U.S. TRADE POLICIES AND AGRICULTURE DISEASES: SAFETY, ECONOMIC, AND GLOBAL CONSIDERATIONS

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U.S. TRADE POLICIES ANDAGRICULTURE DISEASES: SAFETY, ECONOMIC, ANDGLOBAL CONSIDERATIONS

TUESDAY, OCTOBER 26, 1999

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON INTERNATIONAL ECONOMIC
POLICY AND TRADE,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC.

The Subcommittee met, pursuant to notice, at 1:30 p.m., in room 2200, Rayburn House Office Building, Hon. Ileana Ros-Lehtinen [Chairwoman of the Subcommittee] presiding.

Ms. ROS-LEHTINEN [presiding]. The Subcommittee will come to order.

The upcoming Seattle round of negotiations is indicative of the critical importance of international trade of agriculture products to all countries in the global trading system. For the United States, agricultural exports represent billions of dollars for our economy. However, with expanded commercial relations, there are also increasing risks and challenges which must be addressed in order for our agricultural producers to be able to compete effectively in the global marketplace.

One of these challenges is in the area of agricultural disease. While it is difficult to draw a direct correlation, critics of trade agreements, such as NAFTA, use statistical and scientific data, for example, to argue that many of the problems with agricultural pests and diseases are related to increased imports.

Lori Wallach, director of the Global Trade Watch, relates this to provisions in the North American Free Trade Agreement [NAFTA], which restrict food safety and agricultural diseases and pest inspections.

Contaminated or infected products can come directly from their point or origin or can be transshipped or repackaged through another country. An example is the smuggling of prohibited Asian products or French and German grape and nursery stock, both through Canada and into the United States

A modification of this position is the view that trade agreements and the policies which support them place greater demands on domestic resources which means that only 70 percent of what crosses the borders at Nagales, New Mexico, for example, is inspected.

For my State of Florida, this has resulted in the arrival of new pests, such as the hibiscus mealy bug which attacks 200 kinds of

plants, as well as increases in Med fly, citrus canker outbreaks, and the tomato yellow leaf curl virus, to name just a few.

This not only translates into health hazards for domestic consumers, it also threatens the survival of many crops which, in turn, diminishes our export capacity. It creates a tremendous financial burden for these farmers, for the industries, for State structures which must deal with these threats, further affecting our global competitiveness.

Again, focusing on the experiences of my home State, total State costs for control and eradication of these pests and diseases, as of September 30, 1999, amounted to over $56 million. Industry costs for control is estimated at between $139 million to $144 million. Estimated annual potential sales lost with statewide spread is between $937 million and $1.2 billion.

But similar scenarios are developing throughout the United States raising the specter of the debate on country of origin labeling. The argument raised by critics of such proposals is that it could be used both as a non-tariff barrier by our trading partners to impede U.S. access to their markets or as an excuse for retaliation. Supporters who underscore that the proposal in no way is anti-trade will point to similar requirements by Canada, Mexico, the EU, and Japan, arguing that country of origin labeling could make the United States more consistent with the rest of the world.

Other experts looking to curtail the spread of agricultural disease would say that, at least preliminarily, the answers are to be found in Sanitary and Phytosanitary [SPS] Agreements in regional and global trade accords. The commissioners and secretaries of Agriculture of New Mexico, Florida, Arizona, California, and Texas, for example, underscore the need for full implementation of these SPS Agreements with all trading partners, tighter measures for pest and disease prevention in the nations with whom we trade, and increased resources to Federal agencies for inspection, early detection, prevention, and eradication of pest and disease introductions.

The Center for Science in the Public Interest is not supportive, arguing that reforms to the SPS Agreements are needed to protect U.S. food safety requirements from being weakened in the name of facilitating international trade.

We hope to address all of these issues during today's hearings as well as the issue of biotechnology which not only provides possible solutions to the issue of agriculture disease but affords new opportunities for American companies in the global marketplace.

I would like to enter into the record the statement of Mr. Gallegly who could not be with us today, without objection.

[The above-mentioned statement was unavailable at presstime.]

I would like to recognize our Ranking Member, Mr. Menendez of New Jersey, for his opening statement.

Mr. MENENDEZ. Thank you, Madam Chairlady. I appreciate your opening statement, and I have a different perspective on the hearing and hope to hear some of that as well.

That is, in essence, the fight that America has always had in gaining fair market access for agricultural products, which has always been a challenge for the United States, from fighting dairy subsidies to demanding access for American beef products. Finding new ways to obstruct market access for agricultural products is a

favorite pastime for many of our trading partners, and transgenic crops seem to have given the European Union [EU] and others a new opportunity to restrict American imports. So, in essence, we are in the midst of a food fight.

The debate over GMO's and GMO products is not about the safety of the genetically modified food products, labeling requirements, or the environmental impact of transgenic crops. It is about one thing, in my view: the obstruction of market access.

Certainly, the United States and other countries must ensure the safety of their food supply. Domestically, the Food and Drug Administration is charged with ensuring that GMO crops and processed foods containing GMO products are safe for consumption. However, domestic and overseas policies must be guided by sound science rather than unsubstantiated claims.

To date there has been no scientific basis to conclude that genetically modified products are more risky than non-modified products. Yet it seems that the EU has seized on and perhaps even exploited consumer concerns about GMO's to support regulatory restrictions and barriers for the approval of GMO products. The EU has imposed a de facto ban on new GMO products imports by insisting that it cannot approve new products until 2002 when new approval procedures are developed.

Trade experts have rightly questioned whether the EU's de facto ban is simply a stalling tactic designed to give more time to the EU's domestic industries who were late in making investments in GMO technology to develop competitive products. The EU's ban in imports of hormone-treated beef, despite a WTO settlement decision favoring the United States may be indicative of what is in store for GMO's. Similar resistance by the EU to imports of new GMO products, even if the United States pursued and won a WTO case, would cost American companies and farmers millions of dollars in sales and lost market opportunities.

I think the United States must separate fundamental market access issues from auxiliary issues being used to cloud the GMO debate, like labeling. The questions raised by consumer groups about whether GMO products should be labeled to allow consumers the right to choose whether or not to consumer genetically modified foods are legitimate, but the debate over labeling should not be used to obstruct product access. The United States must remain focused on the real debate which is about fair and timely market access for agricultural products whose safety is backed by science, and we look forward to some of the testimony in that regard.

Thank you, Madam Chairwoman.

Ms. ROS-LEHTINEN. Thank you.

I would like to recognize other Members who may have some statements.

Mr. DELAHUNT. I don't have a statement, and I want to apologize, because I am going to have to leave shortly, but I did want to listen to this testimony, and I am pleased, Madam Chairlady, that you have scheduled——

Ms. ROS-LEHTINEN. Thank you, Mr. Delahunt.

Mr. DELAHUNT [continuing]. This particular hearing. But I do share the concerns of both you and Mr. Menendez. Thank you.

Ms. ROS-LEHTINEN. Thank you.

Our first witness is the Honorable Michael Dunn, who is the Under Secretary for Marketing and Regulatory Services for the U.S. Department of Agriculture. Among his responsibilities is the managing of the Agricultural Marketing Service, the Animal and Plant Health Service, and the Grand Inspection Packers and Stockyards Administration, three agencies responsible for many aspects of the marketing, protection, quality, and transportation of the Nation's food, feed, and fiber supply.

