and toils, has proved popular in the country's increasingly independent media. Tales of rural poverty have become more frequent than ever in news broadcasts, magazines, and newspapers. The constant repetition of the arguments of anti-NAFTA groups have led many Mexicans to believe that NAFTA is, indeed, on the brink of destroying Mexico's agriculture.¹ In Mexico, it is always easy to blame the gringos for whatever problems the

1. 32 percent of Mexicans believe that NAFTA is the main reason for Mexico's crisis in the countryside. See telephone public opinion poll in *Reforma*, February 1, 2003.

country has.

However, there is little real indication that NAFTA, which has been a boon for the Mexican economy as a whole, has had a damaging effect on the country's agriculture or that it will do so in the near future. It is true that some agricultural producers have benefited more than others under free trade, and that there are some clear losers. Nonetheless, Mexico's agriculture has done quite well under NAFTA overall.

Mexico's agricultural sector has major structural problems, which are responsible for its low productivity, at least in some products, and for the extreme poverty that afflicts people living in rural areas. The excessive fragmentation of land is perhaps the most serious problem. Another is the lack of full property rights in the *ejidos* (semi-collective plots of land distributed by the government as part of an agrarian reform) and communal farms that cover more than half of the nation's agricultural land. The existing legal obstacles to providing private credit to the *ejidos* are another. But none of these problems has anything to do with NAFTA.

NAFTA's Impact. All signatory countries have benefited from NAFTA. Trade among Mexico, Canada, and the United States has boomed; it rose 85 percent from 1993 to 2001—the first eight years of NAFTA. This was a significantly higher pace than the 66 percent increase in world trade for the same period. In the meantime, Mexico's trade with the world rose 179 percent, mostly because of its trade with the United States.²

Having a trade surplus for any of the countries was not one of the objectives of the agreement, but in the case of Mexico, its perennial deficit with the United States has been transformed into a growing surplus, which was close to U.S.\$37 billion in 2002. Manufactured products have been the shining stars of this Mexican export boom, but agriculture is certainly not the disaster some claim it to be.

Mexican exports to the world stood at U.S.\$52 billion in 1993, the year before NAFTA began to operate. This number tripled to U.S.\$166 billion by 2002. This represents a 12 percent annual growth for the first nine years of the agreement.³ From 1994 to 2001, exports contributed with an average of half the expansion of Mexico's gross domestic product.⁴ In 1995, when Mexico's domestic economy plummeted after the December 1994 devaluation of the peso, it was exports—and especially NAFTA exports—that prevented a total economic collapse.⁵ More than half of the 3-million jobs created in Mexico from 1995 to 2002 were a

direct result of the expansion of exports. Moreover, wages in export-related employment have been 37 percent higher than in the rest of the economy.⁶

From the start, Mexico's agriculture was NAFTA's most-protected sector. Under the agreement, 88 percent of Mexico's agricultural exports gained immediate tariff-free access to the U.S. market and 61 percent to the Canadian market. In contrast, Mexico opened its doors immediately to U.S. products worth only 36 percent of Mexican imports while Canada's quota was 41 percent. Mexico phased off tariffs on 42 percent of its imports from the United States over a 10-year period ending in 2003. A final portion, 18 percent, will continue to get some tariff protection until 2008, when the 15-year liberalization period will conclude. In contrast, 95 percent of all U.S. agricultural imports from Mexico are free of tariffs as of 2003.

The rules of the game did not change dramatically on January 1, 2003, as the anti-NAFTA movement has claimed. On December 31, 2002, after nine years of gradual reductions, ninety percent of all products that were to be allowed into Mexico tariff-free in 2003 had a tariff of only between one and two percent. These included milk products (cheese, yogurt, butter), fruit (apples, pears, apricots, dried fruit), wheat products, sorghum, rice, other grains, soy, sesame seeds, other oil seeds, candy, and chocolate products.⁷ For all of these products, 2003 brought no major change in protection.

The change, however, has been more drastic for a few products. Pork meat, for example, had a two-percent tariff in 2002, but only within a quota—Mexican importers paid 20 percent after the quota had been filled. Potatoes and chicken parts were tariff-free but also within a quota; Mexico paid 51.6 and 49.4 percent, respectively, outside the quota.⁸ The special off-quota tariffs were eliminated in 2003 for these products as well as a few more, and thus, in these cases, we could indeed find a more significant impact on Mexican producers this year. The Mexican government consequently has already claimed a safeguard that would limit the tariff-free access of U.S. chicken parts to Mexico for three years.

Until 2008, Mexico will maintain a significant tariff protection for maize (corn), beans, powder milk, and sugar, while the United States protects sugar and orange-juice concentrate. A quota system is also in place for these products. Mexican imports of maize, for example, are tariff free when they come under the quota, but outside there was a prohibitive 108.9 percent tariff in 2002. This tariff will be gradually reduced to zero in 2008. Beans and

2. "A diez años del Tratado de Libre Comercio de América del Norte," (Secretaría de Economía; México, 2002).

3. "El TLC y el campo," (Secretaría de Economía; México, 2003).

4. "Información oportuna sobre la balanza comercial de México a diciembre de 2002," (Secretaría de Hacienda y Crédito Público, México, January 23, 2003).

5. "El TLC y el campo."