Prior to his appointment, Mr. Dunn served as Acting Under Secretary for Rural Economic and Community Development at the USDA. He was also Administrator of USDA's Farmers' Home Administration. He served also as vice president of the National Farmers Union and of the Farm Credit Bank of Omaha.

The Department of Commerce official was unfortunately not able to be with us, but he will be submitting written testimony and asks that we submit any questions in writing, and he will be happy to answer.

So, Mr. Dunn, we will be glad to enter your testimony in full in the record, and please feel free to summarize your remarks.

STATEMENT OF MICHAEL V. DUNN, UNDER SECRETARY FOR MARKETING AND REGULATORY SERVICE, DEPARTMENT OF AGRICULTURE

Mr. DUNN. Thank you, Madam Chair and Members of the Committee; I appreciate the opportunity to be here; to take up this most important matter.

The global economy is certainly something that we need to deal with. Almost 40 percent of what we raise and grow in the United States is exported in some way, shape, or form. Passenger traffic has doubled since the 1990's; air cargo is doubling every 5 to 6 years. The United States expects to export and import more than ever. By fiscal year 2000, we expect to export some $50 billion in commodities in the agricultural sector.

This increase also increases our risk of introduction of pest and disease. An example of that was in fiscal 1998, APHIS intercepted almost 2 million potential pest and disease-bearing plants and animals; more than 52,000 carried some type of harmful pest and disease, which could cause billions of dollars in damages.

The Animal Plant Health Inspection Service [APHIS] safeguards agriculture by facilitating trade through sound, science-based regulations. If you will think of this as a full continuum of how we go about safeguarding our borders, we have a preclearance inspection; we then have import permit decisions, giving permits to import or export into the United States; we have port of entry inspections; we have quarantine treatments; we have detection surveys, and finally then when we do find something, we have eradication programs.

At the port of entry, we have teams of inspectors. You may have seen our beagle brigade, the small beagle dog which is non-threatening, but has the best nose in the business, and if you try to bring in some animal product or vegetable that is on a restricted list, they will catch you. We have, in addition to that, animal import centers, which quarantine animals coming into the United States.

We have two entities that play an important role at APHIS. One is Plant Protection and Quarantine [PPQ]. They look primarily for

the plant-side seeds, plants, bulbs, timber, flowers, etc. Then we have Veterinary Services, which also has the National Center for Import and Export for Animal and Animal Products.

Phytosanitary certificates from exporting countries need to be verified by that country's officials, and this is part of what the WTO SPS Agreement was all about. We identify what we have, a pest or disease of concern, in their country; they do the same in our country. They rely upon our officials to certify whether or not the product is coming from an area that is free from that pest or disease, and we rely upon them to do the same thing.

We have in APHIS an international service, people that are actually located in 26 foreign countries. They maintain information on the pest and disease that those countries might have, and they certify that that country's program is in fact designed to exclude the pest and disease of concern. They also spend a great deal of time explaining our programs to their consumers and producers, and if we have a problem with a shipment going to that country, they are the ones, the first line of defense for us, to explain exactly what is in that product that is coming in that may be under contention.

We also conduct cooperative and pest disease control and eradication programs in other countries. An example of this is the screwworm eradication program that we have going in Central America. We have been able to eradicate that disease from the United States, and we are looking to establish a border in Panama at the Darien Gap that will essentially keep all of Central and North America free. Also foot-and-mouth disease eradication is taking place in Central America.

Our phytosanitary standards that are developed, NAFTA and the WTO, are linked to risk and are based upon sound science. We have international standard-setting bodies, such as the Office of International Epizootics, the International Plant Protection Council, and the Codex Alimentarius. On all of those standard-setting boards, APHIS has delegations that help set these international standards.

Before we had the SPS and WTO, our trading partners required either treatment of our products before they would accept them in or more often would simply exclude the product from going into their country. Since we have had the SPS, our trading partners must accept our pest-free areas regionalization and the systems approach of a series of measures to mitigate the possibility of the pest. Results in the past 3 years has been that the United States has been able to maintain or open some $9.5 billion in exports through the SPS WTO programs. At the same time, the United States has expanded import of some $49 million.

The WTO strengthens the SPS by emphasizing the importance of using the risk analysis, the use of sound science, and the requirement of communications to other countries. For this to work here in the United States, we need monitoring and surveillance to ensure that things do not get into the country.

As the Chair had indicated, one of our greatest concerns is the amount of pests and disease that are coming in through smuggled goods in the United States. What we have found, where we have protocols in place with a country which will allow treated material to come in or certified pest-free product to come in, the amount of

smuggling goes down. We need to continue our monitoring and surveillance. The earlier that we take action, the less it takes to fight—to do the eradication.

We have had a number of eradication programs, as the Chair has indicated—Med fly eradication in Florida, ongoing program in California as well. We are, however, losing many of the chemical tools that we need for these eradication purposes, and we need to develop new methods.

We have asked the National Plant Protection Board to give us some recommendations on what they think we need to safeguard America. They have come up with a booklet entitled "Safeguarding America." Within that, they have 300 recommendations for USDA to take to safeguard our borders from plant pest and disease. We are currently evaluating those recommendations and will begin to implement them as the budget allows.

Thank you very much, Madam Chair.

Ms. ROS-LEHTINEN. Thank you.

USDA has stated that it would have to create a multimillion dollar infrastructure to inspect products if country of origin label requirements are implemented. What is your view about establishing cooperative agreements with our States which already have some sort of labeling requirement?

Mr. DUNN. I believe that was from our Food Safety Inspection Services on what it would cost to establish the various process lines for meat, for instance, and how much it would cost for the packer to segregate and then for USDA to in fact ensure that that type of labeling takes place.

The other concern that we have is that we have very little inspection that takes place at the retail level. Most of our inspection is at the wholesale level or as it comes into the country, and we simply do not have the infrastructure out there as far as inspectors to do an ongoing retail type of inspection.

Ms. ROS-LEHTINEN. And following up on what you say about inspection, it is clear that the imports of fruits and vegetables have increased over the last 5 years, and, therefore, harmful pests and diseases have also increased substantially. Have the number of inspectors and the funding for detection and eradication efforts kept pace with these increases, and how have you responded to the increasing demand for inspection and eradication?

Mr. DUNN. What we have tried to do is to use a risk analysis on inspections. So we try to determine what are the pest and disease of greatest concern to us, and then what are the pathways that those might come into the United States. What we have tried to do is target the resources, both human and fiscal resources we have, for those pathways to ensure that that does not happen.

Our funding has been moderately increased to offset cost-of-living increases, etc. A good portion of the funding that we have is based upon user fees, and as the number of passengers increase for planes and at ports, we do have additional moneys that way to ensure the interception of what might be coming in.

Ms. ROS-LEHTINEN. And Mr. Gallegly would like to ask you this question: "Some of my constituents," he states, "have brought to my attention, and this has been reinforced by the National Plant Board report, that APHIS has been remiss in soliciting information from

stakeholders when making important decisions which affect plant and animal health. I find this alarming since stakeholders are the people who are most affected by the work APHIS is doing. There are a great number of universities, scientific personnel, growers, grower organizations, etc., and APHIS should be interacting with them to discuss issues of pests and diseases in the United States or abroad. What is APHIS doing to reach out to such stakeholder groups?"

Mr. DUNN. I think this is an extremely important issue to have everyone's input. In fact we underwrote the cost of the "Safeguarding America," which was made up of one-third industry personnel, on-third academia, and one-third State personnel, and asked that group to come up with exactly the types of things that they were talking about as what do we need to do to safeguard the United States.