6. See Stiglitz, Joseph, "Floundering in a Tariff-Free Landscape," *The Economist*, November 28, 2002.

7. Internal Secretaría de Economía memorandum to then secretary Luis Ernesto Derbez in preparation for a presentation in the Senate on December 12, 2002.

8. "El TLC y el campo."

8. *Ibid.*

powdered milk also pay no tariff within their quotas, but a levy of 70.4 percent was applied outside the quota in 2002.

Only 38 percent of Mexico's agricultural imports are presently getting tariff-free access because of NAFTA. These products include wheat, rice, grapes, pears, and others. 43 percent of Mexico's agricultural imports (sorghum, soy, peanuts, maize seeds, and others) get tariff-free access on a most-favored-nation treatment under the rules of the World Trade Organization. Thus, even if NAFTA were renegotiated, these products would continue to enter Mexico tariff-free not only from the United States and Canada but also from other countries in the world. The other 19 percent of Mexican imports, which include maize, barley, and beans among other products, continue to be subject to quotas and tariffs.⁹

Mexico's imports of maize, the product that generates the most concern because it is the staple in the diet of most Mexicans, have consistently exceeded NAFTA's import quotas. These quotas rose gradually from 2.5 million tons in 1994 to 3.1 million tons in 2001. But imports have exceeded 5 million tons in 5 out of the past 8 years.¹⁰ The reason has been an insufficient amount of domestic crops due to drought. If the government had decided to stick to the quota and prevent these imports, prices would have risen out of all proportion starving many of the country's poor. A significant portion of the imports, moreover, is of yellow maize, which is mostly used as fodder for cattle and chickens. Had those imports been prevented, beef, chicken meat, and egg production would not have been able to develop competitively.

In spite of the decline in protection, Mexico's primary sector (which, aside from agriculture, includes cattle and chicken raising, lumbering, and fishing) has grown at a quicker pace than the rest of the economy over the past few years. In 2001, Mexico's gross domestic product declined 0.3 percent, but the primary sector expanded 2.5 percent. However, information for 2002 shows that, while the economy expanded 0.9 percent, the primary sector declined 0.4 percent.

Imports of agricultural products to Mexico stood at U.S.\$3.9 billion in 2001. This is only 2.5 percent of the country's total imports. Almost half of these agricultural imports were tariff-free before 2003: soy (15 percent of agricultural imports), de-boned beef (15 percent), sorghum (10 percent), and cotton (8 percent).¹¹ Soy, sorghum, cotton, and maize (which represents 7 percent of imports) are used mainly as inputs for other industries, such as cattle raising or textile production, so that establishing any tariffs on them would make the final products uncompetitive.

Agricultural exports have clearly benefited from Mexico's

9. *Ibid.*

10. *Ibid.*

11. "El TLCAN y la apertura agropecuaria en el 2003 (II)," (Secretaría de Economía, 2002).

trade opening. Before the country began liberalizing its foreign trade in 1986, when it entered the General Agreement on Tariffs and Trade (GATT, later the World Trade Organization [WTO]), Mexico's agricultural exports were stagnant. From 1986 to 1993, exports rose an average of five percent a year. With NAFTA, between 1994 and 2001, growth rose to 10.2 percent a year.¹² Imports have also expanded, especially from 1986 to 1993, when they rose at a rate of 23 percent a year. From 1994 to 2001, however (the NAFTA years) Mexico's agricultural imports rose 6 percent a year—a rate slower than that of exports.¹³

NAFTA was a useful tool for eliminating non-tariff barriers imposed by the United States on Mexican products. The justly famed Haas avocados from the state of Michoacán, for example, had been banned in the United States since the 1930s for alleged sanitary reasons that Mexicans claimed were a ploy to protect California avocados. Starting in late 1997, however, and as a consequence of NAFTA rules, Mexican Hass avocados were allowed entry into the United States.

According to figures from the Secretaría de Economía (which differ somewhat from those of other Mexican departments) Mexico's overall agricultural exports to the United States rose 96.9 percent during the first eight years of NAFTA—from U.S.\$3.2 in 1993 to U.S.\$6.3 billion in 2001. Mexico's share of U.S. agricultural imports expanded from 12 to 14 percent in this period.¹⁴

Mexico's balance of agricultural and processed food products—the so-called agro-food balance—with the United States and Canada has remained in deficit throughout the NAFTA years with the big exception being 1995, when a drastic devaluation of the Mexican peso artificially depressed imports and boosted exports. But exports have never stopped rising.

Agricultural imports—those of unprocessed foods taken directly from the land—rose at a rate of 7.6 percent a year from 1994 to 2001, a slightly faster pace than the 6.6 percent rise in exports in the same category. On the other hand, agro-industrial exports—processed foods which have more value added and generate greater and better-paid employment—have risen at a faster pace than imports have: 15.7 percent against 5.6 percent a year. Adding the figures for agriculture and processed foods, Mexico's total agro-food exports show an increase of 9.4 percent a year for the 1994-2001 period, with imports expanding at a slightly lower rate of 6.9 percent a year. Overall agro-food trade within NAFTA grew 7.9 percent from 1994 to 2001, and this is important because all trade—even imports—

12. José Rodolfo Arias Anzipe, "La política de comercio exterior de México en el sector agroalimentario," (Apoyos y Servicios a la Comercialización Agropecuaria [Aserca], Secretaría de Agricultura, Ganadería, Desarrollo Rural, Pesca y Alimentación [Sagarpa], México, November 2002).