Now, in addition to that, our risk analysis is something that we need people to have a better understanding of. Very few people read those risk analyses when they are published in the Federal Register. We will be, at the beginning of the year, having a public hearing on our risk analysis to have input from everyone on how we go about doing those.

But then on individual rules, what we have tried to do is have as much input as possible. On our avocado rule, for instance, we had five national hearings to allow everyone an opportunity to come up with any type of input that they think they should have before we put that rule into place. That is one of the areas that certainly with the use of the Internet there is the potential to get greater input. We will do our best on that, Madam Chair.

Ms. ROS-LEHTINEN. Thank you.

Mr. Menendez.

Mr. MENENDEZ. I have no questions.

Ms. ROS-LEHTINEN. Mr. Delahunt.

Mr. DELAHUNT. Yes, I would just—and you didn't obviously direct your remarks at all to the comments and observations about the GMO's by Mr. Menendez. I don't know if you have an opinion, but I am obviously interested in your analysis and your evaluation.

Mr. DUNN. I think Mr. Menendez makes an excellent point. There is no finding of any safety reasons for labeling GMO's at all, and that has been the opinion of this administration as we have gone forward. Now, we are finding that this year, at harvest time, there has been some segregation of the product, and that has been dictated by the processors. And that, in turn——

Mr. DELAHUNT. Because of economic reasons, the ability to sell to the European market.

Mr. DUNN. That is correct.

Mr. DELAHUNT. Is there any science at all that provides a rationale for the EU's position or is this just simply blatant protectionism?

Mr. DUNN. Well, we don't feel there is any rationale.

Mr. DELAHUNT. But do they pretend? Do they cite scientific data or any studies whatsoever that have any validity or legitimacy?

Mr. DUNN. You can always find some scientist——

Mr. DELAHUNT. Right.

Mr. DUNN [continuing]. To say something. Just like some economists can have——

Mr. DELAHUNT. I used to be a prosecutor, and of course in the area of responsibility and sanity, there was always an expert to testify on both sides. So, I understand that, but I guess the point that I am trying to make, Mr. Secretary, is there a reputable, legitimate institution that has done any studies in this area that provides a rationale for the position of the EU that is well respected in terms of these kind of issues?

Mr. DUNN. Mr. Delahunt, we have been in this business of approving GMO's for about 12 years now here in the United States. At USDA, the Animal Plant Health Inspection Service approves the field testing and the transportation of the product. What we look for is to see if there is any impact on non-targeted species, if there is going to be any environmental impact. The Environmental Protection Agency looks at it as if it is in fact something like a VT gene which has an insecticide in it so that there is no adverse effects there. Then the Food and Drug Administration looks at it for food safety reasons. To date, we have found no reason on those that have been approved not to approve them.

Now, Secretary Glickman does understand that there is a lot of concern about this. We have asked the National Academy of Science to review how we at USDA go about our approval process. The Secretary has asked that we establish regional centers to monitor the long-term effects.

Mr. DELAHUNT. Has there been a study commissioned by the NSA?

Mr. DUNN. Yes, we have commissioned a study.

Mr. DELAHUNT. Do we have any estimate as to when that study may be concluded? Approximate; I am not asking for date certain.

Mr. DUNN. It will probably be a year to a year and a half.

Mr. DELAHUNT. Thank you. That is all I have.

Ms. ROS-LEHTINEN. Thank you so much.

Thank you, Mr. Dunn, and if we have any followup questions, we will be submitting to them.

Mr. DUNN. Thank you, Chair.

Ms. ROS-LEHTINEN. Thank you.

Our second panel leads off with Mr. Benjamin Cohen, senior staff attorney at the Center for Science in the Public Interest. Prior to this assignment, Mr. Cohen worked at the Federal Trade Commission on both anti-trust and foreign trade cases before the International Trade Commission and the Department of Commerce. He also worked for the Committee on Commerce and the Committee on Government Reform and Oversight of the U.S. House of Representatives, as well as for Representative Fattah and Congresswoman Meek. We welcome you back, Mr. Cohen.

He is followed by Mr. Craig Wheeling, president and CEO of Brooks Tropicals. As CEO of Brooks Tropicals, Mr. Wheeling is responsible for overseeing the daily operations of the company. Involved in agriculture since age 12, he joined Brooks Tropical in 1988 as an assistant to Powell Brooks. After Hurricane Andrew nearly devastated the company in 1992, he was largely responsible for spearheading the reconstruction of operations and the develop-

ment of offshore business ventures and new products. We thank you for being here, Mr. Wheeling.

Our last witness is Mr. Peter Day. Since 1979, he is the director of the Center for Agricultural Molecular Biology and professor of Genetics at Rutgers University. His research has been concerned principally with the genetics of plant photogens and the challenge of breeding disease-resistant crop plants. Mr. Day has been involved with the development and the application of molecular biology to crop plant improvement. Most recently, this has expanded to the use of new technology for environmental viral mediation and livestock improvements, which are among the interests of the center he directs at Rutgers, and, boy, I could use you with my daughter's science experiments. Welcome, Mr. Day.

So, we will begin with Mr. Cohen. It is good to see you again, Ben.

STATEMENT OF BENJAMIN COHEN, SENIOR STAFF ATTORNEY, CENTER FOR SCIENCE IN THE PUBLIC INTEREST

Mr. COHEN. Thank you, Madam Chair. I am here today on behalf of the Center for Science in the Public Interest, a non-profit organization founded in 1971. CSPI is an advocate for safer food and better nutrition. Its one million members receive our monthly magazine, "Nutrition Action Healthletter." I have given copies of this month's issue to the Committee staff to make available to Members of the Committee. I ask that my entire statement be made part of the record.

Ms. ROS-LEHTINEN. We will be glad to enter all of your statements in the record, and feel free to summarize.

Mr. COHEN. Thank you.

As you said in your opening statement, today's hearing is especially timely, because in 5 weeks the World Trade Organization's Ministerial Conference will begin in Seattle. Our testimony focuses on the Agreement on the Application of Sanitary and Phytosanitary Measures, the SPS Agreement, which was negotiated as part of the Uruguay Round of Trade Agreements and approved by Congress in 1994. As USDA's witness just noted, this agreement covers both pests and food safety.

Let me state at the outset that we support expansion of international trade and recognize the benefits to consumers that it may bring. We also recognize that international harmonization of food safety standards facilitates trade. The benefits of promoting trade through harmonization, however, must be balanced against the possible harm to consumers that harmonization entails.

The international harmonization process will only benefit consumers if national regulatory standards are harmonized in an upward manner that provides the public with the greatest degree of protection from unsafe foods and deceptive trade practices. Unfortunately, the SPS Agreement, as it has been interpreted and applied during the last 5 years by the WTO, threatens the United States regulatory requirements because it is leading to just the opposite, to downward harmonization. We, therefore, support reforms to the SPS Agreement that would protect United States food safety and consumer protection regulations from being weakened in the name of facilitating trade.

Let me begin by summarizing the SPS Agreement. Under the agreement, the WTO may force a nation to choose between lowering its health standards for humans, animals, or plants or paying an international penalty. A national health standard is illegal under the SPS Agreement if the WTO decides that it is not, "based on scientific principles and is maintained without sufficient scientific evidence." In making this judgment, the WTO examines the extent to which the country has done a scientific assessment of the risk to human, animal, or plant life or health.