13. *Ibid.*

14. "El TLC y el campo."

generates employment and benefits for the countries involved.

In spite of a persistent drought in northern Mexico, the country's agricultural sector grew significantly during the first eight NAFTA years. Fruit production rose 27.2 percent, vegetables rose 36 percent, and even basic grains—for which Mexico is not naturally endowed—rose 12.5 percent. Overall production of basic grains and seeds rose from an average of 27 million tons a year in the period from 1990–1993 to 31 million tons during 1998–2001. Maize output, which was 16 million tons a year during 1990–1993, rose to 18.5 million tons a year in 1998–2001.¹⁵

Fruits and vegetables clearly have been the most important success story of the first eight years of NAFTA. Mexico has a competitive advantage over the United States and Canada because of its climate and the intensive use of labor in such products. Moreover, fruits and vegetables can be grown efficiently in small plots of land and thus their production can be accommodated in the smaller farms mandated by Mexican legislation. Exports of Mexican fruits and vegetables to the United States rose 118 percent from 1993 to 2001 from U.S.\$1.38 billion to U.S.\$3.02 billion.¹⁶

A small but significant group of products are likely to bear the brunt of the impact in the opening of Mexico's agricultural market in 2003. This group includes animal fat (which in 2002 had a 53.5 percent tariff), potatoes (51.6 percent), sliced turkey (49.4 percent), fowl paté (49.4 percent), chicken (49.4 percent), malt (33.2 percent), whole turkey (25.2 percent), barley (24.3 percent), and eggs (9.5 percent).¹⁷

Beef probably has been the product most affected by Mexico's trade opening. The liberalization of the beef market, however, began before NAFTA. In 1989, beef imports were freed of tariffs in order to compensate for a domestic scarcity that had generated steep price increases. Imports of beef rose from 4 to 21 percent of domestic production from 1993 to 2001, as local output rose a paltry 1.6 percent a year.¹⁸ A lack of competitiveness with high production costs for a relatively low-quality product in many areas of the country is part of the reason for this situation. But another is the fact that, aside from Sonora, producers have not met the sanitary requirements that would allow them to export to the United States. Even in the case of Sonora, which has top-quality cattle and beef, it has become customary for ranchers to ship live heads for slaughter in Arizona, which then go back to Mexico as U.S.-rated beef. Better quality controls, and more investment in equipment in Mexico's slaughterhouses, could change this situation because slaughtering is a labor-intensive process.

Pork-meat imports have also increased significantly, having risen from 5.8 to 17.9 percent of domestic production from 1993 to 2001. Domestic production, however, has continued to expand at a 4.2 percent annual pace.¹⁹ Significantly, a few Mexican producers have become exporters to difficult markets such as Japan and South Korea.

Mexican chicken producers, which include large companies such as Bachoco and Pilgrim's, have proven more competitive than beef and pork producers. Their output rose 7.7 percent annually during the first eight years of NAFTA while imports rose 5.7 percent a year. The share of imports in domestic production actually decreased from 16 to 13.8 percent.²⁰ The chicken-meat market did have a high level of protection—with a 49.3 percent tariff for off-quota meat—that has formally disappeared in 2003. The Mexican government announced in November 2002 that it was invoking a safeguard protection that will entail an additional three years of protection for chicken meat.

Mexican chicken producers claim that their U.S. competitors sell chicken legs and thighs at dumping prices because breasts are far more esteemed in the United States. Legs and thighs, in contrast, are heavily used for Mexican traditional dishes, such as mole, which require more flavorful meat. This complementarity should be beneficial for consumers on both sides of the border, as it would reduce waste. At present, however, Mexican authorities believe that opening the market in 2003 as scheduled would cause unnecessary damage to Mexican chicken producers.

Egg production, an activity in which large companies also play a major role in Mexico, has also expanded vigorously at an annual rate of 5.4 percent during the first eight NAFTA years. Imports have remained stable at less than 1 percent of local production.²¹ Most imports are fertilized eggs, used to improve local production, rather than the final consumer product.

Milk production has grown at a reasonable pace of 3.2 percent a year, but imports are not far behind at an annual expansion rate of 2.1 percent.²² Imports are largely processed products (powder, condensed and evaporated milk). Imports could be reduced significantly if investments were made in Mexican production plants.

One reason for the increase in agricultural imports is the fact that per-capita consumption of animal-protein foods has grown very rapidly in Mexico. From 1990 to 2001, per-capita consumption of beef rose from 12.3 to 16.4 kilograms; consumption of pork meat climbed from 11.2 to 14.1 kg; consumption of chicken meat boomed from 9.4 to 21.3 kg; and consumption of eggs increased from 12.1

15. *Ibid.*

16. *Ibid.*

17. "TLCAN 2003: análisis de la situación agrícola en México ante la apertura comercial" (Secretaría de Economía, México, 2002).

18. Arias Arizpe, *Ibid.*

19. *Ibid.*

20. *Ibid.*

21. *Ibid.*

22. *Ibid.*

to 18.2 kg.²³ These per-capita increases are totally independent from the growth due to the natural population expansion. They are also much higher than one could expect with the weak rise in real wages for the same period. The only explanation for this increase is the opening of Mexico's economy, which has introduced competition and pushed prices down. And from the beginning, this was one of the main purposes of the Mexican trade opening, which eventually led to NAFTA.

The 2002 Farm Bill, which expanded subsidies to agricultural production in the United States, is a reason for concern in Mexico. Massive U.S. subsidies to basic grain producers make it more difficult for Mexican farmers to compete with their U.S. counterparts. In 1998–2000, the average transfer to each agricultural producer in the United States was U.S.\$20,803, in the European Union U.S.\$16,028, and in Mexico U.S.\$720.²⁴ These subsidies have now been increased in the United States with the 2002 Farm Bill. The problem with these figures, however, is that they do not take into account the enormous disparity in size between the average farm in the United States and Mexico.

The actual impact of the new subsidies on the agricultural trade between Mexico and the United States is not yet known. Mexican authorities have not completed a full study of the impact of these subsidies on Mexican agriculture.²⁵ However, most of the new subsidy goes to basic grains, in which Mexico does not have sufficient domestic production or the hopes of being truly competitive. U.S. taxpayers could actually end up subsidizing grain consumption in Mexico that Mexicans would have purchased anyway.

The impact of the subsidies, whatever their amount, is relatively low in comparison with the damage done to Mexico's agriculture by the fragmentation of land and the lack of full property rights. Farmers of northern Mexico, particularly in Sinaloa and Sonora, are most affected by U.S. subsidies. But they also are the most-subsidized Mexican producers.

When the total value of subsidies from fiscal resources and higher consumer prices is added, according to the Mexican government, the United States provided its farmers in 2001 total subsidies worth U.S.\$61.6 billion while Mexico disbursed U.S.\$8.7 billion. Agricultural output in the United States was worth U.S.\$225.8 billion while Mexico's was only worth U.S.\$32.7 billion. Thus the United States is subsidizing 27.3 percent of its production while Mexico

subsidizes 26.6 percent.²⁶

Poverty in Mexico's Countryside. In spite of some improvements over the past few years, Mexico continues to be a very poor country. It has the ninth-largest economy in the world with a gross domestic product of more than U.S.\$600 billion—about U.S.\$6,000 per person—but it ranks number 54 in the United Nations human development ranking.

Poverty in Mexico is concentrated in the countryside. Extreme poverty—the kind that makes a family incapable of feeding itself—affects 12 percent of urban Mexican families. Although this figure is certainly high enough, it pales dramatically when compared to that of Mexico's rural areas, where extreme poverty afflicts 42 percent of all families.²⁷

Mexico's rural poverty, however, did not start with NAFTA in 1994. It is an endemic problem with roots as far back as pre-Hispanic times. The country's peculiar land-ownership system, which has fragmented agricultural land and denied full property rights in more than half of Mexico's territory, seems to be largely responsible for keeping Mexico's rural areas impoverished at a time when urban Mexico has prospered.

Mexico's violent 1910–1917 revolution was, at least to a certain extent, a consequence of the country's dire rural poverty. Some revolutionary leaders, especially Emiliano Zapata of Morelos, viewed this poverty as a consequence of the country's extreme concentration of land in just a few hands.

There was also a sense of injustice. Many Indian communities that had toiled their land collectively since before the arrival of the Spanish conquistadors were dispossessed of their communal lands in the nineteenth century. During the 1850s and 1860s, Liberal Party President Benito Juárez—the only full-blooded Indian to be president of Mexico in the country's history—attempted to bring Indian communities into modern society. Juárez was convinced that allowing Indian communities to buy and sell land would compel them to join Mexico's incipient market system. He also wanted to promote the colonization and development of the then-scarcely populated country. Thus, he issued a law of “unoccupied land” (*terrenos baldíos*) that—as was done in some areas of the United States—allowed colonists to claim title to fallow land that they were willing to develop. Many Indian communities did not have legal title to their land because they had roamed and lived on it before the Spanish conquest and, thus, they were easy prey of large hacendados, who took the Indian lands claiming that they belonged to no one.

23. *Ibid.*

24. “Agricultural Policies in OECD Countries: Monitoring and Evaluation, 2001,” quoted by “Ley de Seguridad Agropecuaria e Inversión Rural 2002 de los EE.UU.” (Secretaría de Economía, México, 2002).

25. This point was raised by Jaime Serra Puche, Mexico's trade secretary in 1988–1994 and NAFTA's top Mexican negotiator, in an interview aired on television at “La entrevista con Sarmiento,” February 7, 2003.

26. “Ley de Seguridad Agropecuaria e Inversión Rural 2002 de los EE.UU.” (Secretaría de Economía, México, 2002).

27. “La pobreza en México,” Secretaría de Desarrollo Social (México, 2002).

According to Mexico's official Anuario estadístico (Statistical Yearbook) of 1905, out of 131 million hectares of rural land in the country, 8,431 *hacendados* owned 114 million hectares—87 percent of all rural property. Each *hacendado* thus had an average of 13,500 hectares of land.²⁸ This average, however, probably hides the real concentration of land because 300 families were claimed to own 70 percent of the country's land.

Zapata joined the 1910 revolution against the government of Porfirio Díaz. This uprising was led by Francisco I. Madero, a wealthy *hacendado* from the northern state of Coahuila who was mainly concerned with establishing a democratic system in the country. The Madero rebellion overthrew Díaz in May, 1911, and in November, Madero was elected president. But Zapata then took arms against Madero and demanded an agrarian reform that the new president was not inclined to make.