One of the primary purposes of the SPS Agreement is to promote trade by encouraging countries to develop and rely on international food regulatory standards. The SPS Agreement specifically refers to food standards set by a United Nations affiliated organization called the Codex Alimentarius Commission, which was established in 1962 by the U.N. World Health Organization and Food and Agricultural Organization.

Prior to 1995, national governments were free to accept or reject Codex standards. However, with the ratification of the SPS Agreement, Codex's role has changed greatly. Article 3.2 of the SPS Agreement provides that a country employing a Codex standard, guideline or recommendation is presumed to be in compliance with its WTO obligations. On the other hand, article 3.3 of the SPS Agreement provides that a country with a regulatory requirement that results in a higher level of protection than a Codex standard, guideline, or recommendation is presumed to have erected a barrier to international trade unless the country can show that its standard has a scientific justification. Thus, the SPS Agreement, by encouraging WTO challenges to a national health standard only when it exceeds the Codex standard, has a bias leading to a downward harmonization of health standards. In fact, Codex standards should be a floor, not a ceiling.

A country that the WTO determines has erected such a trade barrier must either lower its regulatory requirement or pay an international penalty. This penalty can take the form of either compensating the foreign government whose exports to the country have been limited or permitting that country to impose trade restrictions on imports from the country that maintained the higher food safety standard.

Codex has had three meetings since the SPS Agreement was ratified in 1994. In the first meeting, in 1995, Codex—by a vote of 33 to 29 with 7 abstentions—approved the use of growth hormones for cattle. This Codex decision helped the U.S. Government win a legal battle at the WTO declaring that the European Union's ban on beef hormones is illegal, but of course no exports have resulted from this decision. The only thing that has happened is we have higher food prices in the United States and social unrest in France, including the burning of McDonald's Restaurants.

Since that time, the United States has fared even worse. At the 1997 Codex meeting, the United States lost two key votes. Codex adopted—by a vote of 33 to 31 with 10 abstentions—an international safety standard for natural mineral waters that permits higher levels of lead and other contaminants than the Food and Drug Administration now allows. Codex also adopted—by a vote of 46 to 16 with 7 abstentions—an international standard for food

safety inspection that permits self-evaluation by the company or nongovernmental third-parties, even though in the United States such food safety inspections are the responsibility of the Department of Agriculture, the FDA, and the State governments.

The United States avoided losing any recorded votes at this year's meeting by just acquiescing to six decisions that provide less protection to consumers than the United States now requires. At the June 1999 meeting, Codex unanimously approved residue tolerances for methyl parathion and other pesticides, even though in August 1999 the Environmental Protection Agency, as mandated under U.S. law, banned methyl parathion for fruits and vegetables because of its potential adverse effects on children.

So, what we now have is the following situation: The EPA has banned the use of this pesticide; Codex has approved its use. EPA has told us that they are telling the Mexican government that they can no longer ship fruits and vegetables to this country if they use this pesticide. The Mexican government may say, "Now, hold on, Codex just approved this standard. We are going to sue you in the WTO for a trade barrier." If the United States loses that decision with WTO, then we would either have to change the standard or pay compensation to the Mexicans.

At this year's meeting, Codex also approved a standard for natural mineral water that still permits higher levels of lead and other contaminants than the FDA now allows. Codex also approved an international standard that does not require pasteurization of dairy products even though pasteurization is required generally by the FDA.

Codex also sanctioned the use of five food additives which, while presumably safe, have not been formally approved by the FDA for use in this country. Codex also approved an international standard for the labeling of a composite ingredient in prepackaged foods that permits it to be listed by a standardized name without declaring all its component ingredients if it is less than 5 percent of the food, even though the FDA requires these components to always be listed in order to protect consumers who suffer from hypersensitivities. Codex also defeated attempts to strengthen current Codex nutrition labeling requirements to make them more akin to the United States law.

The United States' acquiescence to these Codex standards means that it may be only a matter of time before current EPA, FDA, and USDA regulations are challenged as trade barriers by countries invoking the Codex standards as evidence that United States regulatory requirements are unreasonably high. This process is unacceptable. Food safety and consumer protection must not be sacrificed in the name of harmonizing regulatory requirements and facilitating trade.

Now, the administration has told Congress that it is pleased with what happened with Codex. There is a letter, dated August 16, which I have given to the staff and would like to have made part of the record.

Ms. ROS-LEHTINEN. Without objection.

[The above-mentioned document was unavailable at presstime.]

Mr. COHEN. It is a letter from the Deputy USTR Director Susan Esserman to Congressman Pallone——

Ms. ROS-LEHTINEN. Mr. Cohen, if you could summarize your statement.

Mr. COHEN. Sure—saying that they are pleased with the results of Codex this summer even though the Codex decisions undermine our safety regulations.

We urge that this Committee not be pleased with these threats to U.S. food safety and that you take the lead in telling the administration that the SPS Agreement should in fact be changed in Seattle.

Ms. ROS-LEHTINEN. Thank you, Mr. Cohen.

Mr. Wheeling.

STATEMENT OF CRAIG WHEELING, PRESIDENT AND CEO, BROOKS TROPICALS

Mr. WHEELING. Thank you, Madam Chairperson. My name is Craig Wheeling. I work for Brooks Tropicals. Our company grows tropical fruit, like avocados, limes, papayas, and mangos.

Our main problem is harmful pest introduction. All our fruit is vulnerable to pest introductions like fruit fly. Furthermore, effective sprays either may not exist, or may not be approved for use by EPA. A good example of our problem is bacterial citrus canker, or avocado seed weevil where there is no cure short of destroying the host tree.

Our firm supports improved trade. Indeed a good portion of our company's business revolves around marketing fruit from Latin American and Caribbean countries. But, Florida is currently suffering a rash of pest infestations. In the 1990's, we had two infestations of citrus canker, one of which is going to cost over $170 million to eradicate, and currently threatens both the citrus and lime industries. Canker is currently one mile north of our commercial lime growing area. We, as a company, will spend over $300,000 to combat canker this year with no commensurate added revenue.

Other pest introductions include oriental fruit fly, found in May 1999; Med fly, found in 1990, 1997, 1998; citrus leaf miner, found in May 1993; brown citrus aphid, found in November 1995; citrus psyllid, found June 1998; citrus long horned beetle, found 1999. In the interest of time, I will delete the rest of them, but the list does go on and is considerable. Some of these are very serious economic pests of concern like Med fly and the canker which can destroy or cripple an entire industry.

Producers of fruits and vegetables throughout the United States have also experienced severe crop losses due to undetected pests on imported produce. The costs to the States and most importantly to growers are enormous. The above list does not lend growers confidence that our borders are being protected from pests. Where are these pests coming from? Why are new exotic pests showing up at an unprecedented rate?

At the same time that pest introductions in Florida have mushroomed, trade and travel have increased without due consideration to safeguarding our borders. For instance, during a similar period to the pest infestations I just described, trucks carrying Mexican produce through Nogales have increased by 62 percent to 150,744 annually. Fresh produce has nearly doubled. The USDA APHIS, PPQ web site states that "the sheer volume of trade means about

70 percent of the trucks sail through the Nogales entry gates without anyone from any agency inspecting any cargo at all."

The systems approach has been used to justify liberalized fruit importation rules in the United States. This is a statistical model predicting likely infestations through a quantitative risk assessment. But we believe there are problems with the use of the model. Dr. Jan Nyrop, associate professor of Entomology at Cornell University, analyzed the risk assessment used by the U.S. Department of Agriculture for Mexican avocado entry. He concluded that the Monte Carlo simulation is not needed and only provides a veil of analytical objectivity. The data upon which parameters for the model were estimated are either non-existent or not adequately documented. The results of the model cannot be accepted with any level of confidence.