Madero was overthrown by his chief military commander, Victoriano Huerta, and assassinated in February of 1913. Zapata joined a new rebellion against Huerta, which succeeded in 1915. Victory led to an all-out war among various revolutionary groups. Venustiano Carranza, a former governor of Coahuila, eventually prevailed and attempted to pacify other restless revolutionary groups with a constitutional convention. In 1917, a new Constitution was passed which, in part owing to Zapata's ideas, ordered a sweeping agrarian reform.

The Mexican government began to dismantle the country's *latifundios* (large haciendas) and distributed the land in *ejidos* and communal lands. When there were no more *latifundios*, it was medium-sized and small farms' turn to be expropriated—often without indemnity.

The reform succeeded in fragmenting the land to an extent that would have seemed impossible during the Díaz regime. According to the 1991 agrarian census of the country's total territory of 200 million hectares, or 2 million square kilometers, 175 million hectares were considered rural in nature; the rest were urban or in the hands of the federal government. Of this rural land, 103.3 million hectares (59 percent) were in the hands of *ejidos* or Indian communes, while 71.7 million hectares (41 percent) were in private hands.

The 1991 agricultural census registers 3,524,000 individuals as having control of land in *ejidos* and Indian communities (it is not appropriate to speak of owners because neither the *ejidos* nor the Indian communes allow for full property rights). Thus, each *ejidatario* or *comunero* had 29.3 hectares to work. Private landowners were 1,411,000, with 50.8 hectares each.²⁹

These averages, however, are misleading. Cattle-ranch

owners and *ejidatarios* in the dry north have larger tracts of land, while much of the land held by both *ejidatarios* and private owners is simply not agriculturally productive. Most *ejidatarios* and private farmers in central and southern Mexico have to make due with farms of 5 hectares or less.

Irrigated parcels of land distributed under the agrarian reform by the government of Gustavo Díaz Ordaz (1964–70) had an average of 4 hectares. In the administrations of Luis Echeverría (1970–76) and José López Portillo (1976–82), the average went down to 2.1 hectares per *ejidatario*. During the Miguel de la Madrid administration (1982–88), it was down to 1.4 hectares. In 1992, it was finally accepted that there was no more land to distribute and President Carlos Salinas de Gortari (1988–94) officially put an end to the agrarian reform.

Mexico was left, however, with a greatly fragmented countryside. The farms of 5 hectares and less were simply unable to produce maize and other grains at competitive prices. The Mexican government, moreover, paid subsidies for the production of maize, which generated a perverse incentive for families to continue cultivating it regardless of the dearth of productivity, and then paid subsidies to reduce the price of this commodity in the market.

Ejidos and Indian communes faced many restrictions in their operation as commercial ventures. Their land could not be legally sold or rented out, even if this would have meant a more efficient use of the land. *Ejidatarios* would lose their land if it was allowed to lay fallow and, thus, they had an incentive to continue cultivation even if it was not economic.

Inheritance rights were limited—only one son could inherit an *ejido* plot. Many peasants were unhappy with this situation, so they divided the land among their children and relatives. But over time, this meant that millions of farmers were again working and living on land to which they had no legal title.

In order to prevent the reemergence of *latifundios*, the Constitution prohibits individuals to own more than 100 hectares of irrigated land. The limit is larger for non-irrigated land, but the resulting farms are still too small to be competitive internationally, especially in the production of basic grains. Moreover, this system has proven a disincentive for building irrigation systems because a plot of more than 100 hectares might become illegal if it gets irrigation.

Ejidos and Indian communal land cannot be used as guarantees for credit because banks are not allowed to take them over if repayments are not made. This limitation, which was designed to protect the rights of farmers against their creditors, has had the unintended consequence of eliminating all private credit to *ejidatarios* and Indian communes. Banrural, a system of agrarian credit unions subsidized by the government, attempted for decades to compensate for the lack of private credit. But the bank

28. Quoted by Wierman, Arturo, *El campo mexicano en el siglo XX* (Fondo de Cultura Económica, Mexico, 2001), p. 74.

29. VII Censo Agropecuario, 1991.

went bankrupt in 2001 at a cost to taxpayers of U.S.\$4 billion. Even when it was lending, though, Banrural was of little use to farmers: five pesos out of six of its resources were used to pay its bureaucracy rather than to give credit to farms.

The fragmentation of the land plus the lack of full property rights in the countryside are the main factors in Mexico's rural poverty. It is not NAFTA or free trade that have brought about this situation. Successful farmers have tried to get around the property limitations by illegally renting *ejido* land, but this leaves them unprotected in case of litigation.

A reform of article 27 of the Constitution in 1992 allowed *ejidatarios* to gain full property rights over their land. This would have allowed them to sell or rent out the land or use it as collateral for credit, but legal difficulties have made the process almost impossible. For an individual *ejido* plot of land to be privatized, a majority of the members of the *ejido* must give approval. The *ejido* commissaries, whose power requires that the *ejido* stays alive, block most attempts to grant individual property rights to farmers. Only about 1 percent of *ejido* land has become private in the 10 years since the Constitution was amended, and most have been in urban areas so the consequences in agriculture have been unnoticeable. Moreover, in the cases in which this privatization has occurred, it has become common for members of the *ejido* to claim back the land, even after being paid for it, taking advantage of the legal complexity of the process.³⁰ The ensuing lack of legal certainty has made investments in former *ejido* land extremely risky and has thus prevented their development.