The systems approach was used on Sharwil avocados in Hawaii in 1990. The USDA then discovered, contrary to the model, that Sharwil avocados were on tree hosts to fruit fly. Mexico has been allowed to ship avocados into 19 northern U.S. States for two seasons using the systems approach. Prior to this allowance, a major area of concern with the model was that it would be impossible to restrict distribution of the fruit to these 19 States.

In the first season, the Department of Agriculture alleges that Wal-Mart violated the Plant Protection Act by receiving Mexican fruit outside of the designated 19 States. Six States outside of the legal area are believed to have received illegal fruit during the first season. In the second season, five other distributors shipped Mexican fruit outside the 19 State area, one shipment of which went to Florida where a scale insect was found, which in Florida is an actionable pest. Using a systems approach based on inaccurate inputs is equivalent to the old computer adage of garbage in, garbage out.

A further problem in trade negotiation is pesticide regulation. Currently, we do not have a level playing field. For instance, Mexico is allowed, or had been allowed, to export avocados to the United States with parathion residue. Parathion is an acutely toxic pesticide that may pose chronic effects including nerve and muscular degeneration, depression, memory loss, and disorientation. It is associated with bird kills since the 1950's and 52 accidental fatalities in the United States from 1965 to 1980. Most U.S. uses of parathion were canceled in 1991; however, Mexico has been allowed to export avocados to the United States with a residue of parathion on the fruit.

In summary, as trade has exploded, pest infestations have become a huge problem, especially to subtropical farmers who are near ports of entry. U.S. producers are severely restricted on what pesticides they can use, and new U.S. pesticides tend to be very expensive. They have a very tough time fighting new pests, some of which can destroy our farms if they become established. We believe that successful trade discussions must address these two problems.

Thank you.

Ms. ROS-LEHTINEN. Thank you, Mr. Wheeling.

I would like to enter into the record, without objection, the opening statement of Mr. Radanovich, and we welcome you to our Subcommittee today, and also the statement of Mr. Michael Wooten, the director of Federal Government Affairs of Sunkist Growers.

[The above-mentioned statements were unavailable at presstime.]

I would like to apologize to our Ranking Member, Mr. Menendez, for not allowing him the opportunity to properly introduce his constituent, Dr. Day, from Rutgers.

Mr. MENENDEZ. Well, you did an excellent job, Madam Chair. I look forward to his testimony.

Ms. ROS-LEHTINEN. Thank you.

Dr. Day, we will enter your statement into the record as well.

STATEMENT OF PETER DAY, DIRECTOR, CENTER FOR AGRICULTURAL MOLECULAR BIOLOGY, COOK COLLEGE, RUTGERS UNIVERSITY

Mr. DAY. Thank you, Madam Chairman. My name is Peter Day, and I am the director of the Biotechnology Center for Agriculture and the Environment at Cook College, Rutgers, the State University of New Jersey.

The purpose of my statement is, in brief, just to set the stage for a discussion of the issues surrounding genetic manipulation as they affect trading concerns. By way of introduction, let me say that plant breeders have always been concerned with increasing yield, improving quality, and extending the ability of crops to withstand the environmental extremes of temperature, humidity, and attacks of pests and diseases.

Improvements in agricultural technology have maximized the efficient use of fertilizers, herbicides, pesticides, irrigation and cultivation methods, and machinery, together with genetic improvements to the crops themselves. All this technology has sustained a steady yield increase of between 1 to 2 percent a year for the major crops. Genetic improvement has been responsible for about 50 percent of these increases.

Conventional plant breeding includes a major element of chance. Each new variety is similar to a hand of cards dealt at random from a shuffled deck. A breeder can stack the odds by carefully choosing the parents of each cross he makes, but the random assortment of genes, and the chromosomes that carry them, means that the outcomes are unpredictable. Finding the best combinations in conventional breeding depend on the breeder's art and skill in selection in early generations of testing.

Genetic manipulation [GM] has provided the opportunity to make directed genetic changes. It is carried out by introducing foreign DNA into already successful varieties of crop plants with the object of selectively improving them one character at a time. Although the techniques are still elaborate and expensive, they have now been applied to more than 60 different crops and cultivated plants. Unlike sexual hybridization, it is not restricted by barriers between species.

To a large extent, the newly added characters have been designed to appeal to the farmer and not the consumer. They reduce farmers' losses, lower his costs, reduce pesticide pollution of his land and water but have so far done little to benefit the consumer directly in terms of higher quality, reduced prices, or enhanced availability. This is not to say that there isn't a great deal of work directed to this end, but it has not yet paid off.

Some consumers are now concerned about the risk of eating GM foods, both to themselves and the environment. In Britain, the debate has become strident, in part, because the British public was sensitized by the recent mad cow disease epidemic and their perception that they might have a risk of contracting Creuzfeldt-Jakob syndrome, and more recently, by the unfortunate communication to the media of a poorly designed and inconclusive experiment with genetically manipulated potatoes.

The work, carried out at the Rowett Research Institute in Scotland, involved trials in which rats were fed potato tubers from plants engineered to express an insect repellent protein from snowdrop. It was not subject to peer review in a journal before the authors went public. They claimed that rats fed GM potatoes for 10 days and then sacrificed showed minor gut abnormalities and other defects. A letter making similar but more modest claims was published in the Lancet on October 16, just a week ago. This letter has been met with a storm of protest from knowledgeable scientists.

Here in the United States, a number of thoughtful and responsible people would like to see GM foods labeled to allow consumers a choice. However, processors, and marketers are concerned over the cost and inconvenience of separating GM from non-GM produce after the farm gate and especially when the harvested product, like soybean, is used in many different kinds of food and food products. To many of us, this seems illogical when there is no convincing evidence that GM food is harmful. We may note that the refusal of most organic farmers to grow GM crops means that some consumers will have some choice. However, the cost is to forgo the benefits of GM crop protection.

One major company, Dupont, has responded to the difficulty of exporting GM soybeans to Europe by announcing the release of a herbicide resistant soybean produced by mutation and selection in tissue culture rather than by transformation. There are also important ways in which GM technology can improve our crops that don't involve introducing foreign DNA. Congress, thorough the National Science Foundation, is supporting major research on sequencing the entire DNA of corn, for example, and there are similar programs in place for rice and wheat. This information is going to provide extremely efficient methods for testing the progenies of conventional crop plant breeding programs for winning combinations of DNA sequences and the characters of greatest interest to farmers and consumers alike.

Although at times we are embarrassed by the surpluses that our support policies generate, which the needy cannot afford because of the high cost of transportation and distribution, we have to remember, nevertheless, that the world's population reached 6 billion last week, that it is expected to continue to 9 billion in about 20 years from now, and until we find socially acceptable means of bringing global population growth under control, we need to explore every conceivable way to sustain food production in the face of shrinking land, water, and fossil energy resources. Genetic manipulation will be a very important tool in this enterprise.

Thank you, Madam Chairman.

Ms. ROS-LEHTINEN. Thank you so much.

Mr. Wheeling, I have some questions for you. Please tell us what would happen to and what would be the impact on your business, and indeed the tropical fruit industry in south Florida as a whole, if the citrus canker disease or some similar harmful pest is not eradicated and actually becomes established in your groves? What is the citrus canker spread to the entire citrus industry, and can you venture a guess as to the economic impact and the impact on you, your employees, your industry in our area and to the Nation?