Conclusions. The political movement calling for the renegotiation or even cancellation of NAFTA has had a tremendous impact on Mexican society, and it is bound to have greater importance as the mid-term July 6 elections draw near. The PRI and PRD, two of the largest parties in the country, have found in this issue a perfect political banner in this electoral year. The media have bombarded their audiences and readers with the message that the poverty of Mexico's countryside is a consequence of NAFTA. And millions of Mexicans have found this claim credible.

Trade and production statistics, however, indicate that Mexico's food and agricultural sectors have not suffered under NAFTA but, with some exceptions, have actually profited from it. Mexicans outside the agricultural sector have also benefited from NAFTA because of the employment generated by the agreement. One of the most important benefits of NAFTA is the availability of cheaper and better quality products—including food.

No one can deny the poverty of Mexico's countryside. Yet,

³⁰Two such examples are a golf course and tourism development in Tepoztlán, Morelos, which was stopped by the *ejidatarios* who reclaimed the land, and the Primavera satellite city presently being developed outside Culiacán, Sinaloa.

this poverty was not generated by NAFTA; rather, it preceded NAFTA by decades or even centuries. The fragmentation of Mexico's land and the limitation of full property rights, which are a consequence of the country's agrarian reform of 1917–1992, have made it unlikely that Mexico's farmers, especially those who produce basic grains that require large tracts of land and massive investment, will ever become competitive vis-à-vis the subsidized, high-technology farmers of the United States. Mexican producers have nonetheless done remarkably well in some areas, especially with fruits and vegetables for which weather and the intensive use of labor give Mexico a decisive advantage over the United States and Canada.

Renegotiating or canceling NAFTA would likely have a detrimental effect on Mexico. The political groups from the PRI and the PRD that are pursuing these objectives are probably aware of this. Yet, the political flag of protectionism is too tempting in a crucial electoral year for Mexico.

About the Author:

Sergio Sarmiento is a columnist for the Mexican daily *Reforma*. His column is reproduced in more than 20 other Mexican newspapers. He is a commentator and anchor of economic and political analysis programs for TV Azteca, where he serves as director of the board of editors. Sarmiento is also an adjunct fellow of CSIS.

Hemisphere Focus is produced by the Center for Strategic and International Studies (CSIS), a private, tax-exempt institution focusing on international public policy issues. Its research is nonpartisan and nonproprietary. CSIS does not take specific policy positions. Accordingly, all views, positions, and conclusions expressed in this publication should be understood to be solely those of the author(s).

©2003 by the Center for Strategic and International Studies

Americas Program • Center for Strategic and International Studies
1800 K Street, NW • Washington, DC 20006 • Tel: (202) 775-3207 • Fax: (202) 775-3199 • <http://www.csis.org>

PREPARED STATEMENT OF TRAVIS SATTERFIELD

Mr. Chairman and Members of the Committee:

My name is Travis Satterfield and I am a rice farmer from Benoit, Mississippi. I appear before you today representing Delta Council, which is the principal voice representing the interest of cotton, rice, catfish, grains and oilseeds in the Mississippi Delta. Also, we are pleased to advise the Committee that both the USA Rice Federation and the U.S. Rice Producers Association have requested that their organizations be associated with and considered to be supportive of our statement before you today.

First, we would like to express our appreciation to the Committee for placing emphasis on the importance of trade relations between U.S. agriculture and Mexico. Mexico is a major importer of U.S. agricultural commodities, and with specific ref-

erence to U.S. rice, Mexico is our largest export market. In 2002, U.S. rice farmers exported 730,000 metric tons to Mexico and this number reflects substantial improvements from the period of the early 1990s when we were only exporting 146,000 metric tons. U.S. rice accounts for 92% of Mexico's rice imports and almost one-half of all rice consumed by their population is purchased from the United States. Since the per capita rice consumption in Mexico is extremely low, the U.S. rice industry has anticipation that consumption will grow in Mexico as import duties on rice from the United States ended on January 1, 2003. (see attachment)

It is important for us to point out that Mexico's decision to impose punitive anti-dumping duties on certain imports of milled rice from the United States is a serious blow which threatens to erode the full benefits of NAFTA to U.S. rice producers, millers, and exporters. These anti-dumping penalties against the U.S. rice industry came at a conspicuous time, since import tariffs on milled rice were lifted on January 1, 2003 in concert with the terms of NAFTA. The consequences of the anti-dumping penalties against U.S. milled rice are already registering problems as we look at a 34% decline in exports of U.S. milled rice during the first three months of 2003, as compared to 2002.

As farmers, and as a rice industry, we enjoy trade relations with Mexico which have resulted in Mexico becoming our primary rice customer; however, in response to the anti-dumping duty which has been imposed on U.S. milled rice, our industry will continue legal action in the form of an appeal within Mexico and we support a filing by the U.S. Government for a dispute settlement case in the World Trade Organization.

The U.S. rice industry is heavily dependent on rice exports and it is essential to us as rice producers, that we maintain the continuing growth of the export market to Mexico. We value Mexico as our primary market for rice, but in the spirit of enforcing existing agreements and obligations which are critical to maintaining open markets, we hope that the United States Government will consider the recent imposition of anti-dumping duties on milled rice and other U.S. commodities by the Ministry of the Economy for Mexico as a very serious matter.

On behalf of Delta Council, the USA Rice Federation, and the U.S. Rice Producers Association, we want to thank your Committee, Mr. Chairman, for affording us the opportunity to appear before you today and submit these comments.