Mr. WHEELING. Sure. The impact on the lime industry in south Florida, we would probably lose the production from about 3,000 acres. In some form or another, there are about 1,000 people who depend on those 3,000 acres for their livelihood. Of even greater concern would be the spread to the citrus industry, in general, in Florida. I talked with Andy Levine yesterday, and he indicated that the export grapefruit industry alone employees, he estimated, 120,000 people, and the total citrus industry's impact is $6 billion annually on an economic basis. So, the impact of a disease like canker could be most serious.

Ms. ROS-LEHTINEN. And what do you think USDA should be doing on such a destructive disease or pest, as found in our Nation?

Mr. WHEELING. I personally believe that USDA should move as rapidly as possible to eradicate the disease.

Ms. ROS-LEHTINEN. Are you satisfied with the progress?

Mr. WHEELING. Absolutely not. In terms in citrus canker, my memory indicates it was 1994 or 1995 we had 17 square miles of citrus canker, and that has grown to over 500 square miles of quarantine area, and now we have a $170 million problem. So, I believe we should have moved much more rapidly before the spread of canker.

Ms. ROS-LEHTINEN. What would you say is at the root of the problem when you talk about the diseases that are coming in? Is it our trade policies? Is it the interpretation of the policies, their enforcement, or all of those? And do you believe that there is a disconnect between our agencies and the inspectors, the commitment to the safety of imported products, and the goals of our trade agencies?

Mr. WHEELING. I believe it is probably a combination of factors, and I know the inspectors work awfully hard and try and do a great job, but I think the sheer volume of trade is just overwhelming our inspection system. Also there are probably problems in how we negotiate with other countries and the basis for allowing items into this country.

Ms. ROS-LEHTINEN. Thank you, Mr. Wheeling.

Mr. Menendez and the Members, if you will excuse me, I am going to speak on trademark issues on the floor, and I would like Mr. Radanovich to Chair the rest of the hearing, and I hope I am able to come back. Thank you so much.

Mr. Menendez.

Mr. MENENDEZ. Thank you, Madam Chairlady.

Let me thank all the witnesses for their testimony, but I would like to focus on Dr. Day's testimony, if I can.

Dr. Day, is there anything that we know of scientifically that establishes the GMO's as being dangerous for human consumption in terms of any scientific basis?

Mr. DAY. The short answer to that is no. There was an interesting case where a soybean was bred by introducing a gene from a Brazil nut to increase the content of a limiting amino acid, methionine, to make it more valuable as potential cattle food. Before that variety was released, fortunately the responsible company recognized that there are people who are allergic to Brazil nuts, and the engineered soybean was tested. It was indeed an allergen to sensitive people, and the sensible decision was made to cease any further work on it.

I think that indicates that companies responsible for genetic engineering are taking the right attitude and are safeguarding the public's interest.

Mr. MENENDEZ. And that would be true virtually of any product development. Whether it be a pharmaceutical industry or whether it be of any other product development, you would take into consideration the potential reactions that someone could have with the use of your product.

Mr. DAY. Yes, indeed.

Mr. MENENDEZ. But beyond that specific example, which in any event was caught and contained before it ever got to the public by the company, we know of no sound science that would dictate in fact that GMs are necessarily harmful.

Mr. DAY. I think that is true, and, furthermore, we do have one rather interesting example where harm was done to the public by a product of a conventional plant breeding program, I am referring to a potato variety that was released 20 or 25 years ago for resistance to a fungal disease named late blight. The name of the potato variety was Lenape, named after an Indian tribe from New Jersey. That variety had to be withdrawn because the tubers contained an unusually high level of the alkaloid, solanine, which made some people sick after eating the potato, even when it was cooked. Ever since then new potato varieties are routinely examined to establish that the levels of solanine alkaloid in the tubers falls below the nationally accepted standard.

Mr. MENENDEZ. Now, you said in your testimony that while this pursuit of GMO's have not necessarily translated to any consumer benefit, they have translated to farmer benefits. Would it not be fair to say that if in fact we reduce farmers' losses, if we lower farmers' costs, and if in fact we reduce pesticide pollution of the land and the water, that ultimately that is a consumer benefit?

Mr. DAY. Very definitely; of course it is. It is simply one that isn't appreciated immediately in the produce section of the market.

Mr. MENENDEZ. Right.

Mr. DAY. Except for price, of course.

Mr. MENENDEZ. Right. Last, the majority of the witnesses here have been focused—and of course with great concern—over the introduction of insects and other potential bacteria and viruses into the United States from abroad. But is not one of the potential benefits of GMO's to add characters of resistance to insects and plants that would ultimately resist such invasions from abroad?

Mr. DAY. Indeed, it is, Mr. Menendez, and this is a focal interest of my colleagues in the center I direct at Rutgers; that is to identify and prove novel methods of controlling the ravages of insects such

as we have heard of this afternoon—fungal, bacterial, and viral diseases.

Mr. MENENDEZ. And my last question would be, are you aware of any of our European trading partners involved in GMO technology pursuits unique to the United States or have they been pursued in Europe?

Mr. DAY. No, in fact, you could argue that in some respects our European trading partners are somewhat two-faced, because the majority of cheese that they eat is of course made with recombinant chymosin. So, they are already eating something that is genetically manipulated.

Mr. MENENDEZ. And they love their cheese. Thank you.

Mr. RADANOVICH [presiding]. Thank you, Mr. Menendez.

Mr. Wheeling, I have got a question of a representative from California, and when you are talking about the canker that is introduced itself into your area of the country, is it mainly with the Argentine citrus that this originates from? Is this what you are discussing?

Mr. WHEELING. The belief now is that the canker is an Asian strain of canker, and possibly was introduced near the Miami Airport in 1992. The first detection was on a tree that the scientists have dated back to about that period of time. The thought is it was a possible hitchhiker from a tourist, possibly through the airport, but that is just one theory.

Mr. RADANOVICH. Not origins in South America, but rather Asia?

Mr. WHEELING. What I have been told by the scientists is the DNA looks like an Asiatic strain.

Mr. RADANOVICH. I see, OK. That is all the questions I have.

Mr. Sherman.

Mr. SHERMAN. I regret I wasn't here for the first panel. I have a question I would like to read.

At the same time, I would like Mr. Wheeling's reaction to it, because it relates to the citrus industry which is relative to the business he represents.

During the past couple of years, there has been a marked increase in the number of exotic pests and diseases entering the United States—Africanized killer bees, fire ants, Asian long horn beetles, the glassy-winged sharpshooter, which I am not personally familiar with, and the various species of destructive fruit flies that seem to be regularly entering my state of California. As I think we are all aware, we have suffered over 26 separate fruit fly infestations in California this year alone. These include a variety of species—Mediterranean, Mexican, Oriental, and olive—and this year the guava fruit fly was detected.

Each of these infestations in agricultural trade disrupting quarantines. Both the pests and the quarantines pose an economic threat, and then also cause us to adopt expensive eradication programs at both the Federal and State level.

The question I have is why are we suffering these infestations with such regularity? Where are the pests coming from? And why are the phytosanitary agencies that are in the Department of Agriculture—the Animal and Plant Health Inspection Service, APHIS, and the Plant Protection and Quarantine, PPQ—seem to be unable to prevent these developments? Do we lack necessary funding and

manpower in those agencies? What else can Congress do to help those agencies do their job? It is possible that the Department of Agriculture would conclude that they have the budget resources to do the job, in which case, why aren't they doing the job, and why are being inundated with these various exotic pests?