PREPARED STATEMENT OF TERRY STOKES

Good morning. My name is Terry Stokes and I am the Chief Executive Officer for the National Cattlemen's Beef Association, headed in Denver, Colorado. The NCBA appreciates the opportunity to present our views on the long-time trading relationship between the U.S. and Mexico in live cattle and beef trade.

Cattle have been traded across the U.S.-Mexico border for more than a century, and a close relationship between the U.S. and Mexican cattle industries continues today, mostly due to the tremendous success of the North American Free Trade Agreement (NAFTA). Mexico's 103 million citizens have experienced a 33 percent increase in per capita income over the last five years, and this increase in disposable income has led directly to increased Mexican beef consumption.

While Mexico's domestic beef production has struggled to expand and meet this demand in recent years, U.S. beef and beef variety meat exports to Mexico have grown to fill the gap. Prior to NAFTA, Mexico was an inconsistent market, with U.S. exports of 100,000 mt and \$200 million. In 2002, Mexico was our most significant market in terms of tonnage, at 350,000 mt and \$854 million. (Japan remains our largest market with 2002 beef and variety meat exports, totaling \$1.028 billion.) When our industry sought NAFTA more than a decade ago, no one imagined that one day Mexico would become one of the U.S. beef industry's best markets.

This is a mutually beneficial trading relationship, as the U.S. imports approximately one million head of Mexican feeder cattle each year at a value of over \$300 million. In fact, today's integrated North American cattle market looks very much like what was envisioned more than a decade ago by NAFTA proponents, with consumer-driven economic signals on both sides of the border dictating the future direction of this industry.

A Possible WTO Safeguard

Despite years of cooperation between U.S. and Mexican cattle producers on a wide variety of issues, NCBA received news earlier this year that the Mexican cattle industry had filed a petition with its government asking for a safeguard due to a "surge" in beef imports. Although the details are still not clear regarding exactly which Mexican entity is behind this effort, it is believed that the Mexican livestock

producer group *Confederacion Nacional de Organizaciones Ganaderas* (CNG) filed this petition, and that both CNG and the Mexican Cattle Feeders Association (AMEG) strongly support this initiative.

Such a case, if accepted by the Mexican government, would have to meet the “surge” and “injury” criteria of a WTO safeguard. NCBA sees no evidence that these criteria ever existed and the acceptance of such a case, when 2003 U.S. beef and variety meat exports to Mexico are down from 2002 levels, seems inconceivable. Initially this posturing was thought to be politically motivated prior to Mexico’s election earlier this year. However, NCBA continues to believe that the Mexican government may yet bring a safeguard petition forward.

We do not mean to suggest that the Mexican cattle industry has not suffered significant turmoil in recent years. Yes, the Mexican cattle industry suffers from an inability to meet the country’s growing demand for beef. However, these problems stem from a persistent drought and the typical Mexican cattle ranchers’ inability to borrow money due to the absence of banking infrastructure in rural Mexico. They are not issues that have anything to do with the U.S. beef industry or NAFTA.

Yet NCBA has repeatedly heard from the CNG leadership that they want “a deal like you did with (U.S.Mexican) poultry.” These officials make no apologies for their desire to renegotiate NAFTA in favor of some form of “managed trade” due to their misguided belief that U.S. beef is somehow being sold to Mexico for less than its cost of production. NCBA’s response has been a consistent reminder that the tariff on beef trade between the two nations has been zero since 1994.

U.S. beef export market promotion efforts in Mexico, funded by the beef checkoff and U.S. taxpayer dollars via the USDA/FAS cooperator program, have paid great dividends for both Mexican and U.S. beef producers. Remarkably, however, it seems that some in the Mexican cattle industry seek the old, failed ways of a protectionist system, rather than taking the necessary steps to resolve the many structural issues their industry faces and to gain a better understanding of the marketplace.

Despite repeated efforts by USDA and USTR to help the Mexican government better understand the U.S.Mexican beef trading relationship—which included a trip to Mexico City in April and several discussions between NCBA, CNG officials, and SAGARPA Secretary Usabiaga to resolve these tensions—NCBA still believes that Mexico is considering bringing a WTO safeguard case against the U.S. beef industry.

Key technical points:

- If an investigation were initiated upon acceptance of CNG’s petition, this Mexican (beef) safeguard case would be the fourth for Mexico (’93 fishmeal Chile; plywood and chicken were the previous three.) The chicken case was the only one that involved a provisional duty.
- The U.S. cannot ask for a WTO panel on a safeguard case until there has been a final determination by the Mexican government, which has 260 business days to impose a FINAL determination. (Note: Mexican law changed regarding the safeguard timeline on 14-March-2003.)
- If imposed, the safeguard (tariff) measure can only be in effect for six months under Mexican law. At the end of this six-month (approximately 180 day) period, rather than the 260 business days, Mexico is obligated to make a final determination regarding the safeguard.

The NAFTA Anti-dumping

The imposition of any potential interim safeguard tariff would be unprecedented, as it would go on top of the arbitrary and capricious NAFTA anti-dumping duties that Mexico imposed on April 28, 2000. On that date, Mexico’s Secretariat of Commerce and Industrial Development (SECOFI) issued its final decision on the anti-dumping case against exporters of U.S. beef and beef variety meats by imposing a complex set of specific duties on most beef carcasses and cuts. Typically, an anti-dumping preliminary measure cannot last for more than four months, making this beef anti-dumping measure extraordinary, although it is possible to make a request for an extension. These duties are still in place today, which serve to lock many U.S. export interests out of the Mexican market.