In particular, I think we should be alarmed that some of our trading partners, such as Korea, area losing confidence in USDA and its ability to assure the phytosanitary security of agricultural exports from the United States. This is demonstrated by the refusal of Korea to lift its quarantine on San Diego, Orange, and Riverside County, because they are concerned about the fruit fly entering and affecting their own citrus. I would like to know what we can do to reassure our trading partners that we are doing everything necessary to control these pests?

Mr. Wheeling, perhaps you have a comment.

Mr. WHEELING. I think—I am not a statistician, but I think you should be able to draw some conclusions between the rise in trade and the rise in pest infestations in Florida, and I am worried that we are not enforcing the laws at our border and stopping these pests as they come in. I think we need more enforcement at the border, and I also think we need to take a very rigorous examination of any new proposals for entering their fruits and vegetables into the United States and look very, very hard at the possibilities of those fruits and vegetables bringing in hitchhikers with them and causing very, very serious problems to the growers. The citrus canker is a horrible problem, and if it is not controlled, is going to cost society an enormous amount of money.

Mr. SHERMAN. I realize that you have got a business to run where you may not know the answer to this, but as there has been this sharp increase in citrus imports to the United States, has there been a concomitant increase in the funding of the agencies that are supposed to inspect this imported citrus?

Mr. WHEELING. I would have to decline to answer that, because, as you say, we just have our little business in Florida, and I wouldn't know the answer to that.

Mr. RADANOVICH. If I may interject, there has been a decline in the funding.

Mr. SHERMAN. A decline in the funding.

Mr. RADANOVICH. Yes, yes.

Mr. SHERMAN. Shifting to another subject, as we deal with genetically engineered and modified organisms, I am a bit concerned that this Committee and some of the pro-trade sentiments, which I have voiced not infrequently, have been now used to tell the Europeans that they should not label GMO's, if they chose to do so, in a non-discriminatory way, a way that did not discriminate against American-produced products as opposed to European-produced products.

I would note for the record here that we have an awful lot of mandatory labeling which could not meet the standard of proving that it was scientifically necessary. For example, when I buy a product, it tells me what the carbohydrate content is, different types of fat, etc., and you could argue that some of the facts disclosed on a mandatory basis are, while correct, irrelevant. I know there are certain vitamins which I don't know if we have proven

scientifically are necessary for human health, and yet many consumers would like to believe that those are helpful vitamins, would like to know whether their food products include them.

I don't know if any of our panelists have a comment, but I am certainly concerned that in the name of free trade and treating American exports fairly, that we will be telling the Europeans not to disclose things that their consumers would want to know. Then we ourselves could not—no State in the United States could then force such a disclosure, and the beneficiary is not fair trade but rather non-disclosure to consumers. I think it is up to each individual consumer to decide whether they want to eat GMO's or not and would be very concerned if we are using our international power to tell people in other countries not to disclose the type of food that their consumers are being asked to consume.

Mr. Cohen, do you have a comment?

Mr. COHEN. Yes, thank you. On the nutrition labeling, the European Union has in fact stated that it believes that our mandatory nutrition labeling is a trade barrier. They have not yet sued us under the WTO, but every year they announce that that is their belief.

If I can just say something about the general GMO issue, I don't believe it is exactly analogous to pharmaceuticals, because the regulatory structure is different. In this country——

Mr. SHERMAN. I am not talking about pharmaceuticals.

Mr. COHEN. Oh, well, the previous colloquy dealt with it.

Mr. SHERMAN. Oh.

Mr. COHEN. The drug companies have to prove that a drug is safe and effective before the FDA allows its use. For GMO's, it is self-policing by the industry, and the fact that none of us knows of any scientific basis for being nervous about the safety, may simply mean that the companies have not revealed it to the FDA. The FDA does not apparently have the power to require disclosure; it is just a completely voluntary self-reporting system by the companies. While the one company did withdraw the product, we don't know whether other companies in the pursuit of profit have refused to reveal derogatory information, because obviously if it was revealed, they couldn't sell it. We just don't know at this point.

Mr. SHERMAN. Now, we don't even argue that the Europeans would have the right to allow their grocery stores to put up a sign saying "not genetically engineered food," or "We don't sell any genetically engineered food," or "Everything on this aisle is not genetically engineered." Is that correct? The issue is whether they can force a positive disclosure to something is genetically engineered?

Mr. COHEN. I don't know what the administration's precise position is on GMO's. In the context of beef hormones, I do know something about that, because in trying to resolve the beef hormone dispute, there was a proposal of labeling. The United States was willing apparently to accept labeling that said that the beef came from the United States. The European Union wanted the beef to say that it was produced with hormones. There was no meeting of the minds on that, and we ended up with a trade war.

Mr. SHERMAN. So, the Europeans were willing to go with a system under which both European and American beef produced with

hormone would have an identical label that said, "Produced with hormone."

Mr. COHEN. Correct.

Mr. SHERMAN. And the United States rejected that——

Mr. COHEN. Correct.

Mr. SHERMAN [continuing]. Believing that exporting to ignorant consumers was a right guaranteed under various trade agreements.

Thank you very much.

Mr. RADANOVICH. You are welcome. Any other questions?

Mr. Menendez.

Mr. MENENDEZ. No, thank you.

Mr. RADANOVICH. I want to thank the panel for your presentations and at this time we will adjourn the hearing.

[Whereupon, at 2:43 p.m., the Subcommittee was adjourned.]

A P P E N D I X

OCTOBER 26, 1999

STATEMENT OF
ALAN BOWSER
DEPUTY ASSISTANT SECRETARY
FOR BASIC INDUSTRIES
INTERNATIONAL TRADE ADMINISTRATION
DEPARTMENT OF COMMERCE

BEFORE THE
U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON INTERNATIONAL RELATIONS
SUBCOMMITTEE ON INTERNATIONAL ECONOMIC POLICY AND TRADE
October 27, 1999

Introduction

Madame Chair, Congressman Menendez and other members of the subcommittee, I am pleased to submit this statement for the record on the international issues involved with the trade of agricultural biotechnology products.

New technologies, including biotechnology, will be the locomotives of trade in the new millennium. Biotechnology could help us meet a host of challenges in the 21st century, including feeding the world's soaring population, bringing new medicines to our sick, and finding better ways to protect our ecosystems. U.S. industry is at the forefront of efforts to develop this promising and increasingly important new field. The U.S. biotech sector is forecasted by industry sources to achieve annual revenues of over $45 billion by 2010, up from the $14 billion in sales forecasted for 1999. In my statement, I will briefly address the importance of agricultural biotechnology and summarize our current regulatory framework before focusing on current market access issues for agricultural biotechnology products.

Agricultural Biotechnology

Modern biotechnology has already become an important part of U.S. agriculture and U.S. agricultural exports. Significant percentages of this year's corn, soybean, and cotton crops were planted with biotechnology-enhanced seeds. Farmers have adopted new biotechnologies because they allow them to grow higher quality products, improve yields, and reduce input costs. New biotech products that have direct benefits for consumers will soon become available; for example, rice supplemented with Vitamin A and soybeans with lower fat content are currently under development.