As we recently indicated in a September 9 letter to Ambassador Zoellick (Attachment 1), repeated delays in the NAFTA panel’s decision regarding this anti-dumping tariff are yet another example of where significant effort is needed to preserve the legitimacy of our existing trade agreements. As we stated in our letter, “the behavior of this panel undermines the credibility of our trade agreements and casts a dark shadow over the dispute settlement process. At a time when we are negotiating both free trade agreements and another WTO round in an unprecedented fashion, this type of behavior is simply unacceptable.”

SUMMARY

Several factors have or continue to irritate the U.S.-Mexican cattle and beef trading relationship including:

- Mexico's highly charged post-election political environment
- Outbreaks of tuberculosis (TB) in California dairy herds, which prompted a Texas proposal for more stringent regulations at the Texas-Mexico border
- The Mexican drought and an overall decline in profitability in the Mexican cow-calf industry
- Reduced U.S. imports of Mexican feeder cattle in 2002 primarily due to an increase in US imports of Canadian feeder cattle due to last year's severe drought in Canada
- The Mexican cattle industry's limited access capital (interest rates are 16–20 percent if a producer is able to obtain a loan) may be the industry's greatest challenge for the future
- Aggressive efforts to penetrate the Mexican retail food sector by Wal-Mart and Costco
- A desire by some in Mexico to develop their domestic feedlot and meat packing industry without the threat of staunch U.S. competition
- CNG's concerns over the U.S. Country-of-Origin labeling law
- There appears to be a lack of understanding in Mexico concerning how beef is marketed and sold in the United States. NCBA will continue to meet with CNG and to help them understand how the U.S. cattle industry works and the costs associated with the U.S. beef marketing chain

The Mexican government has turned down beef safeguards in the past but the aftermath of this year's hotly contested election may be making this a very difficult thing for the government to do this time around despite the fact that there is absolutely no "surge" in U.S. beef exports to Mexico. It should also be noted that beef is not the only agricultural commodity currently being disputed between the two countries.

Mexican beef imports rose in close correlation with a stronger Mexican economy. This is a RESULT of Mexico's inability to expand its domestic production, not the cause. Weakness in the Mexican economy combined with higher U.S. beef prices also correlate very closely with the slide in Mexican imports of U.S. beef during 2003.

A recent analysis of future trends by the Food and Ag Policy Research Institute (FAPRI) shows U.S. beef production growing 14 percent by 2012 and a subsequent 28 percent (or roughly \$900 million) increase in U.S. beef exports. Clearly, our industry's future growth is dependent upon our ability to export. NCBA's trade expansion goals mean that we simply cannot let existing trading relationships slip, or take them for granted. There must be a firm commitment to existing agreements by industry stakeholders and the U.S. government. This includes a constant fostering of relationships with our trading partners and constant vigilance with respect to maintaining compliance. With the Mexican election now over, it is time get these trade irritant "genies" back in their respective bottles.

Thank you for the opportunity to present this information before the committee.

Attachment 1

September 9, 2003

The Honorable Robert Zoellick
United States Trade Representative
600 17th Street, NW
Washington, DC 20508

Dear Ambassador Zoellick:

The National Cattlemen's Beef Association would like to bring to your attention our concerns on a long-overdue matter, a decision in the NAFTA Chapter 19 panel regarding: Bovine Carcasses and Half Carcasses, Fresh or Chilled Originating in the United States of America (MEX-USA-00-1904-02).

On April 28, 2000, Mexico's Secretariat of Commerce and Industrial Development (SECOFI) issued a final decision on the antidumping case against exporters of U.S. beef and beef variety meats by imposing a complex set of specific duties on most beef carcasses and cuts. In July of 2000 a NAFTA panel was first formed to rule on this issue but delays in selecting panelists meant that this panel didn't begin its work until March 30, 2001.

Earlier this year, we were encouraged by the fact that, after more than two years, this panel was finally going to issue its long-overdue ruling on June 10, 2003. Several days after this deadline passed, we learned that the decision would be postponed until August 29, 2003, with no explanation given. Just days before this deadline, however, we learned of yet another delay, this time until October 31, 2003 and again, no reasoning for the delay was provided.

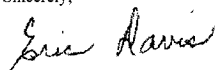
We strongly object to this panel's actions, or rather the lack thereof, and the lack of transparency in how it has conducted business. Historically, it has been assumed that panelists involved with the NAFTA dispute settlement process under Chapter 19 warranted the highest degree of trust, professionalism and respect. However, the inability of this panel to conduct its business in a timely and transparent way is indicative of its mismanagement.

The behavior of this panel undermines the credibility of our trade agreements and casts a dark shadow over the dispute settlement process. At a time when we are negotiating both free trade agreements and another WTO round in an unprecedented fashion, this type of behavior is simply unacceptable.

U.S. cattlemen wish to bring this issue to your attention and ask for your intervention toward a resolution of this case. This case has cost US beef producers million of dollars in lost beef exports to Mexico and has also hit small and medium sized US packers and processors significantly.

Thank you for your prompt attention to this very important matter.

Sincerely,



Eric Davis
President

Cc: The Honorable Ann Veneman, Secretary of Agriculture
The Honorable Caratine Alston, United States Secretary, NAFTA Secretariat