Wide acceptance of new biotech products by U.S. farmers and agribusiness has occurred in a context of declining agricultural exports and lower prices. U.S. agricultural exports have dropped from a high of $60 billion in 1996 to the current level of $49 billion, pushing farm prices down and increasing stress on many U.S. farm communities. It is abundantly clear that the continued survival of many U.S. farms depends upon a resumption of growth in our agricultural exports. Agriculture exports should benefit from improving economic conditions. However, without an open and fair trading system that facilitates the free trade of agricultural products, including those enhanced by biotechnology, U.S. agricultural exports may not improve as they should.

Current Safety Regulations

Over forty biotechnology-enhanced foods have gone through the U.S. regulatory process. Each of these foods has been approved only after reviews by the relevant agencies, including USDA, EPA, and FDA, to ensure that the new seeds are environmentally safe. FDA evaluates each biotech food for its health, nutritional and allergenic characteristics, rather than on distinctions based on whether the food was produced with or without the use of biotechnology. FDA also has labeling requirements if the biotech food contains an allergen, or its nutrition or cooking requirements are different from its conventional counterpart. The FDA requires food labels to be

truthful and not misleading. Thirteen years of U.S. experience with biotech products have exposed no known ill effects and have borne out conclusions reached by the National Research Council in 1987 that biotech foods developed and commercialized in the United States present no food safety risk beyond those of their traditionally produced counterparts.

Market Access Problems for Biotech Products

The Administration is increasingly concerned over the issue of market access for U.S. agricultural exports derived from bio-engineering, particularly in Europe. The problems of market access in the EU are two-fold. First, the EU's process for approving new agriculture biotech products, long slow and non-transparent, appears to have broken down completely. Second, the EU's Novel Foods Law now requires labeling to indicate whether a crop or food was produced with biotechnology, even when the biotech food is otherwise equivalent to its counterparts. Moreover, the EU is actively working to internationalize these labeling requirements in the Codex Alimentarius and Biosafety Protocol, and more and more countries are following the EU's lead by enacting regulations of their own.

No U.S. biotech product has been approved in the EU since early 1998. The EU is using the "precautionary principle" as a rationale for requiring extremely high levels of proof about the absence of any harmful effects. In addition, the EU is considering strict identification and traceability requirements for each biotech characteristic throughout the commercial stream, a lengthy approval process with reviews by the Ethics Committee, EU Parliament, and, where requested, consumer groups. Finally, the EU has suspended any new approvals until the EU's Directive on approvals is revised–which is scheduled to be completed in 2002. This *de facto* moratorium on approvals translates to the loss of U.S. exports for any biotech seed or crop that was approved in the U.S. after 1998.

The lack of clear EU guidelines and fears of shipment rejection due to improper testing or inadvertent commingling with unapproved varieties have practically eliminated U.S. bulk

exports of corn to the EU. The $200 million in annual corn sales quotas for Spain and Portugal, established to compensate the United States at the time of the accession of those two countries into the EU, have been particularly affected. We lost those sales in 1998, when France refused to approve a U.S. approved corn variety, and we are likely to lose the sales in 1999 if the EU insists on biotech free corn. Moreover, until the EU's approval process is functioning again, our farmers will continue to lose these sales.

Additional market access concerns for U.S. products arose when the European Union passed new legislation this year requiring the labeling of biotech crops and foods. The EU recently announced an unrealistic threshold of 1% content of genetically modified material–any food which contains a higher percentage will have to be labeled. The EU, however, has not yet completed implementing regulations for their labeling or testing requirements. Moreover, responsibilities and liabilities are not set for the shipment of foods that may have been genetically altered, nor is there a system for resolving disputes resulting from false positives of tests for the presence of genetically modified material. This lack of clarity is causing serious uncertainties for U.S. farmers and food processors and a potentially serious disruption of trade.

European officials blame their slow progress in creating a transparent regulatory process on public fears, fueled by the Mad Cow disease and Dioxin poisoning food scares. The fact remains, however, that U.S. biotech products and their potential benefits are being held in limbo by the lack of a functioning EU approval process and by EU labeling regulations that do not work. Safe American products should not be penalized by European regulatory failures.

Increasing agitation against biotech foods that started in Europe is beginning to spread to other foreign markets. Japan, Korea, Australia and New Zealand have decided to impose mandatory labeling on genetically modified foods. Many additional countries are considering whether or not to develop new labeling and approval process regulations of their own. We are closely monitoring the emerging new regulations to ensure that they are transparent, predictable, and not unnecessarily restrictive. This is one of the most serious and complex trade problems to emerge

in recent years. U.S. industry is justifiably concerned about the proliferation of trade barriers related to agbiotech products. The future of our agriculture and biotech industries will be affected by how well we ensure that new regulations on agricultural biotech products do not pose trade barriers and by how well we address consumer concerns.

U.S. Response and Initiatives

Last month, Under Secretary of Commerce David Aaron visited Europe and challenged European leaders to develop forthrightly a comprehensive, science-based policy on biotechnology. We are hopeful that the new European Commission will respond to this challenge and turn a fresh eye to this problem. They have the opportunity to put a science-based policy in place that protects human health and the environment and that recognizes that both can be advanced through biotechnology. Such a policy would allow biotech to realize its potential by creating processes and institutions that reassure the public. We wholeheartedly support EU efforts to organize and consolidate food and health protection, and we strongly urge all of the EU Member States and their citizens to encourage the new Commission to undertake this important responsibility in an expeditious manner.

While the United States is committed to continued dialogue with Europe and other concerned countries to dispel public concerns about the safety of biotechnology, our patience is not inexhaustible. This issue is ripe for exploitation by protectionists in Europe and elsewhere, and we will insist on our trading rights. Accordingly, the United States plans to address biotechnology at the new WTO round by focusing on two goals: (1) ensuring that the current WTO agreements, particularly the Agreement on Sanitary and Phytosanitary measures and Agreement on Technical Barriers to Trade, are understood and continue to apply to agricultural biotechnology products (without the need to "re-open" the Agreement texts); and (2) ensuring that trade in agricultural biotechnology products is based on transparent, predictable, and timely processes.

The United States is also working to address biotechnology concerns with the EU and other trading partners through a number of initiatives. We have offered to help the EU Commission address the safety concerns the European public has regarding biotech foods by inviting them to work with us in such fora as the OECD, the Transatlantic Economic Partnership and the Transatlantic Business Dialogue. We are also requesting that the EU Commission and Member States develop a public education program, including broadcasts and public conferences, such as the one we are undertaking next January at The Hague. At the Bonn Summit in June, the United States floated the idea of a U.S.-EU scientific exchange on biotech issues. The EU has expressed a willingness to at least entertain the idea. The OECD Secretariat is also planning on holding a public conference on biotech issues later this year.

Other initiatives with our trading partners include:

- Developing agreed international standards and guidelines on bio engineered foods in the Codex Alimentarius and encouraging their use by WTO members;
- Technical discussions with other countries and assistance aimed at fostering science-based food regulatory processes that approve new products in a transparent and timely manner; and
- Urging countries in Africa, Asia, and Latin America to refrain from mandatory labeling requirements that are misleading and unnecessary obstacles to trade.

Finally, the Administration is working to develop outreach activities--conferences, media events, and government consultations, in key countries--in order to help assure consumers and officials abroad of the thoroughness of our regulatory processes, the safety of biotech foods consumed in the United States, and the environmental and nutritional benefits of bio-engineered foods.

Conclusion

We will work energetically with the EU and all other countries to encourage them to take a fresh look at resolving this immensely important issue. And, of course, the Department of Commerce will continue to work in partnership with key industries and trade associations that have a stake in this critical debate. We must find a solution as the stakes are so high for the United States and for all nations who stand to benefit so much from this important new technology.